

2018 DECEMBER

# Quarterly Newsletter

## Green Taylor Partners



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### GTP Christmas Message

The team at Green Taylor Partners send a festive greeting to thank all of our clients for the opportunity to work with you.

Wishing you and your family peace, health, happiness and prosperity in the coming New Year.

Please note our office will be closed from 5pm Friday the 21st of December 2018 and will reopen at 8.30am on Monday the 7th of January 2019.

If you have an urgent matter you can still contact the office and leave a message as the answering machine will be monitored.



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## Working from home: What deductions can you claim?

**Kerry Schultz**

Over the past few years the ATO have been concerned about tax deductions individuals are claiming and the latest focus is on home office expenses. Last financial year, 6.7 million taxpayers claimed a record \$7.9 billion in deductions for 'other work-related expenses' which includes expenses for working from home. While the ATO is aware that technology is allowing more individuals to work from home, they don't believe that all of the claims being made are legitimate, so they are focusing on individuals who claim 100% of their expenses like mobile phone plans and internet services when they are mostly for personal use. If you claim 100% of your phone and internet and you are not running a business from home you can expect the ATO to look closely at your claims.

### Claiming Running Expenses

If you have a dedicated work area such as a study then the work-related portion of essentials to keep the work area running like electricity, gas and office equipment can be claimed. There are two methods that running expenses of your home office can be claimed:

1. At a fixed rate of 45 cents per hour - you will need to track either the actual amount of time you work from home or keep a log book over 4 weeks that can be applied to your expenses across the year.

or

2. Actual expense – to claim an actual expense you need to document the total expenses for lighting, heating and cooling for your home for the year, work out the floor area of the part of your home that you use for work as a percentage of the total floor area, and then work out the percentage of the year you used that part of your home exclusively for work.

**Claiming occupancy expenses** – expenses such as rent, interest on your home loan, property insurance, land taxes and rates can only be claimed if your home is your 'place of business' and no other work location has been provided to you. Generally, occupancy expenses are not a deduction available to employees. Occupancy expenses can be claimed by calculating your total expenses  $\times$  floor area  $\times$  percentage of year that part of your home was used exclusively for work. Be warned that if you claim these expenses then when you sell your home you may have CGT tax implications.

**Work related phone and internet expenses** – unless you run your business from home and you have a dedicated phone and internet line it's unlikely you can claim 100% of your phone and internet expenses. If you are a casual worker you cannot claim a deduction for phone rental expenses. For

the rest of us, you can claim up to \$50 for phone and internet expenses without substantiating the claim (but the ATO still might expect you to prove the claim), or you can work out your actual expenses. Claims for actual expenses can be made by working out the work-related use of the phone and internet and then applying that percentage to the expenses.

**Decline in value (Depreciation)** – for depreciable assets such as computers and printers, you might be able to claim decline in value if the cost of the item was over \$300. Decline in value deductions might also be available for office furniture used for work purposes in a home office, but not if the individual is using the fixed rate of 45 cents per hour to claim running expenses.



## Scam Alerts from the ATO

### October 2018 phone scam – imitating ATO switchboard numbers

Similar to previous alerts that the ATO have issued in September and March this year, they are seeing an increased number of reports of scammers contacting members of the public pretending to be from the ATO. They are claiming that there are outstanding tax debts and threatening people with arrest if the debt is not paid immediately.

There is an evolution of this tactic where the scammers are using technology to make it look like the calls originate from a legitimate ATO phone number. This number may appear on caller ID, be left on voice mail messages for call backs, or directed by \*69 for call back functionality. Scammers do this to make the calls seem more valid when they call people a second time. Most frequently the number appearing is 6216 1111, but other numbers have been used as well.

While these scam calls may appear to be from the ATO with a spoofed caller ID, it is important to remember that a legitimate caller from the ATO will never:

- ❖ threaten you with arrest
- ❖ demand immediate payment, particularly through unusual means such as bitcoin, pre-paid credit cards or gift cards
- ❖ refuse to allow you to speak with a trusted advisor or your regular tax agent
- ❖ or present a phone number on caller ID

Never call a scammer back on the number they provide. If in doubt, independently locate a contact number for the organisation referenced in the call or email.

If you are in any doubt about an ATO call hang up and phone the ATO on 1800 008 540 to check if the call was legitimate or report a scam.



## GTP fundraiser money

**Jodie Mills**

Have you ever wondered why the team at Green Taylor Partners wear relaxed dress on the first Friday of every month?

Each month our team enjoys participating in relaxed dress away from the everyday work attire. As part of this involvement a small donation is given by each team member which is then donated to a variety of local charities throughout the year.

We have also been involved for many years now with annual client events such as our annual Golf Day and Film Night. Each event has involved clients contributing in our raffle with goods provided by our clients and the Green Taylor team. Money raised from each raffle has then been donated to major charity organisations including local Wimmera charities.

We thank everyone for their generosity in the past and in the future.



## Electronic Service Address

**Kerry Schultz**

As part of Superannuation changes back in 2015 Super Stream was introduced to streamline sending of superannuation payments and associated information electronically from Employers to Superannuation Funds using an Electronic Service Address (ESA). And now with the introduction of Single Touch Payroll (STP) many employers are updating their information and requesting updated ESAs.

Every Self Managed Superannuation Fund (SMSF) that receives employer contributions requires an ESA, and all SMSF clients of Green Taylor Partners have an ESA of SMSFDATAFLOW.

SMSFDATAFLOW works with all bank accounts and can stay with your fund regardless of any change in circumstance. Importantly, SMSFDATAFLOW is also fully integrated with our software and will allow us to automatically match your contributions data with your cash transactions and improve the efficiency of the service we provide to you.

## Investing – what will happen with a change in Government?

Recently we hosted an investment seminar for clients which was presented by Jonathan (Jono) Bayes, Chief Investment Officer of Primestock Securities Ltd.

A portion of the presentation concentrated on the current status of and outlook for both the Australian and global economies and markets. However, there was also significant time spent on how a change in Federal Government would impact Australian retirement portfolios from 2019 and beyond.

In summary, Jono believes a change of Government would have enormous implications for how Australians should invest for retirement.

He believes retirement portfolios will be constructed differently in the future for several reasons:

- ❖ Dividends will be less valuable, due to the abolition of franking credit refunds for some taxpayers. This will result in a significant decrease in disposable income for many retirees;
- ❖ Housing will be less attractive as an asset class;
- ❖ Capital growth will be more highly valued despite the reduction in CGT discount;
- ❖ Investors will seek alternatives to Australian shares and hybrid securities. These alternatives may include international shares, small-cap shares, mortgage funds and alternative income sources.

### What should you do?

Now is the time to be speaking with your financial advisor to review how you might be affected and to review what options are available to you to ensure you're prepared for the increasing likelihood of change.

To book your appointment with our licensed advisor Livio Caiolfa, please call the office.



## GTP Birthdays

- ❖ 8th December – Karen Grainger
- ❖ 23rd December – Ryan Schirmer
- ❖ 5th January – Tracy Richardson
- ❖ 6th January – Matt Richardson
- ❖ 10th January – Jess Sluggett
- ❖ 15th January – Hannah McIlree
- ❖ 13th February – Ross Laycock
- ❖ 16th February – Emily Vettos





## MYOB Essentials

Georgia Francis

### Fun fact: Did you know that MYOB stands for 'Mind Your Own Business'?

I have been asked about MYOB Essentials lately, and I think this web based browser software has been undervalued in comparison to its desktop software mate, MYOB AccountRight Live.

I have used MYOB for 3 or so years now, and I have found that MYOB Essentials has been a great software package solution for a whole range of different users and business types. So, I am going to give you the low down on what MYOB Essentials offers and its cool functions.

In most all online software packages these days, you are signing up to a monthly subscription and MYOB Essentials is no different... gone are the days where you would buy a disc of software and load it onto your computer.

MYOB Essentials is a web browser based software, and that is really just a fancy way of saying you can open up Google Chrome, Firefox, Internet Explorer or Microsoft Edge and log into your data file.

There are 3 subscription levels within Essentials:

1. MYOB Essentials Starter – This is your 'taster' for the MYOB Essentials products. It gives you bank feeds (up to 25 transactions per month), you can create 5 invoices per month, track your GST and is great for smaller businesses or those new to accounting software.
2. MYOB Essentials Payroll for one – This is undoubtedly the most popular product I have recommended for Small Businesses. This gives you unlimited bank feed transactions, unlimited invoicing and payroll for one employee. I know there are a lot of business owners out there who only employ one person and unfortunately, once you need payroll in your software, other providers will charge you an arm and a leg for this function. This is a great option for businesses with only one employee.
3. MYOB Essentials Unlimited Payroll – as the name suggests, this level gives you everything outlined above AND unlimited payroll.

A common question I get asked is 'What if I have seasonal workers and will have more than one employee for a few months of the year'? The beauty of these programs is that you have the ability to upgrade and downgrade your software subscriptions as your business needs change throughout the year. In the months you need payroll for more than one employee (like at harvest), your subscription can be updated for unlimited payroll, and once the busy time of the year is done, your subscription can be changed back.

There are a range of cool features within MYOB Essentials:

- ❖ Smart Bills – upload your bills (like Telstra, AGL etc) into the software and link these documents to your bank transactions. An online storage facility for all of your expense receipts... say goodbye to the old filing cabinet clunking up your office!
- ❖ Online collaboration – online accounting software gives us the ability to work with you and your data in real time. No more taking backups of your file and sending it in to us on a USB!
- ❖ Tablet & Smartphone friendly – There is an MYOB app where you can invoice on the go and manage your contacts right from your smartphone or tablet. You can also load your MYOB Essentials file in your web browser on your tablet and code your bank transactions. Whenever I get a spare 5 or 10 minutes, I jump in to my file and do some data entry. Bookkeeping made easy!

I could go on and on, but the main thing I wanted to tell you is that MYOB Essentials design and functionality is sleek, simple and easy to use. I have had first time business owners right through to business owners with 20 years experience in doing the books tell me that they have found MYOB Essentials so easy to use. In fact, a common comment I receive is 'I feel like I should be doing more data entry than what I am doing in MYOB Essentials'. This is the beauty of it – MYOB Essentials is simplifying the bookkeeping process so it is more efficient for you. The way I see it, the less time you need spend doing the data entry and bookkeeping of the business the more time you can spend investing in, developing and growing your business!

*Georgia Francis is Horsham's newest MYOB Certified Consultant making her an invaluable resource to businesses. Georgia receives extensive ongoing training to improve efficiency and accuracy in bookkeeping.*



## Changes to penalty rates from 1 November 2018

Shane Bryan

On 1 July 2017, certain penalty rates in the Restaurant, Hospitality, Pharmacy, Fast Food and Retail awards changed. On 1 November 2018, more changes were made to penalty rates in the Retail Award.

The Retail Award changes apply from the first pay period starting on or after 1 November 2018. They affect:

- ❖ the Saturday rate for casuals
- ❖ the weekday evening penalty rate for casuals
- ❖ the Sunday shiftwork rate for all employees.

These changes are being phased in over the next 2 to 3 years. What do these changes mean for you?

Use the Fair Work Ombudsman interactive tool to find out. You'll need to select your award to view the changes. If you're not sure which award applies, use Find my award. <https://goo.gl/5DEs7S>



## Bank feeds

**Kerry Schultz**

Banklink is a company that has been around for over 25 years, and an integral part of our business here at Green Taylor Partners since the late 90's. We have utilised this platform for many of our business clients and Self-Managed Superannuation Funds.

5 years ago MYOB purchased the entire BankLink business with the sole purpose to own the Banklink bank feed relationship to integrate that into their own MYOB software packages. This instantly gave their software an added efficiency and selling point within the market which has allowed them to grow their cloud presence at a rapid rate.

Unfortunately MYOB do not see the value in investing large amounts of time and money in maintaining the Banklink software when MYOB consider their other software solutions available provide the same functionality. Many firms have already switched their entire practice over from Banklink already, which is something we have been resisting for some time.

This, together with the impending introduction of the new Single Touch Payroll regime for employers with less than 20 staff, means many clients need to consider investing in newer software to comply.

So along with many of our clients using older versions of MYOB Accounting with payroll, Reckon Accounts/ QuickBooks etc, we are being faced with the difficult task of choosing which accounting program should be used to provide the best functionality at the best price.

Everyone is different and what is required in their accounting software is also unique, which is why we are not going down the avenue of recommending one product to all clients. Our recommendation will be based on what we think is the best fit for each client.

Most commonly, clients who use Banklink Books/Notes or the old Quicken have been moving to a XERO or MYOB cloud-based solution. Yes, these packages have a monthly subscription fee however the efficiencies that are picked up tend outweigh the cost incurred.

XERO and MYOB are the two main software companies currently in the market place that we are comfortable recommending to our clients. Both offer software that complies with Single Touch Payroll and utilise bank feeds, and XERO and MYOB are both continually updating their software to make processing more user friendly with a focus on reducing time spent on business bookkeeping by utilising automation.

With cloud-based software the ability to do your bookwork anytime and anywhere (provided internet is available) is a major benefit, however the biggest benefit we see is through utilising the bank feeds.

Having bank feeds means you no longer have to enter each bank transaction, so no more time spent looking for that \$9 discrepancy on your bank reconciliation because you transposed two numbers, as it's direct from the bank!

Another great benefit of cloud-based software is our ability to assist you in real time, we have access to your file and can log in and view the transactions while speaking with you on the phone. No more sending files back and forward between you and your Accountants.

In the new year we will be running a series of seminars to demonstrate both XERO and MYOB cloudbased solutions so please come along and join us. These sessions will be a great opportunity to consider how your bookkeeping can be made more efficient and simplified, because at the end of the day we all want to spend less time sitting at the computer doing bookwork and more time enjoying our business, family and life in general.



## Five reasons to buy a smart watch

**Tracy Richardson**

Smart watches are an increasingly popular trend.

And now even the Tax Office agrees to their usefulness in business to the extent that it has released a private binding ruling. Even though the ruling was specifically related to one type of smart watch, the general application of exempt fringe benefits rules should apply.

1. As long as the watch is used primarily for work it can be claimed as a tax deduction or you may wish to investigate salary packaging the purchase of the watch.
2. Communication in today's modern world is a key part of a lot of jobs, and text messaging is a great way to communicate on a timely basis. A smart watch enables the wearer to receive and display messages quietly when it is not suitable to have a mobile phone on hand. This allows for a response at a more convenient time.
3. Don't get lost on the way to that important meeting. Use your smart watch to find the way for you.
4. Outside of meeting those critical work demands, any app that is on the purchaser's smart phone is replicated on the screen of the watch.
5. The smart phone is viewed to still have different functions to the smart watch so an individual is still able to claim both the phone and the watch on their tax return or in their business provided they are used in earning income.



## Changes to the Victorian Long Service Leave regime

**Shane Bryan**

Effective from 1 November 2018, the old Victorian Long Service Act 1992 was replaced by the Long Service Leave Act 2018 (2018 Act). While the new law does not alter the rate at which long service leave (LSL) accrues, it does make significant changes to LSL entitlements that will have practical implications to businesses operating in Victoria.

Both employers and employees should be aware of the changes to the Victorian Long Service Leave rules, which are summarised below.

### 1. Entitlements to take LSL

#### **Old law**

Under the old law, employees are only able to take LSL after 10 years of continuous employment with one employer (although if they reach 7 years of continuous employment, they are eligible for a pro-rated payout of LSL on termination of their employment).

#### **New law**

Under the new law, employees will be able to take LSL after 7 years of continuous employment with one employer.

However, the LSL accrual rate will remain unchanged at 1/60th of an employee's total period of continuous employment with one employer less any LSL taken during that period.

Accordingly, although employees can now apply to take their LSL earlier, the change in law will not increase an employee's entitlement or an employer's cost.

### 2. Leave Period

#### **Old law**

The old law requires LSL to be taken in one period unless the employer and employee agree to separate periods. If such an arrangement exists, an employee may take the first 13 weeks of LSL they are entitled to up to three separate periods and any further LSL may be taken in two separate periods.

#### **New law**

In contrast, the new law allows for employees to request to take one day or more of LSL with no limit on the number of periods. This gives employees greater flexibility, particularly when transitioning to retirement.

For example, under the old law an employee who has accrued LSL and is nearing retirement is unable to reduce their work hours by taking their LSL to ease into retirement. The employee must either wait until retirement and receive a payment in lieu or, alternatively, take the LSL in one single

block (subject to any other arrangements).

However, from 1 November 2018 the employee has more flexibility, and (subject to agreement with their employer) could seek to take their LSL for one day per week, working a four-day week for a time leading up to their retirement, without the loss of pay or reduction in superannuation. This would also reduce the LSL payment that the employer is required to make at the time of the employee's retirement.

### 3. Continuity of employment – Unpaid Parental Leave

#### **Old law**

Under the old law, any form of unpaid parental leave up to 12 months (or longer if agreed by the parties or the employee is otherwise entitled) will not break an employee's continuous employment; however, LSL will not accrue during this period. In other words, the unpaid parental leave will not be included in the period of employment and the employee will need to make up that time to get to 10 years of service. Additionally, where an employee takes more than 12 months of unpaid parental leave, the employee will not be regarded as "continuously employed" which may affect their LSL entitlements.

#### **New law**

Under the new law, any period of unpaid parental leave will not break the continuity of employment and the first 12 months of that leave will be included when calculating an employee's period of continuous employment. This means employees who take unpaid parental leave for a period of up to 12 months will still be able to count that year of unpaid leave when calculating their LSL entitlements.

Note: there are transitional arrangements in the 2018 Act so that the new parental leave arrangements only apply to parental leave taken after the commencement of the operation of that Act.

### 4. Calculating leave

#### **Old law**

Under the old law, an employee's LSL entitlement is based on their normal weekly hours at the time the leave falls due; or is to be paid out. In some cases, an employee's hours may vary from week to week (e.g., casual or seasonal employment). In such cases, an employee's hours for calculating LSL will be an average of the weekly hours measured over the past 12 months or the preceding 5 years – whichever is greater.

#### **New law**

The new law retains the existing averaging arrangement but adds a third option, whereby if an employee's working hours have changed in the last two years before the LSL, the hours worked are averaged over the entire period of continuous service, with the employee entitled to the greatest of the three averages (i.e., the average hours worked over past 12 months, past 5 years or the entire period of continuous employment).



## 5. Business transfer

### Old law

Under the old law, if an employee's employer transfers business assets to another employer who continues the employment of the employee, the employee who performs duties in connection with the assets is treated as being employed by 'one employer'. However, this only applies to tangible assets such as land, plant and equipment. The implications of this is that where no physical assets have transferred as part of a business sale, an employee's employment with the first employer (i.e., the vendor under the business sale) may not count towards their period of continuous employment.

### New law

Under the new law the provisions dealing with transfers of business have been expanded to include both tangible and intangible assets. This change means that where the employee moves with the underlying business, that employee should be entitled to have their prior employment service recognised for the purposes of working out their LSL entitlement.

### What should employers do now?

Any contravention of the new law is an offence by employers and officers of employer companies, and will result in penalties and interest being applied (including criminal conviction). Accordingly, now is the time for employers to review and update their LSL policies and procedures (including payroll system) to ensure that LSL entitlements will be correctly calculated and administered.

This article was provided by Webb Martin Consulting and prepared by Cynthia Voon <https://goo.gl/7Sc7ep>



## Why is stocktaking important?

**Daniel Blay**

Other than the ATO requiring you to complete an annual stocktake under the general trading stock rules, if your business is small or large it pays to complete regular stocktakes – literally!

By completing regular stocktakes and having an insight into your stores you will find new ways to increase profits and improve your business.

Let us convince you that stocktaking is integral to any business.

### What is Stocktaking?

Stocktaking is the physical counting and verification of items held in store or warehouses. Stocktaking frequency can vary from business to business, some prefer once or twice a year while others prefer more frequent counts, quarterly

or monthly. Rolling stocktakes are becoming one of the most popular ways to manage stock. A rolling stocktake is the process of counting a small number of items at a time, regularly, ensuring that your overall stock is counted on a consistent basis and that your stock valuation is fairly correct in real time.

Variations between your manual stock and your records allow you to pick up on many different issues and enable you to put processes into place to ensure better stock control and management. This in turn will lead to increased profits in the future.

Some of the "Reasons why a business needs regular stocktakes"

### 1. Uncover theft and identify stock shrinkage issues

Reality in the retail business is that theft happens and will always impact your stocktake numbers and cause discrepancies. You will never be able to stop shoplifting completely but by having a regular stocktake you can highlight if a security review is required and could discourage rogue employees from stealing. A stocktake undertaken regularly will also show problems with damaged stock, unprocessed or missing orders and poor stock control practices.

### 2. Ensure business targets are achieved

If you identify discrepancies within your stock numbers this will equate to discrepancies in financial figures that are required to hit your business targets. It is much better to find these anomalies sooner rather than at the end of a financial year.

### 3. Determine product performance

It is important to be aware of which products sell and which do not. A stocktake will put this in focus for you – if you have large numbers of stock of one product that have been on the shelves a while this could be a good indication it is not selling well. So you may have to reduce the price or move the product to a different location to move the stock on. This also works if you have less stock than expected of a product, the reason this could be is because it has sold well or is in a good location. Therefore understanding stock performance and movement allows you to implement strategies to best sell the stock.

### 4. Maximise stock ordering process

Stocktaking, as previously stated, will highlight stock shortages you may not have been aware of and this will prompt you to reorder the products that are selling well. Also, you may have on record that a whole pallet of popular items are available but after the stocktake it is identified that the pallet is damaged in transit, stolen or not delivered.

### 5. Strengthen your pricing strategies

A stocktake will put your finances into the spotlight. A stocktake gives you the perfect opportunity to analyse your sales, profits, which products are flying off the shelves and those staying on the shelves. It is an ideal time to revise pricing strategies to enable you to maximise profits.



## Xero update

**Ryan Schirmer**

Xero is currently one of the leading accounting software packages in Australia, and are continually adding handy new features with one of their latest being 'Expenses through App.'

The new expenses app, allows users to take photos of receipts to be then uploaded into Xero as expense claims. This is done by taking a photo of the receipt then Xero will OCR/read the receipt to work out Contact & Total Amount. This feature is handy for those who travel for work.

If you are currently using Xero and would like to learn more on how it can be best used for your business or if you're currently not using Xero and would like a demo, please feel free to contact the team at Green Taylor Partners.



## Email PDF bills into your Xero file!

**Jess Sluggett**

Xero has recently enhanced its Pay Bills function by adding in the ability to email PDF invoices directly into the software.

Once bills are emailed to the software, Xero will automatically create draft bills with the PDFs attached.

Some details including total amount, contact, reference and date on invoice may be prefilled from the PDF.

For businesses that use the Pay Bills function to track all supplier invoices this function could result in a huge time saving.

For more information visit <https://goo.gl/rMC6Gr> organisation or chat to your accountant.



## Single Touch Payroll Update

Currently legislation to extend Single Touch Payroll (STP) to employers with 19 or less employees from 1 July 2019 is still before the Senate. In anticipation of this passing, ATO Commissioner Chris Jordan speaking on a recent webcast reiterated that micro employers (four or less employees) will not be forced to purchase payroll software, with alternative solutions including using their registered tax or BAS agent, among the options for such businesses. The ATO have also began seeking expressions of interest from digital service providers to develop STP software suitable for the micro employer market that have a simple user experience and will allow STP reporting within minimum time frames. The ATO received numerous expressions of interest with a public register of tailored solutions which included Xero and MYOB.

Mr Jordan reminded listeners that we have to realise that not everyone is going digital, and they are not forcing people to go digital, (at this stage). If you wish to learn more about STP please do not hesitate to contact us at Green Taylor Partners.

**UPDATE** Legislation has now been passed by the Senate and now awaits Royal Assent.



## Important Dates

### December

- ❖ 21st - Lodge and pay November 2018 monthly business activity statement.
- ❖ 21st - Green Taylor Partners Christmas closure from 5:00pm

### January

- ❖ 7th - Green Taylor Partners reopen from 8:30am
- ❖ 21st - Lodge and pay December 2018 monthly business activity statement
- ❖ 28th - Make quarter 2, 2018-19 super guarantee contributions to funds by this date.

### February

- ❖ 21st - Lodge and pay January 2019 monthly business activity statement.
- ❖ 28th - Pay quarter 2, 2018-19 instalment notice (form R, S or T). Lodge the notice only if you vary the instalment amount.
- ❖ 28th - Annual GST return - lodge (and pay if applicable) if the taxpayer does not have a tax return lodgement obligation.



## GTP Anniversaries

- ❖ 10th December - Peter Cramer (39 years)
- ❖ 10th December - Chris Foster (39 years)
- ❖ 17th January - David Hadley (19 years)
- ❖ 29th January - Jess Sluggett (11 years)
- ❖ 3rd February - Karen Grainger (16 years)
- ❖ 15th February - Ryan Schirmer (9 years)
- ❖ 16th February - Kathryn Bowles (10 years)
- ❖ 21st February - Jodie Mills (18 years)





## Divorce and tax

**Karen Grainger**

In our last newsletter we spoke about getting married and raised the issues involved. This article we address the opposite and what is involved when separating and getting divorced.

'Spouse' can be broadly defined as another individual (whether of the same sex or different sex) with whom the individual is in a relationship registered under State or Territory law, and, another individual who, although not legally married to the individual, lives with the individual on a genuine domestic basis in a relationship as a couple (ie. de-facto)

There are a few things that need to be addressed particularly if you have assets and children. The transfer of assets between parties, under tax law, gives rise to capital gains tax.

There exists specific 'marriage breakdown rollover' provisions which automatically defer the capital gains tax that would arise in ordinary circumstances.

CGT roll-over relief is available where assets are transferred between spouses. For rollover relief to apply it must be done under a court order under the Family Law Act or in a binding financial agreement.

Under the Family Law Act 1975 (FLA) a financial binding agreement sets out the divorce settlement agreed upon and how all assets are to be dealt with.

### Main Residence Property

If it is agreed to transfer one spouse's share of the main residence to the other spouse, the main residence exemption can still apply to the individual receiving the share. Under tax law, the provision that applies allows the individual to assume the former spouse's main residence status.

### Other property held

Where a rental property is held in joint names and it has been agreed to transfer it fully to one party, CGT rollover relief can apply. It treats the party receiving the share, to have the original cost base as the original holder. Effectively deferring any capital gains tax payable until the property is eventually sold.

### Superannuation

Under the Family Law Act, superannuation is treated as 'property' for purposes of a binding financial agreement.

Separated couples may choose to split their superannuation but splitting does not convert it into cash – it is still subject to superannuation laws.

This is a very complicated area and you should talk to your accountant together with seeking legal advice when regarding the split of superannuation.

### Your Will

While your will is still valid, the terms in the will that relate to your ex-spouse are revoked. Also, if you have appointed your ex-spouse as your executor this will be revoked.

If you were to pass away before updating your will after the separation, the terms of that will still stand.

### Children

There are a couple of areas involving children that we want to raise in this article

#### ***Treatment of Maintenance payments***

The payment of child maintenance is not regarded as taxable income to the recipient if the payments are made to a former spouse for the benefit of a child of the payer. This includes maintenance received by a de-facto spouse.

This exemption will not apply where the payer is attempting to divest themselves of an income-producing asset or to divert otherwise taxable income.

The payment of child maintenance is not a tax deduction to the person paying it.

#### ***Child Maintenance Trust***

A Child Maintenance Trust (CMT) is a trust established for the benefit of children following a family breakdown or established by a Family Court order. Property is transferred to the trust in order to generate income that will be distributed to or applied for the benefit of the children beneficiaries.

Income distributed to a minor taxpayer from a child maintenance trust is taxed at ordinary rates and classed as 'excepted trust income'. Minor beneficiaries in receipt of income not classed as 'excepted trust income' incur tax at a rate of 66% of income between \$417 and \$1,307 and at the highest tax rate thereafter.

Other matters to consider when setting up a child maintenance trust are

- ❖ The property transferred must be income earning and transferred in by either parent
- ❖ The terms of the trust must show the minor is absolute entitled to the trust capital
- ❖ The income flowing to or for the benefit of the child does not qualify as a child maintenance payment.
- ❖ The income must represent an arm's length return

Disadvantages of a Child maintenance trust

- ❖ Where an asset is transferred in, a capital gain event will be triggered as no CGT rollovers apply
- ❖ Transferring in certain assets may trigger stamp duty
- ❖ The cost of establishing the trust and maintaining it until the child is 18 years old may be costly

Here is a list of things to do when newly separated

- ❖ Close all joint bank accounts and credit cards and set up new ones separately
- ❖ Update your insurance policies.
- ❖ Update your Will and any Powers of Attorney

If you have any questions or wish to discuss any of the above further, please contact your Trusted advisor at Green Taylor Partners.



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