THE MINIMUM 30% TAX ON CAPITAL GAINS – WATCH OUT!

The changes to Capital Gains Tax (CGT) and negative gearing announced in this year’s Budget - and which are now law – are quite monumental, and they will affect a lot of taxpayers.

No more so than in relation to the abolition of the CGT 50% discount and the related changes for capital gains that accrue from 1 July 2027. Keep in mind that generally all CGT assets will be subject to these new rules. The changes are not limited to residential property and apply on assets acquired both before and after 1 July 2027.

And one of the key changes that will affect any taxpayer who sells any asset after that key date is that a minimum 30% tax rate will apply.

It is aimed at the situation where taxpayers realise capital gains in an income year where they have little or no other income, which often would mean that little or no CGT would be applied as the gain would fall in either a zero or lower tax rate bracket.

So, apart from probably having a bigger capital gain to contend with under the new indexation system that applies from 1 July 2027 (as opposed to the 50% CGT discount), you will also have to contend with the minimum 30% tax that will be applied to such a gain.

And while this 30% minimum tax measure may look quite harmless, it can in fact pack quite a punch – depending on your exact circumstances.

For example, it will prevent taxpayers who engage in “staggered sell downs” of assets over a number of income years from paying less CGT – such as where they sell shares over a number of years in which they have little or no other taxable income so that the amount of their assessable capital gain would, otherwise, fall under the tax-free threshold of $18,200.

Taxpayers on government pensions and other social security payments are carved out, but self-funded retirees are not. Anyone selling assets in tax years from 1 July 2027 with little or no other taxable income is affected, not just wealthier investors.

And the way this new 30% minimum tax works is that in various cases a taxpayer may be paying more tax to make sure that they are paying a minimum 30% rate on the capital gain component of their income.

While the actual amount of extra tax required to meet this minimum 30% rate will depend on how big the gain is relative to a taxpayer’s other income, generally it appears it will hit taxpayers harder where they have a modest gain and they sit in the middle income tax brackets.

And all this arises because this minimum 30% CGT rate is not about a minimum 30% marginal tax rate but about a minimum 30% “effective” rate. It’s not about working out if your capital gain sits in a lower tax bracket, but what the “overall average” tax would be on the gain.

This is all a bit hard to get your head around.

But if you envisage that you will be selling CGT assets after 1 July 2027, then you should come and speak to us to work out when it may be best to do so – because even under these new rules, “timing” benefits may still arise.