AGED CARE AND THE FORMER HOME

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SUMMARY

One of the major decisions when an individual enters aged care is whether to keep or sell the family home. This bulletin examines the factors to be considered when making this choice.

Note: Aged Care residents who enter care from 1 January 2017 who rent out their former home, will have rental income assessed for both aged care means tested care fee and social security purposes.

Factors to be considered

There are many elements which will influence what an individual entering aged care chooses to do with their home. Whilst a large part of this bulletin is concerned with tax and the Centrelink and Department of Veterans' Affairs (DVA) rules, there are many other factors to be considered. These include:

- family situation,
- cash flow,
- estate planning
- sentimental value, and
- the home being in a “rentable” position and if not, the amount of capital required to bring it to a rentable position.

Centrelink and DVA treatment

Centrelink and DVA have special rules that apply to the asset and income testing of an individual who is entering care. Please note that these rules are not the same as those that apply when the facility is calculating a resident’s assets for aged care purposes.

A resident’s former home is exempt from the Centrelink and DVA assets tests:

- if the former home is rented, the resident entered care before 1 January 2017 and is paying either:
  - a daily accommodation payment
  - a daily accommodation contribution
  - a periodic accommodation bond, or
  - an accommodation charge.

In any of these circumstances, the resident will be assessed as a homeowner for Centrelink and DVA purposes.

A resident’s spouse lives in the former home

As long as a resident’s spouse continues to live in the resident’s former home, the home is exempt from the Centrelink and DVA assets tests. There are some scenarios that may complicate this situation.

When the spouse also enters a care situation

When the second spouse enters a care situation after the first, the two year exemption commences from the date the second spouse entered care.

When the spouse temporarily vacates the home

If the second spouse vacates the home for a reason that is not illness or care related, the home ceases to be exempt after the longer of:

- twelve months from the date the spouse vacated the home, or
- two years from the date the resident entered care, should the spouse not return to the home within twelve months.

When the spouse dies

When the resident’s spouse dies after the resident has entered care, the two year exemption period commences at the date of the spouse’s death.

These time frames may be extended if the former home is rented, the resident entered care before 1 January 2017 and pays either:

- a daily accommodation payment, or
- a daily accommodation contribution, or
- a periodic accommodation bond, or
- an accommodation charge.

See section ‘The resident entered care before 1 January 2017, rents their former home and pays a daily accommodation payment, daily accommodation contribution, periodic accommodation bond or charge’.

When the spouse sells the former home

If the spouse sells the former home and intends to purchase or build a new home, the proceeds that are applied to the acquisition of the new home are exempt for up to twelve months.
This exemption can be extended to twenty-four months in some circumstances.

For more information on this exemption, please read the ‘sale of principal home to purchase a new home’ section of TB 05 – Principal residence and social security.

However if the spouse sells the former home and does not intend to purchase another, the couple are treated as non-homeowners and proceeds from sale are immediately assessable under the assets and income tests.

**The two year exemption**

A resident’s former home is not assessed as an asset by Centrelink or the DVA for two years from the date they enter a care situation. During this period they are considered homeowners.

Should the resident sell their former home during this two year period the proceeds are immediately assessable.

Whilst the home is exempt under the assets test, any income the home generates is assessed under the income test unless it meets the conditions discussed in the following section.

**The resident entered care before 1 January 2017, rents their former home and pays a daily accommodation payment, daily accommodation contribution, periodic accommodation bond or charge**

Residents who entered care before 1 January 2017, rent their former home and pay a daily accommodation payment, daily accommodation contribution, periodic accommodation bond or accommodation charge receive the following exemptions:

- former home will be an exempt asset under the Centrelink or DVA assets tests; and
- rental income from the former home is exempt from assessment under the income test.

These exemptions continue indefinitely. However, should the former home cease to be rented, or the daily accommodation payment, daily accommodation contribution, periodic accommodation bond or accommodation charge cease, the exemptions will also cease.

The Centrelink and DVA rules do not require that the rent be charged at market rates. The rent received is still assessable for tax purposes.

**Example – rental income and home exemption**

Mona entered an aged care facility before 1 January 2017 and pays a daily accommodation payment. Mona still owns her home which is being rented to cover her costs. The rental income is exempt from assessment under the income test and the home continues to be an exempt asset for as long as Mona rents the home and pays daily accommodation payments.

**Strategy for residents who enter care on or after 1 January 2017**

Residents who enter care on or after 1 January 2017 and rent their former home, will have the rental income assessed under the income test. The assessment of rental income may increase the resident’s means tested care fee and decrease their Centrelink or DVA entitlements.

Where an immediate family member (i.e. brother, sister, mother, father, son or daughter) is living in the former home, they could make periodical gifts to the aged care resident, instead of paying rent. Regular gifts from immediate family members are not assessed as income where the aged care resident is receiving a pension (e.g. Age Pension) from Centrelink.

Residents who advise Centrelink that they are receiving periodical gifts from an immediate family member may pay reduced means tested care fees and increase their Centrelink pension entitlements.

**Centrelink and DVA treatment (summary table)**

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Assets test</th>
<th>Income test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse resides in the former home</td>
<td>Assessed as homeowner, former home is an exempt asset</td>
<td>n/a</td>
</tr>
<tr>
<td>Former home retained and resident entered care on or after 1 July 2017</td>
<td>First 2 years from the date they entered a care situation: Assessed as homeowner and former home exempt</td>
<td>Where rented, rental income (less allowable deductions) is assessed under the income test</td>
</tr>
<tr>
<td></td>
<td>After 2 years: Assessed as a non-homeowner and former home assessed</td>
<td>If not rented, then no assessment of income</td>
</tr>
<tr>
<td>Resident entered care before 1 January 2017, former home rented and liability to pay a DAP/DAC, periodic accommodation bond or accommodation charge</td>
<td>Assessed as a homeowner and former home is an exempt asset</td>
<td>Rental income exempt from the income test</td>
</tr>
</tbody>
</table>
Scenario | Assets test | Income test
--- | --- | ---
Resident entered care before 1 January 2017, former home rented and no liability to pay a DAP/DAC, periodic accommodation bond or accommodation charge | First 2 years from the date they entered a care situation: Assessed as homeowner and former home exempt After 2 years: Assessed as a non-homeowner and former home assessed | Where rented, rental income (less allowable deductions) is assessed under the income test

Former home is sold and:  
- resident is single OR  
- resident is member of a couple and partner living in former home does not intend to purchase a new home | Assessed as non-homeowner and proceeds immediately assessable under income and assets tests | Depends on where the proceeds are invested

Former home is sold, resident is member of a couple and partner living in former home intends to purchase a new home with sale proceeds | Assessed as homeowner for up to 12 months or up to 24 months if certain criteria is met | Depends on where the proceeds are invested

Selling the former home before, or shortly after entering care
In most cases, the capital gains tax consequences of a resident selling their former home before, or shortly after, entering care are quite simple.

Many individuals will have treated their former home as their principal residence for the entire period they owned it. If this is the case, it is unlikely they will pay CGT on the proceeds of the sale as the principal residence is exempt from CGT.

Should this not be the situation, a more detailed analysis must be performed and tax advice sought. Technical Bulletin 51 – Capital gains tax and main residence may provide some assistance.

Selling the former home after entering care
Should a resident rent their former home after entering care, it may result in a CGT liability when they eventually sell the home.

A resident can continue to treat their former home as their principal residence indefinitely provided they do not rent it out.

Many residents, however, rent their former home, in particular those who entered aged care before 1 January 2017 to utilise Centrelink or DVA advantages. In this case, they may only continue to treat their former home as their main residence for CGT for a maximum of six years. Should they sell their home after renting it out for more than six years, they may only receive a partial CGT main residence exemption.

Individual situations may be far more complex and tax advice should be sought. For more information, please refer to TB51 – Capital gains tax and main residence.

Capital gains tax
Capital gains tax (CGT) on the sale or divestment of a resident’s former home is an important consideration when planning for the future.

A person can continue to treat the former home as their main residence for 6 years, as long as they do not own any other home which they elect to be their main residence. A person who lives in an aged care facility does not legally own the aged care home but rather has a right to reside.

Furthermore, an inherited principal main residence may be eligible for a full CGT exemption, if the property is sold within 2 years of date of death. The 2 year period could be extended in certain situations.

Refer to TB S1: CGT and main residence for further details.

Land tax
Each state and territory has specific rules on Land Tax, in terms of when it applies and whether there are any exemptions for owners who leave to enter an aged care facility. In looking at the benefits of renting the home, liability towards Land Tax should be considered. To understand Land Tax liability, the State Revenue Office of the relevant State or Territory may be contacted.

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Refer to TB S1: CGT and main residence for further details.

1 Refer to Technical Bulletin 45, Social Security: Income Test for additional information on rental income.
Example – Renting the former home and succession

Tai bought his home when he retired in December 1998. He lived by himself until February 2016 when he entered a care facility. Tai rented out his former home to help with the aged care fees. Tai died in March 2017 and his former home passed to his daughter Jasmine. Jasmine sold Tai’s former home in July 2017.

When Tai died he was still able to treat his former home as his main residence for CGT purposes. This is because he had been renting it out for less than six years after he had moved out. When Jasmine sold the home she had no CGT liability because:

- it had been her father’s main residence at the time of his death, and
- she sold it within two years of Tai’s death.

Case study – sell or retain the home

Simone, age 80 and widowed, is receiving the full rate of age pension. Simone has been assessed as needing care and expects to enter within the next few weeks.

Simone owns the following assets: Home $550,000, Bank account $300,000, Personal effects $10,000.

The facility is asking for an accommodation payment of $300,000. The care facility has offered Simone the following options for paying the payment:

- Pay the $300,000 as a refundable accommodation deposit; or
- Pay part as a refundable accommodation deposit of $200,000 and the remainder as a daily accommodation payment of $100,000 at 5.73% pa which is the maximum permissible interest rate for entrants during period 1 July to 30 September 2017.

Option 1: Sell home and pay accommodation payment in full by lump sum

If Simone chooses to pay the accommodation payment as a refundable accommodation deposit of $300,000, one option would be to sell her home.

Simone would become a non-homeowner and her assessable assets would increase to $560,000:

- Bank account $550,000
- Personal effects $10,000

Simone’s bank account balance represents the opening balance of $300,000 including the proceeds from the sale of her home ($550,000) less the payment of the refundable accommodation deposit ($300,000).

Simone will invest the remaining $550,000 in financial investments at 3% pa, giving $16,500 of income per year.

Simone’s age pension would be $578.55 pf ($15,042.30 pa), while her daily care fees total $87.58 per day ($49.07 daily care fee and a means tested care fee of $38.51).

Option 2: Rent former home and rent to a third party

If Simone uses this option she would be able to retain her home. Simone may choose to pay her accommodation payment as a refundable accommodation deposit of $290,000 and the balance of $10,000 as a daily accommodation payment. This equates to a daily accommodation payment of $1.57 per day based upon an interest rate of 5.73%.

To assist with the cost of care, Simone could rent her home for $425 per week ($22,100 pa).

As Simone entered into care on or after 1 January 2017 the rental income will be assessable for Centrelink and aged care purposes. This means that the rental income will be assessable for her Age Pension and in calculating the means tested care fee.

Simone still has $10,000 sitting in an interest bearing account accruing 3% pa ($300).

This brings her total income from investments (excluding the Age Pension) to $22,400.

By using this option, Simone’s home will remain assets test exempt for Centrelink purposes, for two years from the date she enters care. Simone’s Age Pension will reduce to $543.93 pf because of the assessed rental income however her home will be preserved for her estate.

Also, under this option, Simone will pay total aged care fees including the daily accommodation payment of $73.68 per day.

<table>
<thead>
<tr>
<th>Income from investments</th>
<th>Option 1 Selling the home</th>
<th>Option 2 Renting former home</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age pension</td>
<td>$15,042.30</td>
<td>$14,142.30</td>
</tr>
<tr>
<td>Total inflows</td>
<td>$31,542.30</td>
<td>$36,542.30</td>
</tr>
<tr>
<td>Care fees</td>
<td>$31,965.82</td>
<td>$26,891.59</td>
</tr>
<tr>
<td>Property expenses (20% of gross rent)</td>
<td>n/a</td>
<td>$4,420</td>
</tr>
<tr>
<td>Tax and Medicare levy</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Other maintenance and repairs</td>
<td>n/a</td>
<td>Costs will depend on the condition/age of property</td>
</tr>
<tr>
<td>Total outflows</td>
<td>$31,965.82</td>
<td>$31,311.59</td>
</tr>
<tr>
<td>Net</td>
<td>($423.52)</td>
<td>$5,230.71</td>
</tr>
</tbody>
</table>

# Tax payable and Medicare levy takes into account the Low Income Tax Offset, Senior Australians Pensioner Tax Offset and Net Medical Expenses Tax Offset (NMETO). Note that the NMETO threshold used is $2,299 and relates to 2016-17 financial year. NMETO for option one is estimated to be $5,918.36. NMETO for option two is estimated to be $4,918.52.
Option 3: Retain the former home, immediate family member lives in the home and makes periodical gifts

Instead of renting the former home, an immediate family member may be allowed to live in the home without paying rent. Periodical gifts from an immediate family member to the aged care resident are not assessed as income for Age Pension and aged care means tested care fee purposes. Assuming, the only difference with option 2 is that an immediate family member makes periodical gifts equal to $22,100, instead of the home being rented to a third party, Simone’s Age Pension entitlement will increase and her means tested care fee will decrease.

<table>
<thead>
<tr>
<th></th>
<th>Option 2 Renting former home</th>
<th>Option 3 Immediate family member lives in former home and makes periodical gifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental income (option 2)</td>
<td>$22,400</td>
<td>$22,400</td>
</tr>
<tr>
<td>Periodical gifts from immediate family member (option 3)</td>
<td>$22,400</td>
<td>$22,400</td>
</tr>
<tr>
<td>Investment income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age pension</td>
<td>$14,142.30</td>
<td>$23,095.80</td>
</tr>
<tr>
<td>Total inflows</td>
<td>$36,542.30</td>
<td>$45,495.80</td>
</tr>
<tr>
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<td>$22,402.54</td>
</tr>
<tr>
<td>Property expenses (20% of gross rent)</td>
<td>$4,420</td>
<td>$4,420</td>
</tr>
<tr>
<td>Tax and Medicare levy</td>
<td>Nil</td>
<td>$182.89</td>
</tr>
<tr>
<td>Other maintenance and repairs</td>
<td>Costs will depend on the condition/age of property</td>
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</tr>
<tr>
<td>Total outflows</td>
<td>$31,311.59</td>
<td>$27,005.43</td>
</tr>
<tr>
<td>Net</td>
<td>$5,230.71</td>
<td>$18,490.37</td>
</tr>
</tbody>
</table>

Note that the NMETO threshold used is $2,299 and relates to 2016-17 financial year. NMETO for option two is estimated to be $4,918.52. NMETO for option two is estimated to be $4,020.71.

Conclusion

The three options provide different cashflow results. It’s important to note, that retaining the former home may have cashflow positive results in the first two years of care, however the net benefit may be greatly reduced after two years, when the former home becomes an assessable asset and the resident a non-homeowner for Centrelink and DVA purposes.

The ultimate decision on whether to retain or sell the home will depend on personal needs and preferences. The condition of the home will also be a factor. For example, if the home is in disrepair and the homeowner is unable or unwilling to have repairs carried out, renting the home may not be a viable option. Eventual capital gains tax (if any) on the sale of Simone’s home would also need to be weighed up. Further, land tax should also be considered in the analysis.

OnePath

OnePath have many documents and tools that can be used to understand, and develop strategies around, aged care. These are available on the Adviser Advantage website and include:

- Technical Bulletin 74 – Introduction to aged care
- Technical Bulletin 75 – Residential care from 1 July 2014
- Technical Bulletin 78 – Aged care and fee reduction strategies
- Technical Calculator 19 – Aged care and pension calculator
- Technical Factsheet 03 – Aged care and special residences fact sheet.
- Technical Bulletin 23 – Capital gains tax and deceased estates
<table>
<thead>
<tr>
<th>Scenario</th>
<th>Centrelink assessment</th>
<th>Aged Care assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse resides in the former home</td>
<td>Assessed as homeowner, former home is an exempt asset</td>
<td>Exempt</td>
</tr>
<tr>
<td>Resident entered care before 1 January 2016 and has not left care for more than 28 days; and Residency pays DAP/DAC, periodic accommodation bond or accommodation charge</td>
<td>Assessed as a homeowner and former home is an exempt asset</td>
<td>Rental income exempt</td>
</tr>
<tr>
<td>Resident entered care on or after 1 January 2016 and before 1 January 2017 and has not left care for more than 28 days; and Residency pays DAP/DAC, periodic accommodation bond or accommodation charge</td>
<td>Assessed as a homeowner and former home is an exempt asset</td>
<td>Rental income exempt</td>
</tr>
<tr>
<td>Resident entered care on or after 1 January 2017 and former home retained</td>
<td>First 2 years from the date they entered a care situation: Assessed as homeowner and former home exempt After 2 years: Assessed as a non-homeowner and former home assessed</td>
<td>Where rented, gross rent less allowable social security deductions is assessed</td>
</tr>
</tbody>
</table>
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