WEALTHMATTERS

YOUR PERSONAL GUIDE TO WEALTH CREATION

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INSIDE

Langley | McKimmie
Chartered Accountants

Planning your estate

Estate planning is an important aspect of managing your financial health. Having your affairs in order will help protect your assets and give you peace of mind.

Here are four things to consider when planning your estate:

Have a valid, up-to-date Will

Preparing a valid Will is first and foremost. A Will helps ensure your estate assets are distributed to the intended beneficiaries. Individuals would be wise to update their Will after major life events (i.e., marriage, divorce, new children) to reflect their circumstances. If an individual dies without a Will or without a valid Will, it is considered dying intestate. Dying intestate means the individual's assets will be distributed according to the inheritance laws of the states and territories of Australia, which can result in higher tax liabilities for beneficiaries.

Appoint a Power of Attorney

A Power of Attorney is a legal document that allows an individual or organisation to act on your behalf. Appointing a General Power of Attorney gives the attorney wide powers to undertake actions on your behalf, such as dealing with property or paying bills. However, if the will-maker dies or loses mental capacity a General Power of Attorney is ceased - an Enduring Power of Attorney can be appointed to overcome these limitations.

Nominate death benefits for your super

Superannuation assets are not included in an individual's estate. Where a nomination is in place, the super will be paid to the nominated beneficiaries. If a binding death nomination is not in place, the trustee may pay the benefits of the deceased to any of their superannuation dependents instead of the estate. Individuals should consider the tax implications of distributions made under a binding death nomination and regularly review nominations to ensure they are valid and effective.

Enduring Guardianship

Although estate planning does not involve appointing an Enduring Guardian, it is the ideal time to consider doing so. Individuals can choose to create a legal document called an 'Enduring Power of Guardianship.' The key roles of a Guardian include making important personal, lifestyle and medical decisions on your behalf, if you ever become unable to make these decisions yourself. Unlike an Enduring Power of Attorney, an Enduring Guardian cannot make financial or legal decisions and are supervised by each state's guardianship board or tribunal.

LANGLEY MCKIMMIE

17 NICHOLSON STREET,
WOODEND VIC 3442

TEL (03) 5427 8100

FAX (03) 5427 3793

EMAIL
info@lmck.com.au

WEBSITE
www.langleymckimmie.com.au

Andrew Marshall
Janine Orpwood
Bryan McKimmie
Sandra Rowley

Business Services & Taxation
Audit
Self Managed Superannuation Funds
Retirement

Taxation of defined benefit income streams

The 'defined benefit income cap' limits the tax-free income one can receive from a capped defined benefit income stream and will be introduced as of 1 July 2017.

The defined benefit income cap will be one-sixteenth of the $1.6 million general transfer balance cap ($100,000) for 2017-18. The following are instances of capped defined benefit income streams:

- specific lifetime annuities existing prior to 1 July 2017
- specific lifetime pensions irrelevant of when they began
- specific market-linked pensions and annuities, life expectancy pensions and annuities all existing before 1 July 2017

From 1 July 2017, you may be subject to additional tax liabilities if you are over the age of 60 or are a death benefit dependent of someone over the age of 60 when they are deceased and have a capped defined benefit income exceeding the defined benefit income cap. These include:

- 10 per cent tax offset does not apply to untaxed-sourced benefits exceeding the $100,000 cap if you are the recipient of an unfunded component of your income stream
- 50 per cent of annual income stream amount over $100,000 taxed at marginal rate for members of a funded defined benefit scheme.

There are also certain circumstances where the defined benefit income cap for an income year will be reduced below $100,000, such as:

- receiving reversionary defined benefit income stream with concessional tax treatment throughout the year
- receiving capped defined benefit income stream and turning 60 mid-way through the year, consequently receiving concessional tax treatment for that income
- starting a capped defined benefit income stream with concessional tax treatment for the first time mid-way through the year

To prepare for these changes before 1 July 2017, you should calculate the defined benefit income receivable (if you are already receiving a capped defined benefit income stream, or may commence receiving one in 2017-18). This amount will determine whether you are affected by the introduction of the defined benefit income cap.

Federal Budget 2017: Superannuation

Unlike last year's Federal Budget, superannuation was largely untouched in this year's Budget. However, some slight changes were made to bolster the integrity of the super system.

Limited recourse borrowing arrangements (LRBA) will be included in a member's total superannuation balance and transfer balance cap, effective from 1 July 2017.

From 1 July 2018, those aged 65 years and over will be able to make an additional non-concessional contribution of up to $300,000 ($600,000 for a couple) from the sale proceeds of their principal residence that has been owned for 10 years or more.

Also, on the cards is the tightening of related party transactions on non-commercial terms to help increase super savings from 1 July 2018.

The current tax relief for merging superannuation funds will be extended until 1 July 2020.

Weighing up unit trusts

Unit trusts are a way of holding assets and are most commonly used as a form of investement strategy.

A unit trust is a particular type of trust that allows individuals to pool together their resources to improve their investment leverage. Each unit trust will have a trustee that decides how the money and where the money is invested in order to generate wealth for unit holders.

There are a number of advantages and disadvantages of investing into a unit trust that ought to be considered.

Advantages

- Less risk involved in investing due to the diversification of where the units are invested.
- The trustee is responsible for making expert decisions as to where units are invested.
- Due to the pooling of resources, there are far more opportunities to invest in areas that would not be possible as an individual investor.
- If one unit holder comes into debt, they cannot use assets from the trust to satisfy their debt as the trustee has power over said assets.

Disadvantages

- Fees associated with investing into a unit trust are comparatively higher than investing directly.
- Revenue losses or capital losses cannot be offset against other assessable income of trust's unit holder.
- When assets are transferred into the trust, capital gain cannot be deferred through any kind of CGT rollover relief.
- Investors may feel they have limited control due to a trustee making the investment decisions.

Things to consider when buying off-the-plan

Buying off-the-plan housing is becoming an increasingly common decision for first home buyers.

There are a number of incentives for purchasing off-the-plan but there are also some serious considerations to be made before entering into a contract.

Do your research

Researching the property itself, the area and the builder/developer are extremely important.

Area: make sure you are familiar with the area and the selling/rental prices of similar properties. Are you getting value for money based on what else is available?

Builder: research the builder/developer. Check the developer has received DA Approval and find out when construction is expected to begin. Ask to see previous work they have done. It is important to know that they are trustworthy and reliable when making such a large and important purchase.

Property: research the floor plan and the floor plan of the complex (if it's in a complex) and make sure you are happy with aspects such as room size, proximity to other houses and the parking situation. Research the appliances that are intended to be installed and ensure you are happy with them too.

Get your finances in order

You have time to save because generally, you have to wait a year to two years for the building to be completed. Consider any government funding you may be entitled to such as first home buyers loan or money that can be saved on stamp duty.

Do not do it alone

Speak to a professional; a property consultant, legal advisor or conveyancing lawyer. You need to know what you are and are not paying for; and what you are entitled to. Going for the cheapest lawyer is not the best of ideas either; go for someone experienced and successful.

Corporate vs individual trustee?

Setting up a self-managed super fund (SMSF) requires members to choose between using an individual or a corporate trustee.

Each trustee structure has varying requirements and implications for the members of the fund, so it is important to understand the differences. Members can choose up to four individual trustees or a corporate trustee, where a company acts as trustee for the fund.

For single-member funds with an individual trustee, there must be two trustees, and one trustee must be a fund member. If the fund member is an employee of the other trustee, the fund member and the other trustee must be relatives.

Single-member funds with a corporate trustee structure can have one or two directors. The fund member must be either sole director or one of the two directors. If there are two directors and the fund member is an employee of the other director, the fund member and the other director must be relatives.

One of the most significant differences between the structures is the ongoing administrative requirements and establishment costs. If a corporate trustee is selected, ASIC charges a fee to establish a company as well as an annual review fee. Whereas, individual trustee arrangements incur lower establishment and ongoing costs as there is no need to establish a company.

Although using a corporate trustee can be more costly, there are benefits in selecting a corporate trustee especially in regards to the ownership and separation of fund assets. For example, changes in membership can be simpler. When a person starts or stops being a member of the fund, they become or cease to be, a director of the corporate trustee. Therefore, the corporate trustee itself does not change and the title to the SMSF's assets is unchanged.

Where an individual trustee is removed or added, the titles of the SMSF's assets must consequently change. The fees associated with these changes can be costly as state government authorities and most financial institutions charge fees for amending the titles of the fund's assets.

In addition, a corporate trustee structure is a good form of asset protection, especially for professionals who work in industries where there is a high risk of being sued for damages (i.e. medical professionals). As companies have limited liability, this reduces the risk of personal assets blending with fund assets.

A corporate trustee structure is also suitable for those members who wish to borrow to purchase property through their SMSF. Most banks will require a corporate trustee structure for borrowing arrangements.

Another consideration when choosing a trustee structure is estate planning. An SMSF with individual trustees is not likely to continue to operate as usual when changes in trustees occur unless an appropriate succession plan has been prepared. With a corporate trustee, a company continues in the event of a member's death.

Members need to carefully consider the type of trustee structure most suited to their individual needs and seek professional advice if they are unsure.

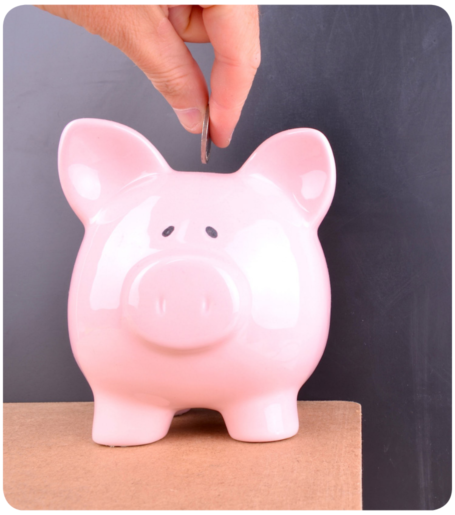
SMSFs: Preparing for the super changes

With changes to superannuation coming into play from 1 July 2017, it would be wise for SMSF members to review their fund and take advantage of the opportunities currently available to them.

Here are three tips for SMSFs during the lead up to 1 July 2017:

Make the most of your super contributions

SMSF members can utilise the current contribution caps for both concessional and non-concessional contributions up to 30 June 2017.



For those aged under 49 (as at 30 June 2016), they can contribute up to $30,000 in concessional contributions for the 2016/17 income year. Those aged 49 or over (as at 30 June 2016), can contribute up to $35,000 in concessional contributions for the 2016/17 financial year. From 1 July 2017, the general concessional contributions cap is $25,000 for all individuals regardless of age.

For the current year SMSF members aged 65 to 74 (and meet the work test) can take advantage of the $180,000 non-concessional limit. Members under aged 65 have the option of contributing up to $540,000 over a three year period depending on their total super balance. From 1 July 2017, the non-concessional contributions cap is reduced to $100,000 for members aged 65 to 74 if they meet the work test. Those under 65 may have the option of contributing up to $300,000 over a three-year period depending on their total super balance.

Check your balance

A $1.6 million cap on the total amount that can be transferred into the tax-free retirement phase for account-based pensions will take effect from 1 July 2017. SMSF members will thereby need to check the likely value of their current or impending pensions as at 30 June 2017 and reduce the value of these pensions if necessary. If members do commute their current pensions and have assets to move back to accumulation phase, then members will need to decide if they wish to apply for CGT relief. Members should seek professional advice if they wish to obtain CGT relief as it is a complex and final decision.

Review your trust deed and estate plans

Changes to the superannuation rules may have adverse effects on an SMSF member's trust deed and estate planning. Members should consider updating their SMSF trust deed to reflect the current super rules, such as the new $1.6 limit on retirement balances.

It is also worthwhile to review whether the SMSF trust deed has sufficient options in the death benefit payment provisions, as the new super rules will allow certain death benefits to be rolled over. Members will also need to consider whether their current trust deed will allow for the terms of the trustee's pension to change without needing to stop and restart the pension.

Giving loans to your children

Increasing costs of living are seeing more and more adult children turn to their parents for financial help.

Lending money to family is risky; something goes awry, and you end up out of pocket thousands of dollars. If you are financially capable of providing a loan and you choose to help your child, follow the steps below.

Set clear guidelines

Before handing money over set out rules and guidelines for which the money is to be used and repaid. You are not giving them money to splash out on new gadgets and the likes; so make sure they understand this. The loan should be for something substantial such as a car, property, tuition fees. If you see them using the money for something other than it was intended, cancel the loan. Be clear on how regularly you expect repayments and to what value.

Proper documentation

Get everything in writing. This will protect all parties should something arise, such as needing the money back for urgent medical procedures or in the case that they separate from their partner and their partner leaves your child with the repayments alone. Careful consideration needs to be made as to what happens in the event of the death of the loan giver. Clear documentation can reduce inter-family disputes and ensure settlement of the estate is not delayed. A letter of intention with all involved signing will prevent trouble should something unforeseeable arise. Keep a spreadsheet detailing repayment dates.

Consequences

There needs to be consequences if your child does not meet the requirements of the loan. If they were borrowing from a bank, this would result in a bad credit rating and more fees. In order to ensure you get your money back, they need to take responsibility for getting it to you. Increasing the interest rate is one possible consequence. It is important to discuss the terms of the loan upfront to avoid any confusion later on.