# ‘I’m selling’: Investors face 50pc more tax than Treasury says

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Investors with diversified share portfolios making a mix of gains and losses compared to inflation could face tax rates of more than 100 per cent on real gains, due to the Albanese government not fully compensating investors for underperforming stocks.

A former senior Treasury tax official and a hedge fund manager both separately warned that people with a diversified portfolio of individual shares could face tax rates 50 per cent higher than Treasury calculated in the budget analysis it provided to the government.

Treasurer Jim Chalmers and Prime Minister Anthony Albanese's tax changes have serious implications when selling shares. **Alex Ellinghausen**

The tax revelation means retail investors picking individual stocks in a portfolio would be disadvantaged by higher tax compared to investors in exchange-traded funds (ETFs), even if the underlying shares invested in were the same.

Private hedge fund manager and former NSW government economist Derek Francis said he had sold $400,000 of shares in the last few days after realising the full implications of the government's capital gains tax overhaul for the sharemarket.

"I'm selling," Francis said. "It is completely uninvestable outside of superannuation under the new tax settings.
"Individual stock picking and diversification is stuffed under this framework, particularly for more volatile small caps and miners other than maybe BHP and Rio."

The tax hit is the most recent flaw in the budget to be exposed. The government is struggling to counter the growing backlash to its tax changes, which include scrapping the 50 per cent discount on capital gains tax in favour of inflation indexation, limiting negative gearing, and a minimum 30 per cent tax rate on real (inflation-adjusted) capital gains and discretionary trusts.

While the Labor caucus was enthusiastic about the changes on budget night, one backbencher said on Thursday that anxiousness was creeping in among MPs who were receiving calls and emails from worried small businesses and investors.

Treasurer Jim Chalmers said on Thursday in Perth that Labor was facing a political "scare campaigns built on lies."

"We didn't expect there to be unanimous support for them. But they're the right thing to do for our economy. They're the right thing to do by first home buyers. They're the right thing to do for millions of Australian workers, who'll get another tax cut from this government."

The government is aiming to ram through legislation, with the support of the Greens [https://www.afr.com/politics/federal/pm-to-ram-through-cgt-negative-gearing-changes-as-dissent-grows-20260518-p5zy1k], to overhaul capital gains and limit negative gearing to existing investment properties and new-build homes, before parliament breaks for winter in July.

Chalmers' office and Treasury were contacted for comment on Thursday to clarify if real losses on stocks would be indexed to inflation. They did not respond.

Under the planned tax changes, an investor with a total $10,000 investment in the big four banks ($2500 each) over the last 20 years has only seen their Commonwealth Bank of Australia shares outperform the inflation rate, excluding dividends.

The average real capital return of the portfolio was 1.1 per cent a year, or $1250 in total, after discounting for inflation.

Under the new system, tax payable on sale of the shares would be $1850 – $600 more than the real gain. This is calculated for an investor on the second-highest marginal income tax rate of 39 per cent.

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**Only nominal losses, where the share price declines in absolute value, will be permitted to be offset against real gains.**

Investors expressed shock after *The Australian Financial Review* broke the news of the tax hit online.

Stockspot founder Chris Brycki said the unintended consequence of the proposed CGT changes would heavily favour ETFs over investing directly in shares.

"With individual shares, investors can end up paying tax on the big winners while receiving little recognition for inflation-adjusted underperformance elsewhere in the portfolio.

"Ironically, the more diversified your direct share portfolio is, the worse this problem can become.

"On the other hand, index ETFs effectively net winners and losers internally, making the tax outcome far more efficient under the proposed new system."

Under Paul Keating [https://www.afr.com/link/follow-20180101-p5zz4i]'s old capital gain inflation indexation rules that the government says it is adopting, real losses – where stocks underperform the inflation rate – can't be offset against real gains.

Only nominal losses, where the share price actually declines in absolute value, will be permitted to be offset against real gains.

Former Treasury and Australian Taxation Office senior official Geoff Francis said individual investors with a diversified portfolio of shares would not be able to offset real losses from underperforming stocks against the tax paid on overperforming shares.

"You will typically pay more tax than the Treasury numbers suggest because the only way you get the Treasury numbers is if you invest in an indexing tracking stock," he said.

"The effective tax rate probably goes up by about 50 per cent on average. It is worse the more diversified you are, particularly if you have some high-risk stocks where most underperform but a few outperform."

But another financial market source, speaking on the condition of anonymity, said the concerns were overblown, because similar issues arose under the 50 per cent

CGT discount and Paul Keating's former indexation model.

"Nominal losses will be carried forward and can be used to offset future nominal gains.

"Only when losses are exhausted will real gains be taxable. This has been approach under 50 per cent discounting."

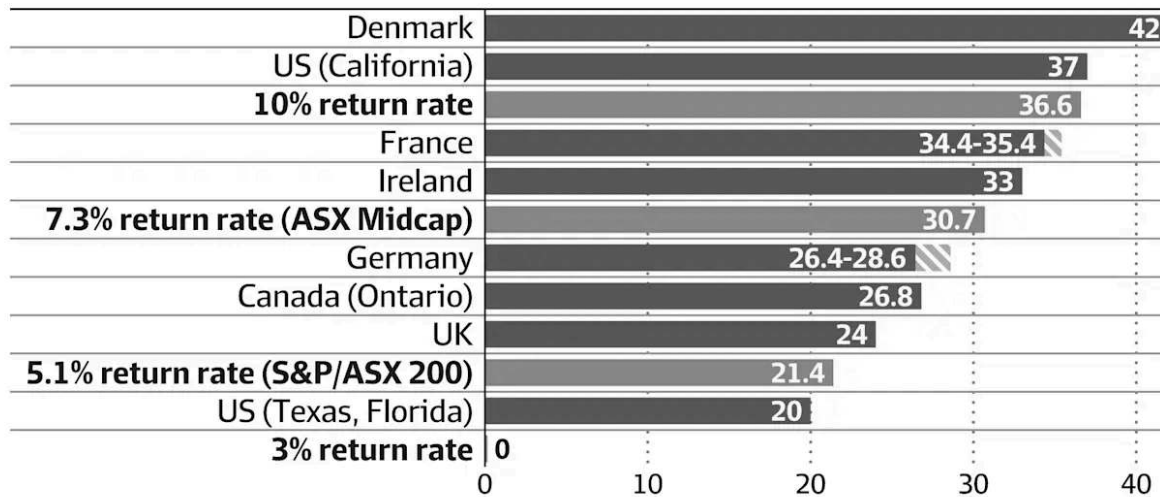
Chalmers announced in the budget last week that Labor would axe the 50 per cent discount on capital gains and revert to the pre-1999 model of indexing gains to inflation, with a minimum 30 per cent tax rate on real gains.

Superannuation funds will retain their one-third discount on capital gains, equal to a CGT rate of 10 per cent.

Labor has faced a barrage of criticism from the Coalition, entrepreneurs, small business owners who use trusts, and even some young people whom the government intended its tax changes to help.

Chalmers this week released Treasury analysis [https://www.afr.com/link/follow-20180101-p5zyhl] showing the average tax rate on capital gains will only increase from 19.3 per cent to 21.4 per cent over the next decade and is unlikely to affect overall investment in the economy.

An Australian investor on the top 47 per cent marginal income tax rate earning a 3 per cent average return over a decade would pay zero capital gains tax, assuming the annual inflation rate of about 3 per cent over the past 10 years.




An investor earning the S&P/ASX 200 average capital growth of 5.1 per cent a year – excluding dividends – would pay an effective capital gains tax rate of 21.4 per cent, according to Treasury.

An investor earning the ASX Midcap average of 7.3 per cent would pay 30.7 per cent.

A 10 per cent annual return would face an effective capital gains tax rate of 36.6 per cent for the decade-long investments.

The Treasury numbers are accurate for an individual stock and for exchange-traded funds, such as an ETF that tracks the S&P/ASX 200.

“The Treasury model assumes you only invest in one share and it always beats inflation to get the benefit of indexation,” Derek Francis said.

Good investors with diversified portfolios typically had about one-third of their shares underperform inflation, he said.

Derek and Geoff Francis are brothers with professional backgrounds in economics, and both independently reached similar conclusions.

Geoff Francis said his former Treasury colleagues would be unlikely to allow people to offset real inflation–adjusted losses against real gains because it would

cost the government tax revenue.

"In a downturn, people would sell to crystallise their losses and be able to index them in the future."

Under another example, an investor buys shares in Coles and Woolworths, with one outperforming inflation and the other underperforming inflation.

The overall real return is zero after inflation, but the investor would pay tax on the winning stock.

If an investor instead bought an ETF of supermarkets with the same overall result, they would pay no tax.

Derek Francis said the CGT overhaul would deter stock diversification and encourage companies to pay more dividends, rather than investing for growth.

"It completely deters investments in high-risk, high-return firms," he said. "Tech firms and mining explorers are stuffed under this."

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- 'Another nail in the coffin': Small businesses slam tax changes [https://www.afr.com/politics/federal/another-nail-in-the-coffin-small-businesses-slam-tax-changes-20260519-p5zylw]
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