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SELLING YOUR PROPERTY – WHEN DO YOU PAY INCOME TAX?

On the 1st of October 2015 the Taxation (Bright-line Test for Residential Land) Act 2015 came into force. The Act provides that if you have purchased a property since the 1st of October 2015 and sell within two years of purchase, you will have to pay income tax on the profit.

If you have purchased and sold a property after the 1st of October 2015 and there is less than two years between the date you purchased and sold the property, then you will need to complete and file with the IRD an:

- (a) IR833 (Property Sale Information); and
- (b) IR3 (Individual Income Tax Return).

The IR833 and IR3 will enable the IRD to determine the amount you are required to pay to fulfil your income tax obligations for the current financial year.

The government has been keeping track of vendors' tax obligations, by requiring every vendor and purchaser to complete a land transfer tax statement form. So the IRD is aware of who is required to pay income tax and file the abovementioned forms. If these people fail to meet their obligations, then the IRD will impose penalties in accordance with the Tax Administration Act 1994.

If the property is your main home, you will be exempt from having to file the abovementioned forms and pay income tax.

A Trust can claim a main home exemption if:

- (a) the property was the main home of a beneficiary of the Trust; and

- (i) the property is also the main home of the settlor of the Trust; or
- (ii) the settlor does not have a main home.

Although when filling out the land transfer tax statement forms a Trust still has to provide its IRD number and cannot claim an exemption from doing so.

However you can only claim the main home exemption twice within a two year period. For example, if you:

- (a) purchased 1 High Street on the 1st October 2015 as your main home;
- (b) sold 1 High Street and purchased 2 Low Street as replacement on the 1st of May 2016;
- (c) sold 2 Low Street and purchased 3 Green Street as replacement on the 1st November 2016; and
- (d) sold 3 Green Street on the 20th January 2017.

You would only be able to claim the main home exemption on the sales for 1 High Street and 2 Low Street but not for 3 Green Street. So you would have to pay income tax on any profit you made on the sale of 3 Green Street.

If have any queries about the abovementioned please do not hesitate to contact one of the Collins and May team.

20 MINUTE FREE

WANT to review your Family Trust structure? THEN call us and take advantage of our 20 Minute Free interview