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TAX AND THE EX-PAT INVESTOR

The tax pros and cons of going overseas are reflected in complex rules for property investors, writes **Shukri Barbara**

The taxes that impact property investors most include capital gains tax, land tax and income tax. As you would expect, however, the tax requirements for ex-pat investment property owners are not quite the same as those for Australian tax residents.

Australians who leave the country for an indefinite period – to follow their dreams, work offshore or for some other reason – are considered 'non-resident' for tax purposes.

Ex-pat property investors are, unfortunately, impacted more severely than those considered resident for tax purposes, with non-resident tax rates generally higher than those for residents.

The impact is less where non-resident, ex-pat property investors are negatively geared and do not have other Australian sourced income to offset against the rental losses. Generally, the losses are then carried forward to be offset against any future income.

The accumulated rental losses can also be offset against the capital gains on sale of the investment property, reducing the net capital gains tax payable.

In 2012/2013, where non-residents have positive rental returns, these will be taxed at 32.5 per cent, while residents enjoy the tax-free threshold of $18,200 together with the lower marginal tax rate of only 19 per cent for the next $18,800 of net rental income.

The recent Budget removed the benefit of the 50 per cent capital gains discount for non-residents, available when an investment property was held for longer than 12 months, thus making it a less attractive investment proposition.

INVESTORS SHOULD CHECK THEIR TAX LIABILITIES BEFORE GOING OVERSEAS

Capital gains tax liability will now accrue from the announcement date of 8 May 2012, complicating the calculation by involving an ownership period before (with discount) and after 8 May 2012 (without discount). This, unfortunately, means additional accounting fees and record keeping.

The cost base for measuring the capital gains on the second part will be the market value of the investment property at that date. Where practical, it would be prudent to obtain an independent valuation establishing that value now.

Capital gains tax is only an issue if an investment property is sold. The other major consideration is the 'tax residence' status of the investor at the time of sale. While there is currently insufficient detail, I believe forthcoming legislation will preserve the no discount portion of the calculation, even after an ex-pat has resumed their residency.

Once this is clarified, whether the investment is worth keeping or not becomes a commercial decision.

Many Australian ex-pats rent out their homes as investment properties instead of selling as they head overseas. As such, they are liable for land tax where the land value exceeds the threshold in their home state.

In NSW, the owner is supposed to lodge their initial land tax return with the Office of State Revenue. Unlike the ATO, they will not initiate follow-up, comfortable in the knowledge that the property will not be transferred until all outstanding land tax is paid.

As always, you should review and discuss your tax position with your property tax specialist before commencing a transaction. ■

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