Tax Q&A

Your tax questions answered

Our tax experts are on hand to answer any tax queries you may have regarding your property investments and wealth-creation strategies. Email your taxing questions to editor@yipmag.com.au

AUSSIE EXPAT INVESTOR

Q I have a question regarding tax responsibilities when owning a property in Australia while living overseas.

I am an Australian citizen, and about nine years ago I bought a property (mortgage) where I lived for about two years. I then moved overseas permanently. I moved to Japan where I lived for just over five years. About a year and a half ago, I moved again, this time to Europe, where I am currently living.

During this whole time (almost seven years), I have kept my property in Australia, and for most of the time (the last five to six years) I have had a tenant living there and paying rent. The rent has been used solely to pay off the mortgage, plus I have had to send money from overseas regularly to be able to cover the property management fees, council and water rates, strata fees, plus the difference between mortgage repayments and the rent I have been receiving from the tenant.

I have no plans to move back to Australia, and during my whole time overseas I have paid my taxes in the countries where I have been living.

I was wondering what my tax obligations are when living permanently overseas but owning a property in Australia (which used to be my permanent place of residence), from which I am not making any real income (as all income received from the rent is used to pay mortgages, management fees, etc).

I would appreciate any help/information you could give me on the matter. Honestly speaking, this is something I should have done a long time ago, but I was younger and less interested in responsibility back then.

> If you are considered a foreign resident for tax purposes and have an investment property in Australia, you are required to lodge an Australian tax return

A This is a very interesting question as it involves three different issues that need to be carefully looked at.

Firstly, your Australian residency status for tax purposes must be considered. This is a question of fact and is one of the main criteria that determines an individual's liability for Australian income tax.

As you have moved overseas to live permanently, with no intention of returning to Australia, it is likely that you would be considered a foreign resident of Australia for taxation purposes. Other factors, including your family and employment ties, maintenance and location of assets and social arrangements are considered in this determination. If you are considered a foreign resident for tax purposes and have an investment property located in Australia, you are required to lodge an Australian income tax return.

Secondly, your property, which was purchased as your main residence, has been leased for most of the period while you have been overseas. As the property is negatively geared, it is unlikely there would be any tax obligation to pay. However, any tax losses can be carried forward to offset against any taxable income in future years (when you return to Australia or earn Australian taxable income).

Thirdly, upon your departure from Australia, a capital gain event was triggered and you were deemed to have disposed of your taxable Australian asset (your house) at its market value at the time of leaving. Having said that, you do have an option to defer any capital gain/loss until a 'taxing point' in the future (generally when the property is sold).

– Dom Cosentino

The experts

Dom Cosentino
Dom Cosentino is a partner at Kennedy & Co Chartered Accountants, specialising in property and taxation. He lectures on a number of courses relating to property and taxation and presents free monthly property seminars at Kennedy & Co. Visit www.kennedy.com.au.

Shukri Barbara
Shukri Barbara is a CPA and CTA with over 30 years' experience in public practice. As principal adviser at Property Tax Specialists, Shukri combines his experience, together with his property tax specialty, to support property investors on ownership structures, asset protection, (legally) minimising tax, and cash flow analysis.
Contact shukri@propertytaxspecialists.com.au or visit www.propertytaxspecialists.com.au for more information.

QS Corner

TIP #44

In this month's QS corner it's all about the Small Business Bonanza!

We often get asked to value not only buildings for depreciation purposes but also the plant and equipment inside it as well.

A client of ours recently purchased the Leasehold of a motel in Central Queensland, the couple now run the hotel. They don't own the building as such, but they do own all the loose stuff that is used to run the motel.

This includes the beds, the clocks & the linen etc.

Now, because the contract only listed the purchase price and didn't have a breakdown of what they paid for each item – they got us involved to prepare a depreciation schedule for them.

I was AMAZED at the results.

The Leasehold contract was approximately $400,000. We valued the plant and equipment at approximately $275,000.

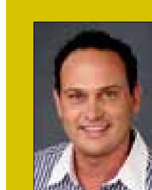
Guess what – their 1st year deduction was around $250,000!!!

How? Well it all comes down to the new Small Business Assets depreciation regime.

Provided your small business turns over less them $2m dollars, per annum, you can claim any individual item that cost under $6,500 each immediately.

Now there aren't many items in a hotel/motel that cost more than $6,500. So pretty much all of it was written off immediately.

One HAPPY client.



Tyron Hyde is a director of quantity surveying firm Washington Brown

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