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Building successful business relationships with integrity and respect

Three tax strategies for small business owners selling up

1. **Check eligibility for small business CGT concessions**

These CGT concessions – together with the 50% general CGT discount (applying to individuals and trusts) – often remove CGT on the sale of small business assets.

Only proceeds from the sale of so-called "active" business assets are eligible for small business CGT relief.

"Active" assets are basically those used or ready to use in the carrying out of the business. They include tangible and intangible assets such as goodwill.)

And a small business is only eligible for the small business CGT concessions if its turnover in the preceding financial year was under $2 million or the total value of the owner's assets and those of "affiliates" do not exceed $6 million.

The net market value of the owners' business assets, personal bank accounts, personal investment portfolios and personal investment properties – together with those of their business partners, spouses, children under 18 or any entitles or people under their control – are included in the $6 million asset threshold.

The four small business CGT concessions are:

- The 15-year ownership exemption. If your business has owned the asset for 15 years and you are over 55 and retiring, no CGT is payable on any assessable capital gain. If you qualify for this exemption you do not have to apply for any of the other small business concessions i because it wipes out the entire capital gain.
- The 50% "active asset reduction". This is a crucial and fundamental tax break – including for those continuing in another business. It halves the capital gain.
- The small business retirement CGT exemption. A capital gain from the sale of a business asset is exempt from CGT up to a lifetime limit of $500,000 for each individual owner. For a couple, this would mean a $1 million exemption. If you are under 55, the exempt amount must be paid into super.
- The small business CGT rollover relief. This is a "last resort" following the sale of "active" small business assets that are being replaced by other active assets. CGT is postponed until the replacement assets are eventually sold.

These concessions are slightly different for companies, trusts and individuals so please seek our advice.

2. Understand the opportunity for some small business owners to make extra-large super contributions

Under the 15-year ownership exemption you can contribute the proceeds to superannuation. The amounts that you contribute do not count towards the normal cap on non-concessional superannuation contributions ($150,000 a year or $450,000 for 3 years). Non- concessional just means you are not claiming a tax deduction for the contributions. There is a lifetime cap on the contribution from the sale of small business, which is currently $1,255,000. So when you sell your business you could effectively move $1,430,000 into super in the year you sell your business. Which is the roll over from the small business of $1,255,000, plus the tax-deductible contribution of $25,000 plus the non-concessional contribution of $150,000. This is a very attractive option of moving assets into a low tax environment.

Alternatively if you have had the business less than 15 years and you take up the retirement exemption you can contribute up to $500,000 into super as a non-concessional contribution.

3. Consider holding your business premises in your self-managed fund

Some small business owners sell the trading side of their business to an external buyer and then contribute or sell their business premises at market value to their self-managed super fund.

Under superannuation law, business real estate – such as an office, shop or factory – is one of the few types of assets that super funds are allowed to acquire from members.

Once the superannuation fund is able to pay a pension to (including a transition-to-retirement pension), fund income and capital gains are tax-free. And after members turn 60, superannuation pension payments are no longer taxable.

This strategy could work in conjunction with utlilising the small business tax concessions, it is a complex area and we strongly recommend you seek our advice on eligibility and timing issues.

There will be stamp duty payable on the transfer.

This is general advice only. We strongly recommend you seek professional advice if you are considering any of the above strategies. We disclaim any responsibility for anyone relying on this information.

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