THORNE ACCOUNTING
Expert Property Accountants

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Thorne Accounting Tax Guides

LTC Share Transfer Guide

This guide is designed to provide tax guidance on the implications of changing the shareholding in a look through company (LTC) to achieve paying tax at a lower tax rate.

Note that tax laws regularly change so the information in this guide is correct only at the date of this guide.

Objective of this Guide

The government has just announced that interest deductibility for residential rental properties will be phased out for existing properties and will not be available for newly purchased properties. Interest deductions for existing properties will be phased out from 1 October 2021 over 4 years. No interest deductions for newly purchased properties will be available from 1 October 2021. This does not apply to new builds.

This means that most residential rental properties will make a taxable profit in future years. As a result, it will be ideal if that taxable profit was allocated to an owner that earns the least income and is taxed at the lowest personal tax rate. The current tax brackets are:

Personal Tax Rates	
$0 - $14,000	10.5%
$14,001 - $48,000	17.5%
$48,001 - $70,000	30.0%
$70,001 - $180,000	33.0%
$180,001 +	39.0%
Trust Tax Rate	33.0%
Normal Company Tax Rate	28.0%

Possible Benefits of Differing Tax Rates

If you are a single person, then your profit is taxed at your personal tax rate unless the shares in your LTC were transferred to a trust for profit to be taxed at 33%.

If you have a partner, then your profit is taxed at the personal tax rates in proportion to the shareholding unless the shares in your LTC are changed to the person in the lower tax rate bracket or the shares in your LTC were transferred to a trust for profit to be taxed at 33%.

The possible annual cash saving would be the annual profit multiplied by the difference in the change of tax rates applied to that profit.

Implications of LTC Shareholding Changes

Firstly, if there is no other reason for the shareholding change apart from income tax, then a shareholding change could be seen as tax avoidance.

Secondly, when there is a change in the shareholding of a LTC, then it is often treated as a sale and re-purchase of the underlying property. The implications of this are:

- The underlying property is deemed to be sold so any unrealised capital gain would be subject to income tax if that property is already within an existing brightline test timeframe
- The underlying property is deemed to be re-purchased so the new 10 year brightline test timeframe would restart
- The underlying property is deemed to be re-purchased so interest would not be deductible from 1 October 2021 (as opposed to be phased out from 1 October 2021)

Implications of Ceasing being an LTC

If you elect to cease being an LTC, that election takes effect from the first day of the following tax year that you make that election. The profit would then be taxed at the company tax rate of 28%.

However, just like changing the shareholding above, there is a deemed sale and re-purchase of the underlying property. So, the same implications of changing the shareholding will occur.

Recommendations

If the shareholding in the LTC could be changed to achieve a much lower tax rate, then I would recommend the following:

- Don't transfer the shares while the property is subject to any existing brightline test timeframe
- Only transfer the shares if you are certain of holding the property for at least another 10 years
- Hold off on doing the transfer of shares for a few years while some interest is still tax deductible and reconsider this option closer to when no interest will be deductible

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