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Income protection policies

Q: Section CW 34(1) – said it is aimed at accidents, so why is ACC taxable income?

> *A: The exemption for personal sickness and accident policies includes accident insurance – for example, an ACC payment for the loss of a limb. But it excludes ACC payments paid as weekly compensation which are taxable under section CF 1(2)(d).*
>
> *Section CF 3(1)(a) includes as income "an accident compensation payment" which is defined to mean:*
>
>> a payment under the Accident Compensation Act 2001 paid by the Corporation as defined in that Act, of weekly compensation that is not recovered or recoverable under section 248 of that Act:

Q: Would policies that are mortgage protection insurance then also be taxable? Essentially to replace income that usually would pay the mortgage and pay-out is linked to being unfit for work through sickness or accident.

> *A: No, these are not taxable. The fundamental purpose is to provide cover to repay the mortgage and this is a capital concept, not specifically for loss of earnings. The fact that a person is out of work is one step removed from what the insurance is intended to cover.*

Subdivided farm lots and bright-line

Q: With regard to the sale of farmland - what are the implications for selling off larger blocks of land for industrial subdivision? Selling from a limited company.

> *A: Firstly, the standard land sale rules need to be considered ie intention, tainting, rezoning, more than minor work in dividing if scheme starts within 10 years or major schemes if owned longer than 10 years. If the standard land sale rules don't apply and the sale is within 5 years the next issue is can it have a house erected on it under the district plan. If it can then the same issues that are in the scenario need to be considered. If the land isnt able to have a house erected on it, it won't be subject to the bright-line – even if its destined for industrial purposes it might still be able to have a residential house erected on it.*

Depreciation on commercial buildings

Q: Isn't the DB 65 deduction claim not recoverable? How is that effected by the reintroduction of Depreciation,

A: Yes it is not recoverable but when working out current depreciation the legislation requires the amounts claimed under sec DB 65 to be deducted from the adjusted tax book value for the calculation so the current depreciation claim is lower due to that. Only a timing issue unless the building does happen to be sold for a loss.

LTC and bright-line, main-home etc

Q: If the house was previously a rental, how long do you have to be living in the house to not get caught in the bright line scenario.

A: The main home exemption in s CB 16A contains a "predominant use" test which means the person must have occupied it for more than 50% of the time as their main home. And the period of occupancy as the main home must be after the period of rental, as the test is applied at the time of sale.

If a house was owned for a total of 4 years and it was rented for 22 months from the date of purchase, then the owners moved into it for the last 26 months to the date of sale, it qualifies as a main home as it was occupied as their home for more than 50% of the time (and it was their home at the time of sale).

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