

地产交易税务讲座
Taxation of Real Estate
Transactions



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Deloitte China Services Group

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- 我们的服务包括 -
- What we do –
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 - ✓ Provide tax, accounting and audit services to Chinese investments into New Zealand
 - ✓ 帮助您寻找投资机会
 - ✓ Assist Chinese investors to identify potential investment projects

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- What we do –
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 - ✓ Provide financial, tax, and commercial due diligence services
 - ✓ 并购后的整合支持
 - ✓ Manage post-merger integration process
 - ✓ 德勤把新的重点放在了中型市场的客户, 并推出了新的德勤私人品牌
 - ✓ New focus on mid-market customers with our new Deloitte Private brand

地产交易所得税税务讲解
Income tax implication of
Real Estate Transactions

概览

Overview

- 复杂的税务条例-尽管新西兰没有资本收益税,但是有些地产交易的收入仍然需要应税
- Complicated rules – no capital gains tax however income from certain real estate transactions is taxable
- 如收买土地时有意向出售收入则所得必须纳税
- Key test – property acquired for proposed disposal is taxable
- 另有详细规则针对建筑商, 地产开发商, 地产交易商 (及其关联方)
- Additional rules targeted at builders, property developers, property dealers (and their associates)

概览

- 与地产开发 交易商有关联的人士所拥有的地产可能受到“污染” – “关联方”的规定很重要, 但也很复杂
- Tainting – the “associated persons” rules are important and complicated
- 成本一般无法立即做税前扣除,而是在相关地产出售时或收入取得时才能做税前抵扣
- Costs generally deductible at time of disposal/derivation of income
- 最新的 2013年财政预算将给税务局额外划拨资金, 专项用于地产方面的税务调查。具体来说, 从2014年起, 税务局将每年获得额外的665万元拨款, 用于地产方面的税务调查. 在财政预算中, 政府估计通过该项更严格的税务调查, 税务局将每年可以增加4.5亿元的税收
- Budget 2013 provided a permanent \$6.65 million increase in annual funding for Inland Revenue from 2014 to pursue property investment tax compliance, which is expected to return \$45 million a year
- 我们最近的经验是税务局最近的调查更严格
- More aggressive IRD investigations experienced

应税交易

Taxable Transactions

- 收购时的意向: 如有意出售则交易所得为应税收入
- Land acquired for purpose or with intention of disposal

- 购入的土地用于以下生意 (注意同样适用于关联人)
- Land acquired for purposes of business relating to land (associated person rules relevant)
 - 土地买卖业务
 - Business of dealing in land
 - 土地开发或土地划分业务
 - Business of developing land or dividing land into lots
 - 房屋建筑业务
 - Business of erecting buildings

应税交易

Taxable Transactions

- 购入的土地不用于以下生意. 但由从事以下生意的人(或他们的关联方)购入, 并在购入后10年内出售
- Disposal within 10 years even if not acquired for business (associated person rules relevant)
 - 土地买卖业务
 - Business of dealing in land
 - 土地开发或土地划分业务
 - Business of developing land or dividing land into lots
 - 房屋建筑业务
 - Business of erecting buildings

应税交易

Taxable Transactions

- 10年内开始对地产做重大开发或土地划分
- Schemes for development or division began within 10 years
- 大型开发或土地划分影响的土地
- Amount from major development or division and not already income
- 受土地使用变化(一般来讲土地分区变化或地方政府同意土地用途变化)影响而取得的收入
- Amount from land affected by (zoning/consent) change and not already income

可能的免税情况

Exclusions

- 自用住宅（但不包括经常收购及出售自用住宅的人士）
- Residential exclusions (do not apply to a person who has engaged in a regular pattern of acquiring and disposing, or erecting and disposing of dwelling houses)

- 自用商务房产（但不包括经常收购及出售自用商务房产的纳税人）
- Business exclusions (do not apply to a person who has engaged in a regular pattern of acquiring and disposing, or erecting and disposing of business premises)

- 农场 (只在部份情况下适用)
- Farm land exclusions (more limited application)

- 投资用房产 (只在部份情况下适用)
- Investment income exclusion (more limited application)

收购土地时有意出售

Land acquired for purpose or with intention of disposal

- 收购土地时有一个或多个目的, 或意图是出售该土地.
- For 1 or more purposes that included the purpose of disposing of it / with 1 or more intentions that included the intention of disposing of it
- 纳税人必须能证明其在收购该土地时没有转售的意图
- It is the taxpayer who has the onus of proving that the land was not acquired with the intention of resale
- 可能的免税情况：
- Potential exclusions:
 - 自用住宅
 - Residential land
 - 自用商业房产
 - Business premises

购入的土地用于以下生意

Land acquired for purposes of business relating to land (or disposal within 10 years)

- 土地买卖业务 (购买后 10年之内出售)
Business of dealing in land (10 years from acquisition)
- 土地开发或土地划分业务 (购买10年之内出售)
- Business of developing land or dividing land into lots (10 years from acquisition)
- 房屋建筑业务 (建成后10年之内出售)
Business of erecting buildings (10 years from completion of improvement)
- 海外业务也纳入考虑
- Overseas businesses also relevant

购入的土地用于以下生意

Land acquired for purposes of business relating to land (or disposal within 10 years)

- 关联方的规则与此有关
- Associated person rules apply

- 可能的免税情况：
- Potential exclusions:
 - 自用住宅
 - Residential land
 - 自用商业房产
 - Business premises

土地开发或土地划分在10年内开始

Schemes for development or division began within 10 years

- “土地开发或土地划分”的定义
- Definition of “undertaking or scheme”

- 是否相关开发或划分是“较小”的工程
- Whether work is minor or not

- 可能的免税情况：
- Potential exclusions:
 - 自用住宅
 - Residential land
 - 自用商业房产
 - Business premises
 - 农场
 - Farm land
 - 投资用房产
 - Investment land

大型开发或土地划分影响的土地

Amount from major development or division and not already income

- 没有10年的门限
- No 10 year threshold

- 可能的免税情况：
- Potential exclusions:
 - 自用住宅
 - Residential land
 - 自用商业房产
 - Business premises
 - 农场
 - Farm land
 - 投资用房产
 - Investment land

土地用途变化所影响的土地

Amount from land affected by change and not already income

- 通常用于土地所属区域改划或其它地区政府同意改变土地用途儿导致土地价值的增加
- Normally applies where the rezoning (or other changes affecting the use to which the land can be put, such as the granting of consents) of land has given rise to a significant increase in the value of the land
- 可能的免税情况：
- Potential exclusions:
 - 自用住宅
 - Residential land
 - 农场
 - Farm land

关联方和“污染”

Associated Persons and “Tainting”

- 公司
- Two companies

- 公司与其他实体(非公司)
- Company and person other than a company

- 亲戚 (夫妇, 民事结合合法下结合的人士或者是事实婚姻关系 , 或者父母未成年子女 (不到20岁))
- Two relatives (only associated if married, in a civil union, or in a de facto relationship or 1 is the infant child (up to 20 years) of the other)

- 拥有共同的创立人的信托
- Two trustees of separate trusts with a common settlor

关联方和“污染”

Associated Persons and “Tainting”

- 信托创立人与信托
- Trustee and a settlor

- 信托和拥有委任与罢免受托人权力的人
- Trustee and a person with power of appointment or removal

- 合伙人与合伙实体
- Partnership and a partner

- 牵连效应的规定
- Tripartite relationship

资产折旧及维修费用

Depreciation and R&M Expenses

- 使用年限50年或更长时间的建筑物的预计不可计提折旧
- No depreciation on buildings with an estimated useful life of 50 years or more
- 住宅的折旧处理–税务局对相关处理解释文件 1510/01
- Depreciation on residential fit-out – IRD Interpretation Statement IS 10/01
- 商业用房的折旧处理
- Depreciation on commercial fit-out

资产折旧及维修费用

Depreciation and R&M Expenses

- 维修费用是否可以做税前抵扣
- Repairs and maintenance expenditure
 - 确定维修及保养的资产
 - Identify the asset that is being worked on
 - 如果“维修及保养”导致重建, 替换或更新资产或大部份资产, 那这表示该支出不是费用而是资本支出无法扣税
 - Work done resulting in a reconstruction, replacement or renewal of the asset, or of substantially the whole asset, indicates that expenditure will be capital (non-deductible)
 - 如果“维修及保养”支出导致资产改善或改变资产性质那这也可能是资本支出无法扣税
 - Also non-deduction if the work results in an improvement to the asset or it changes the character of the asset
 - IS10/01的原则也可使用
 - Principles in IS 10/01 can also be used

其它

Other

- 双重税务协定-位于新西兰房地产的收入一般在新西兰征税
- Double Tax Agreements - Income from real properties situated in NZ generally taxed in NZ
- 从海外融资-非居民预扣税或特许债务发行人影响
- Financing from overseas lenders – Non-Resident Withholding Tax (Approved Issuer Levy) implications
- 资本弱化
- Thin capitalisation



商品服务税
GST in Real Estate Transactions

土地交易零税率的规定

Land developers/ Companies dealing in Land

- 土地交易零税率
- Zero rating of land
- 如果以下条件满足, 2011年4月1日后的土地交易必须采用零税率商品服务税率=0%):
- Compulsory zero-rating of land transactions from 1 April 2011 where:
 - 双方都经商品服务税注册
 - Both parties are GST registered
 - 买方将把土地用于应纳税的活动
 - Purchaser will use the land to make taxable supplies
 - 买方不会把土地作为主要居住地
 - Purchaser will not use land as principal place of residence

土地开发商/土地买卖业务

Land developers/ Companies dealing in Land

- 土地开发商或交易商把土地及房产卖给没有注册商品服务税的人士
- Land developer selling to a non-GST registered person
 - 商品服务税率15%
 - Standard rate of 15%
 - 即使土地及房产是住宅房产,还是要支付商品服务税,因为土地开发商还是把土地用于应税的业务
 - Even if the property will be used for residential accommodation, the fact that the supply of the developed property by the land developer is a taxable supply means that GST must be charged on the price of the property.

私人

Private individuals

- 对于没有注册商品服务税的人士, 如果他们出售自己的住宅, 一般是没有商品服务税的问题需要考虑
- For private individuals that are not registered for GST, there are generally no GST implications when they sell their residential property
- 如果个人从地产开发商购买住宅做居所, 他们缴之的商品服务税将不能做进项税抵扣.
- If private individuals buys a residential property for the purpose of residence from a property developer (who is GST registered), then they will be charged GST on the price of the property and they will not be able to claim any input tax credits.

进项税额抵减 /摊款问题

Claiming input tax/ Apportionment issues

- 如果一个土地开发商从一个没有注册商品服务税的私人获取一直被用于住宅的土地, 那土地开发商可以按照购买二手资产的规定进行商品服务税的进项税抵扣.
- If a land developer acquires land from a non-GST registered person who has been using the property for residential accommodation purposes, the land developer will be able to claim a second-hand goods credit on the price of the property (note potential apportionment rules).
- 进项税额分摊: 如果土地开发的目的是出售,但在等待出售时,土地用来出租那么相关的进项税需要分摊(部份无法抵扣)
- Apportionment of input tax: property that was developed for the purpose of making a taxable sale but was rented out as domestic residences while waiting to be sold.
 - A special rule applies where the same area of land is used for both making both taxable (i.e. in selling the property) and non-taxable supplies (i.e. in renting the property).