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# TAX CONSIDERATIONS WHEN BUYING PROPERTY – an introduction

**by Tony Lee, Property Tax Specialists**

**When I started to jot down some brief tax information on buying property my first thoughts were "buyer beware" and the need for buyers to be logical and prepared. Being educated about property investing is one element needed to make better and informed decisions. Being an "aware buyer" helps in that the buyer will ask more and better questions - therefore improving the quality of decisions taken.**

## Before you Buy - Planning considerations

**In making the decision to acquire property as an investment vehicle to create wealth, decisions have to be made about the ownership of the property. In what structure should you hold the property? The following structures are available:**

- **Individual**
- **Partnership - jointly or tenants in common**
- **Company - not good for assets which appreciate in value**
- **Trusts - Unit, Discretionary, Hybrid, Testamentary, Super Fund**

**Before settling on a structure consideration should be given to the following:**

- **Asset Protection - generally from third parties. One of the major considerations which wealthy people have when planning an investment, is how to limit the risk associated with their trading business/professional, from reaching their home and other investments, in the event of disputes, litigation or other unforseen downturns;**

- **Income tax planning flexibility - Given an individual or family's circumstances, goals and desired lifestyle, the objective is to select structures, which will maximise the investment returns – after tax. How to have income derived by the member of the family with low marginal income tax rate and how to have a negative gearing loss derived by the family member with the highest marginal tax rate;**

- **Negative-gearing - By its very definition, 'negative' implies loss. Generally this loss is offset against capital gain in the value of the asset. It becomes a timing issue – trading losses now in favour of perceived capital gains on sale. Where there are economic benefits, negative gearing is possible in suitable structures, without the effect of quarantining losses;**

- **Refinancing - Because interest on loans taken out to finance income generating investments is tax deductible, the objective with re-financing is to use cash to pay for private assets, such as home, and finance income generating investment assets**

- **Costs - Consideration has to be given to the costs of setting up and maintaining the structures. Benefits of structuring, sometimes intangible, have to exceed benefits. Depending on circumstances benefits may be long term while setup and administration outlays are shorter.**

- **Retirement planning - flexibility in owning assets and/or generating income to maintain lifestyle while accessing government benefits;**

- **Succession planning - where you want control and management to pass onto younger family members without having to sell and incur CGT, stamp duties and other transfer expenses.**

## After you buy - Management Considerations

**In dealing with all institutions - particularly the ATO, documentation is critical. Because property is owned over a long time it is important you maintain original documents in a safe and accessible place.**

**These will be needed to calculate CGT on the sale of the property. A summary of the cost base and borrowing expenses are recommended at the time of preparing the tax return. Documents include: Solicitors settlement letter, Solicitors legal fees, Pest and Property Inspection report,**

**Lender's letter of approval and terms of the loan, Conveyance Stamp Duty receipt - if details not on solicitors letter.**
**After you take possession of an investment property, management is an issue. Tax matters pursued by ATO include:**

- **interest - deductible or not**
- **interest - who is it deductible to**
- **repairs (deductible) or improvement (capital write-off)**
- **depreciation of plant or capital write-off of building cost**
- **capital gains - was it declared, was it properly calculated**
- **private usage - holiday homes**

**For more information, call Tony Lee of Property Tax Specialists on 07 3711 6122 or email tony@tonylee.com.au**