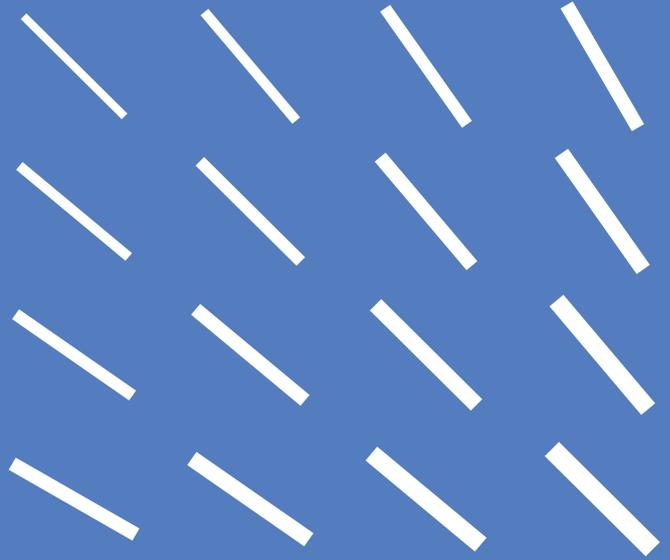


ALERT:

Change to CGT Implications for Foreign Residents



The long-awaited Treasury Laws Amendment (Reducing Pressure on Housing Affordability No.2) Bill was introduced to Parliament on 8 February 2018.

The Bill was flagged in last year's Budget announcements and proposes to remove the Capital Gains Tax (CGT) exemption on the sale of a main residence for foreign residents. This will affect Australian citizens, permanent residents and New Zealand citizens who are not residents of Australia for tax purposes.

The proposed law will apply immediately to properties acquired after 9 May 2017, however properties acquired on or before this date will not have the new law applied until after 30 June 2019. This gives foreign residents a grace period to take advantage of the main residence exemption.

The date of disposal will generally be the date that the contract for sale is entered into. If the seller is a foreign resident for Australian tax purposes on this date they will not be eligible for the exemption.

The proposed legislation does not allow for the apportionment of the main residence exemption for the days that the dwelling was owned as an Australian tax resident. It is essentially all or nothing depending on tax residence status at the time of the CGT event.

Absence Rule

Individuals can still rely on the main residence 'absence rule' allowing them to continue treating a dwelling as their main residence while they are foreign residents, to the extent that they are once again tax residents of Australia when they sell the property.

The 'absence rule' cannot be relied upon by foreign residents who meet the conditions if they sell their property before they become an Australian tax resident again.

Individuals

Individuals who are foreign residents or expecting to become foreign residents should be aware of the Australian tax implications and the 30 June 2019 deadline to apply the transitional rules (providing the property was acquired before May 9 2017).

Individuals will need to consider their Australian tax residency status and the impact on the proposed legislation.

Employers

Employers who send expatriates overseas on assignment should also consider the impact on their employees. To take advantage of the main residence exemption employees will need to sell their home before leaving or wait until they return home. Employees may also want to try to maintain their Australian tax residency status which may incur additional costs or compliance obligations for their employer.

As with any Bill this still needs to pass through Parliament before becoming law.

For more information about how these changes may affect you or your business, please contact Justin Batticciotto or your ShineWing Australia representative.

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