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Deadline looms for SMSFs and collectibles

Does your self-managed superannuation fund (SMSF) own a motor vehicle, artwork, wine, coins, jewellery or other collectibles?

More stringent rules for how these collectible and personal use assets are managed come into effect for all funds from 30 June 2016. While it's important for all SMSFs to ensure that they are compliant with the rules, funds with collectibles purchased before 1 July 2011 have had a grace period to get their house in order. This grace period ends on 30 June 2016.

There is around $407 million worth of these collectible and personal use assets sitting in SMSFs in Australia. The Tax Office's main concern is that it's really easy for fund members to forget that these assets – like artwork and cars - are owned by the fund and must be held for retirement purposes. That means members of the fund (or anyone related to them) can't use or enjoy that asset.

If you have these assets in your fund (or are looking to acquire them), here's what you need to ensure:

1. The asset must not be leased to a related party - a related party includes a member of the fund, their relatives, business partners, the spouse or child of these business partners), or any company or trust that the fund members control or influence.
2. The asset must not be stored in the private residence of the related party - this includes sheds and garages etc.
3. The trustees must keep a written record of where, how, and why the asset is to be stored.
4. The asset must be insured in the fund (trustees) name. If your SMSF is buying a collectible, insurance needs to be in place within the first seven days. If the fund already owns the asset it must be insured in the trustees name before 1 July 2016!
5. The asset must not be used by a related party. For example, if your fund owns a vintage car, you cannot drive it for any reason, not even to go to the mechanic.
6. If the asset is sold to a related party, the asset must be sold at a market price determined by a qualified and independent valuer.

A few issues come out of these

requirements. Sometimes insurance is difficult or impossible to get for collectible assets. If you can't secure insurance, the asset may need to be sold. If a collectible asset needs to be sold because the rules can't be met, the sale process can sometimes be protracted – this could be an issue if you need to sell the asset pre 30 June.

Before your fund acquires a collectible asset, it's also important to ensure that the fund Trust Deed allows for collectibles to be acquired, the Investment Strategy of the fund allows for the collectible to be acquired, and that the sole purpose of acquiring the collectible is to provide retirement benefits for members.

What is a collectible and personal use asset?

The definition of a collectible is quite broad and will often capture assets that many fund members don't realise qualify as collectibles.

A common example is motor vehicles. The definition of a collectible includes motor vehicles such as utes, not just classic cars that are generally considered collectors items.

When the Tax Office talks about collectibles, they mean: artwork – including paintings, sculptures, drawings, engravings and photographs; jewellery; antiques; artefacts; coins, medallions or bank notes (coins and banknotes are collectables if their value exceeds their face value, and bullion coins are collectables if their value exceeds their face value and they are traded at a price above the spot price of their metal content); postage stamps or first-day covers; rare folios, manuscripts or books; memorabilia; wine or spirits; motor vehicles and motorcycles; recreational boats; and, memberships of sporting or social clubs.

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FBT 2016: The top 5 things every business needs to know

If your business is in the hospital/non-profit sector and uses salary packaging for team members, you're a small business, or provide team members with a gym or space to do yoga, then there are a few things you need to know beyond the basic FBT changes when the new FBT year starts on 1 April 2016.

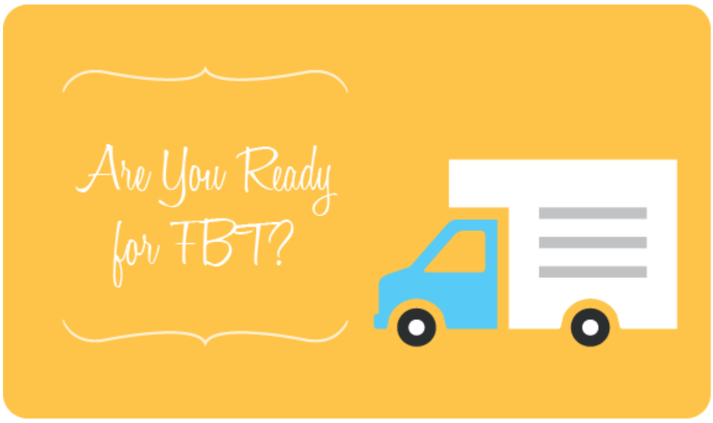
1. You will pay more FBT

The Fringe Benefits Tax (FBT) rate is currently 49%. The rate increased from 47% on 1 April 2015 in conjunction with the introduction of the 2% debt tax on high-income earners (Temporary Budget Repair Levy). The FBT year that is just ending is the first year at the higher tax rate - which means if you have an FBT liability, you will pay more tax.

The FBT rate will stay at 49% until 31 March 2017 when the impact of the debt tax is scheduled to be removed.

2. Meal entertainment crackdown – medical professionals beware

If your business is an FBT exempt entity (public and not-for-profit hospitals, public benevolent institutions, health promotion charities, public ambulance service) or qualifies for the FBT rebate, then there are significant changes that come into play on 1 April you need to be across.



In the past, employees of FBT exempt and rebatable entities have been able to salary sacrifice an unlimited amount of meal entertainment expenses (e.g., restaurant meals) with no impact on their existing annual caps. But, this will all change on 1 April 2016. From this date, a separate single grossed-up cap of $5,000 for salary sacrificed meal entertainment benefits for employees of exempt and rebatable employers will apply.

To give you some idea of the impact let's look at the example of a doctor employed by a public hospital who salary sacrifices $32,000 of meal entertainment benefits. If the doctor salary sacrificed these benefits in the 2015-16 FBT year, the full $32,000 would be exempt from FBT and he has nothing to report in his tax return. If the doctor salary sacrifices these benefits in the 2016-17 FBT year, then the first $5,000 will not count towards their annual exemption cap. However, the balance will be taken into account in determining whether the employee exceeds their exemption cap for the year. If this excess amount causes the employee to exceed their annual exemption cap then an FBT liability will arise. The entire amount (including the first $5,000) will also be included in their reportable fringe benefits amount for the year, which could impact on their ability to satisfy other income based tests within the tax system.

As an employer, it will be essential to review the existing salary packages of team members affected by the changes as someone will be paying the extra FBT that arises as a result of the new cap being introduced.

3. Salary sacrificing may not be worth it

By now you should have reviewed any salary sacrifice agreements to ensure that they are still viable at the higher 49% FBT rate. In some cases, salary sacrifice agreements may no longer achieve the intended goals and simply create an administrative burden for little to no benefit.

For high income earners (above $180k) however, the difference in timing between the FBT year and the income year means that there will be a planning opportunity between 1 April 2017 when the FBT rate reduces back to 47% and 30 June 2017 when the 2% debt tax is removed.

With any salary sacrifice agreement just be aware that certain rules must be followed. For example, the appropriate documentation needs to be in place to ensure that the arrangement is 'effective'. This means that the employee should agree in writing to forgo an amount of salary and wages *before* that entitlement has been earned. If it's after, it's not valid and the employee will simply be taxed on that amount. The business would also be liable for obligations such as PAYG withholding and superannuation guarantee amounts.

4. Two laptops are better than one for small business

If your business is a small business (turnover under $2m), from 1 April 2016 the FBT exemption on portable electronic devices will be extended. From this date, you can offer employees more than one work-related portable electronic device, such as a mobile phone, laptop and tablet and not have to pay FBT on it even if the device is the same or similar to other devices already provided in that same FBT year. All other businesses are limited to one device that is identical or similar to another.

5. Yoga or gym classes at the office?

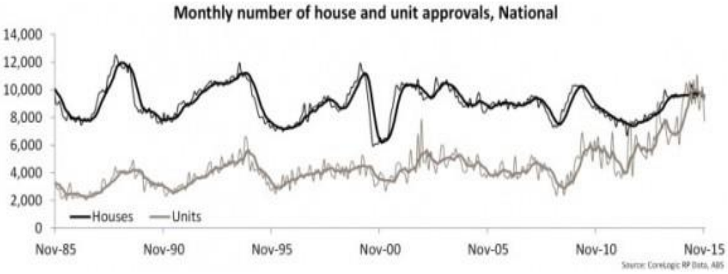
Wondering what to do with that extra office space? Put in gym facilities for the team? Use a room for a yoga class or personal trainer perhaps? A recent ATO decision confirmed that the FBT implications of these two options are quite different. The reason is the definition of a "recreational facility." A recreational facility is exactly that, a facility for recreation. Recreational facilities can be exempt from FBT if certain conditions can be met. However, a fitness class or a personal trainer is not a recreational facility and therefore, FBT would generally apply.

Will new housing approvals follow the trend in capital gains and continue to ease through 2016?

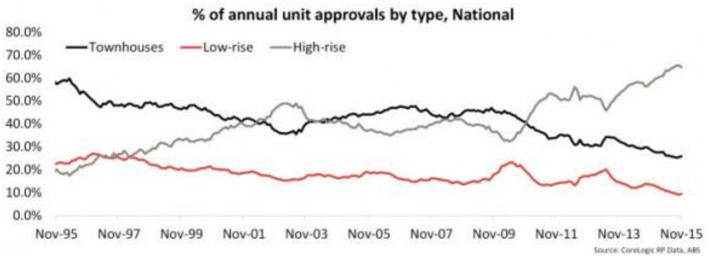
by Cameron Kusher on January 7, 2016 in Housing supply, Mortgage market, National Market, Research

The November 2015 building approvals data show a sharp fall in dwelling approvals led by the volatile unit segment. Seasonally adjusted total dwelling approvals were -12.7% lower over the month, their largest monthly fall since July 2012. Year-on-year dwelling approvals are -8.4% lower and approvals have retracted to be -16.8% lower than their recent record highs. The data indicates a slowing in developer appetite for approvals and, given the slowing demand for mortgages from investors and slowing home value growth, it is a trend which is likely to continue over the coming months.

The decline in approvals in November was led by units however, house approvals, which haven't seen the same level of acceleration as units, also recorded a fall over the month. House approvals were -0.6% lower over the month and -2.2% lower year-on-year. Meanwhile, unit approvals declined by -24.0% in November and were -15.0% lower year-on-



year. Although the unit approvals series is much more volatile series than houses, it has now started trending lower with approvals -30.3% lower than their recent record high of 11,084 approvals in July 2015. House approvals are also trending lower, albeit at a more moderate pace, down -9.4% from their recent peak of 10,376 approvals in April 2015. The most recent Census in 2011 shows that 21.2% of detached houses are rented compared to 56.0% of units. The recent sharp fall in investor housing finance commitments is much more likely to impact on demand for new units than new houses and we may be seeing developers starting to react to this market shift.



The data on unit approvals by type further highlights the recent boom in high-rise (4 storeys and greater) unit approvals. Historically townhouses have been the product of choice for medium and high density developers however, over the past four years we have seen record high levels of high rise construction. Both monthly and annual data points to demand for high-rise approvals starting to fall although it should be noted that high-rise approvals still account for a majority of unit approvals. High-rise approvals could be considered a bit of a double-edged sword for developers, in one instance they are considered the highest and best use of land in areas of strategic significance (eg along transport spines and in areas closed to major working nodes like the CBD) however, they are heavily reliant on achieving a particular level of presales. From an economic sense they take longer to build so the economic benefit of the construction is stretched over a longer period of time however, they are ultimately less likely to end up constructed because much more financing is required and they are so dependent on adequate levels of presales. It is likely that given units are much more likely to be purchased by investors and investor demand is now falling that a larger than normal proportion of these units will not end up constructed in this new phase of the housing cycle. Historically around 98% of units approved are constructed compared to around 85% of units.

Much like home sales, values and investment related mortgage demand, we are now also seeing early signs of a slowing in dwelling approvals. Although approvals are slowing there is still a large number of unit projects under construction which should continue to provide a high level of economic benefit as the recent record high number of dwelling approvals continues for a few years. Of course the huge surge in housing construction at a time when population growth is slowing means that there is a better balance between housing supply and demand. In fact in certain areas there are now concerns about oversupply, particularly in inner city unit markets. This is going to be a key theme to watch during 2016 particularly considering that we are already seeing investor demand falling and record low levels of rental growth. The next challenge will be when these units come to settlement will their initial valuation hold up and will the changed lending landscape mean that some purchasers will have to find larger deposits in order to settle. Furthermore, if they purchased for investment purposes the next challenge may just be finding someone to rent the property.

CREDIT CARD CHARGES BY BUSINESSES

On Monday new laws passed the Federal Parliament cracking down on excessive credit card surcharge fees.

Businesses can now be fined up to $108 000 if caught overcharging customers for using their credit card, under new powers given to the Australian Competition and Consumer Commission (ACCC)

The surcharge must be limited to the ‘reasonable cost of acceptance’ which is generally the service fee charged by financial institutions (banks) for use of the card. This is generally between 1% to 2% of the amount of the purchase (i.e.. for a purchase of $2 000, the surcharge fee would generally be between $20 to $40).

For the many businesses that accept credit cards as a means of payment, you may need to review your credit card surcharge fees in light of these new laws.

PUBLIC HOLIDAY DAYS

New South Wales

- Friday 1 January - New Year's Day
- Tuesday 26 January - Australia Day
- Friday 25 March - Good Friday
- Saturday 26 March - Easter Saturday
- Sunday 27 March - Easter Sunday
- Monday 28 March - Easter Monday
- Monday 25 April - Anzac Day
- Monday 13 June - Queen's Birthday
- Monday 1 August - Bank Holiday*
- Monday 3 October - Labour Day
- Sunday 25 December - Christmas Day
- Monday 26 December - Boxing Day
- Tuesday 27 December - Additional Day**

AUSTRALIAN SMALL BUSINESS AND FAMILY ENTERPRISE OMBUDSMAN

The Government is establishing the Australian Small Business and Family Enterprise Ombudsman. This role will supersede the existing Australian Small Business Commissioner.

The Australian Small Business and Family Enterprise Ombudsman

The Australian Small Business and Family Enterprise Ombudsman will be a:

- Commonwealth-wide advocate for small businesses and family enterprises;
- contributor to the development of small business friendly Commonwealth laws and regulations; and
- concierge for dispute resolution.

The Australian Small Business and Family Enterprise Ombudsman will also seamlessly link with business.gov.au, operated by the Department of Industry, Innovation and Science, to help small businesses easily find out about other Government services and programmes.

The functions and powers of the Australian Small Business and Family Enterprise Ombudsman are set out under the *Australian Small Business and Family Enterprise Ombudsman Act 2015*. This legislation is currently being implemented after receiving Royal Assent on 10 September 2015.

The Australian Small Business Commissioner

The role of the Australian Small Business Commissioner is to:

- provide information and assistance to small businesses, including referral to dispute resolution services;
- represent small business interests and concerns to the Australian Government; and
- work with industry and government to promote a consistent and coordinated approach to small business matters.

During the transition to the Australian Small Business and Family Enterprise Ombudsman, the Australian Small Business Commissioner will continue to operate and service the needs of small businesses around Australia.

Ups & Downs: Managing in uncertain times

How do you create certainty in uncertain times? Much of what we do personally to grow and protect our wealth, and commercially for the businesses we manage is subject to unpredictability and change.

The answer is that there are no certainties in life - sorry about that. But, this doesn't mean that you can't take charge and protect against uncertainty - you just need to know where and how to look at it.

Where we are at

Government spending will continue to be a focus this year with the interest on Government debt now running at $1 billion per month according to Treasury. There are only a few ways the Government has of dealing with the increasingly ominous debt trend; initiatives to lift productivity and growth to boost tax revenues, spending cuts, and increased taxes or a reduction in tax concessions. This year, for you personally, your SMSF, and your business, you should keep this in mind when trying to manage change as Government policy is likely to provide both opportunities and risks in the short and long term.

For you

Your wealth

In the last 9 months, we have seen a huge drop in the value of equity markets, especially here in Australia. The All Ordinaries Index sat at close to 5,955 points at the end of April 2015. As at 21 January 2016, the index was 4,896 points. A drop of over 1,000 points or close to 18%.

It's a volatile market and difficult to know what to do beyond "don't panic." Most of the leading economists are predicting continued growth despite the market being easily spooked. It's important to know your individual position and the likely impact of change on you – investing vs paying down the mortgage, different investment types, SMSF vs retail funds. Reacting with the crowd to change is never a good idea. If you haven't already, talk to one of our advisers about your options.

Also bear in mind the impact of Government policy. Negative gearing currently costs more than Australia's defence budget. It's likely to be cut back or grandfathered out of existence at some point.

Stocktake debt

Every so often it's important to review what you're spending money on and why. Debt is a big issue for most as we accumulate debt in different forms over time – home loans, investments, credit cards, etc. If this sounds like you, it's almost guaranteed you are paying too much. It's time to take stock and see what debt you have and if there is a way of getting a better deal.

Your Business

Look at the trends and opportunities

Many of the 'dramatic' changes that impact on mature business models – eg online retail vs traditional retailers, were reasonably predictable. There were recognisable indicators for these changes well before they had a direct impact on Australian businesses. Online retailing existed decades before denting bricks and mortar retail sales in any recognisable way, and as soon as faster internet speeds enabled quicker downloads the packaging and B2B sale of most electronic products became unnecessary. Tech company Uber started in 2009, spreading exponentially around the world well before it launched in Australia in 2014. If anything, Uber proves that the foundation of any industry can be shaken dramatically in less than a few years.

In many cases, these 'disruptive' businesses offered something to consumers not reliably fulfilled by the existing market - efficiency, access, range, and importantly, greater consumer control not just acceptance of what is on offer.

As business operators, it's important to constantly assess the impact of trends on our current business and product range and work toward the 'what ifs'.

Trends also exist in Government policy and can have a positive or negative effect on your business. At present, the Government is firmly focussed on boosting business productivity and investment. There are a wide range of incentives to stimulate spending and the entrepreneurial spirit:

Crowd funding – funding is difficult for entrepreneurial start-up businesses in Australia. New frameworks are currently being developed to formalise crowd and other funding sources to encourage investment opportunities beyond bank finance.

Employee share schemes (ESS) – new rules introduced last year bolster the tax benefits for employees of ESSs and provide special concessions for start-ups. Further changes should follow shortly.

Accelerated depreciation – small business and primary producers can access a range of concessions that enable them to offset expenses in the same year as the expense – rather than depreciating the expense over time.

Tax relief for restructures - changes to be introduced this year should allow small business to change their business structure without the risk of triggering CGT and other income tax implications. So, it is a good time to check whether your structure is right for your long-term business plans.

Your Superannuation

There is almost no doubt that the current raft of concessions available to superannuation will change. To lock in your access to the current concessions, you should focus on maximising the tax-free component of your superannuation. If you haven't already, come and see us to have a chat as there are different strategies that can be utilised depending on your situation.

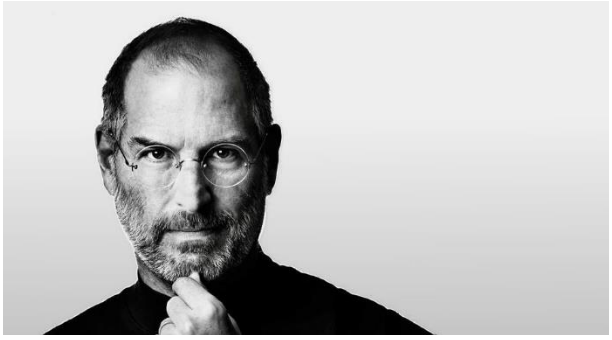
SMSF and related party loans

The ATO is looking closely at related party loans in SMSFs. If your fund has borrowed money from a related party, for example a member of the fund, to acquire an asset and the terms of that loan are not at arm's length or well documented, then you need to get the paperwork and the loan terms in order ASAP. While the ATO have stated that they are not necessarily looking at arrangements before the 2014-15 income year (unless it comes up in audit), you can expect a much closer scrutiny from now on.

Super and Social Security

The social security income test tightened on 1 January 2016 for superannuants. If you receive defined benefit income from your superannuation, a larger portion of this income will now be taken into account when applying the relevant social security income tests - capping the proportion of income that can be excluded at 10%. This affects aged care fees, income support payments, the Low Income Health Care Card, etc.

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.



Quote Of The Month:

"Things don't have to change the world to be important."

-Steve Jobs