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Staff at Paragon BDS wish you and your families a safe and prosperous New Year. We look forward to working with you throughout 2012.

Estate Planning

It is often said that we cannot know what is around the corner, and with this in mind I want to talk briefly about estate planning. When we think of estate planning we think first of making a will and many of us have a will already in place. Estate planning is so much more than 'simply' making a will and should be a consideration in our normal business planning.

When deciding on the structure of a business or ownership of a large (maybe commercial) asset or the setting up of your own self managed super fund it is important to consider the effect on your business if something happens to you. Sole director companies, single appointor trusts, non corporate super fund trustees are all seriously affected by the passing of a significant individual.

When we consider the purchase of land do we consider how we will pass that land to the next generation? Not usually. When the time comes to retire or pass the assets down the line, we often wish that some planning had occurred at the time of purchase. Here is a quick example:

Mr A has a manufacturing business run by his company and in the early days of his business he purchased a warehouse to operate the business out of. It is prudent not to buy this kind of asset in the name of a company for capital gains tax purposes so Mr A bought it in his own name and carried on working the business through his company. Twenty years later the child of Mr A wishes to take over the business and Mr A wants his child to take possession of the warehouse either at a reduced price, as a gift or early inheritance. As the building is in the name of Mr A there is no option but to sell it at market price to the child. Whether or not money exchanges hands is irrelevant. For tax purposes the sale occurs and capital gains tax and possibly stamp duty is payable. During the last 20 years the ware-

house has increased in value by \$400k and so there is a potential \$32k in capital gains tax to be paid by Mr A. This is regardless of the amount of money paid to him by his child.

If at the purchase date 20 years earlier Mr A had set up a family trust (at a cost of around \$1,100) then when he was ready he could pass the trust to his child by resigning as trustee and appointor of the trust and appoint the child as the new trustee and appointor. The child would have full control over the trust and the trust has ownership of the asset. No capital gains tax is payable, no stamp duty is payable and the child has full control over the warehouse and can benefit from any earnings relating to the warehouse or any eventual sale proceeds.

Having this kind of structure would not have restricted Mr A at any time along the way and he could have sold the asset if he so desired. This would have given Mr A significantly better options when he wanted to pass it on.

Karen Gambles CPA
Director

SMSF & Limited Recourse Borrowings

Since 24 September 2007 SMSF's have had restricted access to the ability to borrow funds to purchase investments for the benefit of the members' retirement. The structure of such borrowings restricts a lender's access to the asset in question and the other assets of the fund.

The rules that applied prior to 7 July 2010 raised questions as to what the loan funds could actually be used for. S67(4A) of the SIS Act has been repealed and replaced by s67A and s67B. These changes did not eliminate all the questions prior, and on 14 September 2011 the ATO issued SMSR 2011/D1 to explain some key concepts linked to limited recourse borrowings. Being:

- What type of assets can you purchase with these loan funds?
- Can you use the loan funds to maintain or repair a fund asset?
- Can you use the loan funds to improve an asset?
- Can you use the loan funds to change the nature of an existing asset?

All of these are key questions that need to be considered in conjunction with your professional advisors when considering limited recourse borrowings in your self managed superannuation fund. From a taxation perspective, there are opportunities, but you need to plan carefully and strategically.

Angela Bissett CPA

Superannuation for your employees - What you need to pay

Superannuation is an important part of people's retirement income. Paying the correct amount of super for your employees and paying it on time is required by law.

Generally your employees are eligible for super if the following apply:

- They are between 18 and 69, gross \$450 or more in a calendar month and they work on a full time, part time or casual basis.
- They are under 18 and are employed full time and gross more than \$450 per month.

The current rate payable for super is 9% of ordinary time earnings. This rate applies till 1/7/2013 when the rate increases gradually till 1/7/2019 where it settles at 12%.

Ordinary time earnings includes your earnings for your ordinary weekly hours, shift loadings, unconditional allowances, annual leave payments, performance based bonuses and Christmas bonuses but does not include overtime payments, expenditure reimbursements, parental leave or ancillary leave (eg jury duty).

The deadline for paying superannuation is 28 days after the end of each quarter, ie 28 January, 28 April, 28 July and 28 October. If you are late making the payment or do not pay enough you need to lodge a superannuation guarantee charge statement with the Tax Office which includes the late or additional super payment, penalties and interest.

You may need to pay superannuation for contractors where they are paid wholly for their labour. This is because they are considered employees for the purposes of superannuation guarantee, even if they have an ABN.

Maryanne Richey CPA

Capital Gains Tax

If you live on a 5 acre block with a house, is this land really 2 hectares or more? One converter shows 2 hectares as 4.94 acres.

The ATO are re visiting the Capital Gains tax arena. We all

understand that your principal place of residence is exempt from Capital Gains Tax (unless you are claiming a portion of that home as a business or income earning asset).

But do you know that if you have your home on more than 2 hectares of land, the excess may be subject to capital gains tax. We have seen this query arise from the ATO on a principal place of residence with 3.3 hectares (8.15 acres) of land.

In theory if you sell your home and land, you will need to apportion the 2 hectares of land to the house and claim exemption. The balance of the land will need to be valued to give a cost base which will be used in the calculation of any capital gain. You then will need to include this calculation in your income tax return for the year in question, where the normal capital gains 50% exemption and shared ownership are used to arrive at your taxable value and added to other income you have earned for the year.

Annette Powell FIPA

Source: Taxation Institute—November 2011

Dates to remember



21st January 2012

- ATO due date for lodgment of monthly BAS/IAS for December 2011

28th January 2012

- Superannuation guarantee contributions due for quarter 2

1st February 2012

- Client seminar at Tall Timbers, Smithton

21st February 2012

- ATO due date for lodgment of monthly BAS/IAS for January 2012

28th February 2012

- ATO due date for lodgment & payment of December quarter BAS

- ATO lodgment due date for first year superannuation funds