

DIVORCE – what it means to you (& your business)

Breaking up is hard to do. Beyond the emotional and financial turmoil divorce creates, there are a number of issues that need to be resolved.

What happens when there is a family company?

A recent ruling from the Australian Taxation Office (ATO) will create a tax burden for many divorcing couples that have assets tied up in a company. Previously, when a company transferred assets or cash to one of the former spouses under a Family Court order, many people took the view that the transfer was not treated as a dividend and did not trigger tax. However, in a ruling released on 30 July this year, the ATO confirms that any settlements paid out by a corporate entity are treated as income and taxed at the relevant spouse's marginal tax rate.

If you are receiving assets from a corporate entity as part of a property settlement, it's essential that you understand the tax implications prior to settlement or a sizeable chunk of the settlement could go to the ATO.

For business owners, outside of the tax and financial issues, it's important to not lose focus on what's important to keep the business running efficiently.

What happens to your superannuation in a divorce?

A spouse's interest in superannuation is a marital asset and can be split as part of the breakdown agreement. It's important to be aware however that superannuation cannot be paid directly to a spouse unless the spouse is eligible to receive superannuation (they have met a condition of release) but it can be rolled over into the spouse's fund until they are eligible to receive it. Laws exist to prevent taxes such as Capital Gains Tax being triggered when superannuation assets are transferred. This is particularly important where your superannuation fund holds property.

A Court order or Superannuation Agreement is required to give effect to the agreed split in the SMSF assets or to execute a rollover eligible for the CGT rollover concession.

If you have a SMSF and both spouses are members, it's important to get advice to make sure that all of the appropriate administrative issues are taken care of. Where a divorce is not amicable, it's important to keep in mind that the SMSF trustee is required under law to act in the best interests of the fund and its beneficiaries. Anything less and the fund members may seek compensation for loss or damage.

Can you protect both parties from divorce?

In a divorce, assets are split based on a multitude of factors such as earning capacity, maintenance of children, and the assets held pre marriage. Many couples don't go through their marriage with an equal view of how assets and income should be attributed until something goes wrong. If there is a disparity between the income levels of each spouse, there are a lot of benefits to the household in general of evening out how income flows through to the family. If your partner earns less than you, there is a very real financial benefit to topping up their super as superannuation has preferential tax rates. The same goes for taxable income. If you can even out income coming into the household, it spreads the tax burden. Good planning can make a difference

Quote of the month

“The punters know that the horse named Morality rarely gets past the post, whereas the nag named Self-interest always runs a good race.” *Former Prime Minister Gough Whitlam 1989*

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. To discuss contact shukri@propertytaxspecialists.com.au

Refinancing – alliances with brokers

With interest rates at below 5% for fixed term loans, refinancing may result in a savings for some clients. Financing new projects with these lower rates may make some projects feasible. With the continuing low rates of interest many are now enquiring about **fixed** rates.

So to help clients analyse their situation and determine whether there is a benefit for them, we have created alliances with brokers who are able to deliver these low fixed rates. Call us on 02 9411 8133 for details.

Financial Planning with your Tax Planning

Tax planning should ideally form part of your overall financial planning, as it may well have an impact on your overall financial situation.

As we are not licenced to give investment advice, we have created alliances with licenced Financial Planners and Advisers as an additional service to clients. To get an overall perspective of a client financial situation, we have persuaded them on arrangements to attend a tax advice meeting with us and you .. when requested, or arrange for them to meet you directly at no cost to you. Call the office on 02 9411 8133 for more details.

Checklists and Templates

To make the compilation & reporting task for 2014 tax returns easier, clients of **Property Tax Specialists** receive 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.

Two heads are better than 1? Discuss your plans? Call to chat ...

Contact us if you would like to

- review & discuss your current property & tax situation ... maybe the next deal or
- whether or not to sell a property, which one in the portfolio should be sold
- your asset protection strategy. What is your risk profile? High ..medium ..low

- structuring your next investment property. In whose name should it be?
- planning to legally minimise your tax position or just to explore the possibilities
- Subdividing a block or your Main Residence ... Capital Gain or Main Residence
- **Capital Gains** on selling - a previously Main Residence .. estimate tax
- Is your Self Managed Super Fund ready to acquire a property
 1. with limited recourse loans
 2. from lending institutions or yourself
- prepare your next tax return or application to reduce your PAYG

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

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Shukri Barbara CPA CTA

Winner –Readers Choice Awards Your Investment Property Magazine

2014- Property Tax Specialist of the Year

2012- **Property Tax Specialist of the Year**

2011- **Property Tax Specialist of the Year**

Tax Columnist – *Smart Property Investment Magazine*

Tax Contributor – Your Investment Property Magazine



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