

How to reduce your tax burden when selling your rural property

By **Brendon Murray, Director, Bentleys**

When considering selling rural property, one significant downside is the amount of capital gains tax you may have to pay.

What you may not know is that it is possible for you to greatly reduce (even eliminate) the amount of capital gains tax you may have to pay.

Brendon Murray, a Director from leading accounting firm Bentleys explains how you can reduce your capital gains tax liability when selling a rural property.

The Government has recently introduced a series of capital gains tax concessions for small businesses – but how do you qualify and how much can you reduce your tax bill?

The Government has developed four different capital gains tax concessions for small businesses:

- **Small Business 15 year exemption** - If your business has owned an asset for 15 years and you are aged 55 years or over and retiring, or permanently incapacitated, your tax payable on the sale of your property is reduced to nil.
- **Small Business 50 per cent active asset reduction** - If you have owned an asset that you have used in your business (an active asset), you will pay tax on half of the gain.
- **Small Business retirement exemption** - Your tax payable on a small business asset can be reduced to nil if you sell a business as part of your retirement strategy. This reduction is subject to a lifetime limit of \$500,000 per person. If you are under 55 when the sale occurs, the taxable gain must be paid into a complying superannuation fund to obtain the concession.
- **Small Business Rollover** – If you sell an asset that you have used in your business and purchase a replacement asset, which must also be active in your business, no tax will be payable as long as the gain made is less than the cost of the replacement asset.
- For example, if the sale of your property resulted in a capital gain of \$1 million, and you purchased another property with one year before, and two years after the sale of your previous property, for \$1.5 million, you have eliminated the taxable gain on sale, and reduced the cost base of the replacement property to \$500,000.

Concession criteria

To qualify for these concessions you:

1. Net assets must be less than \$6 million
2. Turnover is less than \$2 million; or
3. You are in a partnership that has a business turnover of less than \$2 million and the asset being sold is owned by the partnership.

- Previously the dramatic increases in land values in rural Queensland would have excluded many people from being able to access these concessions, however, if you have a turnover of less than \$2 million you may be able to access these concessions despite your net asset level being well in excess of the \$6 million threshold.
- It is very important to note that the turnover threshold only applies to the trading entity.
- As a simple example, if Jim and Mary jointly own a property with a value of \$12 million and they operate a grazing or farming enterprise through their family trust with a turnover of \$1.4m, Jim and Mary cannot access the concessions as they are only available to the small business entity (in this case the trust).

Calculating your net asset value

- Even if your turnover is more than \$2 million, you can still qualify for the capital gains tax small business concessions if your net asset value is less than \$6 million.
- The net asset value is calculated by deducting any liabilities associated with the asset from the market value.
- Be careful how you calculate your net asset value as there are some exceptions.
- For example, if you are a partner in a partnership and the capital gain tax asset is owned by the partnership, the maximum net asset value test only takes into consideration the assets of each partner and not the assets of the partnership as a whole.
- You can also exclude from this calculation any assets that your family and business associates hold outside your joint business. For example if your wife runs a florist business in the local town, as this business is completely independent of the farming enterprise, you do not include the value of the florist business assets in calculating your net asset values.

Calculating Your Turnover

- To assess whether you qualify for the small business concessions, it is important to determine whether your turnover is less than \$2 million.
- To calculate your total turnover you must add your annual turnover together with the annual turnover of any businesses that are connected with you, for the year in which the asset is sold. This is relevant to those family groups who may run different properties through different entities.
- The Australian Tax Office provides you with three methods to estimate your turnover:

1. Previous year turnover

- If your aggregated turnover for the previous financial year is less than \$2m, you qualify as a small business entity.

2. Estimate your current year turnover

- If you estimate that your current year turnover is likely to be less than \$2 million, you will also qualify as a small business entity. However, you cannot use this estimate to qualify if your two previous year's aggregated annual turnover was more than \$2 million in each year.

3. Actual current year turnover

- If you are unable to use methods one and two for calculating the business turnover, you will need to assess your aggregate turnover as at the end of the income year. If your turnover is less than \$2 million, and you run a business, you will be a small business entity for that year.

As you can see, provided you meet the very strict criteria, there are significant tax savings to be enjoyed by people selling valuable rural assets.

The laws surrounding this area of income tax legislation are very complex, so be sure to obtain advice relevant to your individual circumstances prior to making any decisions regarding the sale of your property.

If you would like further information on these concessions, and how they will affect you, please contact Brendon Murray of Bentleys on (07) 3222 9777