

# Social Security treatment of principal home

Bulletin 2 – February 2016

The principal home is the most significant asset for many clients. This bulletin contains a detailed analysis of Centrelink's and Department of Veterans' Affairs (DVA) treatment of the principal (family) home.

For Centrelink and DVA purposes, a person is assessed as either a homeowner or non-homeowner. This has significance in working out the amount of a person's pension or allowance entitlement under the assets test.

Broadly speaking, if the person is a homeowner, in most circumstances the value of their home is exempt from both the assets and income test. If the person is a non-homeowner, they benefit from a higher assets test threshold and may be eligible for rent assistance.

## Learning objectives

After reading this bulletin you should:

- be able to determine the client's homeowner status
- understand the implications of the client vacating their home temporarily, and
- understand Centrelink's assessment when a portion of the primary home is used to produce income.

## Who is considered a homeowner?

A person is considered a homeowner if they, or their partner, have:

- a right or interest in the place they occupy, and
- that right or interest gives them reasonable security of tenure.

Examples of where a person is considered a homeowner are where they are living in:

- a home owned or partly owned by themselves or their partner
- a home to which they have legal title
- a home which is owned by a company or trust and the company or trust gives the person reasonable security of tenure in the home
- a campervan, caravan, transportable home or boat owned or partly owned by themselves or their partner
- a granny flat arrangement or retirement village where certain conditions are met
- a residential aged care facility where the former home has been retained and certain conditions are met, or
- a home resulting from a life interest from a deceased estate.

If a person is not a homeowner, they will be assessed as a non-homeowner and eligible for a higher assets test threshold. They may also be eligible for rent assistance (RA). Information on RA can be obtained [here](#).

Even when a person is not living in their principal home, it may be exempt for one or more years depending on the reason for vacating the home.

## How much of the home and adjacent land is exempt?

A person's principal home, including adjacent land, is exempt under the assets test, regardless of the value. The term adjacent land describes the land surrounding the principal home that is held under the same title document (limited exceptions apply to the land being on one title). The two tests used to determine whether adjacent land is exempt are the private land use test and the extended land use test.

### 1. Private land use test

This is the most common test. The maximum amount of land adjacent to the principal home that can be exempted under the private land use test is two hectares (five acres). To qualify, the adjacent land must be held on the same title document and used primarily for private or domestic purposes.

### 2. Extended land use test

The extended land use test applies in certain situations and allows a 100% asset test exemption on the home and land over two hectares on the same title. For this test to apply, the person (or their partner) must meet all of the following conditions:

- be of pension age or service pension age and eligible for age pension/carer payment or DVA service pension
- have lived in the principal home on the land for 20 years. Broadly speaking, to meet this test, the home must have been the principal home of the person (or their partner) for 20 years or more continuously. Note that a continuous attachment to land will still exist if the person (or their partner) had temporary absences for up to 12 months, and for up to two years if they were absent in a care situation, and
- makes effective use of productive land to generate an income (effective land use test – discussed below).

The requirement that the person or their partner has **lived** in the principal home on the land for 20 years does not necessarily mean that the person has **owned** the land for 20 years. This could cover situations where the person has rented the property prior to purchase, or lived with parents who owned the property and subsequently inherited the property on death of the parents.

To meet the effective land use test, land with commercial potential must be used to generate an income. The effective land use test can be satisfied by:

- the person or a close family member working the land to its potential, or
- leasing the land to generate income.

Importantly, income generated from the land will be assessed under the income test in the usual way unless the income generated from the effective use of the land is being paid to a close family member (for example, parent, child or a sibling) working the land, in which case no income will be assessed. When determining whether a person is putting land to effective use, the following will be considered:

- where the land is located and its size
- the person's family situation and health
- whether the land contains a dwelling occupied by a family member of the person, or a child of a family member of the person, receiving an income support payment
- whether the land is being used to support a family member of the person or a child of a family member of the person
- any current or potential commercial use of the land
- whether the person's capacity to make commercial use of the land is diminished because the person, or the person's partner, has responsibility for the care of another person, and
- environmental issues relating to the land.

The effective land use test will automatically be met if it is determined that the land does not have commercial potential.

#### **Example: Extended land use test**

John (age 65) is a farmer. He has been living on his single title, 150 hectare farm for 20 years. John leases all his viable farming land to an unrelated party.

Although John's home plus adjacent land exceeds two hectares, he can have the value of the 150 hectares of land exempted from the assets test because he meets the criteria for using the extended land use test. That is, he is of age pension age, has lived on the farm for 20 years and is making effective use of the land by leasing it to an unrelated party.

Note that the income received from leasing would be assessed under the income test.

## **Person owns more than one home**

If a person, or their partner, has an interest in more than one home, their principal home is the one in which they spend the greatest amount of time. If they spend the same amount of time in each home, the most expensive home is defined as the principal home. The property which is not the principal

home will be treated as an investment property – market value (less encumbrances) is assessed as an asset and net rental (if any) assessed as income.

## **Temporary vacation of property**

There are some situations where a person can own their principal home, be temporarily away from that home and still be considered a homeowner. If the absence is deemed to be temporary, a person is treated as a homeowner during the absence and the value of the home is exempt from the assets test for a maximum period of up to 12 months. The exemption applies even when the person expects to be temporarily absent for more than 12 months.

If a person does not intend to return to the principal home, ie the person intends to be absent permanently, the absence will not be seen as temporary. The person will immediately be treated as a non-homeowner and the value of the home counted as an asset. This will also be the case if the 12-month temporary absence period is exceeded.

In some situations, the temporary vacation of property exemption can be extended for a period of up to 24 months (eg where the home is destroyed or damaged and certain criteria is met).

If the home is rented out during the period of absence, the rental income is assessed as income.

If a person vacates their principal home to provide or receive care, different provisions apply and the person's intention to return home is irrelevant. This is discussed in more detail further in this bulletin.

If a person resumes occupancy of the home within 12 months and subsequently vacates the home again, a new 12-month exemption period begins. The person must resume living in the home, not just establish a brief period of residence to extend the exemption period.

If the person sells the principal home during the exemption period, the amount they intend to use to purchase, build, rebuild, repair or renovate a new principal home will be exempt from the assets test for up to 12 months from the date of sale.

The person remains a homeowner throughout the exemption period.

## **Travelling in caravans**

Some retirees make extended trips around Australia in a caravan or campervan. If a person leaves their home temporarily for up to 12 months to travel in a caravan, they will continue to be treated as a homeowner. RA will not be payable during this period.

If the person is absent for more than 12 months, the caravan will be classified as their principal home and they may be eligible for RA for site fees paid in respect of their caravan. The former principal home will then be counted as an asset. Eligibility for RA for income support recipients who live in caravans varies according to their individual circumstance.

Situation	Eligibility for Rent Assistance
The person (or their partner) owns both the caravan/home they reside in <b>and</b> the land it stands on	RA not payable
The person (or their partner) owns the caravan/home they reside in <b>but</b> pays site fees for the land it stands on	RA may be payable
The person (or their partner) rents, leases or hires a caravan/home <b>and</b> owns the land it stands on	Depends on the circumstances of each case

## Selling the home and using the proceeds to purchase another home

Often people will sell their principal home but take some time to purchase or build another home. In the interim period, they have the sale proceeds commonly invested in a bank account.

In these situations, Centrelink and DVA will continue to assess a person as a homeowner for a period of up to 12 months from the date of the sale settlement. The person would be required to declare to Centrelink or DVA that they are intending to purchase a new residence.

If a person has not been able to purchase, build, rebuild, repair, or renovate a new principal home within 12 months, the principal home sale proceeds can be exempt from the assets test for up to 24 months, subject to the person meeting certain criteria. For this longer exemption to apply, the person must have a continuing intention to apply the proceeds of the sale to purchase, build, rebuild, repair or renovate a new principal home and have:

- made reasonable attempts to purchase, build, rebuild, repair or renovate their new principal home, and
- been making those attempts within a reasonable period after selling the principal home, and
- experienced delays beyond their control in purchasing, building, rebuilding, repairing or renovating their new principal home.

The portion of the proceeds that the person intends to use to purchase, build, rebuild, repair or renovate a new principal home will be exempt from the assets test for up to 12 months (or 24 months if certain criteria is met), starting from the date of sale. However, there is no exemption under the income test. For example, if the sale proceeds are invested in a bank account, they will be deemed as a financial investment. This may affect a person's pension or allowance entitlement notwithstanding that the amount does not count under the assets test.

Further, the assets test exemption only applies to the portion of the sale proceeds that the person intends to use to purchase, build, rebuild, repair or renovate a new principal home.

### Example: Exemption of sale proceeds from principal home under assets test

Judy (age 67) sells her principal home for \$500,000 and intends to purchase a new principal home for \$300,000. The remaining \$200,000 will be used to fund her living expenses throughout retirement.

Given Judy only intends to use \$300,000 of the sale proceeds to purchase a new principal home, the total amount of sale proceeds that can be exempt from the assets test is \$300,000. The \$200,000 is not exempt from the assets test.

Judy invests the whole \$500,000 in a bank account to protect the funds from volatility until she purchases her new home. The entire \$500,000 is deemed for income test purposes.

There is no exemption under the deeming rules for the \$300,000 she intends to use to purchase her new home.

### Planning point

Some people may seek to shelter the sale proceeds in superannuation (where under pension age) until a new home is built or purchased. Where a person has not reached pension age, superannuation in accumulation phase is exempt from both the assets and income test.

Contributions using the sale proceeds could be made to superannuation, but the ability to contribute to superannuation and the contribution caps must be considered. Importantly, the contribution will be preserved, so the person must be able to meet a condition of release to be able to withdraw the proceeds to purchase/build the new home when required.

### Care situations

A person may continue to be assessed as a homeowner and have their home treated as an exempt asset when they enter a care situation. Most commonly, a care situation involves a person entering into residential aged care. Importantly however, it also includes community-based care and long-term hospital stays.

If a person vacates their principal home to enter a care situation, the home continues to be an exempt asset under the assets test for two years. This provision applies irrespective of whether the person intends to return to their principal home.

If, after two years, the person has not returned to their principal home, they are treated as a non-homeowner and principal home is an assessable asset.

There are other circumstances where a person who resides in a residential aged care facility can be considered a homeowner beyond the two-year period. A discussion of these rules is outside the scope of this bulletin. However, an analysis can be found in **TapIn Guide – Aged Care (Residential Care)**.

## Retirement villages, lifestyle villages and granny flats

Rather than living in conventional homes, some older people live in retirement villages, lifestyle villages and granny flats.

Whether a person is considered a homeowner or non-homeowner when they enter a retirement village or establish a granny flat depends on the amount of entry contribution paid upon entry to the facility or for the interest.

The entry contribution is compared against a figure called the extra allowable amount. The extra allowable amount is the difference between the non-homeowner and homeowner lower assets test thresholds at the time the entry contribution is paid.

The extra allowable amount for the 2015–16 financial year is \$149,000. This amount is indexed on 1 July each year.

Entry contribution	Centrelink/DVA treatment
Equal to or less than \$149,000	<ul style="list-style-type: none"><li>– Non-homeowner</li><li>– Entry contribution treated as asset, but exempt under income test</li><li>– Rent assistance may be payable</li></ul>
More than \$149,000	<ul style="list-style-type: none"><li>– Homeowner</li><li>– Entry contribution not treated as an asset nor counted under income test</li><li>– Rent assistance not payable</li></ul>

For more information on retirement villages and granny flats, refer to **TapIn Guide – Retirement Villages and Granny Flats**.

A lifestyle village is different to a retirement village. A lifestyle village is a caravan/transportable home park for people over a certain age. These types of parks are often marketed as retirement villages. Generally speaking, the resident owns the dwelling, but not the land. The land is leased from the facility and the resident pays site fees. For social security purposes, people living in such facilities are treated as homeowners. The value of their home is exempt from the assets test. The site fees paid may be eligible for rent assistance.

It can sometimes be difficult to distinguish between a retirement village and a lifestyle village. It is recommended that the person speaks to Centrelink/DVA prior to entering the facility if there is any doubt.

## Using part of the home to produce income

There are two situations where a person may use part of their home to produce Centrelink/DVA assessable income:

1. A person operates a business from their home
2. The home contains a self-contained living area (an area with a private or separate sleeping, cooking and bathroom facilities) which is rented out.

## Business operating from the home

Where a person is operating a business from their home, each case needs to be considered individually to decide whether the whole home property continues to be asset test exempt.

If part of the property is used for both business and domestic purposes, then this part of the property is part of the principal home and is exempt. For example, if there is a specific room

in the house that is used for the business but is also used for domestic purposes, this particular room remains part of the principal home and is exempt.

If there are distinct areas of the property used exclusively for business purposes, these areas are not part of the principal home and are not asset test exempt. A valuation of this part of the property should be obtained from the Australian Valuation Office if it appears that this may affect the person's pension or allowance entitlement.

## Self-contained living area being rented out

If the self-contained living area is left vacant or let to a near relative, it is treated as part of the person's principal home. Where let to a near relative, no income will be assessed for social security purposes. The near relatives in this scenario are:

- parent (may include step-parent, foster parent or adoptive parent)
- child (may include step-child, foster child or adoptive child), or
- sibling (may include step-brother, step-sister, foster brother, foster sister, adoptive brother or adoptive sister).

However, if the self-contained living area is let to a person other than a near relative, it does not form part of the person's principal home and an amount relating to the living area will be assessable as an asset.

Further, a percentage of the gross income received will be assessed under the income test depending on what is provided with the room(s). The amount of income assessed depends on what is provided to the person leasing the area.

Situation	Treated as income (%)
Lodging (accommodation only)	70
Bed and breakfast	50
Full board	20

### Example: Assessment of a self-contained living area

Doris (age 70) lives in her own home (debt-free) and has one room (self-contained living area) which she leases out for \$100 per week. The boarder is not a near relative and Doris provides accommodation only. The estimated value of the self-contained living area is \$40,000.

Doris will need to include \$40,000 under the assets test as the self-contained living area is let to a person other than a near relative. She will also be assessed as earning \$70 a week as income (70% x \$100) for the purposes of the income test. If Doris's home did not have a self-contained living area, then only the rental income would be assessed – there would be no assets test assessment.

## Dual occupancy homes

A dual occupancy home broadly exists where more than one dwelling is on the same title. Where the Centrelink/DVA client paid for construction of the dual occupancy dwelling assessment is similar to where a self-contained part of the property is rented out.

Dual occupancy is:	Assessed as:
Vacant	Part of Centrelink client's principal home
Let to a near relative (as above)	Part of Centrelink client's principal home
Let to someone other than a near relative	A separate asset from the Centrelink client's principal home

Where the Centrelink client did not pay for the dual occupancy construction costs and that other person has an agreed ownership right or interest in the second dwelling, then the income support recipient is not assessed with the second dwelling. Title to the underlying land does not change in that situation and the income support recipient would be assessed on the land on usual principal residence rules.

If the person living in the second dwelling is also an income support recipient and has an agreed ownership interest in the dwelling that gives rise to reasonable security of tenure that person would also be assessed as a homeowner.

For information on the assessment of granny flat interests please refer to **TapIn Guide – Retirement Villages and Granny Flats**.

For more details on any of the above information and the implications for your clients, please contact TapIn on 1300 300 651 (AMPFP/Hillross FP, ipac), 1800 644 644 (other aligned channels and non-aligned channels) or email [tapin\\_centre@amp.com.au](mailto:tapin_centre@amp.com.au).

#### **What you need to know**

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