VOLUME 3, ISSUE 21 | SPRING 2021
PH: 3360 9888 | WWW.PEAKPARTNERSHIP.COM.AU

The Peak Partnership
BUSINESS ADVISERS

PINNACLE Newsletter

INSIDE THIS ISSUE

VIEW FROM THE PEAK

with Danielle Fox

The Australian Prudential Regulation Authority (APRA) has announced more changes to Income Protection (IP) insurance, designed to improve the profitability and sustainability of the sector.

From 01 October 2021, IP benefits will be calculated on earnings over the 12 consecutive months prior to injury or illness (rather than the best income scenario over the prior 2-3 years).

From this date, insurers must also ensure that IP benefits do not exceed 90% of your earnings at claim time for the first six months (after that, the maximum benefit will be 70%, up to $30,000 per month).

Lastly, there will be stricter disability definitions, to encourage people back to work and reduce the risk of long-term benefit periods. We're happy to review the effectiveness and costs of your IP insurance cover.

COVID and your super money.

Under the superannuation early release measures introduced by the Federal Government at the peak of the pandemic, individuals could apply to have up to $10,000 of their superannuation released during the 2019–2020 financial year and another $10,000 released between 01 July and 31 December 2020.

The intent of this initiative was to help people overcome financial stress as a result of lost employment and income. Between 20 April 2020 and 31 December 2020, the ATO received 4.78 million applications for early release of super funds, totalling $39.2 billion.

However, not everyone who applied to have their super released ended up needing to use it once the government ramped up its financial support programs, such as JobKeeper.

From 01 July 2021, people who received a COVID-19 super early release amount can re-contribute to their super up to the amount they released, and those re-contributions will not count towards their non-concessional contributions cap.

The re-contribution amounts must be made between 01 July 2021 and 30 June 2030 and super funds must be notified about the re-contribution either before or at the time of making the re-contribution.

If you took up the early release offer through 2020 as a financial precaution – but didn't use the funds – we recommend re-investing it back into your super. Your money is taxed lower in super and you'll resist the temptation to spend that money unwisely.

If you need any help with your super, our experienced Financial Advisers are happy to help – you can reach them on 07 **3360 9898** or **wealth@peakpartnership.com.au**

Growing your BUSINESS VALUE.

As the baby boomer bubble of small and medium sized business owners roll through the system, Australia will experience one of the largest transfers of business wealth in its history. Succession planning is more important than ever – not just because of the transfer of wealth, but because of the polarising impact of high supply and low demand on the saleable value of a business.

Australia is expected to see the retirement age of baby boomers peak over the next decade. The basics of supply and demand suggest that as supply increases, prices will be driven downwards. For SMEs however, there is a much greater probability we will see a dramatic polarisation in the price of SMEs for sale. High quality businesses command premium prices, while low quality businesses will be highly price sensitive and, in some cases, unsaleable.

If your children are not offering you a retirement strategy, selling your business can be difficult – especially if there are not obvious competitors or complimentary businesses knocking on your door for your marketshare or unique offering.

Forward planning for succession is a critical issue for SME owners who want to exit their business over the coming decade. This planning, with an adequate timeframe, allows you to actively enhance the value of your business.

Most business owners have a view of what their business might be worth and the factors that influence business value. The key question then is, "what do you need to focus on to enhance business value for a potential buyer?" There are four key areas: growth, capacity, profitability and risk.

GROWTH – buyers will generally pay a premium for a built-in level of growth. Growth, if well managed, will produce increased profits. So, a potential buyer knows that the revenue stream they are purchasing with the business, comes with a growth increment. Not only does this growth factor offer future profit increments it also insulates the business against the 'what if' factor. Any major change in a business causes a disconnect and these disconnect events can impact revenues and profits. Built-in growth offers some protection against this.

CAPACITY – provides for both the present and capability to facilitate growth in the future. Areas where capacity needs to exist includes infrastructure, systems capability, and management capability. Systems and management are often the areas given the least amount of focus, yet they are the very areas where value can be leveraged and enhanced the most. One of the reasons why franchises command price premiums is because they offer a level of systems and management. These same factors can be built into any business.

PROFITABILITY – a history of profits and strong cash flows are normally the two greatest influences on SME business value. When assessing your profitability, you need to compare yourself at two levels. First compare your performance against the top quartile of your industry sector. Top quartile businesses always attract higher valuations. Then, look outside your own business sector. Measure your Return on Investment (ROI). Buyers of your business will not only be comparing you with your industry. They may be looking for investment return more than they are looking for a specific business. So, in a potential sale you may be competing with a business from another industry to secure your buyer. You should be looking for a ROI in excess of 25%.

RISK MANAGEMENT – business owners are becoming more sensitive to risk. Strong corporate governance and risk management policies will enhance business value. Buyers will be looking for a history of compliance and a risk management culture. Risk management can include the existence of current employment contracts, operating licences, customer and supplier agreements and Occupational Health & Safety (OH&S) procedures.

These four areas will normally be high on the business value hierarchy and the areas where change can most significantly impact on business value.

If business succession is on your agenda, you need to assess your business under these criteria. Where your performance or position is below what it needs to be, you can identify the issues that you need to focus on to change your business value.

This process may not simply mean the difference between an ordinary sale price and a good price. It may be the difference between a sale that releases your business capital or no sale at all.

Damian Knoblanche (a Director at The Peak) is an accredited Business Valuation Specialist with Chartered Accountants (ANZ). If you're even at the earliest stages of thinking about selling your business, Damian is a great place to identify how to increase your value.

Donations and tax.

The Australian Tax Office has urged taxpayers to make sure they have good records of all gifts and donations in order to claim a tax deduction in the 2020-2021 financial year.

According to the ATO, almost two-thirds of charitable claims that were adjusted were because taxpayers were not able to prove that they made the donation. The ATO says the main reasons that make a donation or gift not tax-deductible include:

- giving to an organisation that the ATO does not recognise as a Deductible Gift Recipients (DGR).
- receiving or expecting to receive a monetary or personal benefit for the donation.
- not keeping good records of the donations and gifts (eg. receipts).
- incorrectly claiming tax-deductions for donations taxpayers intend to make through their Wills.
- incorrectly claiming a deduction for workplace giving that has already reduced the tax paid in each pay cycle.

SUPERANNUATION EQUALISATION

Where couples have significantly different superannuation account values but are of a similar age, there are practical reasons why they might look at evening out any gap.

Where one spouse is close to or likely to reach their transfer balance cap (between $1.6 and $1.7 million), redirecting superannuation contributions to the spouse with the lower balance means that together, they maximise their tax-free income in retirement. Together, the couple can accumulate between $3.2 and $3.4 million tax-free.

You can make a contribution to your spouse's superannuation fund up to their non-concessional cap (currently up to $110,000 depending on their superannuation balance). If they are under 67 years of age, you might also be able to use the bring-forward rule and contribute up to 3 years' worth of non-concessional contributions in one year (up to $330,000 depending on their superannuation balance).

If your spouse is not working or a low income earner (assessable income less than $40,000), there is also a tax offset of up to $540 available on contributions you make on their behalf.

If your spouse is under 65 and not retired, you can split your superannuation with them. Up to 85% of your concessional superannuation contributions from your employer or salary sacrifice each year, can be directed to your spouse's fund.

Actively addressing the value of each spouse's superannuation account might also help to manage some of the issues that can occur when a spouse dies. While superannuation will pass to the beneficiary nominated in the death benefit nomination or estate, this does not always occur in the most practical or tax effective way. The superannuation rules in this area are complex, particularly when there have been family breakdowns in the past. It's important to seek advice to ensure your superannuation is managed in a way that delivers the best possible outcome for you and your beneficiaries.

6 member SMSFs.
The issues and opportunities.

From 01 July 2021, the maximum number of members a Self Managed Super Fund (SMSF) can have increased from four to six. This prompts the question "why would you have a fund with six members and what are the implications?"

Recently passed laws increased the maximum number of allowable members in an SMSF and small APRA fund from four to six.

Currently, over 70% of SMSFs have just two members and those with four members represent only 4% of the SMSF population. The use of six member funds is likely to be small but adds additional choice and flexibility.

FAMILY GROUPS

Six member funds provide family groups with a vehicle for controlling superannuation savings and investment strategies. For families with more than four members, previously the only real option was to create two SMSFs (incurring extra costs) or place their superannuation in a large fund.

A larger SMSF also offers a level of protection if a fund member is travelling overseas for a prolonged period of time. The residency rules require, amongst other things, 50% of members measured by market value to be in Australia.

ESTATE PLANNING

Estate planning is a benefit of the new laws, particularly tax-effective intergenerational wealth transfer, as the assets of a fund generally are not part of the estate.

Take the example of a family business that holds the commercial property of the business in their family SMSF. If the parents die, the children might keep running the business and maintain the commercial property within the SMSF as an asset. Holding assets within the SMSF also provides a level of asset protection from creditors.

THE PROBLEM AREAS

Investment decisions within a fund – Problems can occur when members have different investment needs, for example parents might be closer to retirement while the children are focussed on the longer-term. The investment strategy of the fund may not meet everyone's requirements.

Disputes – the more members in a fund, the greater the potential for disputes. For those with legal capacity to be a trustee (18 or over), the rules relating to the appointment and dismissal of trustees, voting rights and meetings must be clear.

What happens when a member dies – steps need to be taken to ensure that when a member of the fund dies, their wishes are respected. For example, appointing a legal personal representative as trustee, reversionary pensions or binding death nominations.

WHO CANNOT HAVE A SIX MEMBER FUND?

Not all SMSFs will have the option to allow six members because in some instances, the number of individual trustees that a trust can have is limited to less than five or six trustees by state legislation (Queensland for example). In these cases, fund members might opt to use a corporate trustee.

ADMINISTRATIVE IMPACT ON AN SMSF

The change from four to six members updates the definition of an SMSF, and as a result, has a practical impact across other Acts and Regulations.

Sign-off requirements for an SMSF's accounts and financial statements will change. Currently, if an SMSF has more than one director member, its accounts and statements must be signed by at least two members in their capacity as individual trustee or as a director of a corporate trustee. As there cannot be more than four members of an SMSF under the current rules, these requirements ensure that all members sign the accounts and statements of SMSFs with one or two members.

For SMSFs with three or four members, at least half of the members must sign its accounts and statements for the year. Under the updated requirements, an SMSF with one or two directors or individual trustees must have its accounts and statements signed by all of those directors or trustees.

For all other SMSFs (that is, those with between three and six directors or trustees), the accounts and statements of the SMSF must be signed by at least half of the directors or individual trustees.

If you want to explore the option of a six-member SMSF, contact us at The Peak Partnership on 07 **3360 9888**.

Divorce, super and the gender divide.

New legislation will help prevent superannuation assets from being hidden during divorce proceedings.

From 01 April 2022, the Australian Tax Office (ATO) will be able to release details of an individual's superannuation information to a family law court. The recently-enacted laws are designed to ensure that there is procedural and economic fairness in divorce proceedings, by preventing the under-reporting of superannuation assets.

While a spouse's superannuation information can be obtained now through legal action, if it is not provided willingly, it is often expensive and time consuming to obtain factual information through subpoenas or court orders.

From April 2022, when one divorcing party believes the other is not being forthcoming about the value of assets held in super, they can apply to a family law court registry to request their former partner's superannuation information (held by the ATO). They will then be able to seek up-to-date information from their former partner's superannuation fund.

WHAT HAPPENS TO SUPER IN A DIVORCE?

In a divorce, superannuation is treated like any other asset and included in the division of assets in a property settlement or financial agreement. Depending on how the total assets of the couple are split, the super balances of each individual may remain intact with each party taking their respective entitlement from the asset pool, or split between the couple.

For superannuation to be split, there must be:

- an order from the Family Court or Federal Magistrate Court; or
- a superannuation agreement (a financial agreement that deals with superannuation interests).

If a superannuation account is split, it does not convert into cash unless the receiving spouse is aged 65 or over, or has reached preservation age and has retired. In most cases, the superannuation is immediately rolled over into the receiving spouse's superannuation account and remains there until they are legally able to access it.

The tax-free and taxable components of the super payment to a receiving spouse will be calculated immediately before the payment is made. The relevant payment retains the tax components of the account the funds are transferred from.

For self-managed superannuation funds (SMSFs), generally an SMSF cannot acquire assets such as residential property from a related party, but there is an exemption when the acquisition is a result of marriage breakdown. Where a property is involved, the superannuation rules allow an in-specie rollover under a court order or financial agreement rather than forcing the former couple to sell the property. For example, where a couple have an SMSF together, it's common for one member to step down when they divorce (until that point it's important to remember that the trustees are legally obliged to act in the best interests of all members). This same member might then set up their own SMSF and utilise the exemption to receive the residential rental property as an in-species rollover.

Capital Gains Tax (CGT) relief is also available where property is transferred to a spouse's superannuation fund as a result of divorce proceedings so that any potential CGT does not apply on transfer. Instead, the spouse or former spouse who receives the asset will effectively 'inherit' the transferor's cost base of the asset for CGT purposes. That is, when the property is transferred, the tax implications are generally the same as if the receiving spouse or their superannuation fund owned the property from the time it was acquired.

THE SUPERANNUATION DIVIDE

On average, women earn 14.2% less than men, based on full-time earnings (with overtime, the gap is 16.8% and for part-time work, this figure blows out to 31.3%) – and the COVID-19 pandemic has only worsened the pay gap.

Given that 93% of all primary carer leave is taken by women, it's no surprise that there is a divide between the super balances of men and women on retirement. While the super gap is diminishing over time, reflecting the positive shifts in work participation and the earning potential of women, it is currently estimated at 42%. That is, when a woman retires, she retires with around 42% less superannuation than a man.

While the situation is much better in SMSFs, a gap remains. Over the five years to June 2019, the average member balances of women increased by 28% to $654,000, however the average balance of a male was $784,000.

The Federal Budget proposal to remove the $450 threshold on superannuation guarantee payments (the minimum amount someone needs to earn in a month before an employer is required to pay superannuation guarantee) will help reduce the superannuation divide, but this is not intended to commence until 01 July 2022.

Framed: **Cheryl Fitzsimon**

She joined The Peak 20 years ago in March 2001, but Cheryl Fitzsimon has so far avoided the spotlight in our staff profile section of The Pinnacle.

Cheryl, our ever-reliable and efficient Practice Manager, plays a vital role in the day-to-day running of The Peak office. Her role covers everything from internal accounting, HR management, IT problem-solving, working with our office property managers…and a whole lot more. It's not uncommon for Cheryl to be managing multiple projects and tasks at once, with the occasional line-up of staff at her door in desperate need of help.

Cheryl has a Certificate IV in Business and a Diploma in Front Line Management, plus the skill-set of a great office all-rounder (all much-needed attributes to manage her hectic schedule).

When we asked her about life at The Peak, Cheryl said, "It's great to work where there is a fantastic culture. I am constantly challenged in my role and I enjoy making sure everything runs smoothly." Well said Cheryl, and thanks for everything!

New laws target sharing economy platforms.

In an attempt to reign in undeclared income, proposed new laws will require platform providers in the sharing economy to report all transactions through their platforms.

Traditional employment models have shifted in favour of more flexible options including contracting, self-employment and use of labour hire. Consumers are increasingly paying to 'use' rather than 'own' assets, creating new income opportunities for the owners of assets – like AirBNB. The Government believes they are missing out on tax revenues from these payments – income tax from income earned, GST on ride sharing (because the ATO considers all ride sharing a taxi service and as a result GST applies), and Capital Gains Tax on the sale of property used to earn income, etc.

While data matching programs have targeted sharing platforms in the past, the proposed laws provide a structured and consistent framework to recognise all revenue earned in Australia through these platforms.

The laws target electronic platforms capturing those that act as intermediaries between buyers and sellers, to more complex arrangements where the platform operator assumes much of the inherent risk in the transaction between the buyer and the seller, play a quality assurance role, and ensure a seamless experience for the buyer and seller. The laws do not rely on the platform processing payments and will reach to those who use third party payment providers.

If implemented, the laws will apply to ride sharing and accommodation services from 01 July 2022, and all other services from 01 July 2023. We'll keep you posted on the outcome of the proposed law changes.

ATO warns that tax scams have started early.

The ATO has warned of an increase in the incidence of email scams attempting to steal personal information, In particular, scammers pretend to be from the 'myGov Customer Care Team', sending emails that include a screenshot of the myGovID app and ask recipents to verify their identity by clicking a link.

This of course goes to a fake myGov login page specifically designed to steal personal information, including login and credit card details. With the 2020-2021 tax lodgement season in full swing, we think it's important to remind you to:

- look out for any suspicious emails and delete them immediately (poor grammar is a telltale sign);
- not click on any links in these emails;
- never provide the information requested; and
- remember that emails or SMS from myGov will **never** include a link to login.

Lastly, if you receive an email or SMS that appears to be from myGov, but contains a link or appears otherwise suspicious, you can report it to **scamwatch.gov.au**

07 3360 9888
17 Mt Gravatt-Capalaba Road
Upper Mt Gravatt Qld 4122

Learn more at **www.peakpartnership.com.au**