TAX with Shukri Barbara

For more **TAX** info visit www.spionline.com.au

HANDLING PROPERTY INHERITANCE

When an investment property is left to the beneficiaries of a deceased estate, there will be tax implications, writes **Shukri Barbara**

INHERITING PROPERTY CAN COME WITH VARIOUS TAX CONSIDERATIONS

Recently, I was asked to advise on a situation where an investment property was left to four beneficiaries of a deceased estate. As the property was in a desirable location, three of the beneficiaries wanted to keep the investment and the fourth wanted their share of the value. So, what are the tax implications when a property is inherited?

The taxes most relevant to residential property investments are capital gains tax (CGT), income tax and land tax. Upon inheriting a property, only CGT may be an issue – and only if a sale or disposal occurs.

Broadly speaking, CGT is calculated as the difference between the sale price and the cost base.

Where the property was first acquired by the deceased before 19 September 1985, the cost base for the beneficiaries will be the market value on the date of death (DOD).

Where disposal is made within two years of the DOD, there will be no CGT impacts. So the proceeds are obtained free of tax by the beneficiaries – attractive if you want the cash quickly.

If selling later, a high market-related cost base means a lower CGT on the subsequent sale. The position is the same where the property was the main residence (MR) of the deceased.

Where the property, purchased after 19 September 1985, was a rental investment of the deceased, the cost base for the beneficiaries will be the same as that of the deceased. This means there will be CGT payable on disposal. Where the executor sells the property, the beneficiaries will receive the capital gains and will be liable for the tax.

If the property is transferred to the beneficiaries in kind, then the liability exists and will be realised on the eventual sale of the property. The fourth beneficiary in our example would be in this situation, as they have sold their 25 per cent interest to the other three beneficiaries.

Calculating capital gains on sale would require original documentation or summaries of the contents.

Another example involves three beneficiaries to one valuable investment property with potential for growth, but also requiring improvements to get higher rent. Two of the three beneficiaries are comfortable with their lifestyles and level of debt, while the third is struggling. Should they sell or should they hold on to the growth property?

Considerations would include the struggling beneficiary to sell to the other beneficiaries. The other two would acquire a growth asset with no tax liability until sale.

Where the two comfortable beneficiaries wanted to help the third, they should consider improving the property to increase its value, before buying the equity of the third beneficiary at the higher valuation. The renovated property would likely generate a higher rental return.

With careful planning, property assets can be passed on to beneficiaries, minimising their taxes by allowing for their particular circumstances, including what assets they already own and what income levels they have, capital or trading losses they are carrying forward, how they can use franking and other credits.

This is the process of estate planning. The process also includes considerations when transferring control of property owning trusts to adult children. ■

“ IF THE PROPERTY IS TRANSFERRED TO THE BENEFICIARIES IN KIND, THEN THE LIABILITY EXISTS AND WILL BE REALISED ON THE SALE ”

Shukri Barbara is a certified practising accountant and principal adviser at Property Tax Specialists