
Fire .. injury .. even death ... *Who is responsible?* Tenant or landlord?

The recent fire in Queensland with the consequent death of 11 people mostly children is a horrendous tragedy for the families involved, particularly the survivors.

The tragedy raises serious questions for owners, agents and landlords. See below for brief discussion and questions on responsibility, ownership structures, **Asset Protection**, property management.

In his latest newsletter, PropertyBuyer's Rich Harvey asks the question 'Is now a good time to buy' property given all the uncertainty around us – particularly that generated by volatility in the stock market etc. His analysis and response was so good I have taken permission to include it in this newsletter in its entirety – see below.

*Minimising Tax - If you are running a business there may still be an opportunity to **minimise tax** in 2011 financial year – where stock is a major part of your operation – for more details see below.*

Early lodgements = Early refunds. Most negatively geared property investors expect a refund on lodging their tax returns. Lodging your tax return early means an early refund.

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Fire .. injury .. even death ... *Who is responsible?* Tenant or landlord?

The recent fire in Queensland with the consequent death of 11 people was a tragedy of enormous proportions for the families involved.

*The tragedy raises serious questions for owners, agents and landlords. Questions of responsibility, ultimately leading to questions of ownership structures, **Asset Protection** and property management.*

From the scant news reporting and commentary on radio it is understood that the cause of the fire was the explosion of a gas bottle. The intensity was so severe that the house was totally engulfed within 15 minutes.

Some of the issues arising from such an event include:

- Smoke alarms – who is responsible for
 - o Installing – landlord in all states?
 - o Maintaining – landlord in NSW Tennant in Qld ?
 - o Inspecting & verifying it is operational
 - o If it is the tenant (as I understand the case in Qld) – will insurance pay for fire damage if tenant did not maintain
- General maintenance including carpets - Who is responsible for good maintenance of the property – tenant or landlord/agent
- What is the legal/safe number of people to occupy a dwelling?
- How can landlord be comfortable that agent has attended to all problems?
- Documentation – who has copies of documentation evidencing inspections – agent or landlord – should both have them?
- Insurance – What does the policy cover?
 - o When fire is covered – are there any conditions preventing claims similar to the flood victims having houses in low lying areas?
 - o Public liability – what does it cover

While no one wishes this or any type of tragedy on anyone else, least of all his paying tenants, from an owner's perspective - questions arising include:

- Ownership structure
 - o Who is the owner of the property
 - Individual
 - Company
 - Trust - discretionary
 - o How many other assets/properties are owned in the same name – these are exposed to a claim
- In the Qld case where a gas bottle explodes – who is responsible
 - o Supplier of the gas bottle or
 - o Tenant – who has to fit it on or replace it regularly. (I understand in Qld not all properties have access to natural gas through pipes – so they rely on gas bottles)
 - o Owner/managing agent

Keep it in Perspective - While these are serious matters to be considered and acted upon, make sure it is placed in perspective. This is one incident while there are tens of thousands of properties being

rented or owner occupied with no problems for years. Most managing agents are performing – check with them.

What this article is about is to make you **ask questions** and review your

- **Insurance** policies on your rental properties – do they cover what you understand they cover?
- **Documentation** - from the managing agent including the terms of agreement, from the insurance broker including policy document, from department of Fair Trading including landlord responsibilities
- Ownership **structures** – what is at risk for you individually or in your trust if the property is held in a trust? How should you structure going forward on your wealth creation journey

The state agency responsible for listing and enforcing the tenancy rules and responsibilities is the department of Fair Trading in each state. This is usually a good place to start if you are researching such issues in the net. To help start the search below are some links for NSW and Qld.

NSW

Link for **Landlords** responsibilities

http://www.fairtrading.nsw.gov.au/pdfs/Tenants_and_home_owners/During_a_tenancy_information_for_landlords.pdf

Link for **Tenant** responsibilities.

http://www.fairtrading.nsw.gov.au/pdfs/Tenants_and_home_owners/During_a_tenancy_information_for_tenants.pdf

QLD

http://www.rta.qld.gov.au/zone_files/fact_sheets/repairsmaint.pdf

Lessors rights and responsibilities http://www.rta.qld.gov.au/lessors_rights_and_responsibilities.cfm

Tenants rights and responsibilities

http://www.rta.qld.gov.au/tenants_rights_and_responsibilities.cfm

Emergency repair http://www.rta.qld.gov.au/emergency_repairs.cfm

Rental agreement forms detail of responsibility at the end subdivision 2 Standard of premises 25 Lessor's obligation-s185 http://www.rta.qld.gov.au/zone_files/forms/18a_form18a.pdf

Got a question? Talk to us today about reviewing your ownership structures.

***Don't* pay more tax than you need to**

If you are finalising your end of financial year accounts and calculating your tax position, keep in mind that **there are still options available to save you tax.**

One of these options impacts on the valuation of your **trading stock** and if stock is a material asset in your business, you should most certainly consider it. This option provides you with different valuation methods that can be applied to your trading stock.

The majority of businesses value their trading stock at **cost** and in many cases this is the right valuation approach. However the Tax Act gives you the choice of valuing your stock at the **lower** of cost, **market**, or **replacement** value.

Your trading stock is an asset that is recorded on your balance sheet. In most cases it should be tax neutral to you. The cost of purchasing stock is expensed in your profit and loss account and is offset by the value of the stock asset, until you sell it.

So, while the amount of stock you are carrying will impact on your cash position, because you have your funds tied up in it, there is no direct impact on your profits or taxable income until you sell that stock. However, if at June 30 some of your stock is worth less than its cost price, you have the **option** to value it at the lower figure and **take the tax write off now**, rather than wait until the stock is sold. This reduction in your stock value will produce a tax saving for you.

There are a range of reasons why stock values may be less now than at the time you purchased the stock. For example,

- stock becomes out of date,
- obsolete,
- damaged or
- changes in demand mean that the stock can only be realised at a discounted price.

Other than when you sell your stock, your tax return gives you a once a year opportunity to adjust your stock values and realise on any losses.

You don't have to use the same valuation method for all of your stock as the trading stock valuation options can be taken on an item by item basis.

So, you can elect to use different methods for different stock items.

In many cases cost price will be the appropriate valuation method. You would normally consider using market value or replacement value for stock items only where there has been a fall in value.

It will be important to have sufficient **documentation** to both record what action you have taken and also to justify the value you arrived at. If you are subject to a tax **audit** you will need to be able to **substantiate** the value being used. This means having your stock count and also the itemised values for each stock item. Where the value being used is not cost price there should be a clear basis for the amount used.

Where you have experienced a fall in stock values it normally makes sense to take **the tax write off now**. We all know that **cash is king** at the moment and the tax saving will help to cushion some of the loss.

Got a question? Talk to us today about how we can make a difference to your businesses.

IS NOW A GOOD TIME TO BUY?

by Rich Harvey, Managing Director,
www.propertybuyer.com.au



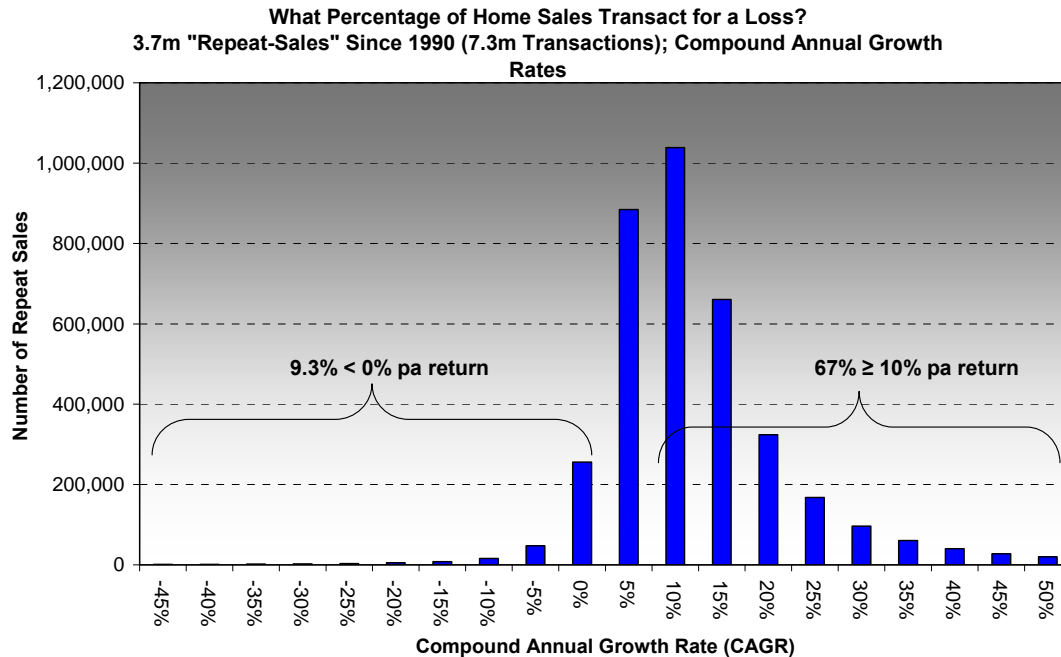
Recent events over the last four weeks with the sharemarket plunging 4% in one day, downgrading of the US credit rating from AAA to AA+ and talk of world recession, means consumer sentiment continues to remain depressed. Interest rates haven't moved since November last year and the next movement is likely to be downwards – some analysts are tipping a 1% decline. The Reserve Bank is changing its tune on how much global financial impacts are having on Australian demand.

“I'm just waiting to see what happens”.....“There's just so much uncertainty in the economy I'll just sit on my hands for the moment”....“Property prices will surely go down - people just can't afford more debt”. These are some of the many comments we hear every day in speaking with investors and home buyers.

In the property market, things are generally tough.....tough for sellers that is. It's mostly a buyers market out there with larger numbers of listings and fewer buyers. We are seeing prices going sideways in most areas and the occasional bargain buy. So is it really a good time to buy? And when is the optimal time in the property cycle to buy?

To help answer this question lets look at the worst case scenario – What is the probability of making a loss when you buy a property? Respected market commentator Christopher Joye from Riskmark asked his research team to analyse the percentage of home sales over the last 21 years to find out the average annual capital growth rate. The period of time since 1990 gives a very strong sample size covering approximately 3 property cycles - with many up and down periods.

The research shows that out of 3.7 million purchases and sales (ie 7.3 million transactions) only **9.3%** made a capital loss in gross terms. Compare this to the incredible **67%** of people that received a compound capital growth rate of 10% per annum or more. And 24% earned at least a 5% pa return.



Source: Rismark International 2011

This profound data points out some important conclusions.

- Two thirds of property buyers made a net return more than three times the average inflation rate (2.9%) over the same period.
- Take history as a precedent, there is a 90% chance your property will rise in value, and 10% chance it will fall in value over the next two decades.
- It is critical to select property in suburbs that will **outperform the average**, ie not grow at just a mediocre 5% pa but at least 10%pa.
- During property downturns, most vendors choose not to sell and hang on to their property and wait for the market to improve. This puts a "floor" under property prices ie residential property is typically far more resilient to financial shocks than sharemarket investing especially where leverage is used. During the GFC in 2007 to 2008, the average capital city house price decline from peak to trough was only around 3.8% (a far cry from the 30% to 40% drops that some share prices suffered).

My observation of the market is that we are at or very close to the optimal time to buy.

There is a critical difference between doing property "searching" and true property "research".

Searching = Buying with your **heart**

Research = Buying with your **head**.

True research takes an incredible amount of time to collate and analyse data. To be a successful property investor you will need to look at between 50 to 100 properties in an area to get a real sense of the market. You have to ask yourself if you spend more time planning your annual holidays than you do researching your next home or investment property. True research is about finding out the key price drivers in an area, the demographics, who's moving in and who's moving out. Which streets are in most demand, the local attractions, the variation in median price over the last 10 years, how many repeat sales and total sales in the suburb.

As you get more sophisticated as an investor, you will also be considering key factors like vacancy rates, auction clearance rates, land content, uniqueness value, infrastructure, potential supply shocks from new

developments, stock currently on market, days on market, vendor discounting, population growth and historical price growth.

There are several data providers where you can buy all this type of data and then spend months analysing it.....or our team of property experts can help you identify the best locations and those you must avoid. You see we have bought close to 1000 properties for our clients over the last 10 years and because we negotiate property deals on a daily basis we know the best price to secure the right property. Our hundreds of testimonials and over 19 industry awards make us the most trusted property acquisition specialists in Australia to help you grow a property portfolio without the risks of going it alone.

Call and speak to my team of buyers agents on 1300 655 615 to discuss how we can fast track your research in finding your next home or investment property. Please [email us for an obligation free chat](#). [Click here to send us your inquiry](#).

This article was written by Rich Harvey, founder and Managing Director of *propertybuyer*[®], Sydney & Australia's leading Buyers Agents. *propertybuyer*[®] helps property investors and home buyers secure the right property at the right price, everytime. Rich was awarded the 2011 Best Property Finder, 2009 "Buyers Agent Award for Excellence" by the Real Estate Institute of Australia and the 2007 National Telstra Business Award. For further details please visit www.propertybuyer.com.au or call +61 2 9975 3311

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Quote of the month

"Price is what you pay. **Value** is what you get." *Warren Buffett*

Where are You Now? Where would you like to be? Call if you want to chat ... We look forward to being of Service

Please do not hesitate to contact us if you would like to review & discuss your current property & tax situation, your asset protection strategy, structuring your next investment property, planning to legally minimise your tax position or just to prepare your next tax return.

We look forward to being of service. We also look forward to your referrals.

To improve our service we welcome all constructive comments on this newsletter and other materials.

Call **Shukri Barbara** at Property Tax Specialists at Shukri@propertytaxspecialists.com.au

Checklists and Templates

To make the compilation & reporting task for 2011 tax returns easier, clients of **Property Tax Specialists** received checklists and templates to facilitate the process ... **saving them time and money ... the 'write' way is having clear documentation**. ATO way means time/money wastage with audit investigation.

For help with preparing your tax returns and application to Vary PAYG call Shukri or Nina on 02 9411 8133 or email at info@propertytaxspecialists.com.au

Disclaimer

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.

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Kind Regards
Shukri Barbara

Property Tax Specialists – [Prosperity & Peace of Mind](#)

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