



## Issue 5 | August 2017

### DO I NEED A FAMILY TRUST ??

There are many reasons to consider setting up a family trust but it is important to understand what they are and what benefits they can provide before making the move.

#### Some Common Reasons

- High marginal rate taxpayers with low-income family members to distribute to;
- Individuals requiring asset protection against creditors;
- Business partners;
- Property owners with several properties and who wish to manage land tax more efficiently;
- Investors who have experienced a relationship breakdown and require protection of assets;
- Benefactors who expect challenges to estate planning;
- Individuals in aged care who wish to reduce the income-tested fee and impact on the age pension.

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### CONTRIBUTING DOWNSIZER PROCEEDS TO SUPER

The "downsizer contribution" is proposed to allow individuals to contribute up to \$300k of the proceeds from the sale of a residence owned by a person or their spouse.

The property must be located in Australia and have been owned by the individual, their spouse or former spouse for at least a period of 10yrs prior to disposal.

The sale of the property must receive at least partial CGT exemption under the main residence CGT rules. This can provide planning opportunities for 'later in life' couples who may each have their own home, and are looking to move into a single property, or have an investment property in which they used to live.

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### WHAT LENDERS LOOK FOR IN A BORROWER

It's true the method used to arrive at a credit decision for a finance application will differ from bank to bank. It's also true that the method will differ greatly depending on the type of finance (or loan) being sought. The greatest truth however is that all methods are based on, or derived from the "3 C's of Credit".

So what are the 3 C's ??

#### (1) CHARACTER

This is an assessment on an applicant's likelihood of repaying the debt sought. It will be based on things such as:

- past credit history (defaults ??)
- how the applicant reacted to any prior financial hurdles (business applicants)
- relevant industry experience
- length and stability of employment (individuals and couples etc)
- experience and stability of directors (companies etc)

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### KEY DATES

#### Aug 14th: PAYG Summaries

Employers must provide an annual summary to the ATO

#### Aug 28th: BAS

Extensions for Agent submitted BAS Returns expire, are you ready ??

## CONTRIBUTING DOWNSIZER PROCEEDS TO SUPER

The contribution must be made within 90 days of settlement although the ATO does have discretion to extend this window.

Presently contributions can only be made by an individual between 65yo and 75yo. A notice must also be provided to the super fund prior to or at the time the contribution is made. Draft regulations do however provide for downsizer contributions regardless of age and that they not be considered as non-concessional contributions. Only sale contracts entered into on or after 1 July 2018 are eligible for the downsizer contribution.

The maximum contribution is \$300k per individual but this is capped to the actual proceeds of the sale - so if a home is sold for \$200k the maximum contribution is \$200k. The \$300k is a fixed amount and is not subject to automatic indexation, meaning future changes in the cap would need to be legislated.

The draft legislation does not require a new home to be purchased, or limit the contribution to the equity released if a second home is purchased. Only a single downsizer contribution can be made per individual in their life.



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## DO I NEED A FAMILY TRUST ??

### How Much Does it Cost ??

A basic accountant prepared trust will start at around \$990 with ongoing accountancy fees varying between \$1500 and \$2500pa depending on the complexity involved.

### Ongoing Maintenance of Trusts

This is primarily the distribution of income earned by the trust to those who qualify to be beneficiaries, this could include:

- interest & dividends on investments (or shares)
- rental profits from property or
- capital gains

Undistributed income is taxed at the top marginal tax rate, hence why family trusts usually fully distribute the trust's income before the financial year-end.

The percentage of income distributed to each beneficiary is often part of broader tax planning and will depend on the beneficiary's individual income and tax rate.

### Do I or Don't I ??

Many factors will determine the worth of a trust and hence it is vitally important to undertake a cost benefit analysis on the value of same. This should only be done with your accountant who will take into account your own personal circumstances.

## WHAT LENDERS LOOK FOR IN A BORROWER

### (2) CAPACITY

As in the applicant's capacity to repay the debt sought. This aspect of the assessment will be based on things such as:

- current incomes
- the stability of the income over a period of time
- proposed or projected incomes
- frequency and timing of incomes
- the applicant's ability to maintain this income

### (3) COLLATERAL

In other words, security. A commonly held myth is that Banks are security lenders 1st and cash flow lenders 2nd. This is untrue - particularly in business finance. In short, an applicant strong in categories #1 and #2 will likely see a lender accept less security for a debt. Conversely if there is an assessed weakness in categories #1 and #2 a lender may seek to mitigate this via additional security or higher rates.