Ross Forrester
is director of Westcourt Family Business Accountants

Q

My three siblings and I inherited our family home on my father's passing in November 2017 (not sure if this is relevant, but my mother has passed as well). Thus, we were four equal owners of the property. We agreed that we would rent out the property for two years, whilst getting together plans for subdivision and assessing the market conditions.

If we sold the property after two years, what would be the capital gains tax implications? What would be the implications if we developed the property and placed two townhouses side by side? How can we minimise capital gains tax given these scenarios?

Thanks, Paul

A

Before we look at your questions you might want to consider selling the property now(ish). Every person can sell their main residence free of tax. And if that person is deceased, the beneficiaries are then given an extra two years to sell the home tax free, even if the home is then rented. Just make sure the family home was always your parents' main residence. You inherit the tax history as well.

If you sell your property after two years from the date of your father's death, you are assumed to have bought the property for its market value in November 2017. The two-year concession will be lost in full.

For example, let's say the family home was worth $560,000 in November 2017 so you each inherited a tax cost of $140,000 each. If the home is sold in October 2019 for $660,000 (net of fees), nobody will pay tax. The extension of the main residence exemption will apply. If the home is sold in January 2020 for $660,000, each person will make a capital gain of $25,000 (a quarter share of $100,000 profit). The exemption will not apply at all.

You and your siblings are then likely to enjoy the 50% capital gains tax discount, because you will have owned the property for 12 months or longer. So you will have generated a taxable income of $12,500 each, to be added to your other taxable income.

If you are building two new homes, this is a significant undertaking. Under the Goods and Services Tax (GST) Act you are carrying on an "enterprise" and GST will apply to you. You can reduce your final GST liability by the GST paid during construction. You may also reduce the total GST payable through the "margin scheme" tax concession.

If you build the townhouses, you will probably lose the 50% capital gains tax discount from the development onwards. The site is no longer a passive investment. Further, when you start the development you will probably be deemed to have sold the site for its market value and then repurchased the site as trading stock.

Demolishing and subdividing, without building, might avoid the GST pain and retain the 50% capital gains tax discount. Or you could make the townhouse your true family home so you would not pay tax on your share when sold.

You should do a cash flow forecast with a forecast tax outcome. Look at the after-tax return on investment from each option to see which one works best for you.

If you are building two new homes, this is a significant undertaking. Under the GST Act you are carrying on an 'enterprise' and GST will apply to you

Need to know

- **Beneficiaries of a deceased person's estate have two years to sell a property tax-free.**
- **The construction of new homes on a property is considered an 'enterprise' and subject to GST.**
- **GST can be avoided by subdividing without building.**