Beware of taxes on land transactions

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For builders, property dealers, property developers and those in the trades, there is money to be made in the sale of land and buildings. There is currently high demand on housing fuelled by low interest rates, returning expats and an inability to travel overseas.

When dealing in the sale of land and buildings, it pays to check the tax treatment of land transactions and the application and timing of taxes. To that end, we strongly recommend seeking professional advice as early as possible. This ensures there are no unpleasant surprises.

Goods & Services Tax

GST on land transactions can be complex. Although the rules on compulsory zero rating of land transactions (i.e. where a transaction includes GST but at a rate of 0%) have been in place since 2011, issues still arise with GST registration status or business use intentions.

It is crucial for both parties to review the GST related sale and purchase clauses, checking what is included and excluded, as well as understanding what they are agreeing to.

As an example, developers looking to claim a second-hand goods GST input claim on residential property purchases need to ensure that the property is purchased in the correct entity. To make the claim, the buyer needs to be the GST registered entity. If the property is purchased by a non-GST registered entity, this may result in the purchaser being unable to claim GST. In addition, there are rules that may affect a GST claim if you happen to buy the property from an associated person or entity.

Missing out on a GST claim can seriously impact on the profitability and cash flow of the development project.

Income Tax

There has recently been an Inland Revenue focus on tax compliance of property developers as they look to chase easy tax revenue. The Income Tax Act has a whole section on taxation of land sales - below are a couple that apply specifically to tradies, developers and land dealers.

If you're a dealer, developer or builder, you are liable to pay tax on the profit of any property you sell which is part of your business. This can also apply, even after you have left the building or property development business - tax may still be payable on the sale of any retained properties.

There can also be tax issues if you are associated with someone in the property industry. This means you may have to pay tax on property transactions, even if you're not personally a property dealer, developer or builder.

Bright Line Test

If you sell a residential rental property you have owned for less than 5 years, you may have to pay income tax. This rule also applies to New Zealand tax residents who buy overseas residential properties.

It's A Jungle Out There

There are entire books written on the topic of income tax and GST on land transactions. It is a minefield of traps and fishhooks. We are often presented with transactions, after the fact, where we must advise the relevant party that there is a GST or income tax liability on the transaction.

We recommend that you seek professional advice before undertaking any land transactions.

For more information contact Tom Butler at Tandem Group Chartered Accountants 06 758 5273

www.tandemgroup.co.nz