CGT Assets

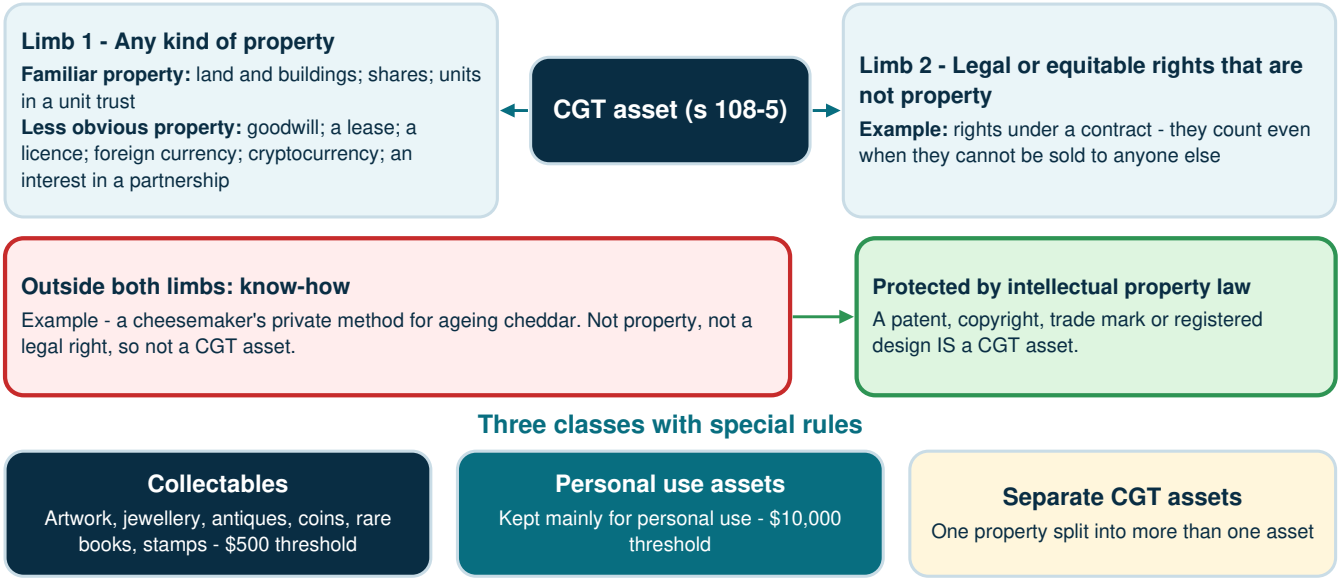
MODULE 3 | 3.3 | STUDENT COMPANION

A CGT asset is any kind of property, or a legal or equitable right that is not property. Collectables and personal use assets have cost thresholds below which gains are ignored, and strict rules for losses. In four situations the law splits one property into separate CGT assets, so post-CGT additions to pre-CGT property can still be taxed.

What is a CGT asset?

Definition (s 108-5). Any kind of property, or a legal or equitable right that is not property. The definition is deliberately wide: land and buildings, shares, units, goodwill, leases, licences, foreign currency, cryptocurrency, contractual rights and partnership interests are all included.

Know-how is not. Knowledge of how to do something is neither property nor a legal right. Once it is protected as a patent, copyright, trade mark or design, it becomes a CGT asset.



Collectables

Definition (s 108-10). A closed list of items kept mainly for the personal use or enjoyment of the owner or an associate. An interest in, a debt from, or a right or option to acquire a collectable is also a collectable.

Threshold. A gain or loss is disregarded if the first element of the cost base was $500 or less (s 118-10(1)). The first element is the price paid, or market value for a gift or a non-arm's length acquisition. A set is a single collectable (s 108-15), so splitting a set does not get under the threshold.

Losses. Usable only against collectable gains, this year or later (s 108-10(4)). A collectable gain is an ordinary capital gain and can qualify for the CGT discount.

Personal use assets

Definition (s 108-20). A CGT asset other than a collectable or land or buildings, kept mainly for personal use or enjoyment. A debt that arose other than from earning income or running a business is included.

Threshold. A gain is disregarded if the first element of the cost base was $10,000 or less (s 118-10(3)). Sets are treated as one asset (s 108-25).

Losses. Always disregarded, whatever the cost (s 108-20(1)).

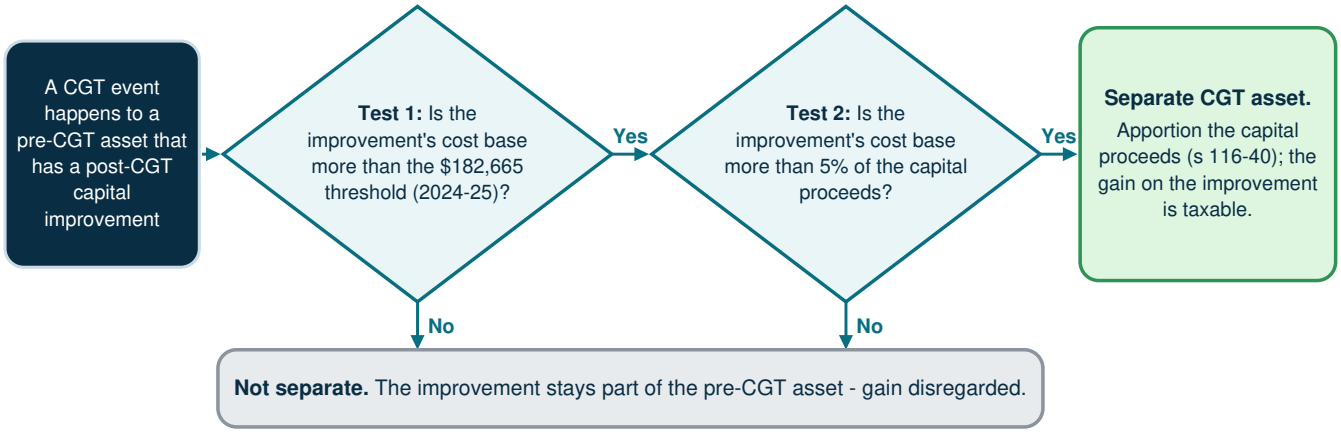
	Collectable (s 108-10)	Personal use asset (s 108-20)
Definition	Artwork, jewellery, an antique, a coin or medallion, a rare folio, manuscript or book, a postage stamp or first day cover - kept mainly for personal use or enjoyment. Includes an interest in, a debt from, or a right or option to acquire one.	Any other CGT asset (not a collectable, not land or buildings) kept mainly for personal use or enjoyment - e.g. furniture, a home gym, a telescope. Includes a debt that did not arise from earning income or running a business.
Threshold (first element of cost base)	$500	$10,000
Gains	At or under $500 - disregarded. Above - counts as a capital gain, and can qualify for the CGT discount.	At or under $10,000 - disregarded. Above - counts as a capital gain.
Losses	**Above $500 - quarantined: usable only against collectable gains, this year or later.**	**Always disregarded, whatever the asset cost.**
Sets	A set usually sold together is one collectable (s 108-15).	A set usually sold together is one asset (s 108-25).

Why the harsh loss rule? Things you use wear out - that fall in value is the price of enjoying them, not an investment loss.

Separate CGT assets

At common law what is fixed to land is part of the land. Subdivision 108-D splits one property in four situations:

- **1. Buildings (s 108-55).** Separate from pre-CGT land if the construction contract was made, or construction started, on or after 20 September 1985. On post-CGT land, separate only if a balancing adjustment provision applies.
- **2. Depreciating assets in a building (s 108-60).** Separate from the building.
- **3. Adjoining land (s 108-65).** Post-CGT land amalgamated into one title with pre-CGT land stays separate.
- **4. Capital improvements (s 108-70).** Separate only if both tests are passed. The proceeds are then apportioned (s 116-40).



Mahalia Silverwood's beach shack: Bought 1982; renovated 2014; sold November 2024 for $1,500,000. Renovation cost base $240,000.

Test 1: $240,000 > $182,665 -> Yes

Test 2: 5% x $1,500,000 = $75,000; $240,000 > $75,000 -> Yes

Proceeds for the renovation $400,000 - cost base $240,000 = capital gain $160,000 (before any discount). The rest of the price relates to the pre-CGT shack and land - disregarded.

Key figures for 2024-25

Item	Figure
Collectable threshold (first element of cost base)	$500
Personal use asset threshold (first element of cost base)	$10,000
Improvement threshold, 2024-25	$182,665
Improvement proceeds test	more than 5% of capital proceeds
CGT start date	20 September 1985

Practice questions

MODULE 3 | 3.3 | TRY THESE BEFORE THE WORKED ANSWERS

Question 1 - Asset or not?

For each item, decide whether it is a CGT asset. If it is, state its class: general CGT asset, collectable, personal use asset, or separate CGT asset. Give a one-line reason. Every item was acquired after 20 September 1985 unless stated otherwise.

Item	Facts	CGT asset? Class and one-line reason
1	A registered trade mark for a skincare brand, owned by the company that sells the products.	
2	A piano tuner's personal method for tuning concert pianos, which he has never written down or protected in any way.	
3	A watercolour painting bought for $3,200, which hangs in the owner's lounge room.	
4	A sea kayak bought for $2,400 and paddled on weekends.	
5	A vacant bush block of land bought in 2019 and used only for family camping trips.	
6	Cryptocurrency bought and held as an investment.	
7	A $5,000 interest-free loan made to a cousin to help pay for her wedding.	
8	A cool room built in 2001 on a farm that has been owned since 1979. The building contract was signed in 2000.	

Question 2 - Five sales in one year

Corisande Ardwinkle is an Australian resident. In the 2024-25 income year she sold the five assets below. All were acquired after 20 September 1985 and held for more than 12 months. The antique, the brooch, the stamp and the home cinema system were all kept for her personal use or enjoyment. She has no capital losses from earlier years.

Asset	Cost (first element of cost base)	Sale price
Antique writing desk	$4,000	$6,500
Diamond brooch	$9,000	$5,000
Rare postage stamp	$400	$1,200
Home cinema system	$12,000	$3,000
Listed shares	$12,000	$20,000

(a) For each sale, state whether the gain or loss counts for CGT, and why.

(b) What is her capital gain for 2024-25 before any discount?

(c) What, if anything, does she carry forward, and what can it be used against?

Question 3 - The extension test

In 1980 Faolan Pendergrast bought a corner shop building and its land. In 2010 he added a large function room extension at the back. The extension is a capital improvement. He sells the whole property in the 2024-25 income year. For each alternative set of figures below, apply the two improvement tests using the 2024-25 improvement threshold, and say whether the extension is a separate CGT asset.

Set	Capital proceeds for the whole property	Cost base of the extension at the time of sale	Test 1	Test 2	Separate?
(a)	$3,000,000	$170,000			
(b)	$5,000,000	$230,000			
(c)	$2,400,000	$230,000			

For set (c) only, assume $520,000 of the capital proceeds reasonably relates to the extension. Calculate the capital gain on the extension before any discount, and explain what happens to the rest of the proceeds.

Worked answers

MODULE 3 | 3.3 | WORKED ANSWERS - ATTEMPT THE QUESTIONS FIRST

Answer 1

Item	CGT asset?	Class and reason
1	Yes	General CGT asset. A trade mark is intellectual property, which is property.
2	No	It is know-how: not property and not a legal or equitable right. It would become a CGT asset only if protected as intellectual property.
3	Yes	Collectable. Artwork kept mainly for personal enjoyment. It cost more than $500, so gains and losses count, and any loss is quarantined to collectable gains.
4	Yes	Personal use asset. Kept mainly for personal use, not a collectable and not land. It cost $10,000 or less, so any gain is disregarded; a loss would be disregarded anyway.
5	Yes	General CGT asset. Land can never be a personal use asset, even when used only for personal enjoyment, so the $10,000 rule does not apply.
6	Yes	General CGT asset. Cryptocurrency is property and is held as an investment.
7	Yes	Personal use asset. The debt did not arise from earning income or running a business.
8	Yes	Separate CGT asset. The farm is pre-CGT land, but the building contract was made after 20 September 1985, so the cool room is a separate, post-CGT asset (s 108-55).

Answer 2

(a)

Asset	Gain or loss	Counts?	Why
Antique writing desk	Gain $6,500 - $4,000 = $2,500	Yes	Collectable (an antique) costing more than $500.
Diamond brooch	Loss $5,000 - $9,000 = ($4,000)	Yes, but quarantined	Collectable (jewellery) costing more than $500. The loss can be used only against collectable gains.
Rare postage stamp	Gain $1,200 - $400 = $800	No	Collectable acquired for $500 or less: the gain is disregarded.
Home cinema system	Loss $3,000 - $12,000 = ($9,000)	No	Personal use asset: a loss is always disregarded, whatever it cost.
Listed shares	Gain $20,000 - $12,000 = $8,000	Yes	General CGT asset.

(b) Collectable gains $2,500 less collectable loss $4,000: the loss absorbs the whole $2,500 gain, leaving $1,500 of collectable loss unused. That $1,500 cannot reduce the gain on the shares. Capital gain for 2024-25 before any discount = **$8,000** (the shares).

(c) She carries forward a $1,500 collectable loss ($4,000 - $2,500). It can be used only against capital gains on collectables in later years. Nothing is carried forward for the home cinema system or the stamp.

Answer 3

The improvement threshold for 2024-25 is $182,665. The extension is a separate CGT asset only if its cost base is more than $182,665 AND more than 5% of the capital proceeds.

Set	Test 1: more than $182,665?	Test 2: more than 5% of proceeds?	Separate CGT asset?
(a)	$170,000 - No	5% x $3,000,000 = $150,000; $170,000 is more - Yes	No - fails Test 1
(b)	$230,000 - Yes	5% x $5,000,000 = $250,000; $230,000 is less - No	No - fails Test 2
(c)	$230,000 - Yes	5% x $2,400,000 = $120,000; $230,000 is more - Yes	Yes - passes both

In (a) and (b) the extension stays part of the pre-CGT property, so any gain on the whole sale is disregarded.

Set (c): the capital proceeds are apportioned between the pre-CGT property and the extension (s 116-40). Capital gain on the extension = $520,000 - $230,000 = **$290,000**, before any discount. The remaining proceeds, $2,400,000 - $520,000 = $1,880,000, relate to the pre-CGT building and land, so any gain on that part is disregarded.