

**RSM Bird Cameron**  
10 Amherst Street Katanning WA 6317  
PO Box 55 Katanning WA 6317  
T +61 8 9821 1277 F +61 8 9821 2714  
www.rsmi.com.au

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The General Manager  
Business Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir

**Proposals – Minor Amendments to the Capital Gains Tax Law**

Further to your request for comments (further to Content ID 2041) I would like to bring the following example to your attention:

I recently had a situation where a client's husband died and farmland was held jointly and farmed together in partnership. They had owned the land together for many years.

The widow farmed the land for a further year and then leased the land to allow sufficient time for their son to ascertain whether he would take over the farm when old enough.

She now wishes to sell the land, and has the unfortunate situation of being unable to access small business CGT concessions on the half of the land owned by the husband.

Her half of the land has been owned in her name and was actively farmed for more than half of the time owned and over ten years. The half of the land which was transferred from her husband's name some (8?) years ago is now deemed to have been farmed by her for 1 year and then leased out for 7 years. This falls foul of the CGT small business provisions and she cannot therefore access any of the provisions on this portion. This is no doubt an unintentional consequence, and would be worthy of a minor amendment such as others you propose.

I suggest that as well as inheriting the land along with her husband's Cost base for CGT purposes, she should also inherit his business (active) use period of the asset for the small business CGT provisions.

Please contact me should you wish any further elaboration or wish to discuss in greater detail,

Yours sincerely,

**Martin Livsey FCPA**