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Next Issue: GST on Property Sales

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WARNING—THE RISK OF BUYING AND SELLING REAL ESTATE FOR PROFIT

Real Estate is commonly a person's most valuable asset and owning your own home is considered to be a desirable investment.

There is at present no capital gains tax in New Zealand. It is often assumed that tax liabilities from real estate sales only occur when the real estate is sold in business situations such as sales by property developers.

The sale of real estate which is owned for the purpose of owner occupation or rental investment can be taxable too in some situations.

The proceeds from a sale of real estate may be taxable pursuant to the Income Tax Act 2007 if:

- (a) The real estate is purchased with the intention of disposing of it. For example Alan buys a house at a mortgagee auction with the plan to immediately re-list the property at a higher price.
- (b) The real estate is purchased so that the land may be developed, divided into lots and / or have buildings constructed on it. Ben the builder buys a section in a new subdivision in Porirua. He doesn't want to live in Porirua but the section was going cheap and he could easily build a house on it and sell it for a great profit.
- (c) The real estate is purchased by a land dealer, an associate of a land dealer, a property developer or an associate of a property developer and sold within 10 years. Carrie is married to Devon. Devon is a property developer. Carrie owned a rental property for five years and sold it for a nice profit. Carrie is associated to a property developer due to her relationship with Devon.

(d) The real estate is improved by a builder or an associate of a builder and sold within 10 years of the improvements being made. Elijah is a builder. He and his partner Frances bought a do it yourself dream house for their first home. They installed a new kitchen, a new bathroom added a bedroom and an internal access garage. They sold up three years later.

(e) The real estate is involved in a major development or subdivision. Gloria owns real estate on the outskirts of Upper Hutt. It is a house with a very large section. Gloria divides the section into three having water and sewage pipes installed to service the three sections.

(f) The real estate is sold within 10 years of a zoning change and 20% of the profit is attributable to that zoning change. Helena bought a section that was zoned for commercial development. Due to market collapse the development became unviable. The area was re-zoned residential. As sections for residential use were in demand Helena made big profit.

There is no exact equation as to whether or not a persons real estate transactions are taxable pursuant to the Income Tax Act 2007. It is assessed on a case by case basis. The IRD has a specialised team dedicated to real estate transactions. In the past the IRD has searched the property register to identify individuals who have undertaken five or more real estate transactions in a three to four year period and investigated those individuals.

If you are concerned with the selling of your real estate and any tax implications please feel free to contact us with your queries.