Session 2: Q& A - Questions we Answered

Question from Antonio

Control of an entity – you mentioned that if there is less than 50% of the Trust then it is not a “related trust” – does it make a difference who the trustee is (coy or individuals)?

Question from Heath

Re. the Unit Trust for Pub: if there were only 2 50/50 investors would the unit trust still be deemed unrelated?

Question from Kristy

Must Sam and Kerrie retire in order to utilise the retirement exemption under SBC?

Question from Jo

Given that the “Beach property” was predominantly used for personal purposes (only rented for a month or so a year) – is there a way that we could get this to NOT count to the $6mill Net Asset limit?

Question from Kate

With partial transfers of property – how do you deal with if that property is used as security for other loans across the group. Can we retain this lending on the FT component?

Question from Rajesh

If you have a “related party loan” – do you need to have the loan outside the fund matching the loan amount TO the SMSF? How will that be treated outside the fund – for example – the benchmark rate might be 5.6% - but the home loan I have used was at say 2.6% - so there is a 3% difference between them – how does this get dealt with?

Question from Lauren

The last question also referred to a “benchmarking” rate. To be a compliant LRBA loan this would either need to be on the ATO PCG terms (current rate 5.1%) or the Fund will need to “benchmark” and maintain a report to justify the rate/terms chosen for a related party loan … who would issue that and what would it cover?

Question from Matt

Regarding the in-specie transfer of Kilsyth property from Snow Trust to SMSF, for stamp duty on the transfer to be exempt, are Sam and Kerrie's children required to be trustees and/or beneficiaries of the Snow Trust in order for there not to be a change in beneficial ownership? If not, how is there no change in beneficial ownership when the children were not part of the Trust but are now new to the SMSF.

Question from Kenneth

If the beach house is in the smsf, would it count for the asset test?

Question from Tash

Could Sam and/or Kerrie wait until they are 55 years of age in a few years and utilise the 15 year exemption amount instead to get a larger CGT contribution into super under the larger cap? This potentially allows them to fully contribute the entire Kilsyth property into the Fund tax free without the need to add their children into the fund, having to borrow to purchase remaining portion of the property etc.

Question from Peter

If there were personally held listed shares included in the group's net asset test calculation? If yes, they could potentially be transferred into the fund prior to any larger CGT contribution being made that would impact TSB and lower NAV.

Question from Jen

Regarding Max and the 1/3 interest in pub – should the unit trust become related at a future stage, for example, would it become tainted if the unit trust had initial borrowings to purchase the pub but they were all paid off before it became a related trust? Are the 13.22 Regulations measured /assessed at the time it becomes related?

Question from Carl

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