Understanding Inheritance Taxes in Australia

Unlike other countries, there is no inheritance tax or gift duty in Australia, however being a beneficiary will incur tax obligations that will need to be included in your tax return. It's important to know what these obligations are and what you'll need to do.

Superannuation

When someone passes away, tax may need to be paid on a 'superannuation death benefit', which will depend on certain factors, such as:
If you were a dependant of the deceased
- If the sum is paid as a lump sum or income stream
- If the super fund has already paid tax and what component is tax-free or taxable
- The age of the deceased person when they died for income streams.

A nominated beneficiary may be appointed, depending on your super fund. This may be binding or non-binding. In a binding death benefit nomination, the deceased is able to nominate one or more dependants to receive the super. In the case of no nomination, the trustee may decide on the deceased behalf or make a payment to the executor for distribution.

Tax on Superannuation

There might be a tax-free and taxable component to super funds paid to beneficiaries. A beneficiary will not need to pay tax on the tax-free component if it is withdrawn as a lump sum or received as an account based income stream. There are rules based on age and if the beneficiary was a spouse or dependant.

If the beneficiary is a dependant of the deceased, no tax will be required to be paid on the taxable component of the death lump sum benefit and will not be needed to be included on a tax return as income. If a dependant has received a death benefit that is a capped defined benefit income stream, tax rates will be applicable.

The effective tax rate you will pay

Taxable component – taxed element
- Your marginal tax rate or 17%, whichever is lower including Medicare levy

Taxable component – untaxed element
- Your marginal tax rate or 32%, whichever is lower including Medicare levy

Capital Gains tax

Capital Gains tax is required to be paid if the beneficiary later sells an asset on the proceeds of sale. The sale and any income earned through the asset needs to be lodged as a part of your tax return as the Australian Government regards that as a part of a normal income stream.

Completing your tax return

When you are a beneficiary, you'll need to declare your share of any trust income, the amount of entitlements, assessable income, interest, any franking credits or dividends and income stream through superannuation on your tax return.

There are different rules and obligations for beneficiaries under a legal disability and for non-residents. Australian law does recognise a will prepared in another country, however there may be different laws and taxes that are required to be paid under the laws of other countries.

Advice

It may benefit to seek expert advice regarding drafting your will to specify how your estate and its assets will be distributed. If you are a beneficiary, professional advice will help you understand and organise your tax affairs and minimise any tax you may need to pay. An income tax professional will know what to do and will help you navigate this situation.

ITP The Income Tax Professionals help over 300,000 with their tax each year. They are professionals that have studied tax law and can help you with difficult circumstances such as deceased estates. ITP also set up and manage trustee estates and can act as a legal executor. Speak with a Professional today and see how they can help you.