Will I pay capital gains tax on my inheritance?

By Perpetual Private Insights
21 November 2019

In Australia, special capital gains tax rules apply to the transfer of assets from a deceased estate. The most common types of capital gains assets are property, shares and managed funds. You may have just received (or are about to receive) an inheritance and while this article isn't a substitute for specialist tax advice it considers some of the capital gains tax implications when it comes to selling the assets of the estate.

No sale, no capital gains tax for Australian residents

Australian residents who receive an asset are not affected by capital gains tax (CGT). It's only later if they decide to sell, that CGT may apply to that asset. For foreign residents, however, CGT applies on the transfer of the asset. The day the person died is the date that needs to be used for calculating the capital gain or loss on the transfer. Normal CGT rules apply on the sale of assets from a deceased estate. For assets other than a dwelling received under an inheritance – the normal CGT rules apply. The date of the person's death will be relevant when calculating the capital gain or loss.

Considerations on Capital Gains Tax

If the asset:

- is a dwelling (house, apartment), special rules apply – for example, the main residence exemption may apply in part or full.
- is a collectable or personal-use asset, it continues to be treated as one when you receive and dispose of it.
- was acquired before 20 September 1985, it is considered a pre-CGT asset for the person you inherited it from (this tax did not exist before this date).
- had any unapplied net capital losses, these are not passed on to you as the beneficiary - you can't use any such losses to offset against any net capital gains when you do your personal tax return.

There are different ways to work out your capital gain or loss

Assets may increase or decrease in value over time. A capital gain is when the sale price is higher than the purchase price. Conversely, a capital loss is when the sale price is lower than the purchase price.

Calculating capital gains depends on:

- when the asset was acquired (and whether your ownership period is over 12-months); and
- whether you are disposing of the asset as an individual, trust, complying super fund or other entity.

We suggest you speak to a financial adviser to help you work out your capital gain or loss. Your adviser will be able to consider your personal circumstances to recommend the most suitable method as well as strategies to help you manage the tax implications associated with the gain or loss.

Remember to keep complete records

It is always recommended to keep a record of the financial information related to an inherited asset. This information will be required to determine your CGT obligations when it comes time to complete your tax return.

In terms of the financial information generally required, if it's a pre-CGT asset, you need to know its market value at the date they died, and any related costs incurred by the executor as part of the administration process.

If the deceased acquired the asset on or after 20 September 1985, generally you need a valuation report to show the current market value of the asset, details of all related costs they incurred by the deceased and any related costs incurred by the executor as part of the administration process.

Did you know...

The family home may be subject to CGT. A principal place of residence is ordinarily a capital gains tax-free asset but it can become subject to CGT on transfer and sale. How the home is treated depends on whether it was bought before or after September 20, 1985:

- If it was bought before September 20, 1985 and is sold within two years of the date of death, it is CGT-free.
- If the home is sold after this time, then it is subject to CGT on sale using the market value of the home at date of death. The exception to this is if you used the home as your principal place of residence. In this case, there would be no CGT.
- If the home is a post-CGT asset (bought after September 20, 1985), its tax treatment will depend on whether it was income-producing immediately before death.
- If it isn't rented out, it is treated as a pre-CGT asset; there is no CGT payable if it is sold within two years of the death.
- If it was rented out, it may be subject to CGT on sale using the deceased's purchase price at the date of death.

Tax is complicated – seek financial advice

The capital gains tax implications of a deceased estate are complicated. A properly administered estate is one that takes into account the assets of the estate and your financial situation. For more information on the key stages of estate administration, read our article ‘A guide to understanding estate administration’.

From a tax standpoint, it’s important to consider your objectives, interests and intentions in the deceased estate, especially before any decisions are made to sell certain assets. That’s why we suggest you seek professional financial advice; this will go a long way in helping to ensure your financial wellbeing over the long term.

We’re here to help

With expertise in financial planning and tax advice, Perpetual will consider your personal circumstances and manage all the technical taxation matters involved in receiving an inheritance to build a strategy that helps grow your wealth and future-proof the legacy.

> If you have any questions about capital gains tax and the estate administration process, go to our dedicated webpage on inheritance.