Election 2019 – Negative gearing

# Key Points

* The housing market is distorted by tax concessions for landlords that drive up house prices for first home buyers and renters. Commodifying residential property can limit the availability of housing, which is a basic human need. The current concessions in the tax system have commodified the provision of housing, creating a speculative market from a basic human need for shelter.
* Tax concessions drive up the purchase price of housing, distorting the market and affecting first home buyers and renters as the landlord must secure an income stream sufficient to cover the cost of the mortgage.
* Negative gearing is the ability to deduct losses from an investment against income from other sources, for example employment or business. It applies to all investments, however is most commonly discussed in relation to housing.
* There is no specific provision in the income tax assessment law that allows negative gearing: it is the operation of the general provision that allows the deduction of expenses incurred in earning assessable income unless there is a specific rule preventing the deduction   
  (ITAA97 s.8-1).
* There are laws that prevent other losses from being deducted against income from other sources; for example the non-commercial business activities provisions require that the business must meet certain commerciality tests; turnover, asset base, or profitability over five years; before the loss can be deducted against income from other sources (ITAA97 Div 35)
* The major expense in negatively geared housing investments is interest. Laws introduced with effect from 1 July 2017 have limited the amount that can be claimed for depreciation (ITAA97 40-27) and travel in relation to a rental property (ITAA97 26-31)
* Negatively gearing strategies speculate that the property will increase in value resulting in a capital gain for the investor when the property is sold. Capital gains are taxed concessionally, with only 50% of the gain being taxed. Therefore investors speculate that the capital gain when the property is sold will recoup their losses, which have been subsidized by the taxation system during the holding period.
* The prevalence of negatively geared property increased significantly after the introduction of the 50% discount on the taxable amount of a capital gain in 1999 (Duncan et al; 2018; Figure 1).
* Although some analysts will refer to increases in rental prices after the Keating removal of negative gearing in 1985-87, this increase was limited to specific markets and can be attributed to other factors in the housing market at the time (O’Donnell, 2005).

# Why is this an issue for women?

* The tax concessions distort the housing market, both in relation to the cost of purchasing a home and the rental market.
* Women are more reliant on housing assistance and services because of violence, economic disadvantage and caring responsibilities. Shortcomings, gaps and failings in these systems disproportionately impact on women. For example, women make up 62.2% of the 416,640 single people who remain in housing stress after receipt of Commonwealth Rent Assistance (CRA).[[1]](#footnote-1)
* Older women are the fastest growing cohort of homeless Australians (Patterson et al, 2019)
* Women are a significant proportion of Commonwealth Rent Assistance (CRA) recipients: the two largest family types of CRA recipients are single persons and single parents. There are more women than men receiving Parenting Payments (95%), Age Pension (55%), and the number of men (51%) and women (49%) receiving Newstart Allowance is nearly even.
* The ATO tax tables do not provide a gender breakdown of the number of men and women claiming rental losses. However many properties are jointly owned by spouses who may have unequal income. To the extent that women tend to have lower taxable incomes than men (ATO, Table 3), the effect of removing tax concessions will be lower on women.

# NFAW’s position

* The current taxation arrangements related to housing need to be reformed as they provide significant support to private investors while public investment in affordable and social housing declines. (Submission to the Senate Standing Committee on Economics Inquiry into Affordable Housing, 2014)
* NFAW agrees with the suggestion in the Rethink Discussion Paper (Australian Treasury, 2015) that rental deductions could be limited to the income earned (Submission to Treasury Re:Think Tax Reform Discussion Paper, 2015)
* However the potential impact on the supply of rental properties could be reduced by limiting negative gearing to new properties or affordable housing schemes.
* We support the Henry Review recommendation that a standard Capital Gains Tax discount be applied across all investments, with deductibility of expenses restricted to the same proportion.
* Alternatively the CGT discount could be based on a modified indexations basis, using the higher RBA target rate (3%) to index the cost of assets when calculating the taxable gain.
* Commonwealth Rent Assistance must be increased and indexed to rental market prices (Senate, 2016).

# Party positions

## LNP

No change to existing policy.

## ALP

* Negative gearing, ie deductibility of rental losses against non-investment income, will be limited to the purchase of newly built property.
* Losses on other properties acquired after 1 January 2020 can only be deducted against other investment income
* Losses can continue to be claimed against non-investment income in respect of rental property acquired before 1 January 2020.
* The Capital Gains Tax discount will be limited to 25%; ie 75% of the gain will be taxed; in respect of rental properties acquired after 1 January 2020.

## Greens

* Remove negative gearing on future residential housing acquisitions.
* Phase out negative gearing on existing rental properties where the investor has two or more rental properties
* Phase out the CGT discount by 10% pa over a five year period
* Support state governments to replace stamp duty with land tax and impose taxes on properties that are left unoccupied.
* The Greens will fund the provision of more community housing and introduce rent controls to ensure that housing is affordable.

**Authorised by Kate Gunn, Sydney.**

# References

Income Tax Assessment Act 1997

Australian Taxation Office (2019) Taxation Statistics 2016-17 <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2016-17/?page=7#Table3>

Australian Treasury. (2015). Re:Think: Better Tax Better Australia. Retrieved from www.bettertax.gov.au

Duncan, A.S., Hodgson, H., Minas, J., Ong-Viforj, R. and Seymour, R. (2018) *The income tax treatment of housing assets: an assessment of proposed reform arrangements*, AHURI Final Report No. 295, Australian Housing and Urban Research Institute Limited, Melbourne, https://www.ahuri.edu.au/research/final-reports/295, doi:10.18408/ahuri-8111101

Henry, K., Harmer, J., Piggot, J., Ridout, H., & Smith, G. (2010). *Australia's Future Tax System: Final Report* Retrieved from Canberra: http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs\_reports.htm

O'Donnell, J. (2005) 'Quarantining interest deductions for negatively geared rental property investments', eJournal of Tax Research, vol. 3, no. 1: 63–113.

Patterson, K., Proft, K., and Maxwell, J., (2019) Older Women’s Risk of Homelessness: Background Paper 2019 April 2019 AHRC, Sydney <http://www.humanrights.gov.au/about/publications>

Senate Economics References Committee (2016). *A Husband is Not A Retirement Plan: Achieving Economic Security For Women In Retirement,* Retrieved from Canberra: https://www.aph.gov.au/Parliamentary\_Business/Committees/Senate/Economics/Economic\_security\_for\_women\_in\_retirement/Report

1. As of September 2018, data requested by Equality Rights Alliance from Department of Social Services. [↑](#footnote-ref-1)