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GMS Flash Alert

2019-115 | July 12, 2019

Australia - Legislation that Would Deny Nonresidents CGT Main Residence Exemption Lapses

Australian expatriates can now rest easy, at least for the time being, as the bill proposing changes to the capital gains tax (CGT) main residence exemption has now lapsed.

Pending in the Senate since March 2018, Treasury Laws Amendment Bill 2018 included proposed changes that would have denied the CGT main residence exemption for nonresidents on sales occurring on or after 1 July 2019.[1] It would have also applied to a relevant CGT event occurring before that date in relation to a dwelling acquired after 9 May 2017.

The bill lapsed at the end of Parliament on 1 July 2019, meaning the proposed changes will not proceed in their current format.

The lapse follows intense media attention and lobbying from Australian expatriate groups on the controversial changes since the May 2017 Federal Budget announcements. (For prior coverage, see GMS *Flash Alert* 2019-049, 20 March 2019.)

WHY THIS MATTERS

The proposed changes would have potentially resulted in large Australian capital gains tax bills for Australian citizens and permanent residents selling their main residences while residing overseas as tax nonresidents of Australia. Under transitional provisions, nonresident taxpayers would have been required to sell their main residences prior to 30 June 2019 in order to take advantage of the CGT main residence exemption.

KPMG NOTE

Potential for a New Bill

While there is no longer any draft legislation before Parliament proposing changes to the CGT main residence exemption for nonresidents, taxpayers should be aware that the previous proposals may be revisited at some point in the future through the introduction of a new bill that may contain some revisions of or modifications to the previous bill.

Important Reminder

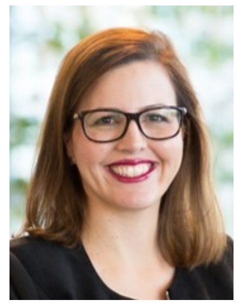
Taxpayers should be aware that under the current law a taxpayer that previously occupied their main residence can be absent from that property (e.g. while working overseas) yet still benefit from the CGT main residence exemption. This should be the case even when the property is used to derive rental income. The "6 year rule" allows taxpayers to derive rental income from their main residence for a period of up to 6 years while remaining eligible for the CGT exemption on sale. Taxpayers should seek professional advice in this regard before leaving Australia and becoming a tax nonresident.

FOOTNOTE:

1 *Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 2) Bill 2018.*

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Australia:



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