In the Loop - Winter 2017

The Hicks Oakley Chessell Williams Newsletter

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Property & Conveyancing News

There will no doubt be ongoing and continued national debate about the housing market, including issues connected with access to superannuation and foreign investment. In this edition we take a look at some of the recent measures that have been implemented in Victoria in the two important areas of stamp duty exemptions and concessions and underquoting by real estate agents.

Sarah Lindsey - Principal
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Buying Property - stamp duty exemptions & concessions

First home buyers

A first home buyer who signs a contract on or after 1 July 2017 is exempted from paying stamp duty, for an established or new home, if the dutiable value of the property does not exceed $600,000.

A concessional stamp duty assessment rate will apply on a sliding scale for that first home buyer if the dutiable value is between $600,001 and $750,000.

The dutiable value is the purchase price less any deductions (e.g. Off The Plan (**OTP**) concession).

Off the plan buyers

The OTP concession rate available for contracts signed prior to 1 July 2017, which previously reduced the stamp duty payable based on an allowance for post-contractual construction costs for all properties, will no longer apply to holiday homes, and investment or commercial properties. It will only apply to a purchase of a principal place of residence (**PPR**), and only if the dutiable value is less than $750,000 (after the OTP concession rate is applied) for a first home buyer, or if the dutiable value is less than $550,000 (after the OTP concession rate is applied) if the purchase is not of a first home.

Spousal & de facto transfers

Transfers between spouses and domestic partners are no longer exempt from payment of stamp duty for the purchase of an investment (non-PPR) property.

Other exemptions

Exemptions or concessions may apply in other circumstances e.g. deceased estates and family farms.

Eligibility

Please note that important eligibility criteria will apply for all concessions and exemptions.

For information on stamp duty exemptions and concessions and how they may apply to your circumstances, please contact our office on 03 9550 4600 and speak with one of our experienced property lawyers or conveyancers. You can also visit the State Revenue Office website:
www.sro.vic.gov.au

New Underquoting Laws - more transparency for home buyers

On 1 May 2017 the Government announced changes to house pricing laws in an effort to reduce underquoting. Underquoting is when a property is advertised at a price that is less than the estimated selling price, the seller's asking price, or at a price already rejected by the seller.

The key changes according to Consumer Affairs Victoria (CAV)

- There is now a requirement for all homes listed for sale to have an estimated price, as well as three recent comparable sales for buyers to review and the suburb's median house price.
- The new legislation will bar the use of price ranges with more than 10 per cent margin between the two figures, and those with no upper limit, such as 'offers above'.
- Advertising must be updated if an offer is made above the estimate.
- Agents have additional obligations relating to the Statement of Information for prospective buyers.
- Agents doing the wrong thing will face higher penalties and the loss of commissions.

The aim of these changes is that house hunters will be less likely to be misled about the selling price and therefore won't waste as much time and money on properties out of their reach.

The changes aimed at stamping out underquoting won't stop houses selling above their listed price and buyers should be aware that a house sold above its advertised selling price might not have been underquoted. It also needs to be recognised that it is the vendor's prerogative to set the reserve price and this may be significantly higher than the agent's estimated or quoted selling price.

The new underquoting laws complement laws under the Australian Consumer Law that prohibit misleading and deceptive conduct by a business, such as making false and misleading representations about the sale price of a property.

For more information please contact our property and conveyancing department on 9550 4600.

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Your SMSF Investment Strategy - a good time for review

You've made it through the financial year and navigated the new superannuation laws that took effect on 1 July 2017 but there is one thing you should always think about and that's your investment strategy. Additionally, there is no better time than right after a financial year ends where you can review your self managed super fund's (SMSF) investment strategy and its performance.

Reviewing your SMSF investment strategy

As a trustee you are required to review your investment strategy regularly to ensure it continues to reflect the purpose and circumstances of your fund and its members. An SMSF investment strategy must take into account the following:

- The risks involved in making, holding and realising the SMSFs investments, their expected return and cash flow requirements of your SMSF.
- The diversification and composition of your SMSF investments.
- The liquidity of your SMSF investments, having regard to expected cash flow requirements.
- The SMSF's ability to pay current and future benefits to the members.
- Whether to hold insurance cover for each member of your SMSF.

What's your objective?

An important requirement for you as trustee of your SMSF is to have an investment objective and a strategy to achieve that objective before you start to make decisions about how you want to invest your SMSF's money?

Sole purpose

Whatever assets you choose for your SMSF to invest in, there must be a clear and obvious retirement purpose in the choices you make. Of equal importance is that the investment objective and strategy is not set in stone. Trustees can choose to change the investment objectives they have set for their SMSF at any time.

The big picture

At the same time looking at current broader economic risks should also form part of your decision making.

So as an SMSF trustee, your best defence against uncertainty is to have a clearly defined, well-rounded and long term investment strategy. Not only is your SMSF legally required to have an investment strategy, it is the key to guiding you and your fund through uncertain times.

Diversification protects your fund

A key aspect of an investment strategy is to consider the diversification of your SMSF's assets. Diversification of your retirement savings across different assets and regions is key to protecting your fund from volatility in financial markets over the long-term.

Long term strategy essential

While it is important to keep track of events that affect financial markets and your superannuation savings, it is important to remember that superannuation is for the long-term and that sometimes, short-term decisions can do more harm than good. A good investment strategy that keeps members disciplined and focused on the long-term is essential.

Factors to consider

With any decisions you make as a trustee in relation to your fund's investments strategy and asset allocation, the important things to keep in mind are:

- Try to avoid taking undue risks with your underlying investments, which increases the likelihood of short-term losses. For example, think twice before moving from relatively stable shares to speculative shares even if you think a short-term win will come to your SMSF.
- If the fund is considering payment of an income stream, ensure the cash flow from the asset allocation is sufficient to pay the required amount.
- If there is a relatively long timeframe before benefits become payable from the fund, the potential capital growth of the investment is an important consideration.
- Consider the effects of inflation and protect against the reduction in the real value of the fund's investments.
- All trustees and members of SMSFs have a range of attitudes towards risk and how they see their funds' investments performing over time. When it comes to the fund's investment strategy and asset allocation it is important to carefully consider its overall risk profile or tolerance, including the impact of asset allocations on the overall investment portfolio.

Practical tips

Your investment strategy does need to be reviewed at least once a year and this will be evidenced by your approved auditor. It is also important to review your strategy whenever the circumstances of any of the members change or as often as you feel it is necessary. The following practical tips will help you keep on top of your obligations:

- Put your investment objective and strategy in writing.
- Set an investment objective that you can achieve with the underlying investments you are comfortable to invest in.
- There is no template for an investment objective and strategy, but make sure they reflect how you intend to invest your SMSF's money.
- The investments you actually make must be contemplated by the investment strategy you have set.
- Additionally, document your actions and decisions, as well as your reasons, and keep them as a record in order to demonstrate that you have indeed satisfied your obligations as a trustee in this important area.

For further information visit www.smsfassociation.com

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NB. The above is general advice on the need to keep your SMSF investment strategy up to date. It does not take into account your specific circumstances. Hicks Oakley Chessell Williams Lawyers do not give financial advice. For financial advice please contact a licensed financial adviser.

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