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Australia:
Changes to main residence capital gains tax exemption from 1 July 2020

What is the change?

In December 2019, the Australian government passed legislation to remove the main residence Capital Gains Tax (CGT) exemption for most individuals who are foreign residents (for Australian tax purposes) on the sale date.

The new legislation allows a foreign resident to claim access to the exemption only if they meet the "life events" test, which requires:

- The individual to have been a foreign resident for less than six years at the point of sale; and
- The individual, their spouse, or their child aged under 18 years, had a terminal illness or died during that period, or the sale is as a result of divorce/separation.

The existing CGT exemption rules still apply if the owner returns to Australia and is an Australian tax resident on the sale date.

However, the new rules would apply to sales after 7:30 p.m. ACT (Australian Capital Territory) time on 9 May 2017 for homes acquired after that date.

Homes owned prior to that date will be affected only if sold after 30 June 2020 (which is a 12-month extension from the 2017 announcement).

What does the change mean?

The current economic climate may mean that foreign resident individuals, who wish to sell their main residence, could find it challenging to sell prior to the 30 June 2020 deadline (for property held prior to 9 May 2017).

Those individuals who are Australian tax residents at the point of sale will not be impacted by the rule change.

If an individual is not a tax resident at the time of sale, they cannot claim the CGT exemption unless they meet the "life events" requirements. This would also prevent the market value "deemed" CGT cost base adjustment when a property first starts to be used to generate assessable income (*e.g.*, when it is first rented out).

If the main residence exemption is not available, the taxpayer may include incidental ownership costs in the CGT cost base (*e.g.* undeducted loan interest, etc.) to reduce the taxable gain, but the 50% CGT discount is also reduced (or unavailable for assets purchased after 8 May 2012), if an individual is not a tax resident during the period they own the property.

Deloitte's view

Owners of Australian residential property, who are foreign tax residents, will need to carefully consider these new rules. The rules are essentially retrospective, as they can operate to deny the tax exemption on the increase in value of properties acquired since 20 September 1985, and not only on gains related to the period the owner is a foreign resident.

They also place an administrative burden on taxpayers, who may not have retained evidence of costs that could be included in the CGT cost base, which potentially could include costs of additions/renovations/repairs, interest on loans to purchase the home or fund renovations, costs of ownership, etc.

The sale of an Australian home might already be taxable in the foreign country where the owner is residing. However, in some countries, the foreign tax is likely to be less than the new Australian tax, due to lower tax rates or partial exemptions and, in other countries, there would be no foreign tax on the sale, so the Australian tax will be a significant additional tax impost.

The CGT liabilities at stake in these circumstances could be material given the significant increase in house prices in Australia over recent years, particularly in Sydney and Melbourne.

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Singapore:
Proactive Perspective: It's what's needed most

What is the change?

Filing deadline for tax clearance returns further extended: The Inland Revenue Authority of Singapore (IRAS) has announced a further extension to 30 June 2020 for the submission of tax clearance returns (Forms IR21) originally due to be filed with the IRAS in April and May 2020.

Background

An employer is required to inform the IRAS in writing of the cessation of employment, or departure from Singapore of a non-Singapore citizen employee, by submitting the tax clearance return (Form IR21) no later than one month before the cessation of employment, or departure from Singapore. Where the tax is wholly borne by the employer, the IRAS is willing to grant a two-month extension of time from the cessation date to file Form IR21.

In view of the COVID-19 situation, the IRAS had announced in early April 2020 that for Forms IR21 originally due to be filed with the IRAS in April 2020, the deadline would be extended for one additional month. We have released a NewsFlash dated 9 April 2020 with this information.
URL: https://www2.deloitte.com/content/dam/Deloitte/sg/Documents/tax/sg-tax-ges-newsflash-tax-clearance-returns-and-individual-income-tax-return-filing-deadline.pdf

What does the change mean?: The IRAS has now announced a further extension of the tax clearance filing deadline to 30 June 2020 for the submission, without penalties, of Forms IR21 originally due to be filed with the IRAS in April and May 2020.

The employer's obligation to withhold monies from the employee, and to release the balance of monies upon receiving tax clearance from the IRAS, or after one month from the filing of the Form IR21, remains. The employees will be allowed to leave the country in the meantime.

Deloitte's view

The extension of the filing deadline provides relief and welcome support to employers in these unprecedented times, particularly considering the extension of the Singapore circuit breaker period until 1 June 2020.

Regardless of the extension, employers are encouraged to submit the tax clearance returns ahead of the filing deadline through the electronic system by logging in to the IRAS portal.

Should you have any comments or questions arising from this newsletter, please contact either the listed names below, or any member of the Singapore Tax & Legal team.
URL: https://www2.deloitte.com/sg/en/pages/tax/articles/tax-legal-team.html

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