



## INVESTING IN REAL ESTATE *Tax Considerations for Non-Residents*

The following paragraphs provide some preliminary information regarding Australian taxation laws that affect investment in Australian property by non-residents.

Taxation considerations which should be addressed prior to the purchase of a property include:

- Income Tax
- Capital Gains Tax
- Land Tax

### **INCOME TAX**

The Australian Income Tax year runs from 1 July to the following 30 June. Accordingly, where you purchase a property during the period 1 July 2008 to 30 June 2009, your first Australian Income Tax Return will be in respect of the 2009 financial year. As fully-registered tax agents, we have a lodgement programme with the Australian Taxation Office which will allow us to lodge your Income Tax Return any time on/before 15<sup>th</sup> May 2010.

Property investments can be held by individuals, partnerships, joint ventures, unit or discretionary trusts and companies. The ramifications of use of each particular entity should be carefully considered to ensure that the objectives of the investor are achieved.

1 July 2008 to 30 June 2009 Rates of income tax applicable to non-resident individuals are as follows:

Taxable Income		Tax on this Income
From	To	
\$0	\$34,000	29c for each \$1
\$34,001	\$80,000	\$9,860 plus 30c for each \$1 over \$34,000
\$80,001	\$180,000	\$23,660 plus 40c for each \$1 over \$80,000
\$180,001	upwards	\$63,660 plus 45c for each \$1 over \$180,000

- *Non-resident minors (under 18 years of age) are taxed at penalty rates*
- *Partnerships and trust are not normally taxed as separate entities. The net income is distributed to the partners or beneficiaries, who are taxed on their share of the net income at the applicable rates for individuals.*

Where a non-resident individual makes a loss for Australian income tax purposes, this loss will be carried forward until the individual makes sufficient Australian income to absorb these losses.

The use of companies can become quite complicated and further advice should be sought prior to using a corporate structure.

### **CAPITAL GAINS TAX**

Capital gains or losses are recognised when you dispose of all or part of an asset acquired on or after 20<sup>th</sup> September, 1985.

These capital gains and losses are aggregated (with certain exceptions) and tax is levied on any resulting "net capital gain". A net capital loss must be carried forward and offset against capital gains in subsequent years (i.e. a capital loss cannot be set off against revenue income). The rate of the tax that applies to a capital gain depends on the amount of your other taxable income. As a result your exact circumstances need to be considered before the rate of tax that applies to the capital gain can be determined.

Capital gains tax concessions have recently been introduced which allow for 50% of the calculated capital gain to be tax-free where the property has been held by an individual/s for more than twelve months.

Caution: A change of residence status can result in a deemed acquisition or disposal of worldwide assets under Australian capital gains tax legislation. Therefore, the sale of any worldwide asset may give rise to a capital gains tax liability. Accordingly, capital gains tax implications need to be considered before a change of residency status occurs.

You should take positive steps to ensure that any assets you acquire are accurately recorded. This will allow you to calculate any capital gains tax on disposal.

Remember to record the following details:

- Date of acquisition and disposal of the asset
- Amount paid for the asset
- Any incidental costs of acquisition or disposal of the asset (e.g. legal fees, commission, stamp duty, advertising, etc.)
- Date and amount of any capital improvements to the asset
- Any holding costs, such as interest, rates, land tax, insurance, etc (but only if these have not been claimed as a tax deduction)

## **LAND TAX**

Land Tax is annual tax levied by the Queensland State Government upon the total of the unimproved value of land owned by individuals as at midnight 30 June 2008. For non-residents no land tax is payable if the total unimproved value of land is less than \$350,000.

## **INCOME TAX DEDUCTIONS – INCOME PRODUCING PROPERTY**

Deductible at the time the expenses are incurred:

- accountancy fees
- advertising
- bank charges
- cleaning
- commissions
- repairs & replacements
- electricity
- garden and ground maintenance
- insurance
- interest
- land tax
- lease costs (legal's etc)
- management fees
- mortgage discharge costs
- motor vehicle expenses
- pest control
- rates
- telephone

Partly deductible each year:

- borrowing costs
- depreciable assets
- certain building costs

## **DEPRECIATION**

A deduction is available for depreciation of plant, furniture and fittings, etc. that may be contained within, or form part of, a property. Buildings such as high-rises, flats and units include articles of common property that are also depreciable. These include lifts, fire sprinklers and extinguishers and pools. A complete list should be available from the body corporate of each building.

## **BUILDING COST DEDUCTIONS**

A deduction is allowable on the construction costs of certain income producing buildings. The rate of the deduction will depend on the date construction of the building began, and whether it was for residential or non-residential use. The following table shows the rates at which these construction costs can be written off for new buildings:

<u>Type of Building</u>	<u>Rate</u>
Residential	2.5%

Capital expenditure on extension, alterations or improvements is eligible on the same basis.

Note: It will be necessary to obtain a Quantity Surveyors Report to substantiate the construction cost and construction date used to calculate the taxation deduction.

## **INTEREST**

Where interest is to be paid on monies borrowed from an associated non-resident, limitations are placed on the amount of interest that can be claimed as a tax deduction. Otherwise the interest paid on monies borrowed to acquire an investment property can be claimed fully.

## **UNITED PROFESSIONALS OF AUSTRALIA**

United Professionals of Australia are experienced with the income tax and land tax obligations associated with investment in Australian property, both for resident and non-resident investors.

We provide a full range of professional accountancy, taxation and advisory services to meet all your personal and business requirements. Please do not hesitate to contact us if you require clarification of any of these matters.

### **Important:**

*The information is general in nature, it is not advice. Accordingly you should not act solely on the basis of the material contained in this Bulletin. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.*

*UPA is a CPA Practice. Liability limited by a scheme approved under Professional Standards Legislation*