

October 2011

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Hot Topics

Property and SMSFs: Loosening the Rules



If your Self Managed Superannuation Fund (SMSF) has borrowed money (or thinking of borrowing money) to acquire 'bricks and mortar' property then there are a few things you need to know.

See below for full article.

What's the Difference Between Price and Value?



You are looking to buy a small business. You see something you are interested in: right industry, right location but is it the right price? In today's market everyone is looking for a bargain. The difficulty in assessing the price of a small business is that there may not be a lot of ready comparisons available in the market.

See below for full article.

Succession Planning



An ever increasing group of baby boomers heading for retirement are putting pressure on businesses to develop their succession plans. We're now seeing privately owned businesses, where over the next five to ten years, there is going to be this massive change in ownership. But the owners of most small-to-medium businesses are so consumed by the day-to-day running of their business, that they don't make time to step back and assess their business environment and whether there will be someone to takeover their business when it comes time to retire.

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Remember to Claim Your Donations



Over the last financial year Australia faced a series of natural disasters affecting communities across the country. With Tax Time 2011 here, you can now claim these donations as a deduction in your tax return - in some cases even without a receipt.

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Introducing Our Estate & Succession Planning Facilitation Service



Marsh Tincknell and Virtu Super have established an Estate & Succession Planning division. Laura McAdam, who has many years' experience in the estate planning facilitation and self managed superannuation arenas, is on board to assist our clients with their succession planning needs.

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Important Dates To Remember

21 November

October 2011 Monthly Activity Statement – lodge and pay.

25 November

Quarter 1, 20011 -12 Quarterly Activity Statement – lodge and pay (Tax Agents and BAS Agents).

21 December

November 2011 Monthly Activity Statement - lodge and pay.

What's Happening at Marsh Tincknell

Team Member of the Month - Nada Jonjic



September's Team Member of the Month is Nada Jonjic, as voted by the Team and Directors at Marsh Tincknell. Well done Nada!

Nada began work as an Administration Assistant at the Police Headquarters in Herzegovina. In 1997, Nada and her family moved to Australia. Prior to joining Marsh Tincknell in 2005, Nada gained experience as a Tax Return Consultant as well as a Bilingual Community Assistant.

In her spare time, Nada enjoys following fashion and beauty as well as spending time with family and friends.

New Team Member - Amanda Brookes



Amanda Brookes joined the Marsh Tincknell Team this month as the Firm's Development Co-Ordinator.

Amanda holds a Bachelor of Commerce with a background in Recruitment both in Australia and Overseas. More recently Amanda has worked in the fitness industry managing and motivating people to achieve their best.

In her spare time Amanda enjoys being with her family, travelling and keeping fit with running and Pilates. Welcome to the team Amanda!

September Casual Dress Day - World Vision's East Africa Emergency Appeal



Countries in East Africa have again been struck by severe drought, affecting the lives of 13 million people. Combined with massively inflated food prices, people's access to food and water is in jeopardy. World Vision have set up an Emergency Appeal to assist those in need.

It is this charity, nominated by Viola Pullen that Marsh Tincknell raised funds for during the September Casual Dress Day.

*"Never look down on anybody unless you're helping him up."
- Jesse Jackson*

Hot Topics - continued

Property and SMSFs: Loosening the Rules

If your Self Managed Superannuation Fund (SMSF) has borrowed money (or thinking of borrowing money)

to acquire 'bricks and mortar' property then there are a few things you need to know.

A new ATO ruling released last month helps to clarify what you can and can't do with property that is under a limited recourse borrowing arrangement (LRBA).

The ruling addresses three key areas:

- Under the borrowing rules in the Superannuation Industry and Supervision (SIS) Act, the borrowing must be used to acquire a "single acquirable asset." The ruling seeks to define what constitutes a single asset.
- The borrowing rules allow an asset that is held under a borrowing arrangement to be improved, however, the trustees cannot use borrowed funds to make the improvements. There is a fine line between what is a repair or improvement and the ruling attempts to clarify how the ATO assess the difference between these terms.
- Also, if you do improve the property, any improvement must not result in the asset becoming a different asset. The ruling looks at the factors the ATO considers, and what your SMSF auditor needs to consider, when they assess whether a property has been changed to such an extent that it is no longer the same asset.

If a fund falls outside of these rules, the fund must sell the asset. Imagine having to sell a property your fund recently acquired, leaving your fund with the stamp duty, legal and agent's fees (or perhaps making a loss because the market conditions were not as good as they were when you purchased the property).

Is the property a single asset?

Assuming the fund is able to purchase the asset, the borrowing rules require that the money is used to acquire a single asset. For example, if the fund purchased a block of units, is the block considered to be one asset or are each of the units inside the block individual assets?

In the ruling the ATO concedes that *"it may be possible ... that the trustee is acquiring a single object of property notwithstanding that it is comprised of two or more proprietary rights. However, this will only be so where ... the separate proprietary rights is distinctly identifiable as a single asset."* The bottom line is that if the rights can be dealt with separately, then they are not a single asset regardless of how the trustee wants to treat them.

Common examples include:

- Where the fund acquires a property and the car park is held on a separate title but laws do not allow separation of ownership then there is a single acquirable asset.
- Where a warehouse is constructed on multiple titles, then there may be a single acquirable asset.

Maintenance, repair or improvement?

There has been confusion in this area as 'maintaining' 'repairing' and 'improving' are common terms and not defined in the legislation. In the ruling, the ATO states:

- Maintaining generally means work done (or in anticipation) to prevent defects, damage or deterioration of an asset provided that it merely ensures the functional efficiency of the asset is maintained in its present state.

- Repairing generally means remedying or making good defects in, damage to, or deterioration of, an asset and contemplates the continued existence of the asset. The ATO goes on to state that “an asset may be acquired in a state in which a part of the asset is defective, damaged or suffering some deterioration of what would be considered to be its normal level of functional efficiency. Restoration of that part of the asset to its functional efficiency would be a repair for LRBA purposes.”

The ruling seems to suggest that the repair needs to bring the item back to its original condition but not go beyond that. The cost of the repair in the context of the overall asset is also likely to be a factor in the ATO's assessment of whether or not what has occurred is repair, maintenance or an improvement.

Defining improvement remains a grey area as it is a matter of interpretation whether something is merely repaired or maintained or has been improved.

Can you improve a property?

Trustees can use money provisioned under a borrowing arrangement to maintain or repair the property but not improve it. If the trustees use money from other sources outside of the borrowing, they can improve the property as long as the improvements do not turn it into a different asset. For example, if the fund borrows money to acquire a vacant block of land and then builds a block of units on it, the asset would be fundamentally changed and considered to be a different asset.

If the fund does not have to borrow money to acquire the property, then the property can be improved as long as the investment decisions are in line with the fund's investment strategy (don't forget to minute key decisions) and all other SIS requirements are met – note there are some traps when using related parties to carry out the improvements.

Property and natural disasters

Trustees can now take some comfort in knowing that they can rebuild an asset that has been destroyed by flood or fire and not breach the borrowing rule. Using an insurance pay-out in these cases to rebuild what is essentially the same asset that existed prior to the event seems to be allowed.

Get advice!

Despite the clarifications offered by the ruling, the borrowing rules remain complex and rely on subjective decision making. Trustees should ensure that they seek advice before purchasing, renovating or changing any property held by their fund.

What's the Difference Between Price and Value?

You are looking to buy a small business. You see something you are interested in: right industry, right location but is it the right price? In today's market everyone is looking for a bargain. The difficulty in assessing the price of a small business is that there may not be a lot of ready comparisons available in the market. If you are looking to buy a business where there is a large and active market - like a newsagency, pharmacy or coffee lounge - then comparisons will be available. And, there are industry models that typically set the pricing for these types of business. However, if you are looking at a more unique business where there is not a lot of public information, the going can get tougher.

If you need an opinion on price, be careful and make sure you get the information you are really after.

When you value a small business it is not unusual for the valuation to come in under the asking price. A normal reaction to this is that the business must be overpriced. While this is sometimes true it is not automatically the case. In a perfect market, price and value are the same thing - but we don't operate in a perfect market. As a result, this causes price to trade at either a premium or a discount to value. Over the past decade in Australia, price has traded at a premium of up to 30% on value for good quality businesses. To test the price of a business, you need to understand both its value and also any information on the price that businesses of the type you are looking at have traded for in the market.

When you ask for a valuation of a prospective business, the real question you might be seeking an answer to is should I buy this business? This is a very different question to one about valuation. Should I buy this business is about a range of both financial and non-financial indicators. It is as much about whether the business suits your lifestyle expectations and core capabilities as it is about the financial performance. If the business is a growth business and needs lots of marketing push, then it will not suit you unless you like the marketing aspect and have the time to dedicate to it. To assess all of this you need to understand the business and the business model in operation. You then need to compare the model to your expectations and also your business strengths. None of us are good at everything. You need a business that matches your strengths.

You don't want to pay too much for the business but equally you don't want to miss out on the right business because the asking price is a bit more than you expected or what someone has told you it's worth. Whether or not you are prepared to pay a premium to value will depend on how much you want the business and what growth you can see in it. Good quality businesses with good growth prospects will almost always command a premium as there are always buyers for these types of businesses. Understanding the true value of a business, is understanding what it is worth now and also what value you can add to it. Once you know both these numbers you should be ready to negotiate on price.

Succession Planning

An ever increasing group of baby boomers heading for retirement are putting pressure on businesses to develop their succession plans. We're now seeing privately owned businesses, where over the next five to ten years, there is going to be this massive change in ownership. But the owners of most small-to-medium businesses are so consumed by the day-to-day running of their business, that they don't make time to step back and assess their business environment and whether there will be someone to takeover their business when it comes time to retire.

This could be creating missed opportunities. To get the optimal result you need time and you need some planning. In an ideal situation, succession planning would begin with a review of the business to identify its strengths, weaknesses and value. Then a timeline would be devised for sale or merger.

It's never too early to start succession planning but, a window of at least three to five years is good. That allows you to sculpt the business to have it in its best presentation at the time when the succession event is going to take place.

Andrew Brushfield, director of recruitment firm Robert Half, has estimated that up to 75% of businesses

don't have significant succession plans in place.

Please contact our office should you want to discuss succession planning for your business.

Remember to Claim Your Donations

Over the last financial year Australia faced a series of natural disasters affecting communities across the country. With Tax Time 2011 here, you can now claim these donations as a deduction in your tax return - in some cases even without a receipt.

Do you need to keep a receipt?

While the Australian Taxation Office (ATO) generally requires written receipts as evidence of your donations, this year any donations up to \$10 that were made to 'bucket collections' for recent natural disasters are exempt from the usual requirements.

This covers donations to approved organisations for:

- The floods in Queensland, New South Wales and Victoria
- The bushfires in Western Australia
- The Cyclone Yasi in Queensland
- The earthquakes in Christchurch and north-eastern Japan.

For those people who donated more than \$10, or who made donations to other charities, you will still need to have written evidence and keep it for five years. The ATO will accept a range of records, including:

- Receipts, including web receipts or credit card or bank statements
- Your payment summary if you made donations to eligible organisations through your pay, or
- A signed letter from the eligible organisation confirming the amount of your donation.

Remember, in order to claim a tax deduction, the organisation you donated to must be registered as a 'deductible gift recipient'. Most major charities are registered as 'deductible gift recipients' but if you are unsure whether an organisation is registered, you can check by visiting the ABN website at www.abn.business.gov.au and selecting 'Deductible Gift Recipients'.

Introducing Our Estate & Succession Planning Facilitation Service

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Why is Estate and Succession Planning so important?

- Because the most important asset you have is you and your family, and estate planning ensures that the right people end up with the right assets when they need it most
- And if you have spent a lifetime building a successful business, then you want to ensure that

control remains in the right hands if something happens to you

Why Virtu's Facilitation Service?

- If you don't have the basics in place like an up to date Will and Enduring Power of Attorney, we can arrange this for you simply, quickly and cost effectively to give you and your family peace of mind
- Because we have a process which helps you identify and clarify what's important, which makes it easier to put your estate plan or your business succession plan in place

How does the Virtu Facilitation Service Work?

- Virtu offers an obligation free initial meeting at no charge, which provides a detailed overview of the service and a discussion of your needs and objectives;
- Once we have clarified what needs to be done, we will advise you of the fixed cost before you commit to proceeding (including fixed legal expenses);
- We use one of Australia's leading legal firms to prepare the relevant documentation;
- At the end of the process you will receive your own Virtu Succession Manager Manual, which conveniently stores and tracks all of the important information relating to your estate and business succession plans. In the event that something happens to you, the Virtu Succession Manager will provide those who need to make decisions on your behalf with all relevant information and documents, including instructions you wish to leave to the guardians of your children, or those in charge of your personal and/or business affairs.

For more Information, please Contact Laura:

Ph: 07 3422 8000

Email: lauram@mtaccountants.com.au

Marsh Tincknell Chartered Accountants

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