+ TAX STRAIGHT UP

Q&A

WITH TAX EXPERT
JULIA HARTMAN

EQUITY IN THE WRONG PLACE

Q We're building a new home which we'll move into. We'd like to keep our existing home as an investment. Our problem is that we have a large amount of equity in this home. Is there any way we could transfer this equity to the new home to reduce our non-deductible interest? Otherwise, would we be better off selling? Also, could you please advise how we could find an experienced property tax accountant in Melbourne?

A This edition of API has an article on the problems associated with renting out your home and the July edition will discuss the capital gains tax considerations.

You're only going to be able to claim a tax deduction for interest on a loan if the borrowed funds were used directly in relation to an income-producing asset.

Even at a tax rate of only 31.5 per cent you need to earn nearly $1.50 to pay $1 in non-deductible interest whereas you only need to earn $1 to pay $1 in deductible interest. So, depending on the amount of debt you have on the new home, equity in the old and the selling costs, you may well be better off to sell it. It's a matter of crunching the numbers.

You may consider buying your spouse's share of the old home; this would give your spouse cash to reduce the non-deductible debt. To be sure you qualify to claim the interest on the loan to buy your spouse out, you should apply to the ATO for a ruling on whether they would consider such an arrangement a scheme with the dominant purpose of a tax benefit so not allowed under Part IVA (refer to ATO *Interpretative Decision 2001/79*).

The March 2009 edition of API has some useful tips on choosing an accountant.

BUYERS AGENT

Q I read in a previous issue of API that buyers agents fees aren't deductible as an expense, but can they be added to the cost base for capital gains tax purposes?

A I believe buyers agents fees would be included in the cost base under section 110-35 of the *Income Tax Assessment Act* as incidental costs. Subsection (2) refers to remuneration for the services of a surveyor, valuer, auctioneer, accountant, broker, agent, consultant or legal adviser.

PUTTING MY BONUS TO WORK

Q I have an investment property that's financed by an investment loan with a redraw facility available. I recently received a $20,000 bonus from work that I'm planning to use for a long overseas trip in 2010. If I put this $20,000 in my investment loan to reduce the amount of interest I pay to the bank, but then redraw it in 2010 when I go on holidays, will the interest on this $20,000 be tax deductible? Also, if I choose to make extra repayments into my investment loan to build up some equity, will the interest on this equity be tax deductible if I choose to redraw it to use the funds for personal expenses? What are my options?

A Thank you for your question; this is such an important point. Clients get themselves into all sorts [illegible]ther by doing [illegible] sort of thing wit[illegible]ing to th[illegible] tant first.

Interest [illegible]e the money [illegible]uce income. This [illegible]ake money b[illegible]oses, [illegible]rest on [illegible]. In *Domjan's case* [illegible]004) the taxpayer deposited spare funds into their rental property loan and then tried to argue that when they withdrew for private purposes it was a withdrawal of these funds. The Administrative Appeals Tribunal held that the deposit paid down the deductible debt and couldn't be quarantined, so the redraw was simply new borrowings. Further, this means the interest on the loan has to be apportioned, which can be quite a task if there are multiple drawdowns.

If you're making principal-and-interest repayments off your rental property loan I assume you have no undeductible debt.

You need to set up a savings account that is also an offset account linked to the rental property loan. The bank will only charge you interest on the difference between the two accounts, but as they are separate accounts a deposit in the offset account doesn't affect the amount owing for the rental property, only the amount of interest charged. Accordingly, when you make a withdrawal from the offset savings account for private purposes it's simply treated as a withdrawal from the savings account, not a further loan. Of course, a lesser amount in the offset account will mean more interest on the rental loan but it remains solely borrowed for the rental property, so the interest is still fully deductible.

For more tax questions, go to Bricks & Mortar at www.apimagazine.com.au. If you have a tax question for API [illegible]se send it in 100 words or less to edit[illegible]gazine.com.au

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+ NON-RESIDENTIAL

TIPS FOR INDUSTRIAL AND COMMERCIAL LANDLORDS

LEASE transfers and terminations for industrial and commercial properties are becoming more common in Australia as companies increasingly seek to vacate their occupied space in the wake of the global financial crisis.

Chris Barker of quantity surveyors Washington Brown believes landlords and tenants should be employing a range of key tactics to reduce risk and manage costs.

Among his tips for landlords is that they should: understand the multiplication impact of an increase in rent to the capital value of their investment; use rent reviews to offer cost certainty to long-term tenants; and consider establishing sub-letting agreements so even if good tenants need to downsize they can still stay in the building.

In addition, Barker says landlords could look at upgrading their property to fit in with current demands.