Heads Up!   Must Knows for Buying a Property after 30th June 2018

There are many changes affecting people purchasing a property after 30th June, 2018. My aim here is to give you a check list to make sure you understand what has changed for you.

Note the first 3 points apply equally to people who buy a home to live and investors.

1) Is the Purchase Price $750,000 or more? If the price is over $749,999 then you must withhold 12.5% of the selling price and send it to the ATO, unless the seller provides you with an ATO clearance certificate. It does not matter if the seller can prove they are a resident, they must produce the clearance certificate regardless. If you don't withhold you will have to pay the 12.5% to the ATO anyway, out of your own pocket! Note from 1st January 2025 the withholding rate has increased from 12.5% to 15%.

2) Are you buying Vacant Land from a New Subdivision? If you look around and can see other blocks that have been sold or are for sale by the same developer then you need to pay GST direct to the ATO not the seller. The catch is that the seller might believe that GST does not apply to the sale because they are merely realising an asset. You should not accept their opinion unless they present you with a ruling from the ATO, references LCR 2018/D1 and Section 14-250 ANTS (GST) 1999.

3) Is this the First Time the Home has been Sold? The first sale of a house or unit (that has not been rented out for over 5 years) will be subject to the GST withholding, discussed above, if you buy it from anyone else other than an owner occupier.

The next concern, if you are buying a home as an investor, is whether you can claim plant and equipment depreciation. This will only be the case if you are buying from a licenced builder and the plant and equipment is still considered their trading stock. That is the building hasn't been used for anything else other than as a rental for less than 6 months.

4) Are you intending to Renovate and Rent Out? This cuts out one problem because obviously you are not looking at a new property. Nevertheless, if it cost you $750,000 or more then you need to consider point one about the clearance certificate.

You won't be entitled to any tax deduction for plant and equipment you scrap. The big trap here is with the new plant and equipment you buy. If you are living there while you renovate, even if you don't actually use the plant and equipment, you will not be entitled to claim depreciation on it when you rent out the property.

Further, even if you are not living there and have a builder do the renovations but the builder buys the plant and equipment you will not be entitled to depreciate the plant and equipment unless it is a substantial renovation (GSTR 2003/3).

Reference EM
https://www.legislation.gov.au/Details/C2017B00193/Explanatory%20Memorandum/Text

You also need to consider that after 1st July, 2019 you will not longer be able to claim a tax deduction for the holding costs during the renovation process even though you intend to rent it out.

5) Are you buying from a Renovator? The issue at point 1) still applies. Also consider that you will not be entitled to any depreciation for any plant and equipment in the property even if it has never been used.

6) Are you buying from someone who Built the House to on sell but is not a Builder? Believe it or not there are people who do this and make a profit, in areas where buyers are prepared to pay a premium to move into a brand-new house immediately. The trouble is if you buy off this, go between investor, even if they have never rented the property out or lived there, in other words it has just sat vacant, you will still not be entitled to claim depreciation on any plant and equipment that was in the house when you purchased it.

7) Check the Contract for GST Clauses If the property is going to be used for residential purposes make sure there is not a going concern clause in the contract and that the contract does not require you to register for GST. A margin scheme clause is ok if you are not registered for GST. If you are registered for GST and the property will be used in the business, seek advice from your accountant, it maybe better for the seller to charge you GST and you claim it back. If you are buying acreage watch out for farmland clauses as that will require you to agree to continue to farm the property, at least initially.

8) Is it a House and Land Package or did you Buy Land and engage a Builder? If the land is the only thing you receive at settlement then it is only the land that has to pass the $750,000 test at point 1) but consider point 2), you will probably have to pay the GST on the land straight to the ATO as you are likely to be buying it from someone who has a few properties for sale so the ATO may consider a developer.

9) Is this an Established Property? Still consider point 1) above and allow for the fact you will not be entitled to any plant and equipment depreciation.

10) Has the Property been Built or Renovated since 16th September, 1987? If so it could still be worth getting a Quantity Surveyors report on the original cost of the building unless you already know that, to claim Div 43 depreciation, this hasn't changed. If nothing has been done to it since 16th September, 1987 then it is probably not cost effective to purchase a quantity surveyors report.

Note in points 2), 3), and 8) above regarding the GST you need to send off to the ATO the amount is 1/11th of the purchase price unless there is a margin scheme clause in the contract, then it is 7% but before you accept this make sure the seller is registered. If the seller wants you to further reduce the amount you withhold make sure they give you a directive from the ATO.

If you would like to read more here is a link to our buying a rental property booklet https://www.bantacs.com.au/booklets/Buying_A_Rental_Property.pdf

Further Reading:

- What name to put on the title https://www.bantacs.com.au/Jblog/what-name-should-i-buy-my-property-in/#more-1278
- A webinar on what name to put on the title https://thepropertycouch.com.au/ep434-minefield-tax-structures-julia-hartman/
- Basics for property investors https://www.bantacs.com.au/Jblog/property-investing-basics/#more-1334
- Problematic real estate contract clauses https://www.bantacs.com.au/Jblog/real-estate-contract-clauses-that-can-go-terribly-wrong-especially-acreages/#more-1242
- Must read if the property will be your home and it is on more than 2 hectares https://www.bantacs.com.au/Jblog/apportionment-when-your-home-is-on-more-than-2-hectares/#more-1218
- Renting out a room in your home https://www.bantacs.com.au/Jblog/renting-out-a-room-in-your-home/#more-1370
- Airbnb consequences https://www.bantacs.com.au/Jblog/the-tax-and-record-keeping-consequences-of-holiday-rentals-such-as-airbnb/#more-190
- If buying a rental do you need a depreciation report? https://www.bantacs.com.au/Jblog/do-you-need-a-depreciation-schedule-and-why/#more-1019
- Mistakes when buying a home to live in https://www.bantacs.com.au/Jblog/12-mistakes-when-buying-a-home-to-live-in/#more-758
- Making sure you don't ruin your chances of claiming the loan interest as a tax deduction https://www.bantacs.com.au/Jblog/keeping-the-nexus-between-the-borrowing-and-the-expenditure/#more-352
- How your home will be treated for tax purposes when you die - https://www.bantacs.com.au/Jblog/death-cgt-and-your-home/#more-1375
- Renovation myths https://www.bantacs.com.au/Jblog/10-myth-busters-for-renovators/#more-205
- If you have a loan that is used for both deductible and non deductible purposes https://www.bantacs.com.au/Jblog/mixed-purpose-loans-explained/#more-1395
- Spreadsheet to help you keep the right CGT records https://www.bantacs.com.au/shop-2/protecting-your-home-from-cgt/
- If you have any questions https://taxquestions.com.au/ask-a-question/