October 2021 Newsletter

It's October and with the grand finals season now complete, the countdown to summer begins. Despite ongoing lockdowns, rising vaccination rates are paving the way for the re-opening of borders and business. The ANZ/Roy Morgan consumer confidence rating showed a rise over the last three weeks of September to a 10-week high of 103.7.

In this months newsletter we look at:
Succession Planning and Your Super: Now that SMSFs can have up to six members, some people may be wondering whether including adult children in their fund might help with the transfer of wealth to the next generation. This month, we look at the pros and cons.

Selling your business property: Is a big decision and it's easy to focus on the sale price, at the expense of other considerations such as factoring in GST into your thinking.

Also - Resilience – it's not something we are born with but it's an important skill to have and usually develops early on in childhood and continues to develop as you get older.

As always, contact us if you would like to discuss any of your tax or SMSF affairs.

Kind regards,
The Team at Rundles

Rundles Chartered Accountants
P (03) 9205 4690
E mail@rundles.com.au
W https://www.rundles.com.au/

Your SMSF *wind it up or pass it on?*

Now that new legislation allows a maximum of six members in an SMSF, some fund trustees may be wondering if this could be an easy way to ensure a smooth transfer of their super to the next generation.

The simple answer is yes, but before you start adding your children and their spouses to your fund, it's essential to develop a detailed SMSF succession plan to head off any potential problems.

Why make a SMSF succession plan?

Most SMSF trustees understand the concept of estate planning and the importance of deciding how you want your assets distributed when you pass away. But many overlook the importance of a succession plan.

Although your estate plan will cover who gets your assets when you die, your Will doesn't determine who receives your super, or who takes control of your SMSF. The issue of control is also important if you become seriously ill or lose mental capacity.

By putting a detailed succession plan in place, you can ensure a smooth transition in the control of your SMSF and the payment of your super death benefits to your nominated beneficiaries. It also reduces the potential for the fund to become non-compliant and provides opportunities for death benefits to be paid tax effectively.

Whether to wind up your fund

Traditionally, most two-trustee SMSFs were wound up as members got older and became less keen on undertaking the myriad tasks involved in keeping a super fund compliant.

Super law requires SMSFs with an individual trustee structure to have a minimum of two trustees, so many funds are automatically wound up after the death or incapacity of a trustee.

But the introduction of six-member SMSFs provides families with more flexibility to use their fund as a tool for intergenerational wealth transfer.

Adding your adult children to an SMSF means they can take over some of the administrative burden as you age. It can also simplify the transfer of assets to younger family members.

There are potential downsides that need to be considered, however, as the trustees in control of your SMSF after your death, are the ones making decisions about the distribution of your super death benefits.

Appointing a power of attorney

Ensuring you have a fully documented Enduring Power of Attorney (EPOA) in place in the event of serious illness, death or loss of mental capacity is an essential element in a good SMSF succession plan.

Having an EPOA makes it much easier to keep a fund operating smoothly, as the attorney can step in as trustee and take over administering the fund, together with making decisions about fund investments and payment of death benefits.

Developing an effective succession plan

With a carefully constructed SMSF succession plan, you can reduce the potential for disputes and ensure a smooth transition of control to the next generation.

It's important to remember any instructions you leave in your Will about payment of your super benefits – or control of your SMSF – are not binding on the fund's trustees after your death.

That's why it's essential to have a binding death benefit nomination (preferably non-lapsing).

Part of your regular succession planning should be to review your SMSF's trust deed and check it includes the necessary powers to achieve your estate planning goals. These powers include the ability to provide income streams to beneficiaries and appoint the executor of your Will to take your place as fund trustee.

Tax and your SMSF

Tax is also a vital consideration in estate and SMSF succession planning.

Super and tax laws use different definitions of who is and isn't considered a dependant and how the benefits they receive are taxed, so this needs to be carefully managed.

An SMSF can pay super death benefits to both your dependants and non-dependants, but the tax implications vary. Super benefits generally have both tax-free and taxable components, so talk to us before nominating a beneficiary to ensure your super will be paid tax-effectively.

Nominating a reversionary beneficiary for your super benefit can also be tax effective. A reversionary pension means your beneficiary (usually your spouse), automatically receives your super pension so fund assets won't need to be sold to pay the benefit. Asset sales can create a CGT bill.

If you would like to discuss your SMSF succession plan, give us a call today.

GST & THE SALE of your business property

Selling your business property is a big decision and it's easy to focus on the sale price, but this can be a costly error.

Many owners forget to factor GST into their thinking. But if you do, you could find yourself left with a big tax bill to pay.

There are also valuable opportunities to claim GST credits on your transaction costs, so it's important to retain all your paperwork in order to satisfy the ATO when tax time rolls around.

GST and commercial property

In general, if you sell business property such as a shop or factory and are registered - or required to be registered - for GST, you must apply GST to the sale amount and include it in your business activity statement (BAS). For example, if you sell an office suite for $1,100,000 (GST inclusive), you need to pay $100,000 to the ATO for GST.

If you are unregistered but liable for GST and fail to make your sales price GST inclusive, you will be forced to pay the GST liability from your own pocket.

As a vendor, you can claim GST credits on any costs involved in selling your business property, such as the GST included in the fees you pay to your real estate agent. If there are settlement adjustments for costs such as council and water rates when you sell, these must be included in your BAS.

The eligibility rules for claiming your credits include that:

- GST was paid at settlement,
- Both you and the purchaser are GST registered,
- Tax invoices are available for the goods and services you are claiming, and
- Your deduction claim is lodged within four years.

Going concern sales

One way around the GST requirement is if you sell your enterprise and business property as a 'going concern'. These sales are GST-free, but to qualify the ATO will require the business to continue operating into the foreseeable future and be appropriately resourced.

To be eligible for this concession, the business sale must be for payment, the purchaser must be registered for GST, and both you and the purchaser must agree in writing the sale is for a 'going concern'.

In this situation, although there is no GST liability on the sale, both you and the purchaser may be able to claim GST credits on any related expenses.

It's worth noting that in a going concern sale, a purchaser may pay less stamp duty, as this is normally calculated on the GST-free price, rather than GST-inclusive price.

Using a margin scheme

If you are eligible, you may also be able to use a margin scheme to reduce the amount of GST owed on your property sale.

Under the margin scheme, the 10 per cent GST payable on the sale amount is calculated on the sale margin (which is usually the sale price less the amount for which the property was originally purchased), rather than the full sale price.

Although it can be worthwhile using the margin scheme, the rules around eligibility are complex, so talk to us before reaching an agreement with your purchaser.

If you are considering trying to avoid the GST issue, remember the ATO regularly receives data relating to purchases and sales of properties around Australia and matches this against activity statements. If you fail to report a sale in your BAS, the ATO will likely catch you out.

Tools to help

To make things a little easier for vendors, the ATO has a GST property decision tool that helps determine the GST implications of property-related transactions.

The online tool asks a series of questions to work out the GST classification of a property transaction and establish eligibility for the margin scheme.

The ATO's property decision tool requires you to enter information on the date you acquired the property, planned settlement date, amount you paid to acquire the property, past transactions for the property and whether GST was applied, and whether you are registered for GST.

Call us if you are planning to sell a business property and would like to know more about the GST implications.

Flexing your resilience muscle

Resilience – it's not something we are born with but it's an important skill to have and usually develops early on in childhood and continues to develop as you get older.

Australia has encountered some catastrophic events in recent years – the ongoing drought, the country in and out of lockdowns, (as a result of COVID-19), bushfires bushfires, followed by floods, and then the mouse plague – we've seen it all.

When situations like this occur, it brings so much uncertainty as we're not sure what's going to happen in the future, and this is where we can appreciate how strong and capable we are by being resilient.

What is resilience and why is it important?

Resilience, in a nutshell, is the ability to be able to cope with certain challenges, overcome obstacles and recover quickly when a stressful situation arises.

The reason being resilient is so important is because it allows you to look at each obstacle you are presented with, take a step back, process the situation, and gain some perspective. This enables you to recognise and understand that you are able to overcome certain situations and life will continue to go on when certain challenges are thrown your way – no matter how big or small.

Preparing yourself for these types of situations not only continues to build on and strengthen your resilience but can also improve your overall health and wellbeing.

How can you strengthen your resilience muscle?

There will be times when life is running smoothly and then you're thrown a massive curveball - this is where your resilience muscle will kick in.

How you view adversity and stress is critical, as this will have a major impact on how you react and cope with disruptions in life. It also sets the tone for how quickly you bounce back and recover from these situations.

Here are a few strategies that can help you strengthen your resilience:

- **Foster a positive mindset** – negative thoughts can impact how you react to stressful situations
- **Exercise** – daily exercise releases endorphins and increases serotonin which has a positive effect on your mood
- **Personal control** – spend time focusing on what you can control and set goals
- **Talk to friends and family** – sharing your problems can help ease the burden and they can always provide some advice that may help you
- **Keep a journal** – writing down your feelings can be a good way to express yourself and de-stress if you don't want to share your feelings with others
- **Learn from your mistakes** – making mistakes is a part of everyday life and drawing on past mistakes can help you to reassess decisions you make in the future

Resilience in the truest sense

Whilst Australia has experienced some of the worst disasters with bushfires and floods in recent years, it's also brought out the best in most and shown that overall Australian's are a resilient bunch.

Farmers in rural and remote areas across the country suffered greatly due to the drought, and like many businesses in the city during the COVID-19 outbreak, farmers and their families had to 'pivot' and look for other opportunities to earn money.

This is when the 'Buy From The Bush' campaign was developed. It's a great initiative where gifts, homewares, and arts and collectables amongst other things can be purchased online, which helps small businesses in rural areas that are struggling financially throughout this period.

Throughout this period, it showed us that in the face of adversity resilience is a vital skill for us all and having the support around you is key when faced with difficult challenges.

Focus on a positive mindset

Remember, having a positive mindset helps us achieve a better outlook on life, we smile more, we laugh more, and we try to resolve things more simply.

Two quotes come to mind when it comes to a positive outlook – you must keep in mind 'there is always light at the end of the tunnel' and 'always look on the bright side of life'.

Most importantly, we must remind ourselves that challenging times won't last forever.