BAN TACS
National Accountants Group

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Life tenancies, when the life tenant needs to move. This can be a CGT minefield that has worried me for decades. It involves legal issues outside my area of expertise. I have finally found an answer thanks to Scott Hay-Bartlem from Copper Grace Ward.

If your will simply gives someone a right to live in your property for the rest of their life, you need to consider that they may have to one day move. There could be CGT payable by them on the market value of the life tenancy they surrender and the next place will not have the main residence exemption. The trick is to set up a testamentary trust within your will to hold the house with the power to sell that house if the life tenant agrees and to lend the life tenant the money to buy another property, taking a mortgage over the property to protect the remainderman interests. This allows the new property to be covered with the life tenant's main residence exemption and does not trigger a CGT event for the life tenant.

If you will grants a life tenancy please review to see if providing that life tenancy through a testamentary trust is a better option. A testamentary trust is simply one created by your will so does not come into effect until you die.

Warning for Expats



If you are living overseas as a non resident of Australia for tax purposes at 1st July, 2027 and still own a home in Australia you are about to lose your main residence exemption right back to the day you first purchased the home. So please share. https://www.bantacs.com.au/Jblog/warning-to-expats-with-a-home-in-australia/

New Builds



Are you considering taking advantage of the tax concessions for new builds? If so it is important to know the detail and the wider issues relating to construction. https://www.bantacs.com.au/Jblog/buying-or-building-a-new-build/

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