

Is It Time To Review Your Mortgage Arrangements?

Borrowers looking for the most competitive lending rates have so much to gain from today's competitive mortgage market. It could pay you to review your mortgage arrangements to see if refinancing will save you money and help you to own your home sooner.

Some questions you need to ask yourself are:

- Is my interest rate still competitive?
- Are there newer products that better suit my situation?
- Am I using all the bells and whistles that I'm paying for?
- Could I be cutting debt or building wealth faster?



Annual Mortgage Statement

Account Number
Date

If you think refinancing might be an option, you also need to consider:

Interest Rate – In stable economic times variable rates appear more attractive. However, when interest rates are rising many people prefer the predictability of a fixed interest rate. Depending on the term of the loan, fixed rates can vary from bank to bank, so it is wise to shop around.

New Products – Constant innovation and competition mean that new products are emerging all the time that just may suit you better.

Debt Consolidation – If you have mounting credit card and other personal debt, this could be the ideal opportunity to consolidate all your personal debt into a home loan at a more affordable rate.

What will it cost to refinance my mortgage?

If you are considering refinancing your loan, you need to calculate the costs to ensure it will be financially viable. Some of the costs include:

Deferred Establishment Fee – this is usually charged by lenders if a client refinances their loan within the first four years. The cost can range anywhere from a flat fee of \$700 to 0.15% of the loan amount.

Application/Approval Fee – this will be charged by your new lender for setting up your new loan and usually costs between \$400 and \$600.

Mortgage Stamp Duty – depending on the size of the loan, stamp duty can be substantial. Borrowers can transfer stamp duty they have already paid to another lender for loan amounts up to \$1M. For larger loans, you must pay the stamp duty again at the rate of \$4 for every \$1,000 of the loan amount over \$1M (therefore for a \$3M loan you will need to pay \$8,000 in stamp duty).

Valuation Fee – if the lender conducts the valuation, the cost is around \$200. If the property being valued is worth over \$1.5M the lender will usually require an external valuation from one of its preferred valuers. These valuations start at approximately \$1,000.

What is involved?

We can help you to assess the suitability of your current borrowing arrangements. Our service includes a complimentary review of your current position. When we have a clear picture of your situation, we compare your loan to hundreds of other available loans and provide you with a recommendation.

It only takes 30 minutes to review your mortgage arrangements - but it could help you own your home sooner and literally save you thousands of dollars over the life of the loan.

Speak to your WHK Lending & Finance specialist to find out more.

Article by Phil Irwin, Lending & Finance Manager, WHK Horwath Sydney.

On behalf of all the staff at WHK Group we wish you and your family a happy and safe Christmas in 2007



STRAIGHT TALK

The most powerful asset your business will ever have... People.

"Take away my factories, my planes, my railroads, my ships and my money – but leave my people and in two to three years, I will have them all again."

-Andrew Carnegie

It is true that one of the most valuable assets of a business is its skilled work force and yet while businesses will always insure their property and machinery, they often neglect to insure their most important employees. Business managers need to work out what they would do if a key person were to die or become totally and permanently disabled. This is particularly important in the case of a partnership.

Without adequate Death or Total and Permanent Disability cover, funds would have to be raised by selling assets or increasing business debt. Both are poor options compared to getting a suitable amount paid directly from an insurance policy. Appropriate Death and/or Total and Permanent Disability insurance will ease a business through a stressful time by providing much needed cash for the business to maintain successful operations.

An alternative to insurance is a Business Succession Plan. This plan employs "Buy/Sell" agreements with structured funding arrangements to ensure enough cash is available to buyout a partner or a departing principal. The "Buy/Sell" agreement will effectively provide a smooth transition of control for the remaining partner without affecting the company financially or interrupting the day to day running of the business.

So why are people reluctant to implement Risk Insurance Protection? The perception of high cost is usually the major factor.

Lets then take this example of business owner John, a white collar worker, aged 40, who is a non-smoker.

For a monthly premium of \$85.75 (approximately \$20.00 per week), John can receive Life & TPD cover for a sum insured amount of \$500,000 - a small outlay to protect his business.

What this example highlights is that for a comparatively small monthly payment, insurance can provide a lump sum that can effectively protect the business in the event of Death or Total and Permanent Disability of one the business partners.

Want to know more about "Buy/Sell" succession planning agreements? Speak to your WHK Risk Specialist today.



What you need to know about Self Managed Super Funds

WHK Group has recently made a number of presentations on the Audit Requirements imposed under the Superannuation Industry (Supervision) Act (SIS), and the following article was derived from these presentations to provide background information on how the audit process works and provide a case study on Frequently Asked Questions that trustees ask their planners and adviser.

The Superannuation Industry (Supervision) Act 1993 (SIS) and its Regulations (SISR) require that all superannuation funds be audited by an independent Approved Auditor for each year of income. The Regulator of self managed superannuation funds is the Australian Taxation Office.

A little known fact is that under the SIS regulations is that the trustee or trustees of the SMSF must arrange for the audit to be completed one day before the due date for lodgment of the fund's annual income tax return.

A primary objective of the ATO in regulating and supervising the compliance of SMSFs with the legislation is to ensure that the purpose of a SMSF is to accumulate benefits for the retirement of its contributing members, upon their retirement. This is referred to as the Sole Purpose Test.

Simply put - the Sole Purpose Test encapsulates the key concept of superannuation - providing retirement benefits for all of the members of the fund.

When conducting audits an Auditor generally designs a process that is designed to identify the existence of present day benefits or test the conduct of the fund for a dominant purpose other than "sole purpose". It is not designed to show that all transactions the fund has entered into are correct.

The ATO expects Approved Auditors to conduct their audits in conjunction with the Australian Auditing Standards by:

- Maintaining adequate working papers (and where applicable making these available to the ATO)
- Reporting contraventions to ATO

An auditor will also require an engagement letter clearly specifying the role of the Auditor and Trustee/s.

The Approved Auditor seeks to establish that the fund's investments exist and are in the correct name (the trustees' ATF name of Fund) or in the fund's name directly) and are correctly valued to current market.

An Approved Auditor must consider the fund's investment strategy during the conduct of their audit. Evidence of the trustees' application of the strategy can be found in the strategy document itself as well as the fund's minutes documenting the trustees' decisions in transacting investments.

The ATO publication 'Investment Strategy and investment restrictions' issued on 28/7/03 offers additional useful guidelines regarding investment strategies:

- The investment strategy should set out investment objectives and methods.
- The acquisition and holding of all investments must be in accordance with the investment strategy.
- Trustees should get expert advice if investing in non-traditional investment; for example, art and "exotics".
- An asset used by a member at no cost may breach the sole purpose rules.



SIS is very specific in respect of the acquisition of assets and the dealing of those assets with related parties. The acquisition of assets from related parties is prohibited, unless assets acquired are:

- listed (Australian and foreign) shares
- business real property
- units in ungeared unit trusts (as per SISR 13.22).

What is Business Real Property?

Business Real Property is defined as:

- real property;
- used wholly and exclusively in one or more businesses.

An ATO ruling provides an example of how the acquisition of residential property from a member was a breach of SIS requirements. In this case the member ascertained that they were carrying on a business by renting the property via an agent to an arms-length tenant and that the property was therefore business real property.

The ATO determined that the acquisition triggered a breach as:

- The agent is engaged to collect rent - but not to carry on a business with the property.
- The agent did not have an interest in the property.
- The member approved all actions regarding the property and retained control.
- Income was collected by agent as an agent for the member.
- All expenses were the responsibility of the member.

If, during the course of an audit, the Approved Auditor discovers a breach of the legislation, regardless of its materiality or its affect on members' balances, the auditor must bring the breach (or potential breach) to the attention of the trustees (SIS s129).

Penalties are expressed in terms of penalty points (currently \$110 per point).

In severe cases, where the trustees have deliberately contrived to breach the legislation in the most serious manner, the ATO may withdraw the compliance status of the fund and tax the fund's income and assets values at the highest marginal tax rate in the year of non-compliance. Only in exceptional cases would the ATO take such measures.

It must be noted that the trustees cannot seek reimbursement from their fund to meet the expenses of imposed penalties. Further, the payment of penalties if not tax deductible.

The ATO is increasingly dependent on the Approved Auditor to report breaches via the Auditor Contravention Reports (ACR) which is the Regulator's key indicator that SMSF's are complying with SIS. The ACR regime commenced from 1 July 2004.

Some interesting statistics:

- As at 31/12/2006 the ATO received over 10,000 ACR's from 9,906 auditors.
- 50.6% of total contraventions were reported as remaining unrectified.

Major contraventions include:

- loans made to a member or a relative (18%) - SIS s65,
- assets not in the name of the fund (16%) - SIS s52,
- breach of in-house asset rules (14%) - SIS s71;
- documents requested by the auditor were not provided (11%),
- borrowings by the SMSF for a purpose not allowed in SIS (9%) - SIS s67, and
- breach of sole purpose test (8%) - SIS s62.



Trustee Declaration

Trustees are now required to declare on the fund's annual return that they are aware of and understand their responsibilities as trustees, giving the ATO further ammunition to take harsh action against those trustees who intentionally breach the legislation.

The ATO's current approach to the Audit process

The ATO's aim is to be less visible to those SMSFs who comply with all the requirements of the legislation and whose trustees are diligent in their good governance of their fund. Conversely, the ATO intends to become highly visible to those funds whose trustees fail to comply or have little intention to comply.

There are currently (September 2007) more than 330,000 SMSFs in existence, each with an average balance per member of over \$180,000. SMSFs represent a very significant proportion of the total Australian retirement savings pool. The ATO intends auditing around 4,500 SMSFs per year in order to encourage integrity in the governance of these funds.

The requirement to have each fund independently audited by an Approved Auditor underpins the ATO's governance objectives and emphasises the Regulator's dependence on the external audit process. Consequently, Approved Auditors share the responsibility of ensuring the integrity and robustness of the SMSF regime.

CASE STUDY 1 Sole Purpose Test

Scenario

Peter and Julie are 34 and 32 years old respectively and are members of the PJ Superannuation Fund. Both are in full-time employment.

The PJ Superannuation Fund has \$350,000 in a fixed term deposit, maturing in the near future. The fund has total assets of \$450,000.

Peter's uncle owns a beach house which he wishes to sell. Peter is very familiar with the location and the house, having spent many happy family holidays there.

Peter's uncle has had the house valued at \$370,000 by the local estate agent. He has offered it to Peter for \$330,000 which is a savings of not only the 5% selling commission that the agent would normally charge, but an additional saving of \$21,500 because Peter's uncle needs a quick sale and wants Peter to purchase the beach house.

Peter and Julie are anxious to buy the house. The only moneys that they have available are those on deposit in the superannuation fund.

Questions

1. Can the PJ Superannuation Fund purchase the beach house from Peter's uncle? If so, what sections of SIS would need to be satisfied?
2. What purchase price should be used by the fund should the fund acquire the beach house?
3. Can Peter and Julie use the beach house for their holidays?

If not, can they rent the house to their close friends?

Answers

1. Peter's uncle is a related party of Peter, a member of the PJ Superannuation Fund. SIS s66(1) prohibits a regulated superannuation fund from acquiring an asset from a related party as defined in SIS s70B(a).

For the fund to acquire the beach house from a related party, the value of the beach house must not exceed 5% of the total value of the fund, otherwise the acquisition would breach SIS s71(1) - the In House Asset rules.

2. If allowable, the purchase price should be the current market value of the property at the time of purchase by the fund. (SIS s109)
3. Peter and Julie cannot use the house for themselves (if they were able to purchase it in the name of the fund because they would be receiving a present day benefit in breach of SIS s62 - the Sole Purpose Test.

Article by Chris Malkin, WHK Horwath Melbourne.

Did You Know?

WHK Group is the fifth largest Accounting group in both Australia and New Zealand.

Clients & Readers: This newsletter is provided by WHK Group and its member firms (hereafter "WHK Group") and Investor Financial Planning (IFP) as an information service only and does not constitute financial product advice. WHK Group & IFP provide no warranty regarding the accuracy or completeness of the information. All opinions, conclusions, forecasts or recommendations are reasonably held at the time of compilation (ie August 2007) but are subject to change without notice by WHK Group & IFP. Both WHK Group & IFP assume no obligation to update this document after it has been issued. Except for any liability which by law cannot be excluded, WHK Group & IFP, its directors, employees and agents disclaim all liability (whether in negligence or otherwise) for any error, inaccuracy in, or omission from the information contained in this document or any loss or damage suffered by the recipient or any other person directly or indirectly through relying upon the information.

Section 945A of the Corporations Act requires financial planners to obtain information from clients before making recommendations. Equivalent requirements apply also to accountants in relation to the provision of taxation advice. Accordingly, clients and readers should not act only on the basis of material obtained in this newsletter because the contents are of a general nature and therefore do not take into account each person's individual circumstances and may be liable to misinterpretation. Do not act upon any of the information contained within this newsletter without first obtaining specific advice from your local WHK Group Adviser.

WHK Group Pty Ltd ABN 84 006 466 351 and Investor Financial Planning Pty Ltd, holder of Australian Financial Services License No. 238244 ABN 51 060 092 631.

This newsletter is printed on environmentally-friendly, eco stock. **ECO**

