

Discussion Paper

How to build an economy that works for all Australians:

Why Australia's New Capital Gains Tax Weakens Productivity, Investment and Opportunity

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Foreword

An economy that works for all Australians is one that looks after the people who build it. That depends on capital reaching productive enterprise, and on a tax system that directs it there. The new Capital Gains Tax (CGT) legislation steers capital away from the businesses that build our country and towards passive assets that do not. In this paper, we set out the behavioural and economic effects of that shift, and the price Australia will pay for it.

The Australian Labor Party opens its 2026 National Conference with “*An Economy That Works for Everyone*”. It is the right goal and we share it. This paper is about how to reach it.

On 26 June 2026 the Treasury Laws Amendment (Tax Reform No. 1) Bill received royal assent. It abolishes the 50 per cent capital gains tax discount and replaces it with cost base indexation and a 30 per cent minimum tax. At first glance it is a housing measure, but as the details are revealed, it is evident that the new legislation reaches far beyond housing. It affects Australia’s 2.7 million active businesses, the more than five million Australians they employ and the 7.7 million Australians who own shares directly.

Wilson Asset Management has supported tax reform where it strengthens Australia’s productive capacity and opposed reform where it weakens productivity. We gave evidence to the Senate supporting reform of the capital gains arrangements for housing on a revenue-neutral basis, as housing is where the problem was diagnosed, but it is not where the remedy has landed. New residential dwellings are now the only asset class to retain the 50 per cent discount.

In this paper, we apply established economic principles to understand what the new legislation actually does. We introduce the Capital Formation Test, which are the questions every reform affecting investment should answer. We show the tax system under the new CGT changes now favours those established companies paying a high fully franked dividend to their shareholders over those that retain their earnings to reinvest for future growth, increasing the cost of capital for earlier stage and growth companies. The CGT legislation raises the effective tax rate on a real capital gain to 51 per cent for an investor who pays no income tax and 62.9 per cent at the top marginal rate in the circumstance where a company retains its earnings, making capital growth the most heavily taxed return in the economy, taxed more heavily than wages. We identify a loss asymmetry: gains are indexed for inflation, losses are not, and across a representative twenty-stock portfolio the taxable gain rises 82 per cent and exceeds the investor’s entire real gain. We note that superannuation is excluded from the new legislation, so the same share is taxed at around 10 per cent inside a fund, yet higher when held in a personal name, and that foreign investors pay nothing at all.

We also examine the revenue. The measures are forecast to raise \$3.6 billion on Treasury’s forward estimates. Capital gains tax sits at the most elastic end of the revenue relationship, because investors choose whether, when and where to sell. The international record is a caution. After the United States raised its rate in 1986, realised gains ran approximately 43 per cent below what the prior rate would have produced, and the Joint Economic Committee concluded the higher rate yielded no additional revenue. After the United Kingdom raised its rate in October 2024, receipts fell 8.4 per cent. The cost to capital formation is borne whether or not the revenue arrives.

The behavioural response has already begun. In June 2026, more than 43,000 new companies were registered while insolvencies rose and consumer confidence weakened. This is not a surge in enterprise but rather capital being redirected into tax planning instead of productive investment.

The Government has accepted the principle. Treasury has proposed restoring the 50 per cent discount for investors in innovative start-ups, because the new settings would otherwise discourage investment in businesses that create jobs and lift productivity. We accept that reasoning entirely. We ask only why it stops at companies less than ten years old, with turnover under \$50 million, that are not listed on a public exchange.

The new CGT legislation does not commence until 1 July 2027. No revenue has been raised and no investor has been taxed under it. The final arrangements must return to the Parliament as an amending Bill before then. That Bill is the vehicle which provides the Government with the opportunity to amend the legislation by exempting all Australian businesses, listed or unlisted, ensuring the tax system rewards investment in Australia's productive economy instead of discouraging it.

Taxing the return on productive risk more heavily than any other return in the economy is illogical and self-defeating. Australia cannot tax its way to higher productivity. It can only invest its way there.

We welcome your consideration of the analysis contained within.



Geoff Wilson AO

Chairman
Wilson Asset Management

In brief

The Treasury Laws Amendment (Tax Reform No. 1) Act 2026 abolishes the 50 per cent capital gains tax discount from 1 July 2027, replacing it with cost base indexation and a 30 per cent minimum tax. It raises the effective tax rate on a realised gain to 51 per cent for an investor who pays no income tax and 62.9 per cent at the top rate for an investment in a company that retains its earnings; it taxes reinvested company profit more heavily than salary; and can tax more than the whole of an investor's real gain in a portfolio with an ordinary dispersion of returns.

The Government has accepted that these tax settings discourage investment in productive businesses and has proposed protecting one narrow class of them. This paper asks that the same principle be applied to every productive Australian business, using the amending Bill that must legislate the start-up concession before commencement.

The legislative detail, the distributional analysis, the international comparison, the full calculations at Appendix A and the sourcing at Appendix B follow.

Key facts

Indicator	Position
Productivity growth	Slowest in sixty years over the decade to 2020
Business investment	Below early-2000s levels as a share of GDP; decline largest among more productive firms
Listed companies	Fell by 145 between end-2022 and end-2024, leaving 1,989 issuers
New floats	45 in 2023 raising \$1.1 billion, against five-year averages near 120 and \$5.4 billion
Global de-equitisation	More than 35,000 companies delisted worldwide since 2005
Direct share ownership	7.7 million Australians, around 38 per cent of adults, from a peak near 40–41 per cent
Australian businesses	2,729,648 actively trading at 30 June 2025, 97.3 per cent of them small
Small business employment	More than five million people, close to two in five of the private sector workforce
Business turnover	437,150 businesses commenced and 370,500 closed in 2024–25; around 48 per cent reach year three
Effective rate on retained earnings, zero-rate investor	51 per cent, from 30 per cent
Effective rate on retained earnings, top marginal rate	62.9 per cent, from 46.45 per cent
Loss asymmetry	Taxable gain on a representative twenty-stock portfolio rises 82 per cent, exceeding the real gain
Foreign individual investors	Pay no Australian capital gains tax on portfolio holdings in listed companies

Indicator	Position
Commencement	Royal assent 26 June 2026; applies to gains accruing from 1 July 2027
Aspiration	Millions of Australians build wealth through direct share ownership, business ownership and long-term investment

Full sourcing at Appendix B.

1. Australia's productivity challenge

Productivity is the only durable source of higher wages. Wages cannot rise sustainably beyond the rate at which output per hour worked rises, and output per hour rises only where capital has funded the equipment, technology and training that make an hour of work more valuable.

The Productivity Commission has found that labour productivity growth over the decade to 2020 was the slowest in around sixty years. Treasury and Reserve Bank research identifies a capital explanation: business investment as a share of GDP is below early-2000s levels, and the decline has been larger among more productive firms, indicating that capital has become both scarcer and less efficiently allocated.

1.1 The market for productive capital

Indicator	Position
Listed company base	Fell by 145 between end-2022 and end-2024, the largest two-year decline since the early-1990s recession, on 66 new listings against 211 delistings, leaving 1,989 issuers (ASIC Report 807)
New floats	Around 190 in 2021, falling to 45 in 2023 against a five-year average near 120; capital raised fell to \$1.1 billion against an average near \$5.4 billion
Market capitalisation	\$3.01 trillion at December 2024, close to the record levels later reached in February 2026, while the company count fell
Global context	More than 35,000 companies have delisted worldwide since 2005; the United States listed population has roughly halved since the mid-1990s
Direct ownership	7.7 million Australians hold shares directly, around 38 per cent of adults, from a peak near 40–41 per cent

Fewer companies carrying more value is the definition of a concentrating market. A float market operating at roughly a third of its recent average represents growth capital that has not been raised domestically.

1.2 Regulation is not the binding constraint

The dominant policy response to weak dynamism has been regulatory. Each element of that agenda is worth pursuing. None addresses the cost of equity capital.

Where the return an investor retains on a successful long-term investment falls, the price of that capital rises. It rises furthest for businesses with the longest horizons and the most uncertain outcomes, which are the innovative ones.

Takeaway

Business dynamism is financed rather than regulated. The cost of productive capital should become a core measure of every major economic reform.

2. The Capital Formation Test

Policy affecting investment should be assessed against its effect on productive capital. Wilson Asset Management put the following framework to the Productivity Commission in July 2026. It is reproduced here unchanged, and the remaining chapters are organised around it.

The four questions of the Capital Formation Test, and the capital formation chain they follow from, are set out in the accompanying summary. They are applied to the evidence below.

2.1 Applying the test

Question	Direction	Evidence
1. Cost of productive capital	Increases	Effective rate rises with retained earnings to 51–62.9 per cent (Ch. 3)
2. Entrepreneurship	Discourages	Conceded in the Government's start-up consultation (Ch. 11)
3. Business investment	Reduces	Reallocation to franked income and large capitalisation (Ch. 5, 6)
4. Productivity	Weakens	Higher cost of equity concentrated in growth firms (Ch. 6)

Takeaway

The remaining chapters set out the evidence for each answer in the table above.

3. What the CGT legislation does and what it taxes

The Treasury Laws Amendment (Tax Reform No. 1) Bill 2026 was introduced on 28 May 2026, amended in the Senate, passed both Houses on 25 June by 98 votes to 39 in the House of Representatives, and received royal assent on 26 June as Act No. 49 of 2026. Passage took under a month.

3.1 The measures

- The 50 per cent discount is abolished for resident individuals, trusts and partnerships for CGT events on or after 1 July 2027.
- The cost base is indexed to the Consumer Price Index for assets held at least twelve months.
- A minimum 30 per cent tax applies to the post-change gain regardless of the investor's marginal rate.
- A deemed sale and re-acquisition rule preserves the 50 per cent discount on gains accrued to 1 July 2027, deferred until actual disposal.
- Capital gains and losses are sorted into asset categories and quarantined between them.
- Net rental losses on established residential dwellings acquired after Budget night are quarantined from 1 July 2027.
- New self-managed superannuation fund borrowing arrangements over real property are confined to business real property from 10 August 2026.

Determinations governing who is taxed, at what rate and on which assets are left to ministerial legislative instrument and have not been made. Consultation on the treatment of small and start-up businesses remains unresolved. Amendments dealing with part-year residency, tax consolidation and the attribution managed investment trust rules are yet to be drafted.

3.2 The deemed sale rule

The deemed sale and re-acquisition rule is a concession. It answers the objection that investors would be taxed on the new basis for gains accrued under settings maintained since 1999.

It does not address the argument of this paper. Grandfathering protects gains already made. It has no effect on capital being committed today, which is where the consequences set out in Chapters 5 and 6 operate. It also requires a valuation exercise across every affected asset as at 1 July 2027. CPA Australia has disputed Treasury's regulatory impact estimate of \$88.4 million, and the category quarantining added in the Senate increases that burden.

3.3 Why franked income and capital gains are taxed differently

A company earning a profit pays company tax, 30 per cent for most large listed companies. Where the after-tax profit is distributed as a fully franked dividend, imputation gives the shareholder a credit for the tax already paid, so total tax equals the shareholder's marginal rate. A retiree on a zero rate pays zero; a top-rate investor pays 47 per cent.

Where the profit is retained and reinvested, the value of the business rises and the shareholder eventually realises a gain. That gain carries no franking credit. The company tax becomes an unrelieved cost and the capital gains tax is applied on top of it. The same dollar of corporate profit is taxed twice.

This asymmetry is the primary mechanism throughout this paper. Subsequent chapters refer back to it rather than restating it.

3.4 Effective tax rates

An Australian invests in a company that earns \$10,000 of profit attributable to that investment. The company pays \$3,000 in company tax, leaving \$7,000, whether received as a dividend or reflected in the share price.

Effective total tax on \$10,000 of company profit	Fully franked dividend	Capital gain (50% discount)	Capital gain (new legislation)
Zero / low-rate investor	0%	30%	51%
Top-rate investor (47% marginal)	47%	46.45%	62.9%

Company tax 30 per cent; capital gain of \$7,000 assumed. The CGT legislation applies the 30 per cent minimum to the low-rate investor and the full marginal rate to the top-rate investor. Full workings at Appendix A.

This is the central economic mechanism in the report. The tax system now favours distributed income over retained earnings, increasing the cost of equity capital for businesses that rely on capital growth.

Capital growth becomes the most heavily taxed return available at both ends of the income scale, taxed more heavily than wages. The zero-rate investor who pays nothing on a dividend pays 51 per cent on a gain, which reverses the progressivity of the income tax system for this class of return.

Takeaway

The CGT legislation raises the effective tax rate on a capital gain in instances where companies retain their earnings to as much as 62.9 per cent for an investor at the top rate, and from zero to 51 per cent for an investor who pays no income tax. This answers question one of the Capital Formation Test.

4. Two design defects

4.1 The inflation trap

Indexation is presented as ensuring that only real gains are taxed. For investors caught by the 30 per cent minimum, that relief does not apply.

The behavioural consequence runs the other way. Where real capital growth is taxed heavily while franked income is not, the rational investor prefers a company whose value tracks inflation, leaving little taxable real gain, and which distributes its earnings as a franked dividend. The tax system reallocates capital towards companies that do not grow in real terms.

The Treasury consultation paper of 18 June 2026 concedes the mechanism, recording that large capital gains over a short period will generally face higher effective tax rates under indexation than under a flat percentage discount.

4.2 Gains are indexed; losses are not

Indexation applies to gains but cannot create or increase a capital loss. A holding that falls in value therefore generates a recognised loss measured in nominal terms only, smaller than the investor's real economic loss, and the difference is stranded permanently. This is a design choice carried over from the pre-1999 indexation regime rather than a drafting oversight. It can be corrected without disturbing the principle on which the legislation is based.

Across a portfolio the two effects compound. Winners become more taxable and losers shelter less. Analysis by Chris Brycki of Stockspot, using the twenty most popular ASX securities bought by Sharesight investors in April 2020 and held to June 2026, quantifies the result.

\$200,000 portfolio, April 2020 to June 2026	Amount
Nominal gain	\$309,370
Real economic gain after inflation	\$271,370
Taxable gain, previous system	\$154,685
Taxable gain, new regime	\$280,870
Increase in taxable gain	82%

Source: Stockspot analysis of Sharesight data, June 2026.

The three figures reconcile as follows. Indexing the cost base removes \$38,000 of the \$309,370 nominal gain, leaving the real economic gain of \$271,370. Because indexation cannot be applied to the holdings that lost money, a further \$9,500 of inflationary loss is stranded and cannot be offset against the gains. The taxable gain of \$280,870 is therefore the whole of the investor's real gain plus the stranded amount.

A regime introduced on the principle that investors should be taxed only on their real gains can, across an ordinary diversified portfolio, tax more than the whole of the real gain.

The portfolio was not constructed to prove a point. Fifteen of the twenty holdings beat inflation and only five lost money. The largest contributors to the increase were the successes rather than the failures.

4.3 Why the defect concentrates in innovation finance

The size of the distortion depends on the dispersion of returns within a portfolio. Dispersion is the defining characteristic of investment in innovation, where a small number of exceptional outcomes generate most of the return and the majority deliver little.

That profile is penalised twice. The winners are taxed close to the full marginal rate on gains that indexation only partly relieves, and the losers cannot fully offset them. A tax system that penalises dispersion reduces the financing of innovation.

4.4 Pooled structures neutralise the defect

The asymmetry applies unevenly. Inside an exchange-traded fund, listed investment company or managed fund, gains and losses are brought to account across the whole portfolio before tax is assessed, and the dispersion that creates the problem is absorbed within the structure. Pooled vehicles also apply realised losses across the entire book as ordinary administration.

Two Australians holding the same twenty securities over the same period face materially different outcomes according to whether they bought the shares in their own name.

The point was identified during passage. The Member for Wentworth moved an amendment allowing regulations to address the taxation of gains on a real basis and losses on a nominal basis. It did not succeed. The defect can be corrected by indexing losses on the same basis as gains, without disturbing the principle the legislation is based on.

Wilson Asset Management manages nine listed investment companies and four unlisted funds. On a narrow commercial reading the CGT legislation favours our own structures. We raise the point against interest, as does Mr Brycki, whose business is built on index exchange-traded funds.

Takeaway

Two mechanical defects operate independently of the rate: indexation relief does not reach investors caught by the 30 per cent floor, and the asymmetric treatment of losses can produce a taxable gain larger than the real gain. Both fall hardest on direct investors and on the financing of innovation.

5. How investors will respond

Tax policy does not compel investors to change behaviour. It changes after-tax incentives, and millions of individual decisions produce a predictable aggregate outcome. The responses below have each been observed in Australian markets following previous changes to the taxation of investment returns.

Response	Mechanism	Consequence
Reallocation to franked income	Dividends taxed at marginal rate; capital gains and retained earnings at 51–62.9 per cent	Market re-rates towards yield and away from reinvestment
Reallocation to size	Large mature companies pay high franked dividends and grow near inflation	Capital concentrates at the top of the index
Reduced holding of growth companies	Returns arrive as capital appreciation over long periods	Higher cost of equity for small and mid-cap companies
Lower portfolio turnover	Realising a gain becomes more expensive	Lock-in; weaker price discovery and secondary liquidity
Reduced unlisted investment	Angel and family office returns depend on after-tax exit value	Less capital at the earliest stage of business formation
Higher offshore allocation	Global equities accessible at negligible cost	Gains still taxed; capital funds businesses elsewhere
Higher cash allocation	Narrower after-tax equity premium	Capital not deployed into productive enterprise
Reduced direct share ownership	Higher relative tax burden on direct investors	Greater intermediation and lower retail ownership

5.1 Where the incentive points

The companies that best fit the post-change profile of high franked yield and low real growth are concentrated at the top of the exchange. The ASX top 20 yields 5.0 per cent on average against 3.0 per cent for the index excluding those constituents.

ASX segment	Average dividend yield
Top 20	5.0%
Top 50	3.2%
ASX 100	3.0%
ASX 200	3.6%
ASX 200 excluding top 20	3.0%

Source: Bloomberg, June 2026. Sector yields above the 3.6 per cent market average: oil and gas 7.3 per cent, utilities 5.6 per cent, REITs 5.1 per cent, materials 4.9 per cent, banks and financials 4.4 per cent, industrials 4.2 per cent, communications 4.1 per cent.

Advantaged	Disadvantaged
Major banks	Small and micro-cap companies
REITs and property trusts	Early-stage growth companies
Large oil and gas companies	Technology companies
Mature infrastructure businesses	Emerging industrial companies
High franked dividend payers	Businesses that reinvest earnings

The combined incentives favour larger, mature, higher-yielding companies over businesses whose returns depend primarily on capital growth.

5.2 The revenue, and the cost of collecting it

The measures are forecast to raise approximately \$3.6 billion. The Explanatory Memorandum discloses that figure. It does not disclose the dynamic revenue modelling behind it, or the behavioural elasticity assumptions on which the figure depends.

Capital gains tax sits at the most elastic end of the revenue relationship, because realisations are discretionary. An investor chooses whether to sell, when to sell, and in which jurisdiction to hold the asset in the first place. No other significant revenue line gives the taxpayer that degree of control over the timing of the taxing event, which is why static modelling is least reliable here and most likely to overstate receipts.

The international record is consistent. The United States Tax Reform Act of 1986 repealed the long-term capital gains exclusion, which had allowed taxpayers to exclude 60 per cent of long-term gains, and taxed capital gains at the same maximum marginal rate of 28 per cent as ordinary income. Realised gains in the early 1990s were materially lower in real terms than a decade earlier, despite substantial economic growth over the period. A Joint Economic Committee analysis found that the 28 per cent rate produced approximately 43 per cent fewer realised gains than would have been expected under the prior 20 per cent rate, and concluded that the higher rate yielded no additional revenue for the United States Treasury.

The United Kingdom raised its capital gains tax rates in October 2024. Receipts for the following year fell by approximately 8.4 per cent, to £13.65 billion, despite the higher statutory rates.

At effective rates between 51 and 62.9 per cent in instances where companies retain their earnings, the contraction in the Australian tax base through deferral, substitution and migration is likely to be material. That produces the least useful outcome available: the investment does not occur, and the revenue is not collected either. The cost to capital formation is borne whether or not the forecast receipts arrive, which is why the case for these measures cannot rest on the revenue estimate alone.

Treasury should publish its dynamic revenue projection, with the behavioural assumptions and elasticities stated explicitly, before the amending Bill that must legislate the final arrangements is considered. That is the basis of the recommendation at Chapter 13.

Takeaway

The CGT legislation reallocates capital from businesses that reinvest earnings towards businesses that distribute them. Static revenue modelling will overstate receipts, because the realisation base is what the measure causes to contract. This answers question three of the Capital Formation Test.

6. The cost of capital below the top twenty

Where investors hold a narrower band of large, high-yield companies, the supply of capital to everyone else contracts and its price rises. This is the mechanism by which a change in tax settings becomes a higher hurdle rate in company boardrooms.

Segment of the Australian equity market	Approx. value	Effect
Top 10 companies	~\$1.1 trillion	Capital flows in
Everything below the top 10–20	~\$2.2 trillion	Cost of capital rises
Total market	~\$3.26 trillion	Concentration intensifies

Total market capitalisation of \$3,257,972 million at 30 June 2026 (ASX, Historical Market Statistics). The split between the largest companies and the remainder is indicative. Note that ASX changed its reporting basis in 2024 to include all listed entities rather than domestic incorporated entities only, so figures either side of that change are not directly comparable.

Australia’s future productivity growth is overwhelmingly created outside the largest listed companies. Policies that raise the cost of capital for emerging businesses therefore have disproportionate long-term economic consequences.

The cost of capital is the rate of return a company must clear before an investment is worth making. Where it rises, capital expenditure is deferred, expansion plans contract and companies that might have listed remain private. The flow of new floats slows, because the exit on which growth investors rely is taxed more heavily.

The effect is largest where the productivity upside is greatest. Small and emerging companies are where new methods are commercialised and where the productivity frontier moves. Raising their cost of capital reduces investment in the future productive base.

Concentration also carries risk. Diversification across a broad base of companies protects ordinary investors and superannuation members. A measure that reallocates capital into a small number of large-capitalisation stocks increases systemic concentration while reducing dynamism elsewhere.

Takeaway

The cost of equity capital rises in inverse proportion to a business’s contribution to future productivity growth. This answers question four of the Capital Formation Test.

7. Who bears the cost

Distributional tables measure realised gains in a single year, which are concentrated among people with accumulated assets. Over a working life the incidence is different.

Affected group	Mechanism
Younger Australians	Face the new regime for an entire accumulation phase, while existing holdings were acquired under prior settings
Founders and entrepreneurs	A working life of risk is realised once, as a single long-dated gain taxed at near-marginal rates
Employees holding equity	Employee share scheme value is realised as a capital gain
Family and private businesses	Succession, sale and restructure crystallise gains; the proposed 30 per cent minimum on discretionary trusts from 1 July 2028 compounds it
Retirees outside superannuation	Face up to 51 per cent on realising accumulated capital while paying little or nothing on franked income
Charitable giving	Structured giving is funded by realised gains and donations of appreciated assets

7.1 The 2.7 million businesses

At 30 June 2025 there were 2,729,648 actively trading businesses in Australia. On the ABS definition 97.3 per cent are small businesses employing fewer than twenty people, and around 1.7 million have no employees. Small businesses employ more than five million Australians, close to two in five of the private sector workforce.

Every successful Australian business begins as a small business. Tax policy should encourage Australians to build businesses rather than discourage the long-term capital that finances them.

A person starting a business is comparing a wage, which is certain and taxed at their marginal rate, with equity in something they build. The second option pays little for years. What accumulates is value in the business, realised once, when it is sold or passed on.

The Government has widened the small business 50 per cent active asset reduction from a \$2 million to a \$10 million turnover threshold, extending eligibility on its own account to more than 98 per cent of active businesses. Where an owner satisfies the basic conditions and the active asset test, the position on sale of the business is materially better than the abolition of the general discount implies.

The protection does not extend to the employee whose stake came through a share scheme, the minority founder, the early backer of another person's business, an owner failing the maximum net asset value or active asset tests, or any investor in a listed company. For those groups the gain is taxed at the marginal rate, up to 47 per cent, with no discount, and higher again where company tax has been paid on retained earnings.

7.2 The risk is unchanged

Around 75 per cent of new businesses survive their first year and roughly 48 per cent are still trading after three. In 2024–25, 437,150 businesses commenced and 370,500 closed. The treatment of failure is worse

than under the previous system, because a loss is recognised at less than its real value while a gain is taxed at close to its full nominal value.

7.3 The accumulation of carve-outs

Australia now has a general regime that discourages productive capital and a growing set of exceptions carved out of it: the small business concessions, the fifteen-year exemption, the retirement exemption, the proposed Innovative Business CGT Concession, and further exceptions the Government has said it will consider for biotech, medtech and deep tech.

Every carve-out requires a threshold and every threshold produces a cliff. Businesses are left to establish, transaction by transaction, which regime applies, and to pay for the advice that determines it.

Takeaway

The measure reaches well beyond shareholders. Its largest cost is borne through slower productivity growth and weaker wage growth by people who never realise a capital gain. This answers question two of the Capital Formation Test.

8. Foreign investors and Australian ownership

Under Division 855 of the Income Tax Assessment Act 1997, a foreign resident is subject to Australian capital gains tax only on taxable Australian property, broadly real property and interests in land-rich entities. A portfolio interest in a widely held listed company falls outside that definition.

The entire apparatus of the CGT legislation therefore applies to Australian residents and to almost no one else. Two owners can hold identical shares in the same company and make the same gain, and only the Australian is taxed.

The consequence compounds with the reallocation described in Chapters 5 and 6. As domestic investors move towards the largest listed companies, they move towards the part of the market that already carries substantial foreign ownership, and the after-tax return on those securities widens in favour of the holder who pays no Australian capital gains tax.

This is not an argument against foreign investment. Australia is a capital-importing nation and the Division 855 exemption exists because jurisdictions do not generally tax non-residents on portfolio gains. The point is narrower: a measure presented as improving fairness taxes Australians for holding companies that foreign investors hold without any Australian capital gains tax.

Takeaway

The CGT legislation increases the relative cost of Australian ownership while leaving many foreign portfolio investors outside Australia's capital gains tax system.

9. Listed companies and the intermediation effect

9.1 The listed and unlisted divide

A series of recent measures apply to listed public companies while leaving economically identical unlisted structures unaffected. Since the Treasury Laws Amendment (2023 Measures No. 1) Act 2023, a listed public company undertaking an off-market buy-back cannot frank any part of the distribution and must still debit its franking account. An unlisted company undertaking an identical buy-back can frank the distribution and pass the credits to shareholders.

The Board of Taxation had recommended that the off-market buy-back rules apply in the same way to listed and unlisted companies. The measure did the opposite. The proposed Innovative Business CGT Concession continues the pattern, expressly disqualifying any company listed on a public exchange.

A company that remains private is not necessarily less productive. It is less transparent, less liquid, and closed to Australians who can invest only through public markets.

9.2 The intermediation effect

As set out at 4.4, pooled vehicles net gains and losses across a portfolio and neutralise the loss asymmetry. They may also be taxed on gains at a lower rate than an individual facing the full marginal rate plus minimum. The CGT legislation therefore favours investing through an intermediary over investing directly.

It seems a strange outcome for a national government to be effectively telling people that they should be using layers and layers of intermediation, that it should penalise people for investing themselves.

— Geoff Wilson AO, evidence to the Senate, June 2026

9.3 Direct share ownership

Year	Direct share ownership	Context
1991	~10%	Before privatisations
1997	~20%	
1998	~32%	Demutualisation era
Peak (2000s)	~40–41%	CSL, Commonwealth Bank, Telstra
Today	~38%	7.7 million Australians

Indicative trajectory, as cited in evidence to the Senate. The United Kingdom, which did not sustain a comparable privatisation pipeline, has seen direct ownership fall from around 30 per cent in 2000 to roughly 18 per cent.

Australia spent decades encouraging direct share ownership. This measure moves policy in the opposite direction.

9.4 The same share, taxed two ways

Complying superannuation funds are excluded from the new CGT legislation. The one-third discount for assets held more than twelve months is retained, the 30 per cent minimum does not apply, and the deemed sale and re-acquisition transition does not operate. A fund in accumulation phase continues to bear an effective rate of around 10 per cent on a discounted long-term gain, and a fund in pension phase pays nothing up to the transfer balance cap.

The consequence is that the same share in the same Australian company is taxed at around 10 per cent when it is held by a superannuation fund and at up to an effective tax rate of 62.9 per cent when it is held

by an Australian in their own name when a company retains its earnings and does not pay out a dividend. Nothing about the underlying investment differs. The only variable is the structure through which it is owned.

This is the intermediation effect described at 9.2 in its most concentrated form, and it runs against four decades of policy encouraging Australians to hold shares directly. It operates at exactly the point in life when Australians have capital outside superannuation to deploy: before preservation age, above the concessional caps, or once the transfer balance cap has been reached. Wilson Asset Management does not argue that superannuation should be brought into the new regime. The argument is the reverse. The treatment retained for superannuation is the treatment that should apply to long-term equity in productive Australian businesses, however it is held.

Takeaway

Recent tax measures have consistently disadvantaged public listing and direct ownership relative to private and pooled alternatives, narrowing participation in the productive base of the economy.

10. An Early Warning Sign: Company Registrations Are Rising Because Tax Policy Is Changing Behaviour

One of the earliest measurable effects of Australia's recent tax changes is already visible in business registrations. In June 2026, more than 43,000 new companies were registered, despite business insolvencies continuing to rise, consumer confidence remaining weak and broader economic activity slowing. These trends occurred simultaneously. The increase in company registrations reflects two changes in tax policy that make incorporation more attractive than previous ownership structures.

10.1 The proposed trust tax is encouraging incorporation

The first driver is the proposed introduction of a 30 per cent minimum tax on discretionary trusts from 1 July 2028. Companies with annual turnover below \$50 million continue to pay a 25 per cent corporate tax rate. That five-percentage-point difference changes behaviour. Businesses, professionals and investors who previously operated through discretionary trusts now have a financial incentive to establish companies instead.

The increase in company registrations therefore reflects a change in legal ownership structures driven by tax settings. It does not represent an equivalent increase in new productive businesses, investment or employment.

10.2 The capital gains tax changes favour corporate investment structures

The second driver is the design of the new capital gains tax regime. As explained in Chapter 4, capital gains are indexed for inflation while capital losses remain measured in nominal terms. Across a diversified portfolio, investors can therefore be taxed on more than their real economic gain because real losses cannot be fully offset against indexed gains. This substantially increases the tax burden for Australians who own diversified portfolios directly.

The rational response is to invest through pooled structures where gains and losses are aggregated before tax is assessed. Where those pooled structures are companies, they may also benefit from the 25 per cent corporate tax rate, making incorporation even more attractive. The legislation therefore creates a tax incentive to move away from direct share ownership towards corporate investment structures.

10.3 Capital is being redirected into tax planning rather than productive investment

Tax policy should encourage entrepreneurs to build businesses, investors to provide long-term capital and Australians to own productive assets directly. Instead, these measures encourage businesses and investors to change legal structures to reduce tax liabilities.

Restructuring ownership does not increase productivity, create new products, employ more Australians or increase business investment. It simply redirects time, capital and professional resources into tax-driven restructuring rather than productive economic activity.

This is an early behavioural response to the new tax settings. It demonstrates that taxation changes incentives immediately, long before the legislation raises significant revenue.

11. International comparison

The relevant comparison is the effective rate after concessions, indexation and the treatment of underlying company tax, rather than the headline rate.

Jurisdiction	Top long-term capital gains tax rate
United States	20 per cent federal plus 3.8 per cent net investment income tax
United Kingdom	24 per cent on most assets following the Autumn 2024 changes
New Zealand	No general capital gains tax
Singapore	No capital gains tax
Hong Kong	No capital gains tax
Japan	20.315 per cent flat on most listed equities
Sweden	30 per cent flat, following the 1991 reforms
Norway	37.84 per cent following the 2022–23 changes
Australia (previous)	46.45 per cent effective at the top rate, including company tax
Australia (new legislation)	62.9 per cent effective at the top rate; 51 per cent for a zero-rate investor, including company tax

The rates above are shareholder-level rates. Because Australia's figure includes the company tax borne on the earnings a gain capitalises, a like-for-like comparison requires the same treatment of every other jurisdiction. On an integrated basis Australia's position is worse, not better, than the headline table suggests.

Jurisdiction	Company tax and shareholder rate	Integrated effective rate
United States	21% federal company tax; 23.8% shareholder	39.8%
United Kingdom	25% company tax; 24% shareholder	43.0%
Japan	~30% combined company tax; 20.315% shareholder	44.0%
Sweden	20.6% company tax; 30% shareholder	44.4%
Norway	22% company tax; 37.84% shareholder	51.5%
New Zealand	28% company tax; no capital gains tax	28.0%
Singapore	17% company tax; no capital gains tax	17.0%
Australia (previous)	30% company tax; 47% on the discounted half	46.45%
Australia (new legislation)	30% company tax; 47% on the full real gain	up to 62.9%

Integrated rate calculated as $1 - (1 - \text{company tax}) \times (1 - \text{shareholder rate})$, the method used in Appendix A. Headline national company tax rates; Japan shown at an approximate combined national and local rate.

Sweden is frequently cited in support of a flat rate on capital income. The 1991 reforms introduced that rate as part of a package that broadened the base, reduced top marginal rates on labour income and integrated the treatment of capital income across asset classes. Sweden subsequently introduced a flat-rate investment account regime designed to encourage retail share ownership.

Norway introduced an exit tax in 2022 and tightened wealth taxation. Within eighteen months an estimated 80 of the country's 400 wealthiest taxpayers had relocated, and subsequent analysis suggested the net revenue effect was negative.

Australia also competes for listings. Atlassian listed on the Nasdaq in 2015 and Life360 added a Nasdaq listing in 2024. The United States offers a deeper pool of risk capital at every stage, and the ASX one-share-one-vote listing rule directs founders seeking dual-class structures offshore.

Takeaway

Jurisdictions competing with Australia for entrepreneurs, venture capital and skilled people are holding or improving the treatment of long-term productive investment.

12. A better alternative: protect every Australian business

12.1 The Government has accepted the principle

On 18 June 2026 the Treasury published a consultation paper proposing an Innovative Business CGT Concession, restoring a 50 per cent discount on nominal gains for early investors in qualifying start-ups. Submissions closed on 10 July. The design has not been legislated.

The reasoning set out in that paper is the argument of this document, in the Government’s own words.

Finding in the consultation paper	Source
Firms operating five years or less created around 60 per cent of all new jobs in Australia over the past twenty years	e61 Institute analysis of ABS microdata, 2025
Young firms account for around 20 per cent of employment and close to half of all new jobs	OECD, 2026
Australia’s highest-performing young firms achieve productivity around 45 per cent above industry averages within five years	e61 Institute, 2025
The capital funding these businesses is globally mobile and tax arrangements should not disincentivise investment in them	Treasury, 18 June 2026
Large capital gains over a short period face higher effective tax rates under indexation than under a flat discount	Treasury, 18 June 2026

The Government has conceded the case

The Government has accepted that the new settings discourage investment in productive businesses. The question remaining is where that concession stops.

12.2 Where the concession stops

Eligibility requires new equity in an unlisted and independent company, issued while turnover is below \$50 million and the company is less than ten years from incorporation, satisfying an innovation test, held for five years, capped at \$10 million of lifetime gains. Companies, foreign residents and superannuation funds are excluded, as is any company listed on a public exchange.

None of those boundaries follows from the reasoning that justifies the concession. A business does not stop creating jobs on its tenth birthday, stop lifting productivity when turnover passes \$50 million, or stop innovating when it lists. The evidence relied upon describes why productive capital matters throughout the economy.

The Government has already signalled that it will consider a fifteen-year limit for biotech, medtech and deep tech, and consider relaxing the listing disqualification for those sectors. The exceptions are multiplying before the measure has commenced, which indicates that the difficulty lies in the general rule.

12.3 What we are asking for

The final arrangements must come before the Parliament as an amending Bill before the measures commence on 1 July 2027. That Bill is the vehicle.

We ask the Government to apply the principle it has accepted to every productive Australian business, by retaining a meaningful long-term concession for equity in operating Australian businesses, listed and unlisted, rather than confining it to a class defined by age, turnover and listing status.

This is not a request to abandon the new CGT measures. The housing measures, the negative gearing changes and the revenue attributed to established residential property are unaffected.

The principle, as the Government states it

Tax arrangements should not disincentivise investment in businesses that create jobs, lift productivity and compete for globally mobile capital.

We agree with the principle. We disagree only with limiting that principle to a narrow class of businesses.

12.4 If the Government will not extend the principle

Where the Government declines to protect productive Australian businesses generally, the Parliament should repeal the capital gains tax provisions before they commence.

Repeal is available at no fiscal cost because the measure has not commenced. No revenue is raised, no investor taxed, no asset valued and no transition completed before 1 July 2027. Repeal before that date requires no refund, no unwinding and no write-back of receipts already spent. After it, repeal means reversing a nationwide valuation exercise and returning revenue already collected.

The CGT legislation is also incomplete on its own terms, with determinations governing who is taxed, at what rate and on which assets not yet made. There is limited cost in pausing a measure whose operating rules do not yet exist.

12.5 Design principles for any measure that proceeds

- Separate the treatment of established residential property from equity in operating businesses.
- Index capital losses on the same basis as capital gains.
- Recognise the company tax already paid on the earnings a gain capitalises.
- Step the concession down with holding period rather than applying a single commencement date.
- Publish the behavioural assumptions underlying the revenue estimate.

Takeaway

The Government has accepted that productive businesses require protection from these settings. The protection should follow the principle rather than the threshold.

13. Recommendations

Primary

1. **Retain a meaningful long-term capital gains concession for equity invested in productive Australian businesses, listed and unlisted, by extending the principle already accepted in the Government's Innovative Business CGT Concession.** The reasoning in the consultation paper of 18 June 2026 does not stop at a ten-year-old unlisted company with \$50 million of turnover.
2. **If the Government is unwilling to protect all productive Australian businesses, Parliament should repeal the capital gains tax reforms before they commence on 1 July 2027.** Repeal before commencement carries no fiscal or administrative cost. The negative gearing and superannuation borrowing measures are not the subject of this recommendation.

Minimum repairs before commencement

3. **Index capital losses on the same basis as capital gains.** Corrects a defect capable of causing taxable gains to exceed an investor's real economic gain, and removes the advantage the CGT legislation confers on pooled structures over direct ownership.
4. **Remove the 30 per cent minimum on gains below the investor's marginal rate.** Restores the progressivity the income tax system has otherwise observed.
5. **Recognise the company tax already paid.** Any capital gains regime applied to shares should account for the 30 per cent company tax already borne by corporate profits.
6. **Distinguish productive equity investment from established housing.** Company shares should not be treated identically to established residential property, which is where the policy problem was diagnosed.
7. **Complete the unfinished rules well before commencement.** The ministerial legislative instruments remain unmade and the treatment of small and start-up businesses is unresolved.
8. **Amend to protect charitable giving.** Adopt the two remedies set out in the Future Generation submission, implementable in any amending Bill before 1 July 2027.

For measures that follow

9. **Adopt the Capital Formation Test.** Assess every major tax and regulatory reform affecting investment against the four questions in Chapter 2, and publish the assessment alongside the revenue estimate.
10. **Recognise capital formation as a driver of business dynamism.** Treat the cost and availability of productive capital as a foundational determinant of business entry, expansion and exit.
11. **Do not penalise public listing.** Align the off-market buy-back franking rules, as the Board of Taxation recommended, and remove the listing disqualification from the start-up concession.
12. **Publish dynamic modelling.** Model the effect on business formation, innovation, productivity and the cost of capital, including the behavioural assumptions behind the revenue estimate.
13. **Reconsider the discretionary trust minimum tax.** A 30 per cent minimum applied at the trust level operates as a flat tax that removes the progressive rate scale from every beneficiary.
14. **Legislate a post-implementation review at three years.** Examine realised revenue against forecast, listing activity, venture capital flows and direct ownership participation.

14. Conclusion

The CGT legislation applies a mechanism designed for established residential property to every company in the country. It raises the effective tax rate, including company tax, to up to 62.9 per cent for the highest marginal rate investor, taxes more than the whole of an investor's real gain in portfolios with ordinary dispersion of returns, raises the cost of equity capital for companies below the top tier, and favours intermediated over direct ownership.

The design also produces an outcome difficult to reconcile with the legislation's stated purpose. New residential dwellings are the only asset class to retain the 50 per cent discount. Housing is where the problem was diagnosed. It is now the one place the concession survives.

The Government has accepted that productive businesses require protection from these settings, and has proposed that protection for one class of them. This paper asks that the same principle be applied to all of them, using the amending Bill that must legislate the start-up concession before commencement.

Australia does not have a shortage of ideas, entrepreneurs or savings. It has a shortage of productive investment, and productive investment begins with productive capital.

Every major economic reform should therefore answer one question.

The Capital Formation Test

Does it increase or reduce Australia's capacity to create productive capital?

The new capital gains tax fails that test. Wilson Asset Management would welcome the opportunity to discuss this paper with the Treasury, the Productivity Commission, members of the Parliament and the Senate crossbench.

Appendix A: The calculations in full

For a single \$10,000 of pre-tax company profit attributable to an investor's holding, on gains accruing on or after 1 July 2027. Company tax 30 per cent. The realised gain is the \$7,000 of after-company-tax profit retained and reflected in the share price.

A.1 Zero / low-rate investor

Step	Income (franked)	Capital (new legislation)
Company profit	\$10,000	\$10,000
Less company tax at 30%	-\$3,000	-\$3,000
After-tax amount	\$7,000	\$7,000
Shareholder tax (0% rate; 30% minimum on gain)	\$0 (credit refunded)	-\$2,100
Total tax paid	\$0	\$5,100
Effective tax rate	0%	51%

A.2 Top-rate (47 per cent) investor

Step	Income (franked)	Capital (previous)	Capital (new legislation)
Company profit	\$10,000	\$10,000	\$10,000
Less company tax at 30%	-\$3,000	-\$3,000	-\$3,000
After-tax amount	\$7,000	\$7,000	\$7,000
Taxable gain	n/a	\$3,500	\$7,000
Shareholder tax at 47%	-\$1,700	-\$1,645	-\$3,290
Total tax paid	\$4,700	\$4,645	\$6,290
Effective tax rate	47%	46.45%	62.9%

Income column: \$10,000 grossed-up dividend taxed at 47 per cent is \$4,700, less the \$3,000 franking credit, leaving a top-up of \$1,700. Capital (previous): \$7,000 gain less the 50 per cent discount is \$3,500 taxable, taxed at 47 per cent is \$1,645, plus \$3,000 company tax. Capital (new legislation): \$7,000 taxed at 47 per cent is \$3,290, plus \$3,000 company tax. Top marginal rate of 45 per cent plus the 2 per cent Medicare levy; company tax 30 per cent, 25 per cent for base rate entities.

A.3 What this calculation includes

The example isolates a single dollar of company profit. The \$7,000 gain is the after-company-tax profit retained in the business and reflected in the share price, so it is a real gain by construction. Cost base indexation relieves the separate inflationary component of a share price over a holding period. That component is not present in this example and is therefore not shown.

This is deliberate rather than an omission. Indexation reduces the tax on the part of a nominal gain that reflects inflation. It does not reduce the tax on the part that reflects genuine real growth in the value of the business, which is the part this example measures and the part that determines whether capital is committed. Where a share price also rises with inflation over a long holding period, indexation relieves that additional inflationary component. It does not change the 62.9 per cent borne on the real retained earnings.

A.4 Comparison with labour income

The same \$10,000 of company profit paid to an employee as wages is deductible to the company, so no company tax is borne, and it is taxed once in the employee's hands. At the top marginal rate the total tax is \$4,700, an effective rate of 47 per cent. Retained in the business and later realised as a capital gain, the same \$10,000 bears \$6,290, an effective rate of 62.9 per cent. Under the CGT legislation a dollar of company profit is taxed more heavily when it is reinvested in the business than when it is paid out as salary.

Appendix B: Sources

Legislation and consultation

- Treasury Laws Amendment (Tax Reform No. 1) Act 2026 (Act No. 49 of 2026) and Income Tax Rates Amendment (Tax Reform No. 1) Act 2026 (Act No. 50 of 2026). Introduced 28 May 2026, amended in the Senate following the package announced 18 June 2026, passed 25 June 2026, royal assent 26 June 2026, applying to CGT events on or after 1 July 2027.
- The Treasury, Capital gains tax reforms – arrangements for innovative start-ups, consultation paper, 18 June 2026; submissions closed 10 July 2026. Includes the proposed Innovative Business CGT Concession and the increase in the small business 50 per cent active asset reduction turnover threshold from \$2 million to \$10 million.
- Income Tax Assessment Act 1997, Division 855. A portfolio interest of less than 10 per cent in a widely held listed company whose assets are not principally Australian real property is not taxable Australian property.
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- CPA Australia, evidence to the Senate Economics Legislation Committee, June 2026, on compliance costs against Treasury’s regulatory impact estimate of \$88.4 million.
- ASX Australian Investor Study series; Gallup share ownership data; ONS and LSEG data.

Wilson Asset Management submissions

- Submission to the Senate Economics Legislation Committee, 9 June 2026.
- Capital Formation and Business Dynamism, submission to the Productivity Commission, July 2026.
- Submission on the Treasury consultation on capital gains tax arrangements for innovative start-ups, July 2026.
- The Government's Proposed CGT Will Destroy Efficient Capital Formation in Australia, discussion paper, June 2026.

About Wilson Asset Management

Wilson Asset Management has a track record of making a difference for more than 130,000 investors and the Australian community for 29 years. As the investment manager for nine leading listed investment companies (LICs): WAM Capital (ASX: WAM), WAM Leaders (ASX: WLE), WAM Global (ASX: WGB), WAM Microcap (ASX: WMI), WAM Income Maximiser (ASX: WMX), WAM Alternative Assets (ASX: WMA), WAM Strategic Value (ASX: WAR), WAM Research (ASX: WAX) and WAM Active (ASX: WAA); and four unlisted funds: Wilson Asset Management Leaders Fund, Wilson Asset Management Founders Fund, Wilson Asset Management Real Assets Fund and Wilson Asset Management Equity Fund, Wilson Asset Management invests \$6.0 billion on behalf of more than 130,000 retail and wholesale investors.

Wilson Asset Management created and is the lead supporter of the first LICs to deliver both investment and social returns: Future Generation Australia (ASX: FGX) and Future Generation Global (ASX: FGG), as well as Future Generation Women. Wilson Asset Management advocates and acts on behalf of retail investors, is a member of the global philanthropic Pledge 1% movement, is a significant funder of many Australian charities and provides all team members with \$10,000 each year to donate to charities of their choice. All philanthropic investments are made by Wilson Asset Management and not the LIC.

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