The Financial Paracetamol

Your Guide to Financial Health

PREVENTION • SYMPTOMS • CAUSES • TREATMENT

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Protecting Your Assets Through Superannuation

"Contributing to superannuation is not only a means of tax effective wealth creation – it is also an effective asset protection mechanism"

Under the Bankruptcy Act, interests in a regulated superannuation fund are protected from the trustee in bankruptcy, provided the total amount of superannuation benefits (including personal contributions) does not exceed the **Pension Reasonable Benefit Limit (for 2004/05 $1,238,440)**. Any amount over this limit is available for division amongst creditors.

A payment to the bankrupt from a superannuation fund on or after the date of bankruptcy is also protected in bankruptcy, unless it is paid in the form of a pension or annuity. **Pension income is specifically included as "income" of a bankrupt.** Payments made from a super fund before the date of bankruptcy are also not protected.

"Certain contributions may be clawed back by the trustee in bankruptcy".

Currently Trustees in bankruptcy have the power to claw back:

- Contributions made to a Self Managed Superannuation Fund (SMSF) by a person who is insolvent or about to become insolvent, the main purpose for which was to evade creditors; and
- Contributions made after the date of bankruptcy.

These proposed changes will be effective retrospectively from **16 December 2003** and will give Trustees specific power to **claw-back personal super contributions above $5,000 p.a. made from after tax money <u>indefinitely</u>.**

Inflation!... Is that Growth on the Horizon?

For many years the word "inflation" has been missing from the vocabulary of economic commentators and policy makers.

After a prolonged period of the lowest interest rates in history, the effect of such cheap money is starting to be questioned, in particular its effect on inflation. **Will inflation re emerge and will interest rates have to rise to control it??**

Over the past few years, the Reserve Bank of Australia (RBA) has kept the cash rate low and made money cheap, in a bid to stimulate spending and therefore economic activity.

By making cash readily available, through low interest rates, people borrow or run up credit, creating excess dollars in their pockets. As the excess money burns a hole in a person's pocket, getting rid of it by spending causes inflation.

Over the past few years this excess appears to have been spent on anything housing. The resultant property boom has been one of the main drivers of the economy, but it has also been one of the main areas of concern for driving inflation. Hence, the renewed talk of inflation.

Fortunately, the most recent release of the quarterly CPI confirms that concerns of inflation are not totally back on the agenda, just yet. Importantly, all the negativity about the housing market slowing is precisely what the economy needs. Bad news quells consumer confidence.

While no one wants to see anybody adversely affected from this correction, from a broader economic point of view, it is what's needed to curb spending and therefore keep a lid on inflation.

That should mean the RBA does not have to raise interest rates just yet. However without a correction to the property boom, **all the ingredients are present to enable inflation to reappear**.

Practice Incentive Program

The Practice Incentive Program (PIP) is aimed directly at general practices that provide **comprehensive quality care**. To be eligible, the practice must be accredited, or working towards gaining accreditation with the Royal Australian College of General Practitioners' (RACGP) Standards for General Practices.

Incentive payments are made for Information Management/Information Technology, after hours care, care planning, teaching, quality prescribing initiative and rurality. The incentive payments are calculated on a set rate for each specific activity performed using a Standard Whole Patient Equivalent.

These PIP payments have traditionally been paid to the practices trading entity, however, **there is scope for certain payments to be placed more effectively in associated administration entities**. This will better align the incentive payment to the entity that provided the service and increase the distributable income from the administration entity.

Super Rules for High Income Earners

If I am a high income earner how much superannuation must I remit to comply with the Superannuation Guarantee rules?

For the 2004/2005 financial year the Maximum Contribution Base that high income earners use to calculate their 9% Superannuation Guarantee Contributions (SGC) is $32,180 per quarter. What this means is that to comply with the SGC rules the most superannuation you have to remit is $2,896.20 per quarter rather than 9% of your salary.

Entering a New Arrangement

Does It Pass The 'Smell Test'?

The Tax Commissioner may deny a tax deduction

"where it is apparent that a scheme has been entered into by the tax payer to secure a tax benefit"

The phrase 'smell test' is an early 1980's terminology used in assessing whether a tax arrangement would be accepted by the Australian Taxation Office.

If the facts smell bad the outcome will generally be reflective of this.

In the recent decision in Harts case, the Justices of the High Court again used the phrase. Harts case involved a split loan facility where one loan is taken out and split between a deductible investment purpose and a non deductible private purpose. The split loan is then used to channel all available cash to the private part of the loan, thereby reducing its balance at the expense of the investment part of the loan. The High Court determined the Harts entered their arrangement with the primary purpose of obtaining a tax benefit from reducing their income tax liabilities by claiming more interest expense than would have been otherwise achievable.

The general rule to follow would be to apply the 'smell test' yourself and where the facts appear to 'smell' it is more than likely that a scheme is present. If followed before entering any future arrangements, this simple exercise could end up **saving you countless dollars** in otherwise denied tax deductions.

Reasonable Payments For Services

A recent decision from the Administrative Appeals Tribunal (AAT) has temporarily confirmed that salary and superannuation are not combined in determining **reasonable payments** made to associates for **services provided in a business**.

The test case involved a company employing a Doctor and his wife, where the Doctor provided the "skills and expertise which lay behind the work" and the wife was employed in an administrative role. The doctor's wife was paid a small salary and amounts of superannuation within the age based limits, and the doctor paid a salary, directors' fees and superannuation.

The Commissioner had, under Part IVA, claimed that the distribution of the company's income was a scheme to reduce tax. The tribunal found that there was no such scheme and "the remuneration paid to [the wife]...found to be reasonable."

However the case shows that the Commissioner may take an interest in this area in the future and may review what is included in determining what a "reasonable payment" is.

For the time being, it would appear as though superannuation payments within the age based limits made on behalf of working spouses remain acceptable.

Staff Profile...

Courtney Dolan commenced work at Cutcher & Neale in February 2002 as part of a Scholarship Program offered through the University of Newcastle. Whilst working as part of the Accounting and Taxation Services division Courtney is completing her Bachelor of Commerce during which she has been awarded a number of University prizes for her academic results in Financial Planning, Corporate Accounting and Financial Accounting. Upon completion of her tertiary studies, Courtney will undertake the CA program offered through the Institute of Chartered Accountants in Australia. In her work Courtney prepares Financial Accounts, Income Tax returns, Fringe Benefits Tax returns, and Business Activity Statements for a range of clients, with a particular interest in Superannuation Funds. Courtney is also a member of Cutcher & Neale's Service Commitment Team which is dedicated to the improvement of the overall level of service offered by Cutcher & Neale.

Did You Know?

Super Aged Base Contribution Limits for 2004 – 2005 are as follows:

Recipients Age	Employee Contribution	Self-Employed Persons (Tax deduction $5,000 + 75% of excess)
Under 35 years	$13,934	$16,912
35 - 49 years	$38,702	$49,936
50 years and over	$95,980	$126,307

'Age' is determined on the date of the last contribution made in the financial year.

Free Up Your Money So Your Business Is Free To Grow

In today's competitive environment, it is essential that businesses operate in the most efficient and cost effective way.

One of the most important factors in ensuring that your business performs, is to ensure your working capital is used for business development and other operational necessities.

To free up working capital, businesses should consider financing the acquisition of vehicles, medical plant & equipment, fit outs etc via a chattel equipment product *(Asset/Commercial Hire Purchase, Finance Lease or Chattel Mortgage Agreement)*.

Not only does this **protect your working capital**, but allows you to **free up your cash flow**, thus enabling you to keep your business up to date with the latest technology and productivity as the opportunities arise.

Glen Ash, who has over 18 years experience in the finance and broking industry, has recently been appointed to Cutcher & Neale's Finance Broking Department which can arrange very ***competitive rates*** with ***flexible repayment options***, customised to suit your *own* financial situation. For more information, please call Glen.

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