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PROPERTY VALUES ARE UP - BUT WHAT DOES THIS MEAN FOR TAX?



JOSH CHYE
Partner, Tax Consulting
MELBOURNE

Across Australia, residential property prices have had some of the largest growth in values in recent history.

Naturally, this will make property owners feel wealthier and perhaps contemplate selling a property earlier than planned to take advantage of the buoyant market.

However, it's important to be aware that when you sell real estate, there are tax consequences that need to be factored in so it's clear how much after-tax proceeds you will receive.

Some of the key tax planning items to be considered when selling property include:

Capital gains tax (CGT) main residence exemption

The CGT main residence exemption allows individuals that sell their main residence to have the sale free from CGT. This is one of the very few tax benefits available in Australian tax law that allows a profit from sale to be completely tax free.

However, the CGT main residence exemption is actually quite complex, and there are many caveats to accessing the exemption, including:

- The exemption requires that the individuals establish the property as their main residence. This requires evidence of physically moving into the home, having their address updated for things such as electoral roll and driver's license
- The exemption requires there to be a "residence" attached to the property. An empty block of land intended to be the main residence or subdividing a proportion of the block without the main residence

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will not qualify for the CGT main residence exemption

- If there is a relatively quick acquisition and sale of the property, the ATO make take a sceptical view of whether the intention was to establish the property as main residence or whether the acquisition was made with the intention to sell for profit.

Capital gain vs revenue gain

From a tax perspective, when real estate is sold, the sale will either be treated on “revenue account” or “capital account.”

This distinction is important because a current year capital gain can offset carried forward capital losses. However, a revenue gain is not able to offset any carried forward capital losses.

Also, if real estate is held for over 12 months, individuals, trusts and complying superannuation funds may be eligible for the gain to have access to either a 50 per cent or 33.33 per cent CGT discount rate. A profit on sale on revenue account has no access to a similar tax discount.

Very broadly, if it can be argued that an asset was held for long term passive investment to primarily derive income from rent, then as a starting point, it is likely arguable the investment was held on capital account (i.e., any profit on sale will be a capital gain). However, if a property was acquired to develop for sale or the intention was to acquire to primarily profit from sale (e.g., the property acquired was vacant land in an area that was acquired with speculation that likely rezoning laws in the area would change to increase the value of the land), then it is likely

arguable that the sale and profit would realise a revenue gain for tax purposes.

Tax costs to acquire your next property

In addition to tax costs that may arise when real estate is sold, there are also tax costs to factor in if you are intending to purchase another real estate asset.

The main tax cost is landholder duty or stamp duty. Each state and territory will administer their own set of rules and rates on how much duty applies when real estate is acquired.

Land tax

If you intend to hold a property that has increased in value, it's also important to be aware of the increased holding costs that apply for tax purposes. When the value of land increases, this will also mean the land tax cost for the property will increase.

There are certain exemptions that may apply, such as for primary production land or land used to increase housing supply or build-to-rent accommodation. Therefore, these should be considered and applied where potential exemptions may exit.

Therefore, being aware of the tax treatment of profits made in selling property should be an important part of the decision-making process for property owners. And in many cases, obtaining professional tax advice could mean the difference between making a profit at all or having sufficient money to invest in the next investment.

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DIRECTORS' DUTIES EXTEND TO HEALTH AND SAFETY



KATELYN ADAMS
Partner, Corporate Advisory
ADELAIDE

As another year of navigating a world with COVID-19 is now well underway, it's a timely reminder that company directors have a direct legal duty to ensure employee safety.

This not only includes the physical duty of care in the workplace, but also the requirement to provide a mentally safe workplace.

For years, workplace health and safety (WHS) has been included in risk registers and reported to directors at board meetings, however the nature and

extent to which the pandemic has impacted on the mental wellbeing of employees is now firmly on the boardroom agenda.

So, how are directors ensuring they are satisfying their WHS obligations? Questions to consider at the next company board meeting include:

- How is the organisation ensuring the health and safety of workers while they work from home?

Directors' must satisfy themselves that an organisation is taking all reasonable precautions to ensure the health and safety of their workers, even when working from home. This may include maintaining daily communications, providing guidance on good workstation set-up and continuing to provide access to an employee assistance program.

- What steps are being taken to minimise health risks associated with COVID-19, and how is this being communicated?

While eliminating all risks associated with COVID-19 is almost impossible, directors must satisfy themselves that organisations are doing all that is reasonably possible to minimise the risk. This may include sharing the latest COVID-19 information and government advice with workers, having a plan for when a worker tests positive for COVID-19 and providing adequate hygiene facilities.

- How are workers feeling supported through this challenging time, including the psychosocial effects?

Duty of care to provide a mentally safe workplace is particularly important as the stress and anxiety caused by COVID-19 becomes more prevalent. Organisations can take some important measures to minimise workplace stress such as providing workers with appropriate networks to support workplace mental health and wellbeing and discuss concerns.

As has become increasingly evident over the past two years, company directors have a responsibility to their organisations and employees to ensure a healthy, safe workplace – whether that be in the traditional office environment or at home.

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APPOINTMENTS

DIRECTORS



DAVID HEALY
Director, Corporate & Audit Services
PERTH

Perth-based David Healy has been promoted to director within the firm's corporate & audit services division. Mr Healy audits a number of West Australian-based listed and large private companies across a range of industries including resources, manufacturing, finance, technology, and building and construction. He has previously held management accounting roles with the Commonwealth Bank and Rio Tinto Dampier Salt, and currently sits on the Perth firm's Mining Resources Industry Focus Group.

Mr Healy holds a Bachelor of Business Studies majoring in accounting and finance from the University of Limerick, Ireland. He is also a qualified Chartered Accountant with the Institute of Chartered Accountants Ireland.



RYAN KIM
Director, Business Advisory
BRISBANE

Ryan Kim has been appointed director within the Brisbane firm's business advisory team. Mr Kim's client base includes high net-worth individuals, small to medium-sized businesses and global companies operating across borders. He provides advice across a range of sectors including family-owned businesses, hospitality, private client services and professional firms.

Prior to joining HLB Mann Judd in November 2021, Mr Kim was a director of business advisory services and head of Asia desk at a mid-tier Brisbane accounting firm.

Mr Kim studied a Bachelor of Commerce in Marketing from Macquarie University and holds a Bachelor of Accounting from CQ University in Queensland. He is also a Registered Tax Agent and Chartered Tax Adviser.

BUSINESS LEADERS' CONFIDENCE BOUNCES BACK, SHIFT TO INNOVATION

A recent HLB International survey of business leaders has shown confidence is up despite businesses facing a complex mix of concerns such as economic uncertainty and inflation, access to talent, and the ongoing pandemic.

HLB's Survey of Business Leaders – Powering Your Innovation Engine, gains insights into the concerns and priorities of business leaders in 2022. Between September and November 2021, HLB collected 586 survey responses from business leaders across 46 countries, including Australia.

The report highlighted that although the pandemic has been an exceptionally difficult and challenging period for business, leaders have emerged feeling more confident to challenge the way things are done through innovation. In fact, 95 per cent of respondents said rapid and effective innovation is critical to future growth.

Over three-quarters of the leaders polled said they intended to fund innovation strategies from cash flow, while 28 per cent were considering debt refinancing and 25 per cent plan to raise equity funding.

The past two years however have proved innovation is possible without access to funding or strong levels of cash flow. For instance, innovative changes in hospitality enabled businesses to stay afloat during the harshest months of the pandemic then re-enter the market with more services and some additional revenue streams.

Compared to last year, the level of concern regarding talent acquisition has almost doubled. In 2021, 26 per cent of leaders identified talent acquisition as a business weakness. This year, 42 per cent share the same sentiment. Leaders indicated they are now facing pressure on two ends – attracting the next generation of talent to join their organisations and retaining current employees, whose morale and engagement levels are on the decline.

Other barriers to innovation identified in the survey were of an organisational nature, with lack of time (35 per cent) being the biggest hurdle to overcome followed by factors such as operational structure (27 per cent), lack of vision (26 per cent) and keeping the status quo (26 per cent).



CHRIS SIMPSON

Partner, Business Advisory Services
MELBOURNE

Over the past 18 months, technology has proven to be a transformative force, pushing the boundaries of what organisations had previously thought possible. 53 per cent of leaders cited “technology” and 52 per cent said “new product and services launches” are the top focus areas for innovation.

Access to emerging technology tops the list for key enablers of successful innovation by 44 per cent, with artificial intelligence, cloud and robotic process automation listed as most important. Over half of businesses are focusing innovation efforts around emerging technology and launching new products or services. 42 per cent of leaders seek to adopt more emerging technologies to achieve growth in the next 12 months.

For further information on the findings or to obtain a copy of the report, please speak to your local HLB Mann Judd adviser or visit the website.

**The author is a member of the HLB International Global Planning Committee which managed the design and implementation of the report.*

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“Over the past 18 months, technology has proven to be a transformative force, pushing the boundaries of what organisations had previously thought possible.”

FBT: A LOOK INTO COVID-19 CONCESSIONS & EXEMPTIONS



BRENDON YUEN
Senior Accountant, Business Services
BRISBANE

As businesses and employers navigate through another year of the pandemic, it's important to be aware that providing employees with perks and benefits may attract Fringe Benefits Tax (FBT).

Since the onset of COVID-19 in March 2020, the ATO has introduced a number of FBT concessions and exemptions for businesses and employers to assist them in dealing with the pandemic.

Some of these FBT concessions and exemptions include:

Car fringe benefits

With working from home being common-place, the business use of employer-provided cars may have reduced substantially or ceased entirely. This may result in company cars being garaged at the employee's residence. Previously, this would have been treated as private use and subsequently subject to FBT.

However, an FBT exemption may apply if the car was not used privately and the operating cost method was used.

Car parking fringe benefits

Many car parking stations continue to offer discounted rates amid the implementation of the various governments' lockdowns and workplace density restrictions.

Therefore, there may be instances where an employer has provided an employee and/or their associate with a car parking benefit but no FBT liability arises. This could include the following:

- During a particular day, all commercial parking stations located within a 1km radius of your business premises are closed or are offering free parking
- On the first day of the 2022 FBT year, the lowest representative fee charged by a commercial car parking station within a 1km radius is less than or equal to the current FBT car parking threshold of \$9.15. This may arise where car park rates are discounted as a result of the pandemic.

WFH equipment

With the extended working from home arrangement during this pandemic, employers may choose to provide equipment and/or cover home office related costs for their employees.

If employer-provided items such as laptops or computer monitors that are primarily used for work, it will usually be exempt from FBT. Payment of home internet costs is generally considered an expense payment benefit (where the employee is reimbursed) or residual benefit.

Cancelled work functions and entertainment

Where an employer has incurred non-refundable costs due to a cancelled event, no FBT liability will arise because a benefit has not been provided to employees and/or their associates.

However, the employer will not be entitled to an income tax deduction nor input tax credits on these costs as they relate to entertainment.

PPE provided to employees

For employers in the retail, hospitality, airline, beauty, health/medical and cleaning services industries, the provision of certain items to employees to protect them from COVID-19 will be exempt from FBT. These items include masks, gloves, hand sanitisers and anti-bacterial spray.

For other employers, while these benefits may not be exempt, you may be able to apply the minor benefits exemption on an employee-by-employee basis.

COVID-19 vaccination incentives and rewards

There may be tax and super consequences involved if an employer provides incentives or rewards for getting their COVID-19 vaccination or booster dose. If a non-cash benefit is provided, you may be liable for FBT unless an exemption applies such as under \$300 and infrequently provided.

Test kits and testing

Employers may require employees to undertake COVID-19 testing as a precaution before returning to work or for work-related travel purposes. Where the employer has provided for the test or reimbursed the employee for the cost of the test, a fringe benefit may arise.

However, the tests may be exempt from FBT should the following conditions apply:

- Testing is completed by a medical practitioner or nurse; and
- Testing is available to all employees.

Applying pandemic-related FBT concessions and exemptions is a nuanced and evolving area, and should be discussed with your professional adviser.

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TAX STRATEGIES FOR RETURNING EXPATS



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An increasing number of Australian expats who have been living and working overseas are taking advantage of international borders reopening and are planning to relocate home to Australia.

Such a move brings many personal and financial issues to consider, and tax forms an important part of the equation.

When it comes to tax, planning is key and this is no different for returning expats. Arguably, planning is more important given there will be multiple tax systems to navigate.

The first important issue will be understanding your tax residency status. Expats who have been overseas for a few years will usually be non-residents for Australian tax purposes, and will become tax residents when they land back in the country with the intention of living here again. The date tax residency changes can be critical for a number of reasons, and once that is determined it may drive a number of other important decisions or transactions.

Capital gains tax (CGT) is another important area. 2020 saw a major change in the CGT main residence exemption that caught a lot of people short. The biggest impact is for expats who sell their former family home while still living overseas, so if the home is still owned, the best approach from a tax perspective is usually to hold off selling the property at least until after you resume your status as a tax resident.

With Australian investment properties, there are fewer planning opportunities, as you will still be taxed on an eventual sale on the capital gain for the whole period of ownership, regardless of your tax residency status. The main focus would be on identifying all possible items that can be included in the CGT cost base, including renovations and other capital costs, to reduce the taxable gain.

The CGT treatment for financial investments such as shares and managed funds (whether Australian or foreign-based) is different. Generally, no capital gains on these assets accrue while you are a non-resident, and you have a “deemed acquisition” when you become a tax resident with a cost base equal to the market value at that time. This means that on a future sale you will be taxed only on the growth in value while you have been a resident. It does also mean for

the 50 per cent CGT discount the clock starts ticking then too, and it will be necessary to hold an asset for at least 12 months after returning to Australia to be eligible for the discount.

Another important area to plan for is ceasing foreign employment and commencing new employment in Australia, including within the same multinational group. It’s usually preferable to wrap up your affairs in the foreign country as cleanly as possible and start fresh in Australia, especially where you move back from a lower-tax country such as Singapore or Hong Kong. This may include receiving bonus payments or termination payments relating to your foreign employment before returning to Australia to avoid any suggestion they should be taxed here.

Employee share scheme (ESS) awards also raise some complex issues, and it’s important to understand what you have received and exactly how the particular ESS plan is structured.

Then there is the vexed issue of foreign pension plan entitlements built up while working overseas. This is a complex area and requires careful planning to minimise any possible tax liabilities both in the foreign country on withdrawal from the relevant pension plan, and in Australia on bringing the funds in.

Once you become a tax resident, you are expected to hold qualifying private health insurance for you and all of your dependents from day one, or you will have to pay the Medicare Levy Surcharge depending on your level of income. This is an easy problem to avoid if you plan for it in advance, but can be quite costly if you delay taking action.

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IPO MARKET HITS FIRST IN A DECADE HIGH



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2021 was an exceptionally strong year for initial public offerings (IPOs) with the market recording the highest number of new floats in a decade - and more than the previous two years combined.

This and other findings on the strength of the IPO market were contained in the recent HLB Mann Judd IPO Watch Australia Report.

The report analyses IPO activity over the past 12 months on a number of key metrics, including listing volumes, share price performance, industry spread and overall trends, as well as a review of the pipeline for 2022.

There were 191 IPOs in 2021, up from 74 in 2020 and 62 in 2019. In total, these IPOs raised \$12.33 billion, a significant increase on 2020 (\$4.98 billion).

The year also saw an increase in the number of large companies listing, with eight companies having a market cap on listing in excess of \$1 billion. The three largest IPOs in 2021 raised \$3.34 billion in total, representing 27 per cent of the total funds raised for the year.

The volume of activity increased significantly in the second half of 2021 with 68 per cent of new listings occurring in the final two quarters.

Activity was driven by the availability of capital underpinned by attractive investment fundamentals, further supported by strong levels of sentiment and a buoyant share market.

The year also saw a significant increase in the number of small cap listings, with 145 companies with a market cap of less than \$100 million entering the market. This is almost double the five-year average.

Small cap listings represented 76 per cent of new market entrants for 2021, and raised a total of \$1.38 billion (11 per cent of total funds raised during the year). The most active segment for the year was the \$10-25 million bracket, with 70 IPOs making up 48 per cent of all small cap listings.

The pipeline of potential IPOs across all market sectors continues to look strong. At the end of 2021, there were 27 companies which had applied for listing to the ASX, a significant increase from the 14 companies at the same time the previous year. These companies are hoping to raise \$250.4 million.

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The HLB Mann Judd Australasian Association comprises a number of independent accounting firms in Australia, New Zealand and Fiji.

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SPOTLIGHT ON... AUCKLAND



JASON EDWARDS
Managing Partner
AUCKLAND

New Zealand can lay claim to some of the strictest lockdown restrictions imposed globally but for HLB Mann Judd Auckland, the established nature of the firm has meant its people have been key to navigating the pandemic. Managing partner, Jason Edwards, explains.

Prior to HLB, I was working for one of the Big Four as an auditor for ten years but, with a young family to consider, I instinctively knew the opportunity to join HLB in 2007 was the right decision.

The career progression was clear – and I was made partner two years after joining – but it was also the opportunity to advise SME businesses on their growth and ability to turn a profit. Being able to guide and influence a smaller team was also a major drawcard.

Working in an environment where you can enjoy a closer relationship with staff and clients has really come to the fore over the past couple of years. The circumstances of the pandemic have been so unique, that when management team has been tested, whether it be through navigating the process of working from home or the increased need for staff communication, we've benefitted from the fact we have a good rapport with our employees (30 staff including partners and administration staff).

Much has been reported about the recruitment issues within the accounting profession, particularly among the Big Four, who continue to struggle with securing staff in disciplines such as audit. Because of our size and the strong firm culture, we're fortunate to have had little turnover over the course of the pandemic.

HLB Mann Judd Auckland is a long-established firm and we've been around for 70-odd years in a number of iterations. We are still involved with some of the corporates we used to advise many years ago, which is testament to the strength of the brand and everything it represents.

The Auckland firm has been part of HLB International for many years – however we only joined the Australasian Association ten or so years ago. It's been an important development as it has facilitated a more formal channel to be able to refer work across the Tasman, and vice versa. The synergies between how we conduct business here to that of the Australian firms has made the membership a logical, natural extension of our offering.

Our core service lines are business services and tax consulting, which comprise 75 per cent of our client work; audit and assurance (15 per cent); and consulting, which accounts for ten per cent. This mix hasn't changed much over the years – business services and tax are very much our bread and butter, and our reputation in being able to deliver for clients is well known.

However, in saying that, we expect challenging trading conditions for the remainder of this calendar year, and perhaps well into next year.

Underpinning all of this is the impact of rising interest rates and inflationary pressures, and how this will influence business sentiment over the coming months. The tourism and hospitality sectors in particular will continue to be badly affected and there will be further losses there, along with the international education sector.

Irrespective of the sector however and the economic conditions, we see our role as adding as much value to our clients as possible, and establishing ourselves as the trusted adviser. A high proportion of our clients are SME businesses, and need information and advice timely and efficiently.

Many of them have expressed concern about the what the next 6-12 months will look like, and unfortunately, we don't have a crystal ball. But, having been operating for as long as we have, the quality of our relationships with both employees and clients should help to offset some of the roadblocks ahead.

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Thomas
Noble &
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