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Personal Risk Management Plan — Do you have one?

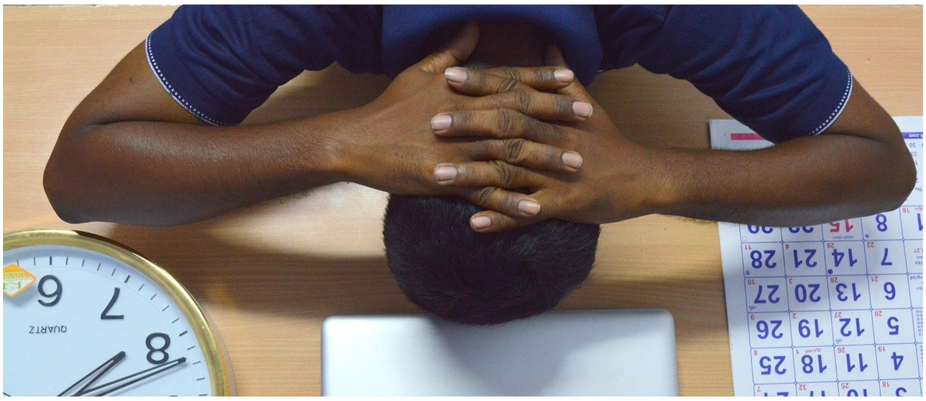
Risk Management Plans don't only apply to businesses — every person and family should also have a plan to help them cope in the event of an unexpected crisis.

No doubt you have insured your car as the risks of damage are obvious to you on a daily basis. You will almost certainly have insured your home and contents against fire, burglary or storms. But what about your greatest asset: yourself?

Statistics show that a 35-year-old Australian earning an average income is worth over $2.4 million in lifetime earnings, assuming no increase in earnings. How would you cope if your family's primary income earner met with serious illness or accident?

Unfortunately statistics also show that the risks are greater than generally recognised. Look at these:

- Cardiovascular disease, which includes stroke, is Australia's biggest killer, accounting for over 30,000 deaths in 2013.
- Approximately 4,400 people with dependent children die in Australia each year.
- In 2009, 8280 deaths were attributed to Alzheimer's disease and Dementia. By 2013, this had increased to almost 11,000. An increase of 32%.
- According to Australian Bureau of Statistics of the 531,800 people who had suffered a work-related injury in 2013-14 only 34% received worker's compensation payments.



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CONTENTS

Your Risk Management Plan

You need to consider the extent of your financial commitments and review what assistance may already be in place. This may include insurance cover within your superannuation, employer protection, existing insurance policies or other sources.

Fortunately a range of insurance policies are available to cover the risks you confront. These include:

- **Loss of Life or Total & Permanent Disablement.** By including this in your superannuation it is effectively a tax deduction as your superannuation comes from pre-tax income.
- **Income protection.** A critically important cover for income earners. It will provide you with income in the event of sickness or accident for a predefined period. If you are a small business operator you can include the costs of operating your business while you are incapacitated. The premiums are a tax deduction.
- **Trauma insurance.** This is sometimes referred to as critical illness insurance and provides for a lump sum in the event of suffering a specific injury or illness. It is ideal for a non-income earning partner who may not qualify for income protection.
- **Child insurance.** Many families are devastated when a child is struck with a critical illness. This may mean one or both parents having to give up work while the child undergoes lengthy treatment. Some companies are now providing specific policies to assist the family in such a catastrophe.
- **Health insurance.** While free treatment is available through the state hospital systems, this may involve traumatic and expensive delays. It is highly desirable for families to have health insurance cover and the cost may be minimal when you consider the additional Medicare Levy you may otherwise have to pay. Further, the cost is subsidised by the federal government.

Government passes 'fairer' super changes

The Australian Government has recently passed what it is calling the 'most comprehensive suite of superannuation reforms in a decade'.

The reforms include the introduction of a $1.6 million transfer balance cap, which places a limit on the amount an individual can transfer into the tax-free earnings retirement phase and the introduction of the Low Income Superannuation Tax Offset, which is expected to boost the retirement incomes of around 3.1 million low-income earners.

Under the confirmed changes, which will come into effect 1 July 2017, the cap on concessional (before-tax) contributions will be decreased from $30,000 (for those under the age of 50) or $35,000 (for those aged 50 years old and over) to the flat rate of $25,000 per year.

From 1 July 2018, individuals with less than $500,000 in their superannuation accounts will also be allowed to make 'catch-up' concessional contributions. This is designed to help those with broken work patterns – many of whom are women – better save for their retirement. Previously, this option did not exist for those who had left the workforce.

The tax rate of 15 per cent on concessional contributions for those who earn up to $300,000 and 30 per cent for those who earn income above that amount has also been changed. The new income threshold at which the higher tax rate will start will be $250,000.

The overall changes to concessional contributions are designed to level the playing field and provide more Australians with the opportunity to make full use of their concessional contributions cap.

The new annual cap for non-concessional (after-tax) contributions will be reduced from $180,000 to $100,000, and a new lifetime cap of $1.6 million will be introduced. Individuals under the age of 65 will be able to bring-forward three years of contributions.

The tax offset for spouse contributions will be allowed where the spouse's annual income is less than $40,000. Previously, this offset was only allowed where the recipient's income was less than $13,800.

After 1 July 2017, the tax-free transfer limit for a fund in pension phase will change to $1.6 million for each member. Earnings will also be tax-free for those with pension balances of up to $1.6 million. Any balances above $1.6 million will need to be withdrawn or returned to the accumulation phase. If returned to the accumulation phase the earnings will be subject to 15 per cent tax.

The removal of the '10 per cent rule' will also help ensure a level playing field for access to superannuation tax concessions irrespective of a person's employment situation. According to the Government, this will be of particular help to contractors who also draw income from salary and wages.

ATO releases new Taxation Determination

The ATO has provided further guidance regarding limited recourse borrowing arrangements (LRBAs) and when non-arm's length income (NALI) rules apply to a related party LRBA.

The Tax Office recently released a Taxation Determination (TD 2016/16) and updated its Practical Compliance Guideline (PCG 2016/5) to provide further clarification concerning the circumstances where a self-managed super fund (SMSF) with a related party LRBA would attract a higher marginal tax rate of 47 per cent under NALI provisions.

The ATO will continue to use the "safe harbour" terms for LRBAs set out in PCG 2016/5. The "safe harbour" terms are designed as a safety net for SMSF trustees to ensure their LRBAs meet the guidelines.

Limited recourse borrowing arrangements (LRBAs) must be sustainable on normal commercial rates and structured in accordance with the ATO's "safe harbour" guidelines to ensure the NALI provisions (47 per cent tax) do not apply.

Furthermore, the Tax Office will assess whether an arrangement was on arm's length terms by assessing if the SMSF has derived more ordinary or statutory income under the scheme then it might be expected to derive if the parties had been dealing with each other on an arm's length basis.

The ATO will assess what the terms of the borrowing arrangement may have been if the parties were dealing with each other at arm's length (hypothetical borrowing arrangement). It is then necessary to establish whether it is reasonable to conclude that the SMSF could have and would have entered into the hypothetical borrowing arrangement.

If the SMSF could not have or would not have entered into the hypothetical borrowing arrangement, the SMSF will have derived more ordinary or statutory income under the scheme than under the hypothetical borrowing arrangement. In this instance, the ordinary or statutory income derived is NALI.

SMSF trustees have until 31 January 2017 to ensure they meet the "safe harbour" terms set out in the Practical Compliance Guideline (PCG 2016/5).

ATO develops safe harbour for car fringe benefits

The Australian Tax Office has recently collaborated with industry representatives to develop a safe harbor guideline for Australian businesses when calculating tax on car fringe benefits.

The new guideline is designed to ease the burden of compliance, as it simplifies the approach for working out the business use percentage of car fringe benefits for fleets of 20 cars or more.

The new approach reduces the recordkeeping burden for businesses and allows them to use an 'average business use percentage' when using the operating cost method.

Businesses can access the safe harbour and use this new simplified approach if they have:

- a fleet of 20 or more 'tool of trade' cars, which are not part of salary packaging arrangements and cost less than the luxury car tax limit in the year acquired
- a mandatory logbook policy and hold valid log-books for at least 75 per cent of the cars in the logbook year

Businesses can use the logbooks to calculate the fleet's average business use percentage to all tool of trade cars held in the fleet in the log book year and can use that percentage for the following four years.

Employers can calculate the average business use percentage by:

- gathering all log books kept for each car in the fleet
- determining which of those log books are valid
- confirming they have valid log books for at least 75 per cent of the cars in the fleet least 75 per cent of the cars in the fleet
- calculating the average of the business use percentages determined in accordance with each of the valid log books of the valid log books

The simplified record-keeping approach can be applied for a period of five years in respect of applied for a period of five years in respect of the fleet (including replacement and new cars) provided the fleet remains at 20 cars or more, and subject to there being no material and subject to there being no material and substantial changes in circumstances.

An example of a substantial change would be a change in location of the employer's depot a change in location of the employer's depot that would substantially alter the business use percentage of the fleet.

Changing the structure of your business

Some Australian small business owners may now be able to apply the small business restructure roll-over concession upon restructuring their small business.

A key decision when starting up your own small business is deciding on the structure you will use. A small business's structure depends on the size and type of the business, as well as how the owner plans to grow it.

After operating under a specific structure for a period of time, some owners may choose to restructure their business due to various reasons, such as financial or operational issues, business growth, a change in ownership or management or even due to effects from changes in Australia's economy.

From 1 July 2016, the Australian Taxation Office's small business restructure rollover has allowed small businesses to transfer active assets from one entity to one or more other entities without incurring an in-come tax liability.

Even though owners can transfer certain active assets without incurring an income tax liability, there may be tax implications later when they dispose of that asset. There may also be other transaction costs to consider, such as stamp duty or GST. The rollover applies to the transfer of active assets that are capital gains tax (CGT) assets, trading stock, revenue assets or depreciating assets.

The rollover applies if each party to the transfer is one of the following in the income year in which the transfer occurs:

- a small business entity
- an entity that has an affiliate that is a small business entity
- an entity that is connected with a small business entity
- a partner in a partnership that is small business entity

This means that an entity not carrying on a business, but holding assets for a small business entity, may be able to apply the rollover. For example, where one entity owns a property in which another connected entity is carrying on a business.

The rollover is available where the transfer of assets forms part of a genuine restructure as opposed to an artificial or inappropriately tax-driven scheme. Determining whether a restructure is 'genuine' depends on all the facts surrounding the restructure.

The transaction involved in the restructure must also not result in a change to the ultimate economic ownership of transferred assets. The ultimate economic owners of an asset are the individuals who, directly or indirectly own an asset. Where there is more than one individual with ultimate economic ownership, there is an additional requirement that each individual's share of ultimate economic ownership be maintained.

Selling an inherited property

Beneficiaries who inherit a property need to be aware of the various CGT implications associated with owning and selling an inherited property.

When someone dies, a capital gain or loss is generally disregarded when a property passes:

- to the deceased person's executor or other legal personal representative
- to the deceased person's beneficiary - such as next of kin or a person named in the will
- from the deceased person's legal personal representative to a beneficiary

This exception does not apply if the property passes from the deceased to a tax-advantaged entity (such as a charity) or foreign resident.

If you inherit a dwelling or other property after CGT started on 20 September 1985 and later sell or otherwise dispose of it, capital gains tax may then apply.

The degree to which CGT applies depends on:

- when the deceased person acquired the property
- when they died
- whether the property has been used for income-producing purposes

These rules do not apply to land or a structure you sell separately from the dwelling – they are subject to CGT.

Individuals can avoid paying CGT if the property was the deceased person's main residence and the sale is completed within two years of the date of the deceased person's death.

CGT may apply if the deceased person's legal personal representative sells a property as part of winding up their estate.

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