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TAX MATTERS

For Medical & Dental Practioners

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SERVICE ENTITY ARRANGEMENTS – ARE THEY STILL ACCEPTED BY THE ATO?

Some medical and dental practitioners have a 'service entity' as part of their business structure. A service entity arrangement is an option for those practitioners who have their own rooms. The service entity (usually a trust or company) employs the non-medical/dental staff, owns or leases the equipment, rents the rooms and incurs the other costs in running the practice. The service entity charges a fee to the practitioner for the services provided. The fee charged is a tax deduction to the practitioner.

The primary reason for having a service entity is asset protection. The risks associated with the activities of the service entity are isolated from the practitioner.

As the service entity is conducting a business, it is entitled to make a profit. Therefore, the fee charged to the practitioner will usually be in excess of the costs incurred. The profit derived can be distributed to the family members of the practitioner. Therefore, the service entity arrangement can provide tax benefits to the practitioner.

The ATO's published view in respect of service entity arrangements has not changed since it issued guidelines: 'Your Service Entity Arrangements' in April 2006. Provided the guidelines are followed, the ATO will generally accept practitioner service entity arrangements.

We are an accounting firm specialising in providing accounting, taxation and advisory services to medical and dental professionals. As a result of our many years of experience, we have a comprehensive understanding of the needs, issues and concerns that are unique to medical and dental professionals.

Please refer to our website for further details.

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BUSINESS STRUCTURES FOR MEDICAL AND DENTAL PRACTITIONERS

There are a range of possible business structures available to operate a practice. The appropriate structure will very much depend on the circumstances of the practitioner. Different structures have their advantages and disadvantages.

It is important to have the appropriate structure in place from the outset to avoid any potential adverse outcomes.

The possible structures include:

Sole Trader

Partnership

Company

Unit Trust

Discretionary Trust

The appropriate structure for the practitioner may be one of the above or a combination of two or more of the above. A service entity, for example, may be incorporated into the structure.

There are many factors that need to be taken into account in determining the appropriate structure, including the following:

- the short and long term goals of the practitioner;
- will the practitioner be working from a medical centre or dental practice on an independent contracting basis?
- is the practitioner a medical specialist with their own rooms and staff?
- does the practitioner want to establish a medical centre type arrangement?
- are there two or more practitioners going into business together?
- the assets and investments currently owned by the practitioner;
- details of the practitioner's family members and related entities;
- the income levels of family members;
- the personal risk exposure of the practitioner;
- the complexity of the structure;
- whether the structure needs to be flexible enough to enable the easy entry or exit of other practitioner owners;
- the tax consequences of the structure; and
- the ongoing costs of maintaining the structure.

From time to time the business structure should be reviewed to ensure it is still appropriate.

INCOME PROTECTION INSURANCE - DO YOU NEED IT?

You have worked and studied hard for many years to get to your current position. Have you ever considered how you would cope financially if, due to illness or injury, you were unable to work for an extended period of time? Would you have enough savings to meet your living costs and other financial commitments during this period? Perhaps you are able to be supported by your partner or family during your period of incapacity.

Income protection insurance covers you for loss of income if you are unable to work as a result of injury or illness, whether it be temporary or permanent. Unlike other insurance policy claims, which are generally paid as a lump sum, income protection claims are paid as a monthly benefit. You need to select the policy that satisfies your own particular needs and circumstances. The variable components of an income protection policy are the waiting period (how long you have to wait before you can make a claim), the benefit period and the benefit levels available.

The premiums paid for income protection insurance are generally **tax deductible**. However, any claim benefits you receive from such a policy are income for tax purposes and must be included in your tax return.

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IS IT WORTH MAKING CONCESSIONAL SUPER CONTRIBUTIONS IF ALSO REQUIRED TO PAY DIVISION 293 TAX?

Taxable Income before super contribution	$320,000
Less: Concessional super contribution	30,000
Taxable Income after super contribution	**$290,000**
Superannuation Contribution	$30,000
Less: Tax paid on contribution @15%	$4,500
Net Funds Retained in Super Fund	$25,500
Cashflow Effect	
Cash Outflow	
Super Contribution	30,000
Add: Division 293 Tax (15%)	4,500
	34,500
Cash Inflow	
Tax Saving on superannuation contribution @47% (including 2% Medicare levy)	14,100
Net Cash Outflow	20,400
Net Additional Funds in Super Account	$25,500
Net Increase in Wealth	**$5,100**

Contributing to superannuation is still one of the best tax planning and wealth creation strategies. From a tax reduction perspective you are generally still better off, even if you are required to pay the additional 15% Division 293 tax.

Additional tax (called Division 293 tax) of 15% is payable on concessional super contributions where an individual's 'adjusted income' for the financial year exceeds $250,000.

The definition of 'adjusted income' includes taxable income, concessional superannuation contributions, reportable fringe benefits, financial investment losses, rental property losses, certain foreign income and tax-free government pensions and benefits. The example to the left demonstrates a net increase in an individual's wealth, even after paying Division 293 tax, through making concessional super contributions. The example is based on a marginal tax rate of 45% plus Medicare levy of 2%.

The example shows that the net after-tax cash flow of making a $30,000 contribution is $20,400. Yet the net funds in the individual's super fund account, after the super contribution, is $25,500, resulting in an increase to the individuals wealth of $5,100.

THE CGT CONSEQUENCES OF RENTING OUT YOUR FAMILY HOME AND BUYING A NEW FAMILY HOME

The Capital Gains Tax (CGT) consequences will depend on the facts and circumstances. CGT is only a potential issue when the former family home is sold; changing the family home to a rental property does not cause a CGT event, as there is no disposal.

Below are three common scenarios:

Family home acquired pre-19 September 1985

- As the property was acquired before the capital gains tax legislation came into force, subject to the below any capital gain on the sale of the property is exempt from CGT.
- Any significant improvements or additions to the property made on or after 20 September 1985 may however be subject to CGT.

Family home occupied as a principal place of residence from date of acquisition

- For CGT purposes the cost base of the property will be **its market value at the date the property first commenced deriving rental income.**
- If the property is sold within 12 months of the property first being rented, the 50% CGT discount will not apply to the capital gain on sale of the property.

Family home from date of acquisition was first used as a rental property, and at a later date was occupied as a principal place of residence

- For CGT purposes the cost base of the property will be **what the property cost when acquired**, including the cost of any building improvements, additions and holding costs.
- If the property is sold, the capital gain will be calculated on a pro rata basis, based on the time period the property was rented vs the time period the property was a principal place of residence. CGT will only be applicable to the period the property was a rental property.
- The 50% CGT discount will also apply where the property has been held for more than 12 months.

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HAVE A HELP DEBT? BEST TO MAKE VOLUNTARY PAYMENTS BEFORE 1 JUNE

On 1 June each year, the ATO applies indexation to the unpaid amount of the debt. If you are considering making a voluntary payment, it would be best to make the payment before 1 June, to ensure indexation is applied to a lower unpaid balance.

The Bill containing amendments to the indexation of HELP loans received royal assent on 5 December 2024. The indexation rate is now capped at the lower of either CPI or the Wage Price Index (WPI). The change is backdated to take effect on HELP loans that existed on 1 June 2023. The new indexation rate for the two previous years are:

- 3.2% for 2023 year (reduced from 7.1%)
- 4% for 2024 year (reduced from 4.7%)

The backdating to 1 June 2023 will result in indexation credits being applied to reduce HELP loan balances.

The indexation percentage to apply on 1 June 2025 will be advised once the December CPI and WPI are released.

How long must you keep your tax records?

You need to keep your tax records for five years (in most cases) from the date you lodge your tax return.

There are some situations where certain records are required to be kept for longer than the general 5-year retention period, including:

- records connected to a tax return or document that's corrected or amended – you need to keep records long enough to cover the period of review for an assessment that uses information from the record. For income tax returns, the period for review is 2 years for individuals and 4 years for other entities.
- records of information used again in a future return – if you use information from a record in your tax return in one financial year and then use that same information again in a future return, you need to keep that record until the period of review for the later tax return has ended.
- records of depreciating assets – you generally need to keep the record for as long as you have the asset, and then another 5 years after you sell or dispose of the asset.
- records of capital gains tax assets (e.g. shares, property, goodwill) – you generally need to keep the record for as long as you have the asset, and then another 5 years after you sell or dispose of the asset.

Records are acceptable in either paper or electronic formats.

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