

# The Financial Paracetamol

## Your Guide to Financial Health

PREVENTION • SYMPTOMS • CAUSES • TREATMENT

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## Acquiring Assets Through Unit Trusts

Unit Trusts provide an attractive vehicle for people with their own Self Managed Superannuation Fund (SMSF) to acquire assets that they and their fund would not be able to afford individually. This is particularly relevant to medical practitioners who aspire to own their practice premises.

By establishing a Unit Trust structure, funds can be introduced by a related party to assist in the purchase of the investment (diagram below).

This structure can be enhanced further by establishing 2 classes of units within the Unit Trust – Ordinary Units owned by the SMSF and Preference Units owned by the related party.

The benefits of establishing the different classes of units are:

### Ordinary Unit Holders:

- share net income of the trust after preference unit holders
- have entitlement to the capital of the trust
- have entitlement to the voting rights of the trust
- can be redeemed at any time

### While Preference Units:

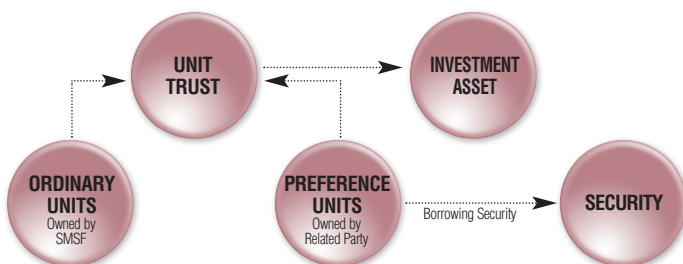
- receive a guaranteed percentage rate of return
- have a priority over trust income
- can be redeemed at any time
- have no entitlement to the capital or to the capital growth of the trust (therefore no CGT)
- on wind up only receive the paid up value of units issued

### The Practical Implications

- Practice Premises, that otherwise would have been out of reach, can be purchased
- Over time the SMSF can achieve 100% ownership of the units in the Trust by way of a 'creeping acquisition'
- When sold, the CGT liability will be that of the concessionally taxed SMSF, or better still if the sale is deferred until you commence a pension on retirement the gain will be **TAX FREE!**

### Rules to Remember

- The SMSF cannot borrow.
- The investment asset the Unit Trust is acquiring cannot be used as security for any borrowings of the deal.
- Residential property cannot be leased to a related party.
- Business real property can be leased to a related party.



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# ATO Compliance Issues

## General

The Australian Taxation Office (ATO) has released its 2003 – 2004 Compliance Program and indicated that the medical profession will be in focus.

The ATO will be looking at things such as matching ATO records against data from third parties. For example, membership records from professional associations, therefore it is imperative that you be up to date with all of your tax obligations, as you can expect increased scrutiny over your tax affairs.

## Service Trusts

The ATO is currently scrutinising Service Trust arrangements. It is important to ensure that your service agreement is on a commercial basis and is administered in an arm's length manner.

## Part IVA & Alienation of Personal Services Income

The ATO has long been concerned about Alienation of Personal Services Income, which is where an individual reduces the taxable income they derive from their own personal skills and effort by diverting it to a lower taxed entity, for example, a Family Trust.

The general anti-avoidance provision Part IVA can apply if there is a scheme entered into for a

dominant purpose of obtaining a tax benefit. An example of this would be where a medical practitioner's personal services are contracted through a trust and the practitioner is effectively under-remunerated, therefore leaving excessive profits in the trust for distribution to family members.

The ATO accepts that a medical practitioner can pay salary and wages to an associate or a service trust for bona fide services provided however that amount must be reasonable and on a commercial basis.

## GST

From 1 July 2003, practitioners providing services such as acupuncture, naturopathy and herbal medicine services must be recognised professionals to continue providing these services GST free.



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## 2004 Lodgement Dates

Please be reminded the upcoming **2004 lodgement dates** are as follows:

21st May 2004	April monthly Instalment Activity Statements
<b>28th May 2004</b>	<b>Fringe Benefits Tax Returns</b>
21st June 2004	May monthly Instalment Activity Statements
<b>28th July 2004</b>	<b>4th Quarter Business Activity Statements/Instalment Activity Statements</b>



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## Log Book Reminder

With the end of the financial year approaching it is a good time to check that log books for your motor vehicle expense claims are up to date and the correct records have been kept. **A new log book is required to be kept after every 5 years.** Please remember that if your pattern of business travel changes significantly, you must keep a new log book. Log books are required to be kept for a continuous 12 week period at any time during the year and need to include the date; opening and closing odometer readings for each trip; kilometres travelled on each trip; and the purpose of the trip. If your log book is current, just remember to write down the odometer readings at 1 July and 30 June. Further, if there has been a new car purchased during the year, the log book can be transferred from one vehicle to another.

Records you need to keep in claiming motor vehicle deductions via the log book method include:

- Period opening and closing odometer readings
- Business use percentage based on the log book
- Receipts for:
  - fuel and oil expenses (or a reasonable estimate based on odometer readings)
  - registration
  - insurance
  - lease payments
  - services and repairs
  - tyres
  - interest charges

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## Minimise Payroll Tax... Create an Associateship

As practice sizes tend to grow over time, both in revenues and the number of practitioners, payroll tax becomes an increasing concern. Payroll Tax is paid on total wages (including superannuation and reportable benefits) at 6% on amounts that exceed \$600,000 in NSW. By restructuring the practice to create Associateships rather than one large

entity, payroll tax may be eliminated in most cases. This may be effective for some practices, especially those with higher fees, however may not be beneficial to other practices due to the cost of setting up the new structure(s) and ongoing compliance costs.

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## Charitable Gift Fund – What is it?

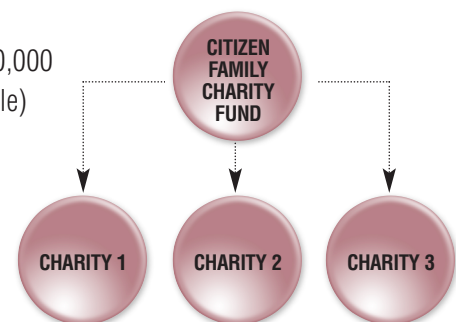
An individual's involvement with charities and philanthropic causes can come about for many reasons and in many ways. **These can include ad hoc donations, acting as a volunteer, or to carry out the wishes of a loved one.**

Another option worth consideration is to create a Charitable Gift Fund, which allows you to establish a personally named charitable foundation – with a minimum contribution of \$20,000. Contributions are generally tax deductible at the donor's marginal tax rate.

Donors can choose from different investment options and distribute the investment income to their nominated charity beneficiaries. The investment income is free of income tax, capital gains tax and GST.

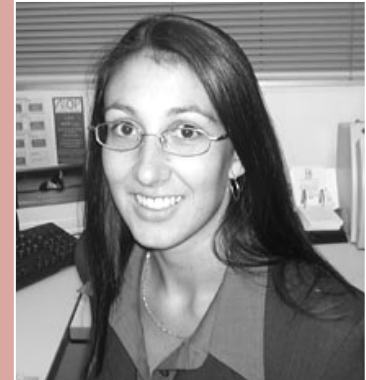
A Charitable Gift Fund is best suited to those who wish to establish a lasting legacy and use the benefits of long-term income growth to better fund future charitable donations. The establishment of a Charitable Gift Fund may also be considered as part of their estate planning process.

For example:  
Donation \$20,000  
(tax deductible)



**Staff Profile....**

Joining the firm in January 2001, Belinda Williams is part of Cutcher & Neale's experienced Accounting & Taxation Services Division. Whilst completing her Bachelor of Commerce at the University of Newcastle, Belinda has worked with a variety of clients with specific needs, including Trusts, Partnerships, Companies and Superannuation Funds. Once Belinda has completed her Tertiary studies she is looking forward to completing the CA program offered through the Institute of Chartered Accountants in Australia.



**Did You Know?**

**Super Age Base Contribution Limits for 2003-2004 are as follows:**

<b>Recipient's Age</b>	<b>Employer Contribution</b>	<b>Self – Employed Persons</b> (Tax deduction \$5,000 + 75% of excess)
Under 35 years	\$13,233	\$15,977
35 to 49 years	\$36,754	\$47,338
50 years and over	\$91,149	\$119,865

It is important to remember that to claim a tax deduction, the super contributions must be **paid no later than 30th June** of each financial year.

**Fringe Benefits Tax Lodgement Date Fast Approaching**

Have you provided reportable benefits to an employee during the period **1 April 2003 to 31 March 2004**? If so, you should check your reporting requirements.

Where benefits have been provided to your employees you may be required to lodge a Fringe Benefits Tax (FBT) Return with the Australian Taxation Office.

All 2004 FBT returns are due for lodgement with the Australian Taxation Office by **28th May 2004**.

If you are unsure if you may be required to lodge a 2004 FBT return, then please contact the ATO, your Accountant or give one of our staff a call.

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