

Operation of the Capital Gains Tax Discount

Australian Council of Trade Unions submission to the Senate
Select Committee into the Operation of the Capital Gains Tax
Discount

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Introduction

The Australian Council of Trade Unions (ACTU) is Australia's peak national body of unions, founded in 1927. Our 37 affiliated unions and trades and labour councils represent nearly 2 million members across all industries and occupations. This movement, with the ACTU, has a long and proud history of winning for working people, and continues to build on this by advocating for change in a broad range of areas.

The ACTU welcomes the opportunity to make a submission to the Senate Select Committee inquiry into the Operation of the Capital Gains Tax (CGT) Discount. Our short submission focusses primarily on the negative impact of the current CGT discount on housing and inequality, recommending that the discount be scaled back. We also touch on the problems with the CGT discount more broadly and see merit in exploring the case for reform here too.

Summary

At its worst, the Capital Gains Tax discount is a tax avoidance scheme for the richest Australians that is helping to drive record inequality and is pricing mostly younger people out of home ownership. Rubbing salt into those wounds, the discount is effectively paid for by working people. At its best, the CGT discount is a failed tax policy long in need of an overhaul.

Since the introduction of the CGT discount in 1999, half of the capital gain on an asset held for 12 months is tax free. The rest is taxed at the marginal rate of the taxpayer. The Howard Government introduced this discount to replace the prior system that taxed all real capital gains since 1985, which were determined by adjusting any sales proceeds by inflation.

According to Treasury, the policy basis of this change was "to promote more efficient asset management and improve capital mobility, by reducing the tax bias towards asset retention, and to make Australia's capital gains tax internationally competitive."¹ 26 years later, little of this intent has been met. As this submission outlines, the CGT discount has been a key mechanism allowing the very rich to pay lower effective rates of tax.

¹ See, Australian Government, [A brief history of Australia's tax system](#), 4 September 2006.

The latest Treasury data from December 2025 shows that most of the benefits of the discount are captured by the richest 1 per cent of Australians.² While Australia generally has a progressive system of income tax, that breaks down completely for the top 5 per cent of income earners who pay a wide range of effective tax rates. At this level, “income bares almost no relationship with the tax rate faced by any one person”, according to the e61 institute.³ It is no wonder that income inequality in Australia is close to record highs.⁴

The introduction of the CGT discount in 1999, with its tax-favourable interaction with the existing negative gearing arrangements, marked the point where incomes and house prices started to diverge dramatically. Back then it took 6 times the average income to purchase a house outright. Today it has nearly doubled to 11 times. This is because the CGT discount has given professional investors a huge advantage in bidding up house prices. New analysis conducted by the ACTU for this submission demonstrates a strong correlation between growth in investor loans and growth in house prices.⁵ In contrast, there is practically no correlation between growth in first home buyer loans and house prices.

As a result, today too many workers can no longer afford to live near where they work. And a growing number of workers will never be able to save enough for a deposit – accelerating rents and house prices is outpacing the money they can save each week.

Reforms to the capital gains tax discount is not a complete answer to our housing crisis, but, along with negative gearing reform, is an important part of it. It will help more renters become home buyers, by reducing the advantage for professional investors. Early research suggests that the impact of similar reforms, as recommended in this submission, could boost home ownership by as much as 4 per cent.⁶

Recommendations

The ACTU recommends:

1. Reducing the Capital Gains Tax discount from 50 per cent to 25 per cent for any gains realised on investment properties an individual holds beyond one investment property;

² Australian Government [2025-2026: Tax expenditures and Insights Statement](#), page 20

³ e61 Institute, [Who pays income tax? The Distribution of individual income tax rates in Australia](#), 25 July 2025

⁴ Melbourne Institute, [The 20th Annual Statistical Report of the HILDA Survey](#) page 48.

⁵ Chart 9 shows an R² value of 0.7093 which suggests a strong correlation between annual growth in investor loans and house prices.

⁶ Warlters, M [The effect of negative gearing and capital gains tax reform on home ownership - Warlters - 2024 - Australian Economic Papers - Wiley Online Library](#), 27January 2024

2. Limiting the use of negative gearing by an individual to one investment property only;
3. Apply these changes to new investments and grandfather current CGT discount and negative gearing arrangements for existing investment properties for a period of five years;
4. Earmarking a significant portion of the additional revenue generated by these measures into co-investment with the states into public and social housing, and for supporting energy efficiency upgrades to rental properties so renters can save money on energy and stay safe during heatwaves and extreme weather events; and
5. That the Australian Government conduct a broader review of the CGT discount to investigate the case for reducing the discount on all types of capital gains.

The impact of the CGT discount on inequality and housing

This section covers issue (a) in the inquiry’s term of reference which concerns the contribution of the CGT discount to inequality in Australia, particularly in relation to housing.

The Capital Gains Tax reforms of 1999 replaced the system of discounting capital gains by inflation with a flat 50 per cent reduction. Since its introduction, household asset values have increased significantly more than inflation – resulting in a massive under taxation of investment housing assets and a windfall gain for investors. The value of residential land and dwellings has increased by over 700 per cent between June 1999 and June 2025, while inflation has increased by 100 per cent (See Chart 1).

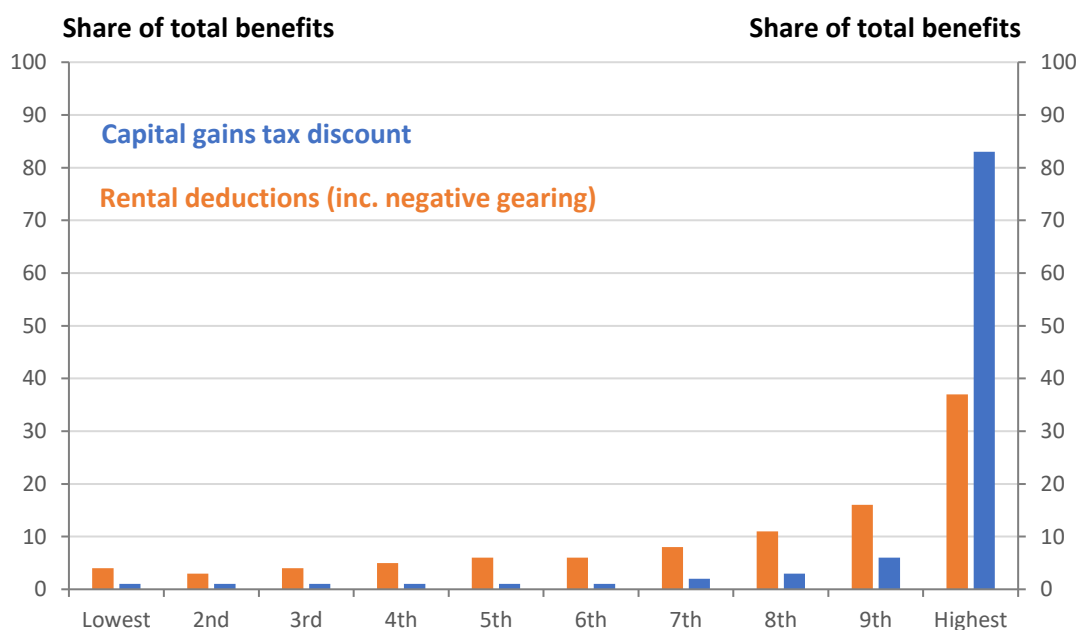
Chart 1: Index of asset values and inflation



Source: Australian National Accounts: Finance and Wealth, Consumer Price Index & ACTU calculations

The benefits of the CGT discount and its interaction with negative gearing have overwhelmingly benefitted wealthier Australians (See Chart 2). 75 per cent of the total benefit of the CGT discount was captured by the top 10 per cent of taxpayers in 2019-2020.⁷ The problem is getting worse: on the most recent figures published in December 2025, this share has lifted to 83 per cent for 2022-2023.⁸ The top 1 per cent of taxpayers by taxable income accounted for 54 per cent of all capital gains income in 2022-23, with an average gain of \$850,690.⁹ This accords with international experience, with the OECD recently finding that high income and high wealth individuals disproportionately benefit from the favourable tax treatment of capital gains across countries.¹⁰

Chart 2: Benefits of CGT discount and rental deductions by income decile



Source: 2025–26 Tax Expenditures and Insights Statement, Chart 2.7 and Chart 2.25

There is a strong intergenerational component to the inequality that the CGT discount is driving. Most of the benefits of the CGT discount accrues to Australians over the age of 60¹¹ because they disproportionately own financial assets and property.¹² This has driven the share of household wealth of people 65 and over from 24.8 per cent in 2003-04 up to 35.6 per cent in

⁷ Australian Government [2022-23 Tax Expenditures and Insights Statement | Treasury.gov.au](#), page 13

⁸ Australian Government, [2025-2026: Tax expenditures and Insights Statement](#), page 19

⁹ Ibid.

¹⁰ OECD Working Paper [Taxing capital gains | OECD](#), 26 February 2025, page 34

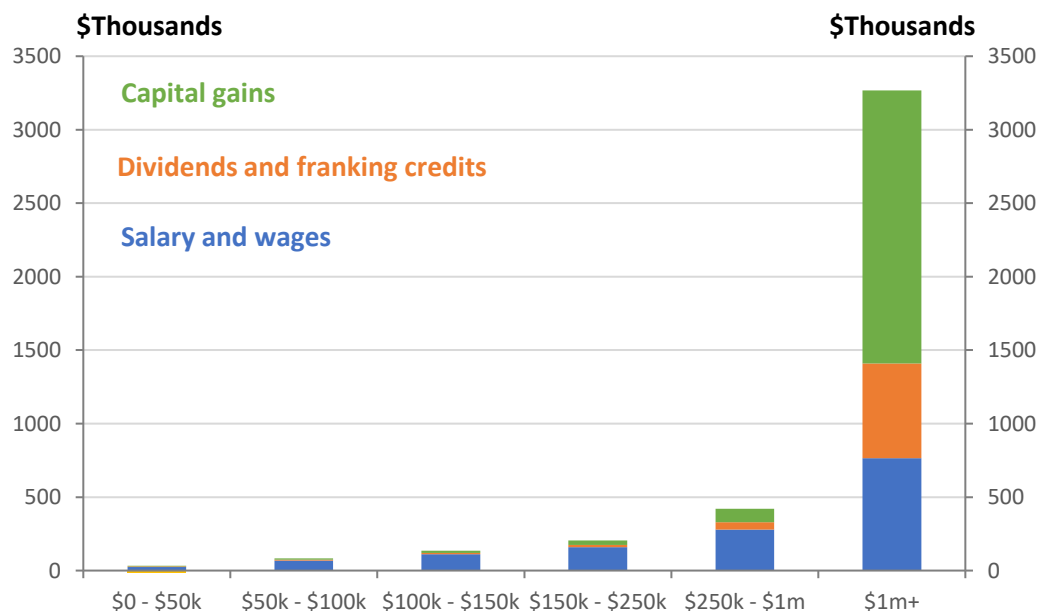
¹¹ Australian Government 2025-26, page 20

¹² Eslake, S, [Wealth Inequality in Australia – An Intergenerational Perspective](#), 16 May 2025, slide 6.

2019-2020.¹³ The CGT discount also goes overwhelmingly to men, who capture 58 per cent of the benefits.¹⁴

Access to negative gearing on investment properties create incentives to invest in property and run those properties at a loss during the income earning years of a high-income individual's life and then sell the property when their marginal tax rate is significantly lower. The weakness of the capital gains tax discount is that an individual is able to choose when to realise the capital gain and therefore maximise the benefits of the discount. This is in contrast to a wage earner who is subject to pay as you go tax withholdings over the course of their life and is afforded no choice in when they realise their income. This has resulted in high income individuals using the capital gains tax discount to both avoid paying a fair contribution to Australia's tax system and to focus their earnings in capital gains.¹⁵

Chart 3: Source of earnings by income range



Source: ATO tax statistics 2022-23, Table 10

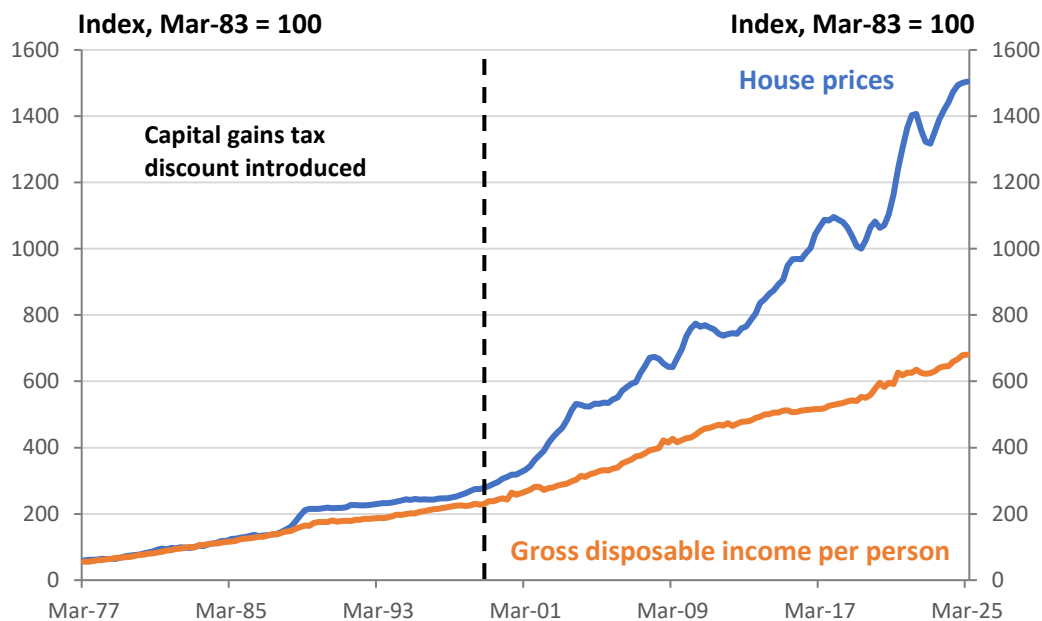
It is no coincidence then that the great divergence between house prices and income per person begun around the same time as their introduction in 1999 as Chart 4 below shows.

¹³ Ibid

¹⁴ Australian Government 2025-26, page 20.

¹⁵ Jericho, G, [Capital gains for the rich and persistent gender pay gaps: what we can learn from the ATO's annual tax statistics | Greg Jericho | The Guardian](#), 3 July 2025

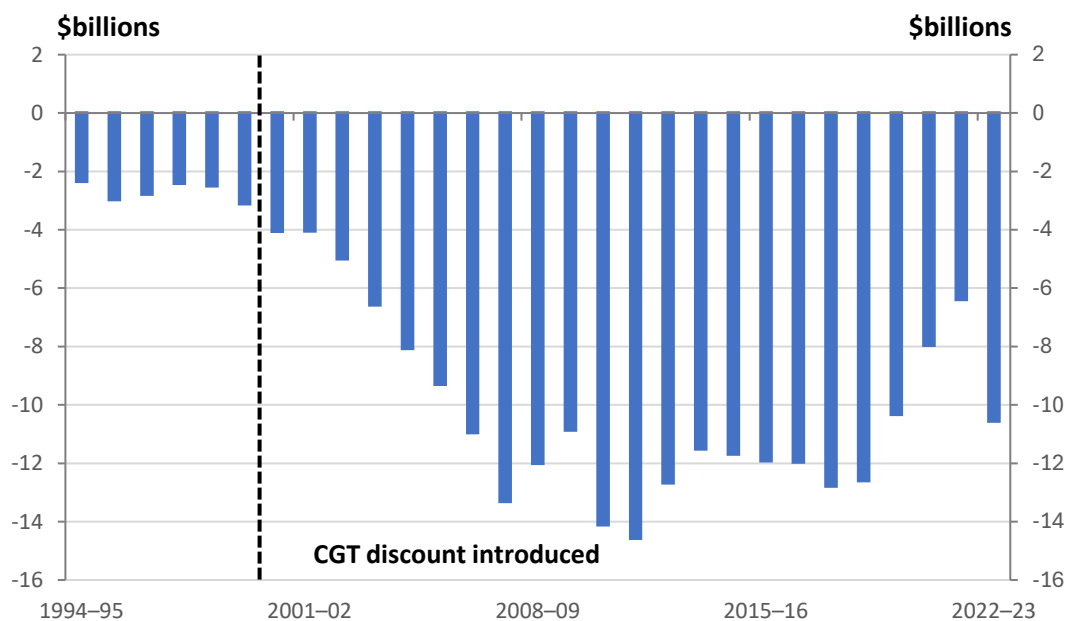
Chart 4: Growth in nominal house prices and nominal income per person



Source: Bank of International Settlements, Residential property price data, Australian National Accounts: National Income, Expenditure and Product & ACTU calculations

This can also be seen in the change in rental losses recorded in the Australian Tax Office's taxation statistics. In the years following the introduction of the CGT discount, the level of net rental losses recorded steadily increased (See Chart 5 below). To be eligible for the negative gearing tax benefit the total costs and expenses of owning an investment property need to exceed the rental income.

Chart 5: Rental losses



Source: ATO Taxation statistics 2022-23

Research by the e61 Institute indicates that Australia's tax system is broadly progressive for most taxpayers, but the progressivity of the tax system breaks down for the top 5 per cent of individuals, where there are a wide range of effective tax rates and 'income bares almost no relationship with the tax rate faced by any one person'.¹⁶ The e61 Institute notes that above the 93rd percentile, the CGT discount becomes the largest driver of the difference in income tax rates between individuals with similar incomes. As observed by e61's Greg Kaplan, "The absolute worst case you can be in is to earn all of your income as an employee working for somebody else".¹⁷ This growing trend means that only about two-thirds of income is still captured by the tax system.¹⁸ Ordinary working people in Australia contribute their fair share to the Australian tax system through the work they do that keeps Australia's economy running.¹⁹ Thanks to the CGT discount, the same cannot be said of Australia's high-income individuals, who instead make their money through minimising tax and speculating on property, locking too many working Australians, especially younger Australians, out of the security of home ownership and fair renting.

Australia has seen a resurgence in house prices in recent months. In the twelve months to December 2025, house prices rose 8.6 per cent, the fastest pace of growth since the twelve months ending May 2024, according to Cotality.²⁰ These gains in house prices were preceded by a significant upsurge in growth in investor loans in the September quarter, which rose 17.6 per cent in the quarter and 18.7 per cent over the year. The surge in lending commitments to investors has pushed up the share of total loans going to investors to 40.6 per cent, the first time it has breached 40 per cent since December 2016 (See Chart 7 below).

¹⁶ e61 Institute, Ibid.

¹⁷ Crowley, T, [Will Labor's conversation about everything produce anything much? - ABC News](#), 5 August 2025

¹⁸ Australian Financial Review, [Economic reform roundtable: 4 charts that prove the tax system is stacked against young people](#), 19 August, 2025.

¹⁹ Across the countries studied CGT taxation has similarly driven growing "horizontal inequity" – individuals with the same level of income facing different and unequal tax liabilities. See OECD page 33.

²⁰ Cotality, Monthly Housing Chart Pack – January, 14 January 2026

Chart 7: Shares of new lending commitments

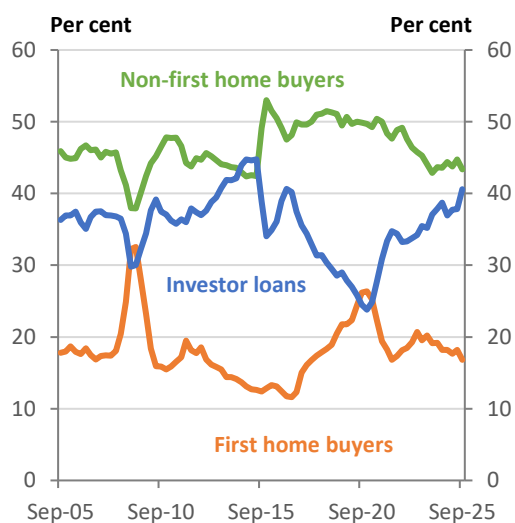
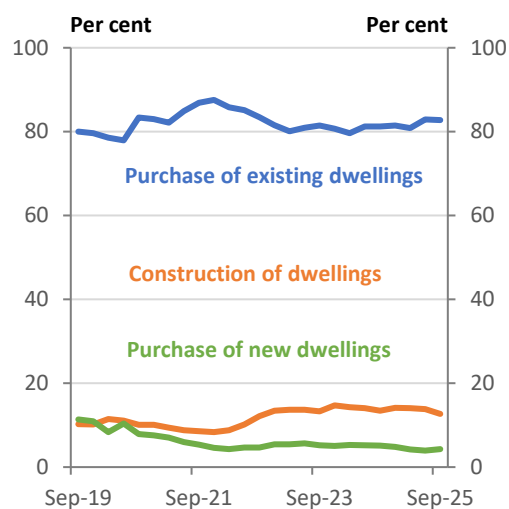


Chart 8: Investor lending by purpose



Source: ABS Lending Indicators & ACTU calculations

The surge in investor loans speaks to deep, underlying problems in the Australian economy. Amidst weak productivity growth and relatively low investment as a share of GDP, incentives in the tax system like the Capital Gains Tax Discount and Negative Gearing mean that those with capital are pouring it with gusto into unproductive housing assets to speculate on the increase in values, all while using concessions in the system to minimise their tax.

In September 2025, 82.8 per cent of total investor loans were used to speculate on the existing housing stock. A mere 12.6 per cent were used for new housing builds, a share which has declined over the last year from 14.1 per cent, also an incredibly low proportion.

These incentives in the tax system are contributing directly to upwards pressure on house prices that is making owning a home increasingly impossible for young workers. As Chart 9 shows, growth in investor loans is strongly correlated with increases in house prices, much more so than any other loan category. As ACTU analysis for this submission shows there is a strong correlation between annual growth in investor loans and house prices (See Chart 9). In contrast, first-home buyer loans have no discernible impact on house prices (See Chart 10) – those with capital are able to speculate and make gains, while those without are forced to take on increasing debt in a market driven higher by forces over which they have no control driven by incentives they will never get the benefit of.

Chart 9: Annual growth in investor loans vs annual growth in house prices

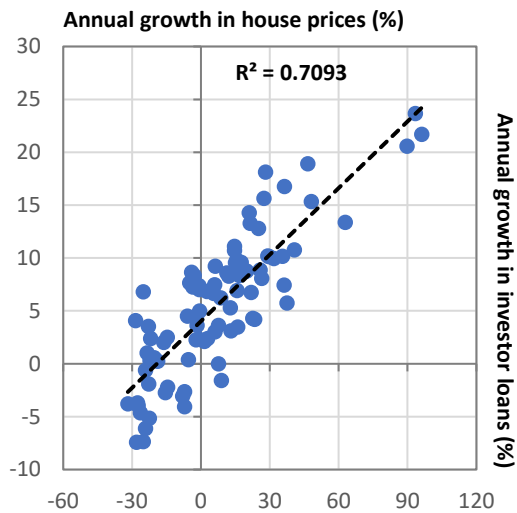
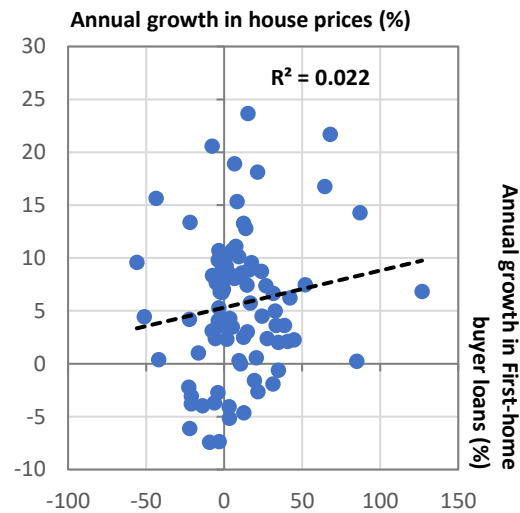


Chart 10: Annual growth in first-home buyer loans vs annual growth in house prices



Source: Bank of International Settlements, Residential property price data, ABS Lending Indicators & ACTU calculations

Instead of capital being deployed into useful projects that could lift Australia’s productive capacity and rebuild sovereign capability, investors are channelling funds into housing and driving up house prices. Young workers are being locked out of home ownership, affordable rentals and are facing deepening inequality in Australia. It is long past due for major reform of Australia’s approach to housing.

To address these problems, the ACTU puts forward the following recommendations

1. Reducing the Capital Gains Tax discount from 50 per cent to 25 per cent for any gains realised on investment properties an individual holds beyond one investment property;
2. Limiting the use of negative gearing by an individual to one investment property only;
3. Apply these changes to new investments and grandfathering current CGT discount and negative gearing arrangements for existing investment properties for a period of five years; and
4. Earmarking a significant portion of the additional revenue generated by these measures into co-investment with the states into public and social housing, and for supporting energy efficiency upgrades to rental properties so renters can save money on energy and stay safe during heatwaves and extreme weather events.

These recommendations would have the effect of dampening the incentives for investors to speculate and drive up the value of housing. Modelling suggest that the impact on house prices

would be modest – around a 1 to 4 per cent reduction in prices.²¹ The reforms are also expected to improve levels of home ownership. Warlters (2024) estimates that similar reforms would boost the percentage of homes held by owner-occupiers by between 2.6 per cent to 4.7 per cent.²² This is largely because renters who want to buy their first home would not have to compete with as many professional investors at auction.

These outcomes can all be improved if a significant portion of the additional revenue generated by these reforms was reinvested into public and social housing, our recommendation 4 above. This would also more than address any concerns that the reforms might deter investment into new housing stock.²³ Given that the vast majority of investor loans are into existing housing stock, such concerns are also likely to be overstated.

These outcomes can be expected to significantly boost revenue, as research from key OECD countries indicates.²⁴ Earlier estimates from the Parliamentary Budget Office of similar reforms to those proposed in this paper suggested that an additional \$5.8 billion could be raised over the forward estimates from 2025-26.²⁵

We are also recommending that some of this additional revenue be earmarked to support investments by landlords into energy efficiency upgrades to their properties so that renters can enjoy cheaper energy and safer homes to deal with heat waves and other extreme weather events caused by climate change.

Finally, another dynamic effect of the reforms – as the PBO analysis above acknowledges – is that investors may instead channel investments into more productive areas of the Australian economy.

Other issues with the CGT discount

This section briefly touches on the other elements of the inquiry's terms of reference.

²¹ Accounting Times, [Negative gearing, CGT discounts supercharging housing crisis: ACOSS](#) 12 March 2025

²² Warlters Ibid.

²³ Further, the ACTU has additionally called for making it easier for institutional investors, including industry super funds, to invest in new housing stock.

²⁴ OECD, page 35.

²⁵ Parliamentary Budget Office (PBO), [Phase out negative gearing and CGT tax concessions for property investors with more than one investment property](#) 2025.

Terms of reference (b) through to (e) touch on a range of economic impacts of the CGT discount including on suppressing Australia's productivity performance, whether it influences productive or speculative investment, and the role it plays with of trusts. The ACTU offers the following brief comments on these issues.

One of the stated reasons for the 1999 reforms was to improve incentives for investor risk and innovation and better allocate capital. Accordingly, we would have expected improvements in productivity to result. There are significant critiques that the CGT discount may instead have led to inefficient economic outcomes.²⁶ The OECD similarly concludes that because of a range of factors CGT tax policy can generate significant economic distortions²⁷, may contribute little additional investment to a domestic economy,²⁸ and that it appears to have little impact on overall economic growth.²⁹

In Australia, this is unsurprising given that the discount, along with negative gearing has helped real estate assets make up a larger share of household wealth than in any other comparable country.³⁰ While building a house is a productive activity, there is little productive about just bidding up the prices of existing housing stock.

Issue (f) in the terms of reference is whether the tax discount is fulfilling its original intended purpose. Writing on the history of the 1999 reform, John Freebairn argues that the stated reasons for the introduction of the discount included:

- (i) Improving the rewards for risk and innovation,
- (ii) A better allocation of the nation's resources,
- (iii) Improved equity,
- (iv) Greater conformity with the taxation of capital gains in other countries,
- (v) All within the constraint of a revenue neutral package.³¹

As this submission has already outlined, the reforms have comprehensively failed on those first three counts.

²⁶ See the discussion in Minas J & Freudenberg B, [Australia's 50 per cent CGT Discount: Policy Oversight? by John Minas, Brett Freudenberg :: SSRN](#), 1 November, 2019

²⁷ OECD page 32

²⁸ OECD page 22

²⁹ OECD page 24.

³⁰ Eslake, slide 8

³¹ Freebairn, JH, "[Indexation and Australian capital gains taxation](#)" page 123

In terms of whether or not the reforms achieved greater conformity with the taxation of capital gains in other countries, we note that while most comparable countries have similar systems to Australia, they appear to be just as undesirable. A recent and comprehensive review of the international literature by Diana Hourani and Sarah Perret for the OECD finds similar regimes for taxing capital gains are plagued with the same problems Australia has.³²

Finally, the idea that the CGT discount reforms would be revenue neutral was wishful thinking at best. Australian researchers have comprehensively shown that the CGT discount has been significantly revenue negative.³³ Again, this is in line with international experience which concludes that it is costly in terms of foregone revenue.³⁴

Issue (f) in the terms of reference also asks whether the CGT discount has a role in Australia's future tax mix. This submission has been focussed mainly on reforms to the current CGT discount for housing. However, there would be merit in the Federal Government conducting a broader review into the CGT discount across all asset classes it applies to. Many of the problems identified in this submission are not limited to the housing sector, and broader solutions could play a strong role in drive equity and economic performance.

Accordingly, the ACTU also recommends:

- 5. That the Australia Government conduct a broader review of the CGT discount to investigate the case for reducing the discount on all types of capital gains.**

³² OECD Ibid.

³³ See Minas, John and Lim, Youngdeok and Evans, Christopher Charles, The Impact of Tax Rate Changes on Capital Gains Realisations: Evidence from Australia (December 1, 2018). Australian Tax Forum, Vol 33, No 4, pp 635-666 (2018), Available at SSRN: <https://ssrn.com/abstract=3785356>

³⁴ OECD page 34.

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