Entrust

Inheriting Shares

In 1978, Australia abolished "death duties", being taxes upon the estates of decedents. However, this doesn't mean that taxes are not payable when individuals inherit wealth. There are numerous taxes that apply to estates, such as those payable on superannuation proceeds and capital gains on disposal of certain assets. Within the below, we highlight some of the rules associated with inheriting personal share investments.

Prior to 1985, Australia had no general tax on capital gains. This was altered to ensure capital gains positions were captured within the definition of income, with the key date being 20 September 1985. This represents the date in which capital gains came into effect for share investments.

For people who inherit assets that were originally acquired by the deceased before 20 September 1985, the cost base for the beneficiary becomes the market value of the asset on the day the person died (unless major improvements were made after that date).

Example 1: Daniel acquired a parcel of 5,000 ZZZ shares for $1.50 per share in 1983. This is commonly referred to as a "pre-CGT asset". He passed away in 2020 leaving the estate to his son Oliver. At the time of death, the shares were worth $19.50 per share. Oliver sells the share parcel 6 months' later at $20.50 per share realising a capital gain of $5,000. This is calculated as the sale proceeds – cost base (i.e. ($20.50 - $19.50) x 5,000).

Oliver would not be able to claim the 12-month capital gains discount and therefore would be required to pay tax on the full $5,000 realised gain at his marginal tax rate. In relation to inherited assets, the holding period is taken to have commenced when the deceased acquired the asset. However, for assets acquired before 20 September 1985 the holding period commences on the date of death.

Conversely, assets acquired since capital gains tax (CGT) started (on 20 September 1985) are subject to CGT unless specifically excluded. The cost base is taken to be the deceased person's original cost base.

Example 2: In this example, let's assume that Daniel acquired a parcel of 5,000 YYY shares for $1.50 per share in 1990. The cost base is $7,500. He passed away in 2020 leaving the estate to his son Oliver. Oliver sells the share parcel during 2021 at $19.50 per share realising a capital gain of $90,000. This is calculated as the sale proceeds – cost base (i.e. ($19.50 - $1.50) x 5,000).

For Oliver, the holding period continues from when Daniel originally acquired the asset. As such, Oliver is eligible to claim the capital gains tax discount and therefore would be required to pay tax on $45,000 (half of $90,000) at his personal marginal tax rate.

Conclusion

Certain capital gains tax rules apply when dealing with assets of a deceased estate. Pre-CGT assets now appear less often but can be an important part of planning opportunities. In addition, the distribution of wealth after someone's passing can still have a large impact on the beneficiaries.