

# EXPOSURE DRAFT

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Inserts for  
**Treasury Laws Amendment (Measures  
for Consultation) Bill 2021: Exempting  
granny flat arrangements from CGT**

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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1.		
2. Schedule #	The first 1 July to occur after the day this Act receives the Royal Assent.	
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## Schedule #—Exempting granny flat arrangements from CGT

### *Income Tax Assessment Act 1997*

#### 1 After Division 134

Insert:

### Division 137—Granny flat arrangements

#### Table of Subdivisions

137-A—When CGT events do not happen

#### Subdivision 137-A—When CGT events do not happen

#### Guide to Subdivision 137-A

##### 137-1 What this Subdivision is about

A CGT event does not happen when certain granny flat arrangements are entered into, varied or terminated.
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#### Table of sections

##### Operative provisions

137-10 Meaning of key terms

137-15 CGT event does not happen when a certain kind of granny flat arrangement is entered into

137-20 CGT event does not happen when a certain kind of granny flat arrangement is varied

137-25 CGT event does not happen when a certain kind of granny flat arrangement is terminated

#### Operative provisions

##### 137-10 Meaning of key terms

- (1) An individual holds a *granny flat interest* in a \*dwelling under an \*arrangement if the individual has a right to occupy the dwelling for life that has been conferred by the arrangement.

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- 1 (2) An individual is *eligible for a granny flat interest* at a particular  
2 time if:  
3 (a) the individual reached \*pension age at or before that time; or  
4 (b) the individual:  
5 (i) needs, because of a disability, assistance to carry out  
6 most day-to-day activities; and  
7 (ii) is likely to continue to need that assistance, because of  
8 that disability, for at least 12 months after that time.

- 9 (3) This Subdivision applies:  
10 (a) to a \*dwelling's \*adjacent land in a corresponding way to the  
11 way Subdivision 118-B applies to the adjacent land; or  
12 (b) to an \*adjacent structure of a flat or home unit in a  
13 corresponding way to the way Subdivision 118-B applies to  
14 the adjacent structure.

15 Note: Subsections 118-120(1) and (5) provide that Subdivision 118-B (about  
16 main residences) applies to adjacent land and adjacent structures as if  
17 they were a dwelling.

## 18 **137-15 CGT event does not happen when a certain kind of granny** 19 **flat arrangement is entered into**

20 A \*CGT event does not happen, to the extent it relates to creating a  
21 \*granny flat interest in a \*dwelling under an \*arrangement by  
22 entering into the arrangement at a particular time (the *start time*),  
23 if:

- 24 (a) the individual who holds, or who is to hold, the granny flat  
25 interest under the arrangement is \*eligible for a granny flat  
26 interest at the start time; and  
27 (b) another individual:  
28 (i) holds an \*ownership interest in the dwelling at the start  
29 time; or  
30 (ii) agrees, under the arrangement, to \*acquire an ownership  
31 interest in a dwelling that is to be the dwelling in which  
32 the first-mentioned individual is to hold the granny flat  
33 interest; and  
34 (c) at the start time, both individuals are parties to the  
35 arrangement; and  
36 (d) the arrangement:  
37 (i) is in writing; and  
38 (ii) indicates an intention for the parties to the arrangement  
39 to be legally bound by it; and

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1 (e) the arrangement is not of a commercial nature.

2 **137-20 CGT event does not happen when a certain kind of granny**  
3 **flat arrangement is varied**

4 A \*CGT event does not happen, to the extent it relates to creating  
5 or varying a \*granny flat interest in a \*dwelling under an  
6 \*arrangement by varying the arrangement at a particular time (the  
7 *variation time*), if:

- 8 (a) the individual who holds, or who is to hold, the granny flat  
9 interest under the arrangement (as varied) is \*eligible for a  
10 granny flat interest at the variation time; and  
11 (b) another individual:  
12 (i) holds an \*ownership interest in the dwelling at the  
13 variation time; or  
14 (ii) agrees, under the arrangement (as varied), to \*acquire an  
15 ownership interest in a dwelling that is to be the  
16 dwelling in which the first-mentioned individual is to  
17 hold the granny flat interest; and  
18 (c) at the variation time, both individuals are parties to the  
19 arrangement (as varied); and  
20 (d) the arrangement (as varied):  
21 (i) is in writing; and  
22 (ii) indicates an intention for the parties to the arrangement  
23 to be legally bound by it; and  
24 (e) the arrangement (as varied) is not of a commercial nature.

25 **137-25 CGT event does not happen when a certain kind of granny**  
26 **flat arrangement is terminated**

27 A \*CGT event does not happen, to the extent that it relates to  
28 terminating a \*granny flat interest in a \*dwelling under an  
29 \*arrangement by terminating the arrangement, if:

- 30 (a) section 137-15 applied so that a CGT event did not happen  
31 when the arrangement was entered into; or  
32 (b) section 137-20 applied so that a CGT event did not happen  
33 when the arrangement was varied.

34 **2 Subsection 995-1(1)**

35 Insert:

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1 *eligible for a granny flat interest* has the meaning given by  
2 subsection 137-10(2).

3 *granny flat interest* has the meaning given by  
4 subsection 137-10(1).

## 5 *Income Tax (Transitional Provisions) Act 1997*

### 6 **3 After Division 136**

7 Insert:

## 8 **Division 137—Granny flat arrangements**

### 9 **Table of Subdivisions**

10 137-A—Granny flat arrangements

## 11 **Subdivision 137-A—Granny flat arrangements**

### 12 **Table of sections**

13 **Operative provisions**

14 137-10 Applicable CGT events

## 15 **Operative provisions**

### 16 **137-10 Applicable CGT events**

17 Division 137 of the *Income Tax Assessment Act 1997* applies in  
18 relation to events:

19 (a) that happen on or after the commencement of that Division;  
20 and

21 (b) that, apart from that Division, would be CGT events;

22 (whether the arrangements to which the events relate were entered  
23 into before, on or after that commencement).