NEWSLETTER

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Chartered Accountants
Level 5
75 – 85 Elizabeth Street
Sydney NSW 2000
Telephone +61 2 9232 1588
Facsimile +61 2 9235 1211
www.goodco.com.au
contact@goodco.com.au

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This newsletter is written to assist in recognising issues and developing strategies prior to year end so as to maximise profits and minimise taxes payable in the current and future years.

Taxes, superannuation, dividends, equities and properties all need to be considered, because they are all (including taxes) an integral part of your Family's wealth creation and can be designed to provide substantial tax savings if correctly structured and managed.

If the strategy is to work, all of the elements must be considered and kept in balance.

You need to have a wealth and tax strategy that deals with:

- ***lowering tax rates across the family's income spectrum;***
- ***increases the return on investment; and***
- ***freeing up cash for you to invest.***

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What are you doing to train the next generation in your family to understand and manage the wealth that will pass on the death of you and your partner?

In our March 2015 newsletter we canvassed what readers should do on the birth of their children, on what should be done up to age 18 and what should happen on the children reaching 18 years of age.

We wrote about testamentary trust set up in the parents wills and the removal of those trusts from will on the child approaching 18 years of age. We wrote about charging school fees and university fees to children's loan accounts and having education fees paid from a parent's family trust.

We went on to write about the effect of children having de-facto relationships, marriage, cohabitation agreements and prenuptial agreements and we finished that edition writing about your will and the need for the children on reaching 18 to have a will (on the basis if you died just after they reached 18) because they could be managing a large estate and / or inheritance on the death of the last of the parents.

In the September 2015 newsletter we dealt with separation and dissolution of a relationship and finished that newsletter with the consequences of death. In February 2016 we dealt in some depth with the issues, benefits and disadvantages of investing in individual names, partnerships, corporate structures and superannuation funds held either in individual's names or in family companies or trusts.

What we have not dealt with is what you should consider doing with training the next generation in your family to understand and manage the wealth that you have created and will in part or in whole pass on to them or be managed by them.

This is a very personal issue that will vary in its solution from family to family and family member to family member. ***There is no one answer that fits all*****.**

Each parent needs to resolve this issue very early in the piece.

The one consistent piece of advice that does apply to all is don't rule from the grave.

Each beneficiary will have different financial and emotional needs and one solution rarely fits all.

Equally the eldest child may not necessarily be the best executor or manager of your estate and / or existing corporate structure.

Between siblings it is very common to see jealousy existing even well before the parents are deceased in that siblings want to be treated equally before and after the death of the parents and under the same rules. When there is a perception that this did not happen animosity frequently occurs and not infrequently litigation follows on the death of either one or both parents.

It is generally the rule that one sibling will be a diligent financial manager and a least one will be a spender. Rarely are the needs the same and rarely will the parties be happy with the arrangements made by the parents especially when one child rules over the family asset and disburses either income and / or capital over a period of time at that child's discretion.

Assets that will be controlled by will and others owned and controlled separately by trusts should (unless there is a medical reason to preclude the disbursement to one child so affected) be passed to the beneficiary at the earliest possible date. There can be a proviso that if the beneficiaries agree the assets of at least two beneficiaries can be pooled or continue in the deceased structure while paying out all other beneficiaries that require, for whatever reason, their inheritance.

Gifts made before your death give that beneficiary rights in the courts post death so prior to giving your children a gift of money or an asset you should seek professional advice.

There are ways and means of helping teach beneficiaries how to handle assets and funds. In doing so you give yourselves an enormous insight as to the motivation of the child and their willingness to learn how to manage both your and their possible assets and disburse or retain income.

This could be particularly useful to know as you get older and need assistance from a child in managing your assets for yourself and the family or making the decision as to who should be the executor of your estate. So often we see substantial inheritances dissipated or wasted because the recipient is financially naive.

Mr Sandy Todd, Barrister was asked to read this article and came back with the following:

"As you point out, no one situation can be adequately covered, save in the most general sense.

Personally, my Practical Primer of Sandy's Intergenerational Financial Rules from past client experience comprise:

1. No parent should ever financially guarantee a child, no exceptions, the parents are generally left in the dark with the risk of both losing a home/security and their relationship with that child being destroyed! It happens to widows far too often!!

2. If you must fund an equity of 15% towards a home purchase, not an investment, with the child to find the balance 5%+disbursements, so as to instil prudent financial risk management practices with their own money. Additional short term assistance is sometimes warranted by circumstances beyond control but that should be recorded as an advance on inheritance so not to disadvantage other sibling or cause arguments later. Thus, characterise all advances to a child in writing as either a gift, loan, including terms such as period and interest, or conditional advance and ensure all children know the basis of each advance.

3. Building works and renovations are bottomless pits of money, full of angst and frustration to be avoided absolutely as the parent has no real control. Parental alienation may follow!!

4. Children need to learn the value of money, not simply as a expense vehicle, but by understanding its dual purpose as a medium of exchange and as an income generating investment.

5. No child should ever be permitted to use a Credit Card as a personal loan; if they do you have failed. Disabuse that child of the practice immediately, the banks are rich enough!

6. Children mature at different ages, and some do not at all, so choose wisely where you place your financial trust. Trusts do have a purpose!

7. Private school fees are an investment in the grandchild, but consider it a long term project which you're then obliged to see through until the end.

8. Children do not respect regular substantial unearned funds and, wrongfully, come to expect more of the same. That is not good for you or them.

9. Accept the certainty that Death duties and gift duty will return, and Australia, as the only OECD country without them, lives on borrowed time; be prepared to act very quickly indeed!

10. It is easier for your accountant, solicitor and barrister to advise you before the event, as they are objective experts and financial opportunity, laws and taxes do change over time."

The pros and cons of "The Cloud"

The big question in many people's minds is do I or do I not use the cloud for my accounting and other computer based records. It is definitely trendy to move a large number of records to the cloud and many accountants have moved their total accounting and data platforms to that medium. They have also forced many of their clients to change to their accounting software to allow users (clients and accountants) access to the same data at all times.

The Cloud provides versatility for access by client, accountant and other users from multiple locations. It is perceived to be easy for users and risk free but is that in fact the case? It is definitely easy to use and provides more flexibility than "password remote log in access" to a specific server in another location (such as your accountant) however;

1. is it as secure?;
2. who can get access to your records?;
3. can you get a backup at all times of your cloud data?;
4. who owns or manages your records?; and
5. how long are your records maintained and do you have undertakings in that regard from the Cloud provider?

Many people have been introduced to the cloud and think it is brilliant and the installation has been a great success however there are those users who have had some bad experiences. It is therefore imperative that you do your homework on who assists in your installation and which cloud you use.

To be very over simplistic the cloud is just a computer somewhere that you access at your discretion. How well it is backed up and the financial stability of the owner of the resource is something you need to investigate. Clients found the ability to access and input their own records an enormous benefit and in most cases eliminated the need to use bookkeepers either in house or off site to process raw material. This was and is still available in multi user remote access technology.

The absolute benefit of multi user remote access systems is that it gives the owner absolute control of their records and they make the decision as to:

- who has access (including your accountant); and
- how long your records are maintained.

In both systems the clients were trained or obtained training to use the accounting systems and found that their information was always available to them 24 hours a day and has made a dramatic improvement in their understanding of the accounting process and consequently their financial skills have dramatically improved.

The process of posting raw material (cheques and deposits and generating invoices from the same system) has given users an intimate knowledge of where they were financially and users can see and understand the financial consequences and efficiently make decisions. *This veil of mystique surrounding bookkeeping and profitability all of a sudden has started to be broken down and business operators are becoming aware they can make real time decisions based on up to date information which they can process.*

There are big questions surrounding the security of the Cloud and multi user remote access systems. The answers to the questions are important. Does the supplier of your services and / or your accountant give you any undertakings in this regard particularly as to data retention and security?

Remember it is your (and not your accountants or bookkeepers) responsibility at the end of the day to maintain your records under the Corporations Law and the Income Tax Assessment Act.

Superannuation – the last roll of the dice is about to occur for Transition to Retirement payments.

We are not licenced advisers and the comments on superannuation are made as general statements as part of your consideration of your investment, tax and wealth creation strategies. For factual advice you will need to speak to a licenced financial adviser.

Prior to the Treasurers announcement on 15 September 2016.

Once you reach the age of 55 and following specific rules (depending when you are born) you could elect to enter into a pension mode and receive an annual payment of between 4 and 10 percent of your total members balance at a specific date.

There are changes in the wind to the announcements made in the May 2016 budget but several things seem certain:

- The changes whatever they are will occur on 1 July 2017; and
- The payments made under the Transition to Retirement rules will cease on that date irrespective as to when the payments commenced.

This means that if you are eligible to get a transition to retirement payment or are receiving one then you have only to 30 June 2017 to get funds out of your Superannuation Fund and have those funds available to fund your personal day to day living. From 1 July 2017 pensions can only be paid to members, who retire, or once they reach the age of 65, or if they satisfy some other conditions that are current legislation and have not changed. From 1 July 2017 all members' funds will be locked in until you reach 65 or when you retire.

The allure that earnings in superannuation are tax free is being lost and from 1 July 2017 only the earnings on the nominated $1,600,000 will be tax free and the balance will be taxed at 15%. This rate of tax can be achieved or bettered outside superannuation on investment income.

In part the budget stated that the Government will:

- *Introduce a $1.6 million transfer balance cap on the total amount of accumulated superannuation an individual can transfer into the retirement phase. This cap will take effect on 1 July 2017. Where an individual accumulates amounts over $1.6 million, they will be have to maintain any excess amount in an accumulation phase account which will become taxable and where earnings will be taxed at 15%;*

- *will remove the tax exemption on earnings of assets supporting Transition to Retirement Income Streams (TRIS) from 1 July 2017. Currently, earnings on superannuation balances that support a TRIS pension are exempt from income tax of 15% applicable to investment earnings in the accumulation phase;*

As stated in our February 2016 Newsletter we strongly urge readers to approach your financial advisers and pose the following questions:

1. ***"If the government goes ahead with the current changes will this affect any payments I receive after 1 July 2017 on the basis that they have capped the tax free component to $1,600,000."***

2. ***"As I am in pension mode at the moment on my total fund and presuming that the current changes go through how much will my annual payment decrease by if the legislation changes and I can only get the pension on the amounts not nominated totalling $1,600,000."***

If the current legislation is passed then when you retire or reach 65 your pension will be paid out of the $1,600,000 and the balance can be withdrawn in part or in the whole as a lump sum.

Superannuation – 15th September 2016 announcement by the Treasurer
"Even Fairer, more flexible and sustainable superannuation"

The Government will amend the package announced to restrict superannuation being used as an estate planning vehicle.

The $500,000 life time non-concessional cap will be replaced by a reduction in the non-concessional contribution cap from $180,000 per year to $100,000 per year.

Individuals aged under 65 will continue to be able to bring forward three years' worth of non-concessional contributions. These are not tax deductible. Individuals with a superannuation balance of more than $1,600,000 will no longer be eligible to make non-concessional (after tax) contributions from 1 July 2017.

The measures mean that an individual will be able to make a maximum contribution of $125,000 per year. Of this the non-concessional contribution of $100,000 would be non-deductible and the contribution of $25,000 would be tax deductible.

Individuals under 65 will be able to "bring forward" their non-concessional contributions and can contribute $325,000 in one year of which only $25,000 will be tax deductible. This may be particularly attractive to individuals of 64 years of age who do not have $1,600,000 in superannuation.

To read the complete announcement of 15 September 2016 you should refer to http://sjm.ministers.treasury.gov.au/media-release/096-2016/

Where do I work?

The work place is changing and with the technology changes has come the ability for people to work at either their place of employment or from home as may be agreed with their employer from time to time.

Taking into account all the work place occupational health and safety issues what are your responsibilities:

- should an employee be injured in their home what are your responsibilities?
- if your employee is injured say in their lunch time break or at some other time in the work day when they undertake personal activities or exercise either while in their work time hours or within designated breaks such as morning tea or lunchtime?

As we understand it is the employer's responsibility to satisfy themselves that the employer has done all things reasonable to ensure that the home work place would be a safe and healthy environment to work. Just accepting that that is the case is not sufficient.

For existing staff it may if necessary get the employee to confirm in writing that the home office is safe and would stand up to a reasonable test and would pass an occupational health and safety issue inspection. We understand you have no right to demand an inspection but you must take reasonable steps to enquire.

For all new staff you should have contained within a contract if mutually agreed that the right to work at home is allowed and that the home environment is and will remain a safe and healthy environment. This should preferably be drafted by an employment expert so that the employer is covered should a claim arise.

Main residence CGT exemptions

The Income tax Assessment Act requires the cost all capital assets owned by a taxpayer to be recorded in a register. These registers are usually referred to as property registers and should show:

1. the cost of the asset;
2. the stamp duty (if applicable);
3. legal costs to buy and sell;
4. agents and advertising costs;
5. renovation costs;
6. pre-sale improvements costs; and
7. other improvement costs or funds spend on the improvement to the value of the asset.

Most accountants and taxpayers ignore this when it comes to the domestic residence because "it's our home and its CGT exempt". Surprisingly in many cases within the ownership period things change and it only becomes exempt at the time of sale. Things change in many people's lives. People:

- Move overseas or interstate for periods of time;
- Add on granny flats;
- Rent part or all of the property for periods of time; and
- Use the house as a home office for part or all of the time the property is owned.

And this will or may bring part or all of the property out of the exemption exclusion.

Without good records this is very difficult to assess the tax consequences or to calculate what tax may be payable. There are exemptions where a taxpayer is not in the domestic residence for a period not exceeding 6 years. The taxpayer must be able to demonstrate that the residence was lived in both before and within the 6 year exemption.

There can be repeated periods of non-residence however within each 6 year period occupancy must occur for the exemption to be available. The election to have an exempt domestic residence gain only occurs in the year of sale and not at the time of purchase. Section 177C(2) of the Act particularly deals with the intention of taxpayers at the time of acquisition.

If at the acquisition date the intention was to acquire a property with the intention of renting it out but was initially lived in or given the appearance of being lived in for a short period after settlement (or between any 6 year period in which the residence is owned) then this would be dealt with under section 177C(2) and be deemed an anti-avoidance under Part 1VA and be subject to severe fines and penalties. Apparently many have tried and a good number have failed because they believe they will never be audited by the Australian Taxation Office.

If you were to vacate your domestic residence for a period of less than 6 years then in that period you cannot claim to have another domestic residence either in your or your partner's name.

Your airport lounge fee is now deductible

With certain exceptions airport lounge fees paid primarily for business is now tax deductible and not subject to FBT. The exceptions mainly cover earnings which are exempt non assessable income. If there is a private content then they are still fully deductible.

PAYG and your tax rates change 1 October 2016

An individual's marginal tax rate of 37% now starts when their income exceeds $87,000. To 30 June 2016 the threshold was $80,000. The new threshold will apply from 1 July 2016 however the tax tables used in PAYG payments only come in to effect from 1 October 2016.

Previously the rates of tax for the year ended 30 June 2017 were as follows:

Taxable Income $	Tax on Taxable Income $	Percentage on Excess of Taxable Income in Column 2 %
19,400	Nil	19
37,000	3,334	33
80,000	17,534	37
180,000	54,534	45

To the amounts calculated above a 2% Medicare levy needs to be applied and of those taxpayers earning in excess of $180,000 a further 2% budget repair levy applies to all taxable income over $180,000.

Exemptions to the Medicare levy apply to taxpayers below a particular threshold. Further levies are applicable to taxpayers who do not have private patient hospital insurance.

These rates have be amended for the year ended 30 June 2017

Taxable Income $	Tax on Taxable Income $	Percentage on Excess of Taxable Income in Column 2 %
19,400	Nil	19
37,000	3,334	33
87,000	19,844	37
180,000	54,254	45

To the amounts calculated above a 2% Medicare levy needs to be applied and of those taxpayers earning in excess of $180,000 a further 2% budget repair levy applies to all taxable income over $180,000.

Exemptions to the Medicare levy apply to taxpayers below a particular threshold. Further levies are applicable to taxpayers who do not have private patient hospital insurance.

