



Buying & Selling Property

Tax Status

When considering tax treatment of land transactions, you first need to identify your status as a speculator, dealer or investor. This may sound straight forward, but there are a number of issues which must be considered, such as your intention when purchasing, your history in buying and selling of properties, and any associations you may have with another person or entity involved in the business of building, dealing, developing or dealing with land. The Associated Person rules were amended in 2009, and are now very extensive and complex.

Your status will influence whether any capital gains or losses on the sale of your property are taxable. Your tax status and use of the property will also dictate whether you are able to claim any deductions for expenses and depreciation.

GST Issues

There are a number of GST issues that must be considered when acquiring, selling or changing use of property. Common areas of concern include the incorrect claiming of GST, unexpected GST liabilities, correct treatment of Going Concerns, zero-rating for GST purposes, correct identification of the time of supply, and GST implications arising from change of use.

A new bill was tabled in Parliament on the 5th of August to eliminate GST “Phoenix” fraud schemes which undermine the integrity of the GST rules. These schemes involve a registered purchaser claiming a GST refund from the Inland Revenue, but no corresponding GST payment being made by the supplier.

The bill will also clarify areas of GST legislation that have caused difficulty to taxpayers, such as the rules surrounding change-in-use, GST boundary between residential accommodation and commercial accommodation, and transactions involving nominees.

We recommend you talk to us first so we can help you to avoid making mistakes with GST.

Asset Protection

When acquiring property, it is important to assess your asset planning and the structures you have in place. Three important areas to consider are taxation, estate planning and asset protection. When looking at asset protection it is important to evaluate relationship property, security agreements and family issues.

There are a variety of different options for structuring your affairs, and the IRD are currently in the process of changing the rules for LAQC companies, so now is a good time to review structures you currently have in place.