FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2026 - 10

INCOME TAX ACT 2015 – EXEMPT CAPITAL GAINS SECTION 67 (1)(b)

This Standard Interpretation Guideline (SIG) sets out the Fiji Revenue and Customs Service's (FRCS) interpretation and application of the of the exemption under section 67(1)(b), together with the amendments to the definitions in section 67(4)(a) and (b) of the Income Tax Act 2015 (ITA 2015), as introduced in the 2025–2026 National Budget.

It is issued with the authority of the Chief Executive Officer (CEO) of FRCS.

All legislative references in this SIG are to the Income Tax Act 2015 (unless otherwise stated).

It incorporates amendments effective from 1 August 2025 and clarifies the interaction with section 87 (deferral provisions). It may be reviewed in the event of any relevant legislative amendments.

CONTENTS

PURPOSE 2
INTRODUCTION 2
LEGISLATIVE ANALYSIS 3
Section 67(1)(b) 3
First disposal 3
Section 67 (4) 4
First residential property acquired 5
Sale of property acquired through a divorce settlement or other agreement 16
Sale of real property acquired by inheritance 21
Disposals subject to income tax 29
APPENDIX 31
Appendix 1 - Legislation 31
Appendix 2 – Cost of an asset 34
Appendix 3 - Comparison of old and new provisions-Section 67 (4) 35

PURPOSE

1. This SIG provides guidance on the interpretation and application of the capital gains tax exemption available to Fiji resident individuals and Fijian citizens under section 67 (1) (b) of the Income Tax Act 2015 (ITA).

2. The exemption does not apply to a gain arising from the disposal of real property acquired with the intention of resale at a profit and which is subject to income tax.

INTRODUCTION

3. In general, Capital Gains Tax (CGT) is imposed on a person who has made a capital gain on the disposal of a capital asset.

4. A capital gain may be exempt from CGT under section 67 depending on conditions prevailing at the time of disposal.

5. Section 67 (1) (b) provides CGT exemption for individuals (Fiji citizen or Fiji resident) on disposal of either
   - the first residential property acquired; or
   - his/her principal place of residence.

6. The definition of "first residential property" in section 67 (4)(a) was amended in the 2025-2026 National Budget and effected through the Income Tax (Budget Amendment) Act 2025 (Act No. 9 of 2025).

7. From 1 August 2025, the meaning of "**first residential property**" refers to the first property acquired either solely or co-owned with any other individual.

8. Prior to the amendment, the term "first residential property" under section 67(4)(a) meant the first property acquired by an individual either solely or co-owned with the following persons:
   a) from 01/08/2023 – 31/07/2025
   - spouse (including a defacto partner), parents, siblings, children, grandparents or grandchildren; and

   b) from 01/04/2011 – 31/07/2023
   - a spouse (including a defacto partner).

9. CGT exemptions available to individuals under other provisions of Section 67 will be the subject of separate SIGs.

10. The examples used throughout this SIG are merely illustrative. They do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts.
    That is, conclusions should not be drawn by determining whether the facts of a particulars case may be analogous with particular examples, but rather on the basis of applying the correct tests established by the law.

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11. The full text of the legislative provisions is contained in the Appendix.

LEGISLATIVE ANALYSIS

Section 67(1)(b)

12. **Section 67(1)(b) of ITA states:**
[Section 67] Exempt Capital Gains
"(1) The following capital gains are exempt capital gains—
b) a capital gain made by a resident individual or a Fijian Citizen on the first disposal of either the individual's first residential property or principal place of residence;"

13. The exemption is available to a resident individual (section 6 of ITA) or a Fiji citizen as defined in section 2 of ITA by reference to the Citizenship of Fiji Act 2009.

14. It also applies to Fiji citizens living abroad who are not resident under section 6 including holders of dual citizenship.

15. The terms 'first disposal', 'first residential property' and 'principal place of residence' are discussed in the following paragraphs.

First disposal

16. Section 67(1)(b) provides a once-off exemption. Once an individual has claimed the exemption (whether for their first residential property or principal place of residence), no further exemption under this paragraph is available.

17. Therefore, it is necessary to determine if a residential property is the individual's first acquisition or main residence.

18. The flow chart below can be used to assist with this determination.

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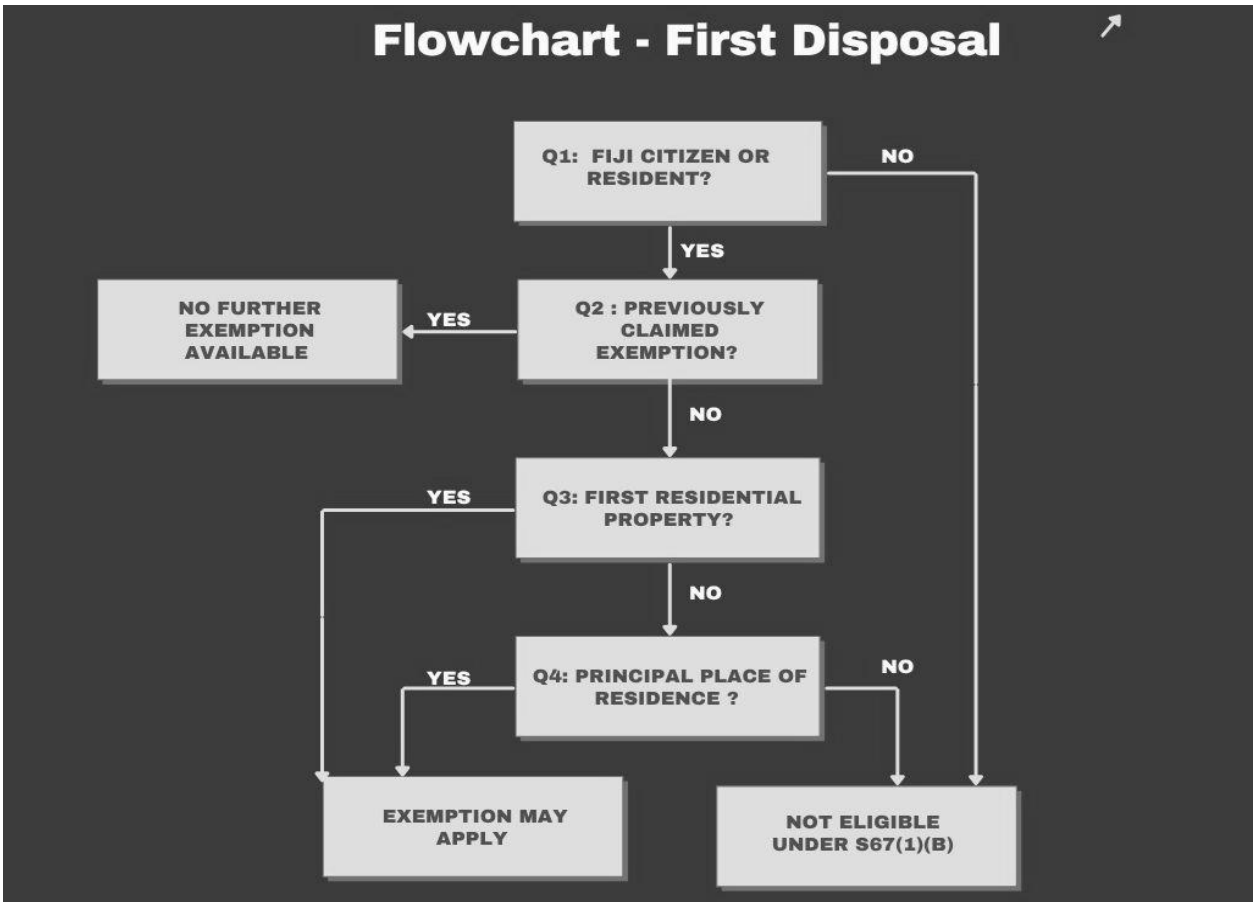

Note:

The exemption under section 67(1)(b) is available only once. Where the exemption has previously been granted, no further exemption can be claimed regardless of whether the asset is a first residential property or a principal place of residence.

Section 67 (4)

19. Section 67(4) provides the meaning of the terms 'first residential property' and 'principal place of residence'. It states:

"(4) For the purposes of –

a) subsection (1)(b)-

(i) "first residential property" means the first residential property that a resident individual or Fiji citizen has acquired, and who has sole ownership or co-owns the same with any other individual;

(ii) "principal place of residence" means the place of residence where the individual lives b) subsection (1)(f), "family home" means a residential property in which family members, whether immediate or extended, hold an interest as joint tenants or tenants in common.

Note - The term 'family home' is defined for the purpose of section 67 (1) (f) which exempts the disposal of interests in a family home by a Fiji resident or Fiji citizen to other co-owners who are family members.

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First residential property acquired

20. From 1 August 2025, the term "first residential property" as defined in section 67(4)(a) of the ITA 2015, refers to the first residential property acquired by the individual, either solely or co-owned with any other individual.

21. For the purposes of section 67(1)(b), the exemption is available based on the first acquisition of a qualifying residential property, regardless of whether the property is occupied by the individual.

22. A "residential property" includes, but is not limited to:
    a) a house;
    b) an apartment or unit;
    c) a strata titled property, where an individual owns a part of the property (e.g. an apartment) together with shared ownership of common areas (e.g. foyer, driveway, or pool); and
    d) vacant land that is zoned for residential purposes.

23. A residential property may be acquired through various means, including purchase, gift (including transfer by reason of love and affection), inheritance, court order or other legal transfer arrangements.

24. In some cases, the deferral provisions in section 87 may apply in determining the timing of recognition of any capital gain or loss. This is discussed in paragraph 40.

25. An individual is considered to have acquired a residential property at the time legal ownership of the title to the property is obtained.

26. For the purpose of determining the date on which first residential property was acquired, due regard must be given to the following matters:
    - the chronological order of acquisitions;
    - the nature and classification of each asset; and
    - the effective date of ownership transfer.

27. In cases involving multiple properties, these factors are critical in identifying the individual's first residential property.

28. An individual is not required to occupy the first residential property at the time of disposal for the exemption under section 67(1)(b) to apply. The determination is based on "first acquisition" and "ownership" rather than use or occupation of the property. For example, where the first residential property acquired is vacant land, the exemption may still apply upon disposal, notwithstanding that the individual has never resided on the property.

29. This treatment differs from the exemption for a *principal place of residence*, which requires actual occupation and use.

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30. Where an individual has previously claimed the exemption—whether in respect of a first residential property or a principal place of residence (PPR) 2—no further exemption is available under this provision.

Example 1 Sale of a solely owned residential property

Scenario 1 – first residential property acquired (vacant land)

Rakesh (a Fiji citizen) purchased a vacant residential property in 2004. It is the only property owned. He plans to sell it in 2026. Capital gain will be $80,000. Will exemption apply on the capital gain in 2026?

CEO's position: Yes, exemption applies as it is the first residential property acquired by the individual.

Scenario 2 – first house/principal place of residence (PPR)

Rakesh (a Fiji resident) purchased his first house in 1998 and lives in it He plans to sell it in 2026. Capital gain will be $80,000.
Will exemption apply on the capital gain in 2026?

CEO's position: Yes, the exemption applies as the property qualifies both as the first residential property acquired and the principal place of residence. The exemption is available once only.

Scenario 3 – first house (not the PPR)

Rakesh (a Fiji resident) purchased his first house in 1998 but lives in the second house he purchased in 2008. He plans to sell the first house in 2026. Capital gain will be $80,000. Will exemption apply on the capital gain in 2026?

CEO's position: Yes, exemption applies as it is the first residential property acquired, regardless of whether it is used as the principal place of residence.

Scenario 4 - second house/PPR

Rakesh (a Fiji resident) purchased his first house in 1998 but lives in the second house he purchased in 2008. He plans to sell the second house in 2026. Capital gain will be $80,000. Will exemption apply on the capital gain in 2026?

CEO's position: Yes, although it is not the first residential property acquired, the exemption may apply because the property is the individual's principal place of residence.

Scenario 5 - second residential property (vacant land)

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Rakesh resides in the first house that he purchased in 1998. He bought a vacant lot in 2021
He plans to sell the second property in 2026. Capital gain will be $80,000. Will exemption apply on the capital gain in 2026?

CEO's position: No, exemption does not apply because it is not the first residential property he acquired, nor the principal place of residence.

Note: The exemption under section 67(1)(b) is available **only once**. Once an individual has claimed the exemption (whether in respect of a first residential property or a principal place of residence), no further exemption can be applied to subsequent disposals.

Example 2 Sale of a co-owned house – exempt

Rakesh (a Fiji resident) and Sam (a Fiji citizen) are business partners and purchased a residential property in 2018. It was the first property purchased for both owners. They plan to sell it in 2026. Capital gain will be $80,000. Will exemption apply on the capital gain in 2026?

CEO's position: Yes, exemption under section 67(1)(b) applies to both individuals, as it is the first residential property acquired and co-owned with another individual.
From 1 August 2025, the definition of "first residential property" includes property acquired either solely or jointly with **any other individual**.

Would the capital gain be exempt if the property was sold in 2024?

CEO's position: No. At that time, the definition of "first residential property" under section 67(4)(a) was limited to property acquired either solely or jointly with:

- a spouse (including a de facto partner); or
- specified close family members.

As the property was jointly acquired by business partners who are not within the prescribed categories, the exemption would not have applied.

Note:

Eligibility for exemption under section 67(1)(b) is determined based on the **law in force at the date of disposal**, not the date of acquisition.

Example 3 - Sale of a co-owned house – exempt/taxable

Mary (a Fijian citizen), living in the US and Tom (an Australian national living in the US) are friends and purchased a residential property in 2018. It was the first property purchased by both individuals. They don't own any other properties. They plan to sell it in 2026. The capital gain will be $60,000.

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Will exemption apply on Mary's capital gain in 2026?

CEO's position: Yes. The exemption applies to Mary as she is a Fijian citizen, and the property is her first residential property acquired.
From 1 August 2025, the definition of "first residential property" includes property acquired either solely or jointly with any other individual.

Would the capital gain be exempt if the property was sold in 2024?

CEO's position: No. Prior to 1 August 2025, exemption only applied if the property was solely owned or co-owned with a spouse (including a de facto partner) or specified close family member(s). As Mary and Tom are not within these categories, the exemption would not have been available.

Will exemption apply on Tom's capital gain in 2026?

No – The exemption does not apply to Tom as he is neither a Fiji resident nor a Fijian citizen, as required under section 67(1)(b).

Assuming equal ownership, Tom's share of the capital gain is $30,000 (50% of $60,000). The capital gains tax payable is calculated as follows:

Capital gain: $30,000
CGT rate: 10%
CGT payable: $3,000

Note:
Eligibility for exemption under section 67(1)(b) is determined based on the law in force at the date of disposal, not the date of acquisition.
The exemption is available only once per individual.

Example 4 - Sale of second house - taxable

Litia (a Fiji citizen) lives and works overseas. She owns two residential properties.
Property A - a house acquired in 2018. (first residential property)
Property B - a house acquired in 2021 and jointly owned with her best friend Penny.
Litia decides to sell Property B in 2026. The capital gain will be $40,000

Will exemption apply on the capital gain in 2026?

CEO's position: No. The exemption does not apply as the property is neither:

- the first residential property acquired; nor
- the principal place of residence of the individual.

Although Property B is jointly owned, it does not qualify for exemption under section 67(1)(b) because it is a subsequent acquisition and is not used as the individual's principal place of residence.

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Note:

A second or subsequent residential property may still qualify for exemption under section 67(1)(b) if it is the individual's principal place of residence and the exemption has not previously been claimed

Example 5 - Sale of vacant land – taxable/exempt

X, a Fiji citizen, lives in Suva. He owns two properties.
Property A - acquired in 2018. (first residential property)
Property B - vacant residential land acquired in 2021 and jointly owned with his cousin Y (a Fiji resident). This is Y's first residential property.
X and Y plan to dispose of Property B in 2026. Capital gain will be $60,000.

Will exemption apply on X's capital gain in 2026?

CEO's position: No. The exemption does not apply to X as the property is neither:

- the first residential property acquired; nor
- the principal place of residence.

Although the property is jointly owned, it is a subsequent acquisition and is vacant land, therefore cannot qualify as a principal place of residence.

Will exemption apply on Y's capital gain in 2026?

CEO's position: Yes. The exemption applies to Y as the property represents her first residential property acquired.
From 1 August 2025, a first residential property includes property acquired either solely or jointly with any other individual, including extended family members.

This is subject to the condition that Y has not previously claimed the exemption under section 67(1)(b).

Would the capital gain be exempt if Y sold Property B in 2024?

CEO's position: No - prior to 1 August 2025, exemption only applied to the first residential property acquired either solely or co-owned with a spouse (including a de facto partner); or specified close family member(s).
As a cousin is not included within these categories, the exemption would not have applied.

Note:
Eligibility for exemption under section 67(1)(b) is determined separately for each owner.
The exemption is available only once per individual.
Vacant land cannot qualify as a principal place of residence.

31. Where a capital gain does not qualify for exemption on the basis that the property is not the individual's first residential property acquired, the exemption under section 67(1) (b) may apply if the property is the individual's principal place of residence at the time of

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disposal. This is subject to the condition that the exemption under section 67(1)(b) has not previously been claimed.

Principal place of residence

32. Subsection 67(4)(a)(ii) provides that the principal place of residence of a resident individual or Fiji citizen is the place of residence where the individual ordinarily lives. In determining whether a property constitutes a principal place of residence, regard must be had to the facts and circumstances of each case.

33. Guidance on the meaning of 'principal place of residence' can be drawn from the local case law '*Taxpayers J1 and J2 v Fiji Revenue and Customs Authority [2018] FJTT 1; ITA6.2016 (13 March 2018)*. In that case, it was held that a property which is no longer occupied by the taxpayer and has been converted to another use (e.g., rental or investment) may not qualify as a principal place of residence. However, the determination of whether a property as a principal place of residence is **fact-specific** and depends on the circumstances including the overall pattern of occupation and use.

34. In determining whether a property is a principal place of residence, FRCS may consider factors including, but not limited to:

- the frequency and duration of occupation of the property;
- the location of the individual's family and personal belongings;
- the individual's intention to treat the property as their home;
- whether the property is used for income-producing purposes (e.g. rental); and
- any supporting evidence such as utility usage, postal address, or official records.

35. Temporary absences from a property do not necessarily disqualify it as a principal place of residence, provided there is a continuing intention to return.

Example 6 – Former Principal Home Disposal – Fiji Citizen

A husband and wife, both Fijian citizens migrated to New Zealand in 2020 and have since rented out their former home (Property B).

Prior to this, they owned another property (Property A) purchased in 1985 (first acquisition for both) which was transferred to the husband's parents in 2020. When visiting Fiji, the couple stay with relatives and do not occupy Property A.

They plan to sell Property B in 2026. Capital gain will be $40,000.

Will exemption apply on the capital gain in 2026?

CEO's position: No. The exemption does not apply as the property does not qualify as the principal place of residence at the time of disposal.

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The property has been rented out since 2020 and is no longer used as a residence by the couple. In addition, the couple have established their residence overseas and do not occupy the property when visiting Fiji.

Accordingly, Property B does not satisfy the requirements of a principal place of residence under section 67(1)(b). It is also not their first residential property acquired.

Would exemption apply if the property was sold before 2020?

CEO's position: Yes, as it was the couple's principal place of residence at that time.

Note:

A property that was previously used as a residence may not qualify as a principal place of residence where:

- the individual has permanently ceased living in the property;
- the property has been converted to income-producing use (e.g. rental); and
- there is no intention to resume occupation.

The determination of whether a property is a principal place of residence is based on the facts and circumstances at the time of disposal.

Example 7 – Former Principal Home Disposal – Fiji Resident

A husband and wife jointly own a residential property (Property A) which they acquired in 2019. The husband previously acquired his first residential property in 2003, which was co-owned with his father and disposed of in 2018. The wife acquired her first property in 2008. They moved out of Property A in 2024 to undertake renovations with the intention of selling the property. Capital gain on sale of the property in 2026 will be $120,000.

Will exemption apply on the capital gain in 2026?

CEO's position: No. Based on the facts presented, the exemption does not apply as the property does not qualify as the principal place of residence at the time of disposal. Although the property was previously used as a residence, the couple ceased to occupy the property in 2024 and vacated it for the purpose of renovation and sale. The property was not used as their residence at or near the time of disposal.

In these circumstances, the property does not satisfy the requirements of a principal place of residence under section 67(1)(b).

Note:
A property may continue to qualify as a principal place of residence during periods of temporary absence, depending on the facts and circumstances.

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However, where an individual has ceased to occupy the property and there is **no intention to resume using it as a residence**, particularly where the property is held for sale, it may not qualify as a principal place of residence at the time of disposal.

Note:
Husband - The capital gain arising from the disposal of the property in 2018 was not exempt under section 67(1)(b) based on the law applicable at the time. He may still qualify for exemption on a subsequent disposal of a property that he lives in (i.e. is his principal place of residence at the time of disposal, provided the exemption has not previously been claimed).

Wife - May qualify for exemption under section 67(1)(b) upon disposal of either:

- her first residential property; or
- a property that she lives in (i.e. is her principal place of residence, subject to the once-only exemption rule.

36. Where an individual has more than one residence, the exemption for principal place of residence may apply if the property being sold is the property where he/she lives.

37. An individual can have only one principal place of residence at any given time for the purposes of section 67(1)(b). Therefore, this is determined based on the residence that the individual ordinarily lives in and treats as their main home, having regard to factors such as the frequency and duration of occupation, intention, and pattern of use.

Example 8 – Fiji resident selling principal place of residence

James, a resident individual, owns a residential property in Suva where he lives full-time. He also owns a small farm in Sigatoka acquired in 2008 where he stays on weekends. He decides to dispose of the Suva home in 2026. Capital gain will be $80,000.

Will exemption apply on the capital gain in 2026?

CEO's position: Yes, the exemption applies as the Suva property is James' principal place of residence. It is the residence that he ordinarily occupies as his main home, having regard to the frequency and duration of occupation and overall pattern of use.
This is subject to the condition that James has not previously claimed the exemption under section 67(1)(b).
Would exemption apply if the property was sold in 2024?

CEO's position: Yes. The exemption would also apply if the property were disposed of in 2024, as it would still be his principal place of residence at that time.

Note:
Where an individual owns more than one residence, only one property can qualify as the principal place of residence at any given time. A property that is occupied only

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occasionally (e.g. weekends or holidays) will generally not qualify as a principal place of residence.

Example 9 – Fiji citizen working overseas selling principal place of residence

Litia (a Fijian citizen) lives and works overseas. She acquired a residential property in 2018 (Property A).
She later acquired another residential property in 2022 (Property B), which she occupies whenever in Fiji. This property is not used for income-producing purposes
She plans to sell Property B in 2026. Capital gain will be $40,000.

Will exemption apply on the capital gain in 2026?

CEO's position: Yes. The exemption applies as Property B is Litia's principal place of residence for the purpose of section 67(1)(b).
Although Litia lives and works overseas, Property B remains her residence when she is in Fiji, and it is not used for income-producing purposes. The facts indicate that the property continues to be treated as her home when present in Fiji.

Accordingly, the property qualifies as her principal place of residence, provided that she has not previously claimed the exemption under section 67(1)(b).

Note:

A property may continue to qualify as a principal place of residence where an individual is working or residing overseas, provided that:

- the absence is temporary in nature;
- the individual continues to use the property as their residence when present in Fiji; and
- the property is not converted to an income-producing or investment property.

Each case must be determined based on its facts and circumstances.

38. Other common scenarios are discussed in the following paragraphs

Example 10 – Multiple residential properties owned and disposed over time

X owns the following properties:
Property 1 - acquired in 1992, sold in 2005 (first acquisition).
Property 2 - acquired in 1997 and currently occupied as his residence.
Property 3 - acquired in 1999, sold in 2018 – no exemption.
Property 4 - acquired in 2003 and planning to sell in 2026.

What are the CGT implications under section 67 (1) (b) on past and future sales?

CEO's position:
Property 1 (acquired 1992 – sold 2005)
No CGT implications arise as the disposal occurred prior to the introduction of the capital gains tax regime. Accordingly, the exemption under section 67(1)(b) does not apply.

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Property 2 – (acquired 1997 – current residence)
This property may qualify for exemption under section 67(1)(b) upon disposal if it is X's principal place of residence at the time of disposal and provided that the exemption has not previously been claimed.

Property 3 (acquired 1999 – sold 2018)
The exemption did not apply as the property was neither the first residential property acquired nor the principal place of residence at the time of disposal.
Accordingly, the capital gain arising on disposal was subject to CGT.

Property 4 (acquired 2003 – to be sold in 2026)
This property may qualify for exemption under section 67(1)(b) **only if it is X's principal** place of residence at the time of disposal and provided that the exemption has not already been claimed on a prior disposal.

Note:

- The exemption under section 67(1)(b) is available only once per individual.
- Where no prior exemption has been claimed, the individual may choose to apply the
  - exemption to the disposal of either:
  - the first residential property; or
  - a property that qualifies as the principal place of residence.
- Once the exemption has been utilised, it cannot be applied to any subsequent disposals, regardless of the nature of the property.

Example 11 – Multiple personal/business properties

X is a businessman who owns the following properties:
Property 1 - a residential property acquired in 1991, later rezoned to 'commercial', and disposed of in 2025.
Property 2 - vacant residential land acquired in 2004, subsequently subdivided and sold as trading stock.
Property 3 - vacant residential land acquired in 2015 and intended to be disposed of in 2026.
The properties are used for both personal and business purposes

What are the CGT implications under section 67 (1) (b)?

CEO's position:
Property 1 - **(rezoned residential property)**
The exemption under section 67(1)(b) does not apply. Although the property was originally acquired as a residential property, it was subsequently rezoned and used as a commercial asset at the time of disposal. As such, the property does not qualify as a "residential property" for the purposes of section 67(4)(a) at the time of disposal. Accordingly, the capital gain does not qualify for exemption.

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Property 2 - **(subdivided and sold as trading stock)**
The exemption under section 67(1)(b) does not apply. The property was subdivided and sold as part of a profit-making activity and is treated as trading stock. Therefore, any gains arising on disposal constitute business income, rather than a capital gain.

As a result, section 67(1)(b) is not applicable.

Property 3 (vacant residential land)
The exemption under section 67(1)(b) does not apply, unless the property qualifies as either:

- the first residential property acquired; or
- the principal place of residence at the time of disposal.

Based on the facts, the property is neither the first residential property nor used as a principal place of residence. Accordingly, the capital gain is taxable.

Note:

- The exemption under section 67(1)(b) applies only to capital gains and does not apply where gains are treated as income from a business or profit-making activity.
- A property that is developed, subdivided, or disposed of as part of a commercial activity will be treated as trading stock, in which case the proceeds are subject to income tax, not capital gains tax.
- The exemption under section 67(1)(b) is available **only once per individual.**

39. The previous examples mainly discussed the sale of properties acquired by purchase.

Application of the deferral provisions in section 87

40. The following paragraphs discuss the tax treatment of properties acquired under the provisions of section 87 in the following circumstances:
    a) transfers pursuant to a divorce or matrimonial settlement;
    b) transmission of assets on death (e.g. inheritance); and
    c) transfer by reason of love and affection between family members.

41. In these circumstance, section 87 provides for the deferral of the recognition of any capital gain or loss arising on the disposal of an asset by the transferor.

42. When the deferral provision applies, no gain or loss is recognized at the time of transfer. Instead, the recognition of any capital gain or loss is deferred.

43. The person acquiring the asset (transferee) is under section 87 (3) and (4) treated as:
    - acquiring an asset of the same character as it had in the hands of the person disposing of it; and
    - acquiring the asset at its fair market value or the disposer's cost, as applicable.

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Type of asset	Value
Transferor's first residential property or principal place of residence immediately before the disposal	Fair market value of the asset at the time of the disposal if the transferee **uses the asset** as their principal place of residence
	The transferor's cost of the asset at the time of disposal if the transferee **does not use** the asset as their principal place of residence.
Other assets	The transferor's cost of the asset at the time of disposal

Sale of property acquired through a divorce settlement or other agreement

44. Where real property is transferred between spouses as part of a divorce settlement or under an agreement to live apart, the deferral provisions under section 87 apply as follows:

(a) No recognition of gain or loss

No gain or loss is recognised on the transfer of the asset between spouses.

(b) Character of the asset

The asset retains the same character in the hands of the transferee spouse as it had in the hands of the transferor spouse.

However, where the transferred asset was the principal place of residence (PPR) of the transferor spouse, it retains that character only if the transferee spouse also uses the property as their principal place of residence.

(c) Cost of the asset

The cost of the asset in the hands of the transferee spouse is determined as follows:

- where the asset was the principal place of residence or first residential property of the transferor immediately before the transfer, the transferee spouse is treated as acquiring the asset at its fair market value at the time of transfer if he/she also uses it as a principal place of residence;
- in all other cases, the transferee spouse is treated as acquiring the asset at the transferor's cost at the time of transfer.

45. For the purposes of this section, a spouse includes individuals in de-facto relationships, as defined under the Income Tax Act 2015.

Note:

The deferral provisions apply only where the transfer occurs in the context of genuine matrimonial settlement or agreement to live apart.

Where the conditions for deferral are not satisfied, the transfer may be treated as a taxable disposal under the general provisions of the Act.

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Example 12 – Determining character of assets

H and W are husband and wife who have divorced. Under the divorce agreement, H's business and personal assets are divided and the following transferred to W:
a) half of the trading stock from the H's business;
b) a vacant residential lot;
c) a residential house.

What is the nature of the asset acquired by W?

CEO's position:
a) Trading stock
The transferred asset retains its character as **trading stock** in the hands of W. This applies even if W does not carry on a business. Any gain arising on disposal of the trading stock will be treated as **business income** and included in W's gross income.

b) Vacant residential land –
The transferred asset is treated as a **capital asset (residential property)**, provided it was not held by H as trading stock or for a profit-making purpose.

Its character as vacant residential land is retained in the hands of W.

(c) Residential house
The transferred asset is treated as a residential property in the hands of W.

If the property was the principal place of residence (PPR) of H immediately before the transfer, it will retain that character only if W also uses the property as her principal place of residence after the transfer.

Note:

- Under section 87, assets transferred in a divorce settlement retain their **character** in the hands of the transferee.
- Where an asset is **trading stock** or acquired for a profit-making purpose, any gain on disposal will be treated as **income**, and the CGT exemption under section 67(1)(b) does not apply.
- Where an asset is a **principal place of residence**, it retains that character only if the transferee also uses it as their principal place of residence.

Example 13 – Sale of house acquired through divorce settlement - current owner's PPR

Same details as in Example 12.

W occupies the house as her principal place of residence and plans to sell it for $400,000
The capital gains tax (CGT) expenses are **$10,000**.
H originally acquired the house in 1992 for $35,000.
The fair market value of the property at the time of transfer to W in 2010 was $220,000.

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What are the tax implications?

CEO's position:
The deferral provisions applied to the transfer of the property from H to W. Accordingly, no gain or loss was recognised at the time of transfer.

Character of the asset
The property was H's principal place of residence (PPR) immediately before the transfer and retains that character, as W uses the property as her principal place of residence after the transfer.

Cost of the asset
Under section 87, where the asset was the principal place of residence of the transferor and retains that character in the hands of the transferee, the transferee is treated as acquiring the asset at its **fair market value at the time of transfer**.
Accordingly, W's cost base is:

- Fair market value at transfer: $220,000
- CGT expenses: $10,000
- **Total cost base: $230,000**

Capital gain

- Sale price: $400,000
- Cost base: $230,000
- **Capital gain: $170,000**

and is exempt under section 67 (1) (b) if it is W's first disposal.

If no exemption applies (e.g. CGT exemption granted under section 67 (1) (b) in a previous disposal), CGT payable = $17,000 ($170,000 x 10%)

Application of exemption
The capital gain is exempt under section 67(1)(b), as the property qualifies as W's principal place of residence, provided that the exemption has not previously been claimed.

Note:
Where a property transferred under a divorce settlement retains its character as a principal place of residence and is used as such by the transferee, the cost base is reset to the **fair market value at the time of transfer**, in accordance with section 87.
This ensures that any gain accrued during the transferor's period of ownership is **not taxed in the hands of the transferee**.

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Example 14 - Sale of house acquired through divorce settlement - not current owner's PPR

Same details as in Example 12.
W does not occupy the property and plans to dispose it for $350,000 (CGT expenses $10,000).
H originally acquired the property in 1992 for **$35,000**.
Fair market value at the time of transfer to W in 2010 was $220,000.

What are the tax implications?
CEO's position:
The deferral provisions under section 87 applied to the transfer from H to W.
Accordingly, no gain or loss was recognised at the time of transfer.

Character of the asset
The property was H's principal place of residence (PPR) immediately before the transfer. However, it does not retain its character after the transfer as W does not use the property as her principal place of residence.

Cost of the asset
Where the transferred property does not retain its character as a PPR in the hands of the transferee, the cost of the asset is determined based on the **transferor's original cost**.
Accordingly, W's cost base is:

- Original cost (H): $35,000
- CGT expenses: $10,000
- **Total cost base: $45,000**

Capital gain

- Sale price: $350,000
- Cost base: $45,000
- **Capital gain: $305,000**

The capital gain is exempt under section 67 (1) (b) if it is W's first disposal.
If the exemption is not available:

- Capital gain: $305,000
- CGT rate: 10%
- **CGT payable: $30,500**

Application of exemption
The capital gain may be exempt under section 67(1)(b) **only if the property qualifies as either**:

- W's first residential property; or
- her principal place of residence.

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Based on the facts, the property is **not W's principal place of residence**. Accordingly, exemption will apply **only if the property qualifies as W's first residential property and she has not previously claimed the exemption**.

Note:
Where a property transferred under section 87 does not retain its character as a principal place of residence, the transferee inherits the **historical cost of the transferor**, resulting in taxation of gains accrued during both periods of ownership.
This may result in a significantly higher taxable gain compared to cases where the PPR status is retained.

Example 15 – Sale of vacant land acquired through divorce settlement

Same details as in Example 12.

W plans to dispose of the vacant land in 2026 for $50,000. The capital gains tax (CGT) expenses are **$2,000**.
H originally acquired the land in 1992 for **$7,000**.

What are the tax implications?

CEO's position:
The deferral provisions under section 87 applied to the transfer of the land from H to W Accordingly, no gain or loss was recognised at the time of transfer. Hence the subsequent sale by W will be taxable unless exempt under section 67(1) (b).

Character of the asset

The asset retains its character as it has remained undeveloped.
The asset retains its character as a **capital asset (vacant residential land)** in the hands of W.

As the property is vacant land, it does not qualify as a **principal place of residence**.

Cost of the asset
The cost of such assets is the transferor's cost of the asset at the time of disposal ($7,000).
Where the asset is not a principal place of residence, the transferee is treated as acquiring the asset at the **transferor's original cost**.
Accordingly, W's cost base is:

- Original cost (H): $7,000
- CGT expenses: $2,000
- **Total cost base: $9,000**

Capital gain

- Sale price: $50,000

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- Cost base: $9,000
- **Capital gain: $41,000**

Application of exemption

The capital gain may be exempt under section 67(1)(b) **only if the property qualifies as W's first residential property and the exemption has not previously been claimed**.
As vacant land cannot qualify as a principal place of residence, the exemption cannot apply under the PPR limb.

If exemption does not apply

- Capital gain: $41,000
- CGT rate: 10%
- **CGT payable: $4,100**

Note:

Where a capital asset transferred under section 87 does not qualify as a principal place of residence, the transferee inherits the **original cost of the transferor**, resulting in taxation of gains accrued during both periods of ownership.
Vacant land cannot qualify as a principal place of residence for the purposes of section 67(1)(b).

Sale of real property acquired by inheritance

46. No gain or loss is recognised when an asset is transmitted on the death of a person to the executor or a beneficiary of the person's estate.9

47. Although transmission of an asset on death is treated as a disposal,[1] the disposal is for tax purposes under section 87.

48. The asset retains its character in the hands of the executor or beneficiary.

49. The cost of the asset in the hands of the executor or beneficiary is determined in accordance with section 87 as follows:
    - where the asset was the **principal place of residence or first residential property** of the deceased immediately before death, the asset is treated as acquired at its **fair market value at the date of death** only if the transferee uses it as a principal place of residence.
    - in all other cases, the asset is treated as acquired at the **deceased's cost at the time of death**.

50. The effect of the deferral provisions is that any capital gain that accrued prior to the deceased's death is **deferred** and will only be recognised when the executor or beneficiary subsequently disposes of the asset, unless an exemption applies.

[1] Section 84(4) ITA 2015

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51. Where the transmitted asset was the principal place of residence of the deceased at the time of death, the following applies:

(a) Disposal within two years – Section 67(1) (h)
(b) Where the executor or beneficiary disposes of the property within **2 years of the deceased's death** (or within such further time as allowed by the CEO), any capital gain is an **exempt capital gain** under section 67(1)(h).

(b) Disposal after two years – Section 67(1) (b)
Where the property is disposed of after the 2-year period, the capital gain may still be exempt under section 67(1)(b), if the property qualifies as the principal place of residence of the beneficiary, and the exemption has not previously been claimed.

(c) Where no exemption applies
If the capital gain is not exempt under section 67(1)(h) or section 67(1)(b), the gain is calculated using the cost discussed in paragraph 43. Where fair market value applies at the date of death, the beneficiary is taxed only on the **increase in value after the date of death**.

Treatment of Inherited Residential Property

Scenario	Tax Treatment
Transfer on death	No gain/loss recognised
Sold within 2 years (PPR)	Exempt – s67(1)(h)
Sold after 2 years (used as PPR)	Possible exemption – s67(1)(b)
Not exempt	CGT applies using s87 cost rules

Example 16 - Sale of inherited property

X inherited a residential property upon her mother's death in accordance with the terms of the will.

X has been living in the house and plans to sell it for $350,000 (CGT expenses $5,000). Her mother originally acquired the property in 1992 for $35,000.
The fair market value of the property at the date of death (transfer to X) was **$220,000**.

What are the tax implications?

Scenario 1 – Property Used as PPR by Beneficiary

X occupies the property as her principal place of residence and plans to dispose of it in 2026 for **$350,000**. The capital gains tax (CGT) expenses are **$5,000**.

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CEO's position:
The deferral provisions under section 87 apply to the transmission of the property. Therefore, no gain or loss is recognised at the time of inheritance.

Character of the asset
The property was her mother's PPR and retains that character as X uses the property as her principal place of residence.

Cost of the asset
Where the property retains its character as a principal place of residence, the cost of the asset is its **fair market value at the date of death**.
Cost base:

- Fair market value at transfer: $220,000
- CGT expenses: $5,000
- **Total cost base: $225,000**

Capital gain

- Sale price: $350,000
- Cost base: $225,000
- **Capital gain: $125,000**

Application of exemption
The capital gain is exempt under section 67(1)(b), as the property qualifies as X's **principal place of residence**, provided that **the exemption has not previously been claimed**.

If exemption does not apply

- Capital gain: $125,000
- CGT rate: 10%
- **CGT payable: $12,500**

Scenario 2 – Property Not Used as PPR by Beneficiary

X does not occupy the property and plans to dispose of it in 2026 for **$350,000**. CGT expenses are **$5,000**.

What are the tax implications?

CEO's position:
The property does not retain its character as a principal place of residence, as X does not use it as her residence.

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Cost of the asset
Where the property does not retain its character as a principal place of residence, the cost is based on the **deceased's original cost**.
Cost base:

- Original cost: $35,000
- CGT expenses: $5,000
- **Total cost base: $40,000**

Capital gain

- Sale price: $350,000
- Cost base: $40,000
- **Capital gain: $310,000**

Application of exemption
The capital gain is not exempt under section 67(1)(b), as:

- the property is not the principal place of residence; and
- it is not the first residential property (depending on facts),

unless the exemption has not previously been claimed and the property qualifies under the first residential property limb.

If exemption does not apply

- Capital gain: $310,000
- CGT rate: 10%
- **CGT payable: $31,000**

Note:
Where inherited property retains its character as a principal place of residence, the cost base is reset to **fair market value at the date of death**, ensuring that gains accrued during the deceased's ownership are not taxed.
Where the property does not retain that character, the beneficiary inherits the **historical cost**, resulting in taxation of the full gain over both ownership periods.

Sale of Real Property Acquired by Gift

52. No gain or loss is recognised on the transfer of a capital asset (including residential property,) by reason of love and affection between spouses, siblings, parents to children and vice versa, grandchildren to grandparents and vice versa, in accordance with section 87(1)(c).

53. Where the transferred asset is the PPR of the transferor at the time of the transfer, the following applies:

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(a) Deferral of gain or loss

No gain or loss is recognised at the time of transfer. The recognition of any gain or loss is deferred until a subsequent disposal by the transferee.

(b) Character of the asset

The asset retains its character as a principal place of residence only if the transferee also uses the property as their principal place of residence after the transfer.

(c) Subsequent disposal

Where the transferee uses the property as their principal place of residence, any capital gain on disposal may be exempt under section 67(1)(b), **provided that the** exemption has not previously been claimed.

(d) Cost of the asset

The cost of the property in the hands of the transferee is determined as follows:

- where the property was the **principal place of residence or first residential property** of the transferor immediately before the transfer, the transferee is treated as acquiring the asset at its **fair market value at the time of transfer**;
- in all other cases, the transferee is treated as acquiring the asset at the **transferor's cost at the time of transfer**.

Note:

- Transfers by reason of love and affection are subject to the **deferral provisions of section 87**, meaning that any gain is deferred rather than exempt at the time of transfer.
- The CGT exemption under section 67(1)(b) applies only upon a **subsequent disposal** of the property and only if the relevant conditions are met.
- The exemption under section 67(1)(b) is available **only once per individual**.

Example 17 – Sale of gifted property occupied as a principal place of residence

In 2020 Mr and Mrs. D transferred a residential property (which was their principal place of residence) to their daughter, Mrs C, by reason of love and affection.

Mrs C subsequently transferred one-half interest in the property to her spouse, Mr C.

Mr and Mrs C reside in the property and plan to dispose of it in 2026.

(a) What are the tax implications **of** the transfer of the property within the family from Mr and Mrs. D to their daughter (Mrs. C) and Mrs. C to Mr C?

CEO's position:

The transfers from Mr and Mrs D to Mrs C, and from Mrs C to Mr C, are subject to the **deferral provisions under section 87**.

Accordingly:

- no gain or loss is recognised at the time of each transfer; and
- any capital gain is **deferred until a subsequent disposal** of the property.

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b) What are the tax implications on disposal of the property by Mr and Mrs C?

CEO's position:
Character of the asset

The property was the principal place of residence (PPR) of the transferors (Mr and Mrs D) and retains that character, as the transferees (Mr and Mrs C) also use the property as their principal place of residence.

Application of exemption

The capital gain arising on disposal may be exempt under section 67(1)(b), as the property constitutes the principal place of residence of Mr and Mrs C, provided **that neither individual has previously claimed the exemption under section 67(1)(b).**

Note:

- Transfers by reason of love and affection are **not taxable events** but rather give rise to a **deferral of gain** under section 87.
- Where a property retains its character as a principal place of residence and is used as such by the transferee, a subsequent disposal may qualify for exemption under section 67(1)(b).
- The exemption is available **only once per individual**.
- The same outcome would have applied if Mr and Mrs D had disposed of the property directly in 2020, as the property was their principal place of residence at that time.

Example 18 – Sale of gifted investment property – not a principal place of residence

Mr and Mrs C reside in a residential property acquired in 2015, which is their principal place of residence.
In 2020, Mrs C was gifted another residential property by her parents (Mr and Mrs D). The property was an **investment property** and was not used as a principal place of residence by the transferors.

Mrs C subsequently transferred a one-half interest in the property to her spouse, Mr C. The property continued to be rented out during Mr and Mrs C's period of ownership.

They plan to dispose of the property in 2026.8

a) What are the tax implications of the transfer within the family from Mr and Mrs. D to their daughter (Mrs. C) and Mrs. C to Mr C?

CEO's position:
The transfers from Mr and Mrs D to Mrs C, and from Mrs C to Mr C, are subject to the **deferral provisions under section 87**. Accordingly:

- no gain or loss is recognised at the time of transfer; and

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- any capital gain is **deferred until subsequent disposal.**

b) Disposal of property by Mr and Mrs C
Mr and Mrs C decide to sell the property for $320,000 (CGT expenses $5,000). Mr & Mrs. D purchased the house for $100,000 in 2015 and the fair market value on transfer to Mrs. C in 2020 was $250,000.

What are the tax implications on the disposal of the property?

CEO's position:
Character of the asset

The property is an **investment property** and does not constitute a principal place of residence at any point during ownership.

Accordingly, it does not qualify for exemption under the PPR limb of section 67(1)(b).

Cost of the asset
As the property was not the principal place of residence or first residential property of the transferors, the cost of the asset in the hands of the transferee is based on the **transferor's original cost**.

Cost base:
- Original cost: $100,000
- CGT expenses: $5,000
- **Total cost base: $105,000**

Capital gain
- Sale price: $320,000
- Cost base: $105,000
- **Capital gain: $215,000**

Application of exemption

The capital gain is not exempt under section 67(1)(b), as the property is:
- not the first residential property acquired; and
- not the principal place of residence.

CGT payable
- Capital gain: $215,000
- CGT rate: 10%
- **Total CGT payable: $21,500**

Split equally:
- Mr C (50%): $10,750
- Mrs C (50%): $10,750

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Note:

- Where a property is held as an **investment property** and not used as a principal place of residence, the exemption under section 67(1)(b) does not apply.
- Transfers by reason of love and affection are subject to **deferral under section 87**, not exemption.
- Where the property does not qualify as a PPR, the **historical cost of the transferor applies**, resulting in taxation of the full gain across both ownership periods.

Sale of interest in a family home

54. The term *"family home"* is defined in section 67(4) and is relevant to the exemption provided under section 67(1)(f), which applies to the disposal by a Fiji resident or Fiji citizen of an interest in a residential property held jointly by family members.

55. Under section 67(1)(f), a capital gain arising from the disposal of an interest in a family home is exempt, **provided that the interest is transferred to an existing co-owner who is a family member**.

56. Where an interest in a family home is disposed of to a person who is **not an existing co-owner**, the exemption under section 67(1)(f) does not apply. In such cases, the disposal may still qualify for exemption under section 67(1)(b), if the property satisfies the relevant conditions, namely that it is:
the individual's **first residential property**; or the individual's **principal place of residence**, and provided that the exemption under section 67(1)(b) has **not previously been claimed**.

Note:

- Section 67(1)(f) applies specifically to **transfers of interests within jointly owned family property**, who are Fiji residents or Fiji citizens.
- Section 67(1)(b) is a **separate exemption**, which applies to **full or partial disposals** based on the nature of the property (first residential property or principal place of residence).
- The two provisions operate **independently** and must be considered separately based on the facts of each case.

Example 19 – Sale of interest in a family home

The Khan family (aunties, uncles, cousins, siblings and other relatives jointly own a residential property in Lautoka.
The property qualifies as a *"family home"* as defined in section 67(4), as it is jointly owned by immediate and extended family members as tenants in common or joint tenants.
The family decides to dispose of the property to a third party in 2026.

What are the tax implications?

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CEO's position: The exemption under section 67(1)(f) does not apply, as the disposal is not made to an existing co-owner who is a family member.

Application of section 67(1)(b)

The tax treatment must therefore be determined separately for each individual co-owner under section 67(1)(b).

For each co-owner:

- the capital gain may be exempt if the property constitutes the individual's:
  - first residential property; or
  - principal place of residence;

provided that the exemption has not previously been claimed by that individual.

Outcome

Accordingly:

- some co-owners may qualify for exemption;
- others may be subject to CGT, depending on their individual circumstances.

Note:

- The exemption under section 67(1)(f) applies only to transfers of interests between existing co-owners who are family members.
- Where a family home is sold to a third party, the exemption under section 67(1)(f) does not apply, and each owner must be assessed independently under section 67(1)(b).
- The exemption under section 67(1)(b) is available **only once per individual**.

Disposals subject to income tax

57. A gain on disposal of residential property may be subject to income tax rather than CGT. A gain arising from the disposal of real property may be subject to income tax rather than capital gains tax, depending on the nature and purpose of the transaction.

58. Where it is established that real property was acquired with the intention of resale at a profit, or forms part of a profit-making scheme or business activity, any gain derived from the disposal will be treated as property income or business income.

59. Such income will be included in the individual's **gross income** and will not be eligible for exemption under section 67 of the Income Tax Act 2015.

60. In determining whether a gain is taxable as income, regard may be had to factors such as:
    - intention at the time of acquisition;
    - frequency and nature of transactions;
    - extent of development or subdivision; and
    - whether the activity constitutes a business.

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Anti-Avoidance Guidance

61. The Fiji Revenue and Customs Service (FRCS) may apply anti-avoidance provisions where arrangements are entered into for the purpose of **obtaining an improper tax advantage**, including accessing the exemption under section 67(1)(b).

62. This includes, but is not limited to:
    - artificial arrangements to transfer property between related parties;
    - restructuring ownership solely to qualify for exemption; and
    - arrangements lacking commercial or economic substance.

63. Where such arrangements are identified, FRCS may disregard or recharacterise the transaction to ensure that the exemption is applied in accordance with the intent of the law.

Transitional Rule

64. Eligibility for exemption under section 67(1)(b) is determined based on the **law in force at the date of disposal**, and not the date of acquisition of the property. Accordingly, amendments to the definition of "first residential property" introduced by the 2025–2026 National Budget apply to disposals occurring on or after **1 August 2025**, regardless of when the property was originally acquired.

Depreciation and Capital Gains Tax

65. From 1 August 2020, where depreciation has been claimed on a capital asset, any **depreciation recovered on disposal** is included in the taxpayer's gross income, up to the amount previously claimed.
66. Any excess gain beyond the depreciation recovered is subject to **capital gains tax under Part 3 of the Income Tax Act 2015** and may qualify for exemption under section 67(1)(b) where the relevant conditions are satisfied.

Filing of Capital Gains Tax Return

67. A person liable for capital gains tax in respect of the disposal of a capital asset must file a capital gains tax return within thirty days after the disposal of the capital asset.
68. The obligation to file arises whenever there is a disposal of a capital asset regardless if the gain is exempt or a loss (except for disposal of shares in a company listed on the South Pacific Stock Exchange.
69. Taxpayers can seek advice on the tax implications by writing to the CEO FRCS or apply for a private binding ruling, which is a paid service.
70. For further information and clarification, please contact Fiji Revenue and Customs Service at tipu@frcs.org.fj.

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APPENDIX

Appendix 1 - Legislation

INCOME TAX ACT 2015

[Section 2] Interpretation

capital gain - has the meaning in section 66;
capital gains tax - means the Capital Gains Tax imposed under section 65;
de-facto spouse - in relation to an individual, means an individual not of the same sex, who lives with the first mentioned individual as spouses on a genuine domestic basis although not legally married to each other
spouse - in relation to an individual, means an individual who is legally married to the first mentioned individual, and includes a de facto spouse;

[Section 67] Exempt Capital Gains

(1) The following capital gains are exempt capital gains—

a) a capital gain made by a resident individual or Fijian citizen that does not exceed $30,000;

b) a capital gain made by a resident individual or a Fijian Citizen on the first disposal of either
the individual's first residential property or principal place of residence;

c) a capital gain made by a person on the disposal of shares listed on the South Pacific Stock Exchange;

d) a capital gain made on disposal of an asset that is used solely to derive exempt income excluding the disposal of shares;

e) any gain made by a person on the disposal of an interest in a company within section 2(c) of the definition "company";

f) a capital gain made by a resident individual or a Fijian citizen on disposal of his or her interest in a family home, provided however that the disposal of the interest is by way of transfer to an existing joint tenant or tenant in common;

g) any gain made by a resident person from a capital asset, including from the sale of shares where a private or public company goes through re-organisation, restructure or amalgamation for the purposes of listing or as part of a listing process on the South Pacific Stock Exchange, provided that—
i. the private company is listed on the South Pacific Stock Exchange within 24 months from the date of commencement of re-organisation, restructure or amalgamation; and
ii. where the private company is not listed with the South Pacific Stock Exchange in accordance with subparagraph (i), the gain from the re-organisation, restructure or amalgamation of the private company shall be taxable under this Act;

h) a capital gain made by the trustee or beneficiary of a deceased estate on the disposal of an asset forming part of the estate that, if the gain had been made by the deceased on a disposal of the asset immediately before death, the gain would be an exempt capital gain to the deceased under this subsection, but only when the asset is disposed of by the trustee or beneficiary within 2 years after the death of the deceased or within such further time as the CEO allows;

i) a capital gain made by a resident person or Fijian citizen on the disposal of shares if the shares were held by the person before 1 May 2011.

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(2) If the CEO is satisfied that a capital asset has been disposed of in 2 or more parts for the purpose of taking advantage of subsection (1)(a), any capital gain arising from the disposals is exempt under subsection (1)(a) only if the total gain from the disposal of all parts does not exceed $30,000.

3) In the case of the disposal of a capital asset that is jointly owned, subsection (1)(a) applies only if the total capital gain made by all owners of the asset on disposal of the asset does not exceed $30,000.

(4) For the purposes of—

(a) subsection (1)*(b)*—

(i) "first residential property" means the first residential property that a resident individual or Fiji citizen has acquired, and who has sole ownership or co-owns the same with any other individual;

(ii) "principal place of residence" means the place of residence where the individual lives; and

(b) subsection (1)*(f)*, "family home" means a residential property in which family members,

whether immediate or extended, hold an interest as joint tenants or tenants in common.

[Section 87] Deferral of Recognition of Gain or Loss

(1) For the purposes of this Act and subject to subsection (2), no gain or loss is taken to arise on the disposal of any of the following—

a) an asset between spouses as part of a divorce settlement or under an agreement to live apart;

b) an asset by reason of the transmission of the asset on the death of a person to an executor or beneficiary;

c) a principal place of residence, first residential property, an interest in a capital asset, or shares in a company, by reason of love and affection between spouses, siblings, parents to children and vice versa, and grandchildren to grandparents and vice versa; or

d) an asset by reason of the loss, destruction or compulsory acquisition of the asset (referred to as the "replaced asset") if the consideration for the disposal is reinvested by the recipient in an asset of a like kind (referred to as a "replacement asset") within one year of the disposal or within such further period as the CEO allows.

(2) If the person acquiring an asset referred to in subsection (1)(a), (b), or (c) is a non-resident person at the time of the acquisition, subsection (1) applies only if—

a subsequent disposal of the asset by the non-resident will give rise to an amount included in the gross income of, or allowed as a deduction to, the non-resident person; or

the asset is a Fiji asset.

(3) If subsection (1)(a), (b), or (c) applies, the person acquiring the asset is treated as acquiring—

subject to subsection (4), an asset of the same character as the person disposing of the asset; and the asset for an amount equal to—

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for an asset that was the principal place of residence or first residential property of the person disposing of the asset immediately before the disposal, the fair market value of the residence at the time of the disposal; or for any other asset, the cost of the asset for the person disposing of the asset at the time of the disposal.

(4) If the asset to which subsection (3) applies is the principal place of residence or first residential property of the person disposing of the asset immediately before the disposal, the asset retains that character only if the person acquiring the asset uses the asset as their principal place of residence.

(5) If subsection (1)(d) applies and the consideration given by the person for the replacement asset is equal to or exceeds the consideration received or receivable for the replaced asset, the cost of the replacement asset is the cost of the replaced asset at the time of disposal increased by the amount of the excess, if any.

(6) If subsection (1)(d) applies and the consideration received or receivable for the replaced asset exceeds the consideration given for the replacement asset, the cost of the replacement asset is the cost of the replaced asset at the time of disposal reduced by the amount of the excess.

(7) Section 34(3) and not subsection (1)(d) applies if the asset is a depreciable asset.

(8) In this section, “first residential property” and “principal place of residence” have the meanings in section 67(4).

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Appendix 2 – Cost of an asset

The capital gain on the disposal of an asset is calculated by reducing the cost of acquiring the capital asset from the consideration on disposal.

The consideration for the disposal of an asset is the total amount received (in cash) or receivable (accruals) for the asset, including the fair market value of any consideration in kind determined at the time of the disposal.

This means that capital gains is calculated on the sum that has been received or will be received by the vendor for the disposal of the real property. This ensures that the total sale price is included in the CGT calculation at the point the CGT event occurs (regardless of the payment arrangements made).

Cost of Real Property

a. **Cost of acquisition** (what it cost current owner to acquire the asset)

- If purchased
  - the total amount paid or given (fair market value of any consideration in kind) to buy the asset
- If constructed
  - the cost of acquiring the property (e.g. land) and the cost of constructing the building

b. **Incidental expenditure** (on acquiring or disposal of an asset)

- professional services of an agent, lawyer, valuer, auctioneer or surveyor; and
- advertising costs (particularly on disposal);

c. **Improvement costs**

- costs to install, alter, renew, reconstruct or improve the real property.
- this does not include repair and maintenance costs.

Note – for business taxpayers, the cost does not include any amount claimed as a tax deduction.

VAT included in costs

In general VAT is not a cost to a VAT registered person and they can claim it as an input tax deduction in the VAT return

For CGT purposes. if the person disposing the asset is a VAT registered person and the asset was used in the making of taxable supplies, the cost of the asset will exclude VAT paid on purchases/expenses

If the person disposing the asset is not a VAT registered person, the cost of the asset will include VAT paid on allowable purchases/expenses.

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Appendix 3 - Comparison of old and new provisions-Section 67 (4)

Provision	Old Law (Pre-August 2025)	New Law (From 1 August 2025)	Key Change
First residential property	Property acquired solely or jointly with – a spouse (including a de facto partner), parent(s), sibling(s), children, grandparent(s) or grandchildren.	Can be solely owned or co-owned with another individual Property acquired solely or jointly with **any other individual**	Eligibility Expanded eligibility to include co-ownership with any other individual, including-friends, business partner, and extended family members (e.g. cousins, aunts, uncles)
Principal place of residence	The place of residence where the individual lives.	No change.	N/A No change to definition; interpretation continues to be based on factual circumstances
Family Home	Residential property in which immediate and extended family members hold an interest as joint tenants or tenants in common.	No change.	N/A
Definition of spouse	Included in subsection 67(4), with reference to Family Law Act 2003.	Removed from subsection 67(4).	Definition relocated/removed to avoid redundancy and streamline drafting

Note:

The amendments to the definition of "first residential property" apply to disposals occurring on or after **1 August 2025**, in accordance with the transitional rule outlined in this Guideline.