

Minimise Tax to Maximise Your Retirement

Written by Louise Cherry
Tax Lawyer

If you intend to sell your business, or pass it on to the next generation, this article can provide some tips on minimising the tax consequences.

CGT Concessions & Exemptions

Capital Gains Tax can have a big impact when you're selling your business. This is true regardless of whether you carry out your business as a sole trader, through a partnership, a company, or a trust. The situation, however, is simplest for individuals.

Individuals

There are various CGT concessions available. The individual discount is automatically available to individuals, which reduces your CGT by 50%.

If you are over 55 and have held the asset for over 15 years, an exemption allows you to disregard any capital gain made from selling the asset.

The small business concession is available in relation to "active assets" of the business if the business either has net assets of less than \$6 million or its income is below a certain level. An asset is "active" if it is used (or held ready for use) in the business's income earning activities. If you are eligible for the small business concession you may receive a further 50% reduction. This will reduce the amount included in your taxable income to 25% of the original amount. This may be further reduced by



Liability limited by a scheme approved
under Professional Standards Legislation

the small business retirement exemption or roll-over relief.

If you are aged over 55, the retirement exemption can apply. If you are younger than 55, the retirement exemption can only apply if the income is transferred into your superannuation fund. Each individual may only use \$500,000 on the retirement exemption.

The small business roll-over allows any capital gains to be "rolled over" into a replacement asset, if the replacement asset is bought within 2 years.

Companies & Trusts

Apart from the individual discount, the above concessions and exemptions may be available if certain other criteria are also satisfied.

Transferring Shares in a Company

An alternative to selling all your company's assets is to sell your shares in the company. The capital gains will be reduced by the individual 50% discount.

Succession Planning Involving Discretionary Trusts

The flexibility offered by discretionary trusts makes them an ideal vehicle. The discretions mean that the trustee may

decide who gets what. Transfer of control can be achieved by a simple change of trustee, and if there is an appointor, by a change of appointor.

If you want the next generation to gain control of some trust assets, trust cloning can be considered. Trust cloning allows a new trust to be created and assets transferred to it without CGT consequences. Creation of the new trust must be done properly for it to be correctly “cloned”. If the terms or the beneficiaries of the new trust are not exactly “the same” according to the ATO, then the exemption from CGT may not apply.

Superannuation

Recent changes to superannuation law make superannuation very attractive.

For example:

1. If there are no employer contributions, contributions of up

to \$50,000 per annum are tax-deductible. If you are over 65, you must work a minimum of 40 hours in any 30 day period during the year for this to apply.

2. Anyone younger than 75 can also contribute up to \$150,000 per annum on a non tax deductible basis, and the fund is not taxed on these contributions.
3. After age 60, after leaving current employment, unlimited amounts can be withdrawn from super tax-free.

Further incentives may apply depending on your situation.

Conclusion

Retirement offers a wealth of opportunities, not least for tax and succession planning. Good planning now can help you to enjoy your retirement in the future.

This article is not advice, and is for general information purposes only. You should seek professional advice before finalising your retirement plan. For further information contact Louise or Kym at Butlers on (02) 4929 7002 or email contacts@butlers.net.au.