

News

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What's your Contingency Plan?

Contingency and redundancy plans serve the same purpose as insurance.

In the dynamic landscape of modern business, uncertainty is a constant companion.

We are all subject to an environment where market conditions, regulatory landscapes, technological advancements and competitive forces are continually evolving. This unpredictability makes the role of contingencies—a term encompassing plans and strategies designed to address potential risks and unforeseen events—paramount in every business strategy.

Contingency and redundancy plans serve the same purpose as insurance. Like insurance, they can be costly and often feel like money wasted. Ideally you never have to realise the full value of the investment. However, those that have been in business long enough, have either been thankful to have such plans in place or have learnt a tough lesson.

Only recently, we had the "CrowdStrike" computer outage. Many Microsoft computers and systems around the world became inoperable. Airports went into meltdown, businesses could not take payment. Even some businesses that accepted cash could not open their till or register a sale. Technology is great... when it works.

Thankfully the recent outage was relatively temporary. However it should serve as a wakeup call to both government and private enterprise whom heavily rely on technology. What is the plan if such an outage was ongoing? What if the digital "cloud" dissipated? What if your internet went down for an extended period? What if the digital payment system went down or was compromised?

As time goes on it seems physical cash, paper records, in-house digital data storage and local backups are being forgotten to history. Cost savings and efficiency gains are the obvious reasons for this; complacency would be another. Regular risk assessments and scenario planning will cement the importance of such things and prevent complacency from creeping in.

Contingency planning is not merely a defensive strategy; it is a vital component of good proactive management. In a world where change is the only constant, effective contingencies provide the agility and resilience necessary to thrive amidst the inevitable challenges.

Touch wood... contingency plans put in place never need to be actioned however, you will be thankful if they ever are.

Property

Selling your home? Beware of a partial Capital Gains Tax liability!



With the temptation for homeowners to cash in on spiralling house prices around Australia, it is important to turn your mind to whether you may only have a partial Capital Gains Tax (CGT) main residence exemption available to you, and not a full CGT exemption (because of the way you have used your home).

So, what are some common ways that such a partial CGT liability may arise?

Didn't move in "as soon as practicable"

Firstly, when you bought your house you may not have been able to move into as "soon as practicable" (as required by the CGT main residence rules). And while in some cases this can be ignored, such as because of serious illness, in other cases it won't be.

For example, if you bought your home subject to an existing lease that still has to run its course then you will be subject to a partial exemption because of the failure of your home to be your main residence throughout the entire period you owned it.

Likewise, the same rule will apply if for example you can't move into your new home as "soon as practicable" because of commitment to, say, an interstate job.

In these types of cases the partial exemption will apply on a pro-rata basis to reflect the period of time during which you owned the home that you did not live in initially as your home (or were not able to treat it as your home under a relevant concession).



This pro-rata rate will be calculated by reference to the amount you bought your home for - and not any larger subsequent market value.

Absent from home and rented it

Another way that you can lose your full CGT exemption on your home is if you are absent from it for a period (such as if you rent it while you live or work overseas or interstate) and you cannot use (or fully use) the "absence concession" to continue to treat it as your home.

This may happen, for example, if you rent it for more than six years or if you use the full main residence exemption in respect of another home you own while you are absent from your current home.

In such a case, the pro-rata calculation will usually be calculated by reference to your home's market value when you first rent it - and thereby result in a lesser partial CGT liability.

However, the interaction of the "absence concession" rules and any rental use of your home can be complex (especially if you own another home at the time).

It therefore definitely requires good professional advice (if only to use the absence concession rules to the maximum effect, depending on your exact circumstances).

A partial exemption will also apply if you use part of your home to carry on a business (e.g., consulting rooms or a shed for repair and maintenance works).

Two homes of spouses at same time

Finally, something that is often forgotten is the rule that prevents spouses (including de-facto and same sex spouses) from each being able to claim a separate main residence exemption on different homes they own and live in during a period when they are considered to be "spouses".

In this case, the couple will have to either nominate one of the homes as their CGT-free main residence for that period or, in effect, claim a half exemption on each home for that period.

This rule can apply in a variety of situations such as where two young people become de-facto partners but each retain their own home and either each continue to live in their own home - or they live together while retaining a prior home (which they continue to treat as their main residence).

Conclusion

Suffice to say the CGT rules in this area are quite complex in their own right - but even more complex depending on the circumstances to which they are applied (especially given the "choices" that can be made as to how to apply them in the particular circumstances).

So, if you are thinking of selling your home, it is important to get advice about whether you may only have a partial CGT exemption.

A Fine Line Between Property Development and “Merely Realising an Asset”



There can often be a fine line between whether a person is carrying on property development activities or is “merely realising an asset”.

For example, it may not be clear whether the extent of a person’s development activity in respect of, say, subdividing his or her backyard and building one or more units of accommodation and selling them either amounts to property development or merely realising an asset – and one that has been used mainly for domestic purposes.

A person may be considered to be carrying on property development activities if they are not in the business of property development and it is a one-off activity.

Suffice to say, the tax consequences between property development and “merely realising an asset” are entirely different.

In the case of carrying out property development activity, the gains are assessable as ordinary income (or as

business income) – and, importantly, without the benefit of the capital gains tax (CGT) 50% discount which would otherwise reduce the assessable amount.

However, relevant expenditure incurred is generally deductible as it is incurred, i.e., in the income year that it is incurred. And this may be of great benefit to the developer.

On the other hand, if a person is “merely realising an asset” then any gain is only accounted for under the concessionally taxed CGT regime (and with the benefit of the 50% CGT discount, if generally the land has been owned for more than 12 months).

Furthermore, in this case, if the property in question was acquired before 20 September 1985 then there will be no consequences (either CGT or ordinary income). And there are still quite a few pre-CGT properties around that are ripe for realisation.

So, how does the Tax Office tell the difference between the two when it is not abundantly clear from the nature of the activity itself?

Well, several factors are particularly important (among the many that can be taken into account).

These include the intention with which the person originally acquired the land. To develop it and on-sell it for a profit? Or merely for some other non-profit purpose? For example, to live in it as their home (although this distinction is getting harder to tell in the current property market!).

Another key factor is the extent to which the person gets involved in the activity. As a broad principle, where a person is less involved in the activity and merely acts passively it is generally considered to be “merely realising an asset”. But this is not a hard and fast rule.

There are also import GST consequences depending on the nature of the activity and the property involved.

Finally, it should be stressed that just because the nature of the activity is a one-off transaction it does not mean that the person is immune from being taxed on the profits as ordinary or business income.

So, if you are contemplating carrying out any such activity, come and have a chat to us first so we can help you do things with the best possible tax outcomes.

ATO Guidance



Those working from home are generally entitled to a tax deduction for the associated expenses.

“Work from Home” Deduction Update

Unsurprisingly, calculating (or even estimating) these work related expenses can be tricky, therefore the ATO has always provided guidance as to what they consider a fair and reasonable way of estimating these costs.

As a result of COVID-19 pandemic, the ATO acknowledged the increased prevalence of working from home, and subsequently allowed a “shortcut method” of 80 cents/hour to be claimed where appropriate. Unfortunately, this method was only a temporary, and its use expired on 30 June 2022.

The ATO has now advised that from 1 July 2022 they intend to allow taxpayers to claim the following expenses (incurred on a fair and reasonable basis) by using a fixed rate of **67 cents per hour** working from home;

- Energy expenses (i.e. electricity and/or gas for heating/cooling and electronic equipment)
- Internet expenses
- Phone expenses (incl. mobile)
- Stationery and computer consumables

Noting that prior to the above-mentioned shortcut method, the cents per hour rate only included energy expenses and furniture depreciation; the other expenses could be claimed in addition to the per hour rate. Under the ATOs new guidelines, you are unable to claim for the above-mentioned expenses if you are also claiming the per her rate.

Alternatively, and in many instances, taxpayers may be better off claiming the work-related portion of the applicable expenses. This however will require more extensive record keeping (i.e.. diary and receipts) to substantiate each claim.

Small Business Energy Incentive

On the 25th of June 2024, a little known tax incentive that was aimed at encouraging businesses to improve energy efficiency is the Small Business Energy Incentive (SBEI) was legislated.

Depending on what sort of depreciating assets have acquired between 1 July 2023 and 30 June 2024 (the bonus period), businesses with less than \$50 million annual turnover may be entitled to a bonus deduction of 20% of the cost of acquiring up to \$100,000 of eligible equipment. This is over and above what you would ordinarily claim, so it's bit like the previous investment allowance, but with a \$20,000 cap.

The SBEI applies to eligible expenditure on depreciating assets that use electricity during the bonus period and where one or more of the following apply:

- There is a new reasonably comparable asset that uses fossil fuel available in the market;
- The new asset is more energy efficient than the one it is replacing;
- If not a replacement asset, it is more energy efficient than a new reasonable comparable asset available in the market.

An asset can also be eligible if it is an energy storage, time-shifting or monitoring asset, or an asset that improves the energy efficiency of another asset.

The bonus deduction is available on second hand assets, although the comparable asset must be available in the market as new.

It only applies to businesses, so replacing gas appliances with electric ones in a rental property would not qualify. The bonus deduction does not apply to solar panels or motor vehicles.

**If you think you may have a claim,
please feel free to contact us.**



Accounting for vs Creating Transactions

There is a common misconception that accountants can simply create transactions (by way of a journal entry) when processing financial statements, however this is not correct.

An accountant's role is not to create a transaction, rather it is to document the financial implications of a transaction.

This fact is the reason for many of the minutes, resolutions, forms, declarations, agreements etc. our office requests of clients. Such documents are evidence that a transaction occurred. Where there is a dispute, the courts may refer to financial statements and journal entries, however they may declare a transaction void without documentary evidence to substantiate the financial statements and the transactions they represent.

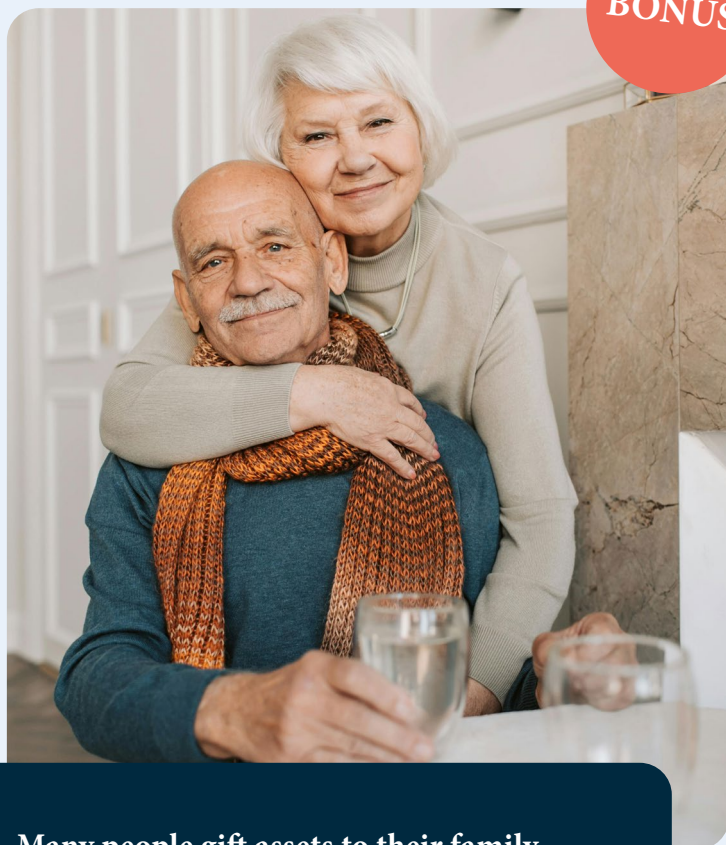
Similarly, the Tax Office may not accept that a loan is in place, or repayments have been made (perhaps via a dividend), if the only reference to such is a journal entry. Signed loaned agreements and dividend statements will likely be required to evidence the arrangement.

So whilst we all grow tired of the amount of paperwork and documentation required, they serve an important role if there is ever a dispute, including with the Tax Office.

Retirement

Gifts and the Age Pension

BONUS



Many people gift assets to their family or friends to give them a helping hand. However, care must be taken to ensure any gifting does not impact your current or future social security entitlements, such as the age pension.

Gifts limits



Although you can gift as much income or assets as you like, Centrelink imposes gifting limits to discourage retirees from giving away their wealth to qualify for more age pension income.

The gifting rules allow you to gift up to \$10,000 each financial year or a maximum \$30,000 over five financial years without this impacting your entitlement to government benefits.

When applying the gifting rules, they are first measured against the \$10,000 per financial year rule (with the same limit applying to both singles and couples), then against the \$30,000 limit over a rolling five financial year period.

If you exceed these limits, the excess amount will be treated as a 'deprived asset' and will count as an asset under Centrelink's asset and income tests. When applying for a pension, the asset and income tests are both applied and the test that pays the lower rate of pension will apply.

Timing is key



Centrelink looks retrospectively at any gifting amounts over the last five years. For example, if you gift your holiday house which is worth \$1 million at the age of 61 to your kids, when you turn 67 and claim the age pension, that gift will not be assessed. This is because once the five year time period is up, any deprived assets are removed from the assessable assets used to calculate your entitlements.

As can be seen, this highlights a gifting strategy where you can gift large amounts that exceed the allowable gifting limits five years before you qualify for the age pension without the gifting rules applying against any age pension payments in the future. But remember, there are other financial implications of your gift that you should consider, such as missing out on investment income that your asset would have generated and any potential capital gains tax or stamp duty that may be payable if there is a change of ownership in the asset.

What are the gifting rules?



For Centrelink purposes, gifting refers to selling or transferring income or assets for less than it's worth or without receiving anything in return. If you receive adequate compensation, such as payment for an asset to the same value, it is not considered a gift.

Obtain advice



If you are approaching age pension age and are considering gifting to help your family or friends, you should seek advice to assist with your specific situation as the gifting rules can be complex.

Changes in preservation age

Since 1 July 2024, the age at which individuals can access their superannuation increased to age 60. So what does this mean for those planning on accessing their superannuation upon reaching this age?

What is preservation age?

Access to superannuation benefits is generally restricted to members who have reached 'preservation age' which is the minimum age at which you can access your superannuation benefits.

Prior to 1 July 2024, a person's preservation age could range from 55 to 60 as it depends on their date of birth. Preservation age has been slowly increasing over the years and has finally reached its legislated maximum age limit of age 60, as shown in the table below:

Date of Birth	Preservation Age
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
On or after 1 July 1964	60

This means anyone born on or after 1 July 1964 will have a preservation age of 60.

Tip – it's important to note that preservation age is not the same as your Age Pension age. To get the Age Pension, you must be age 67 or over, depending on when you were born (and other rules you need to meet). So even if you reach preservation age, it could be some time before you are eligible to receive the Age Pension from Services Australia (i.e., Centrelink).

What does this change mean for me?

Once you have reached preservation age, you may receive your superannuation benefits as:

- A lump sum or as an income stream once you have retired (or a combination of both), or
- A transition to retirement income stream while you continue to work.

Furthermore, once you turn age 60 your superannuation benefits (i.e., any lump sum withdrawals and/or pension payments) will generally be tax-free.

This change simplifies the tax rules as previously those between preservation age and age 60 were subject to tax on lump sum withdrawals and pension payments. Now, the tax treatment of superannuation benefits depends on whether you are above or below age 60 – there is no need to consider preservation age which is based on a person's date of birth.

Need more information?

If you're wondering what your superannuation withdrawal options are or how tax may apply to your superannuation benefits, transition to retirement or superannuation income streams, please contact our office.



With an increase in fraud and scams in recent times it has never been more important to keep your information secure.

Passwords are the key to your online identity and any unauthorised access can have large consequences, including but not limited to financial losses, identity theft and reputational damage.

01 Make strong passwords which are:

- At least 12 characters long
- A combination of uppercase letters, lowercase letters, numbers and symbols
- A passphrase and/or not a word that can be found in a dictionary, name of a person, character, product or organisation.

An example of a strong password could be "9GiraffesRLooking"*

02 Don't make your password easy to guess.

Avoid using keyboard patterns, repeated letters and any personal information such as your date of birth.

03 Don't share your passwords.

Never share or send your password to anyone, including friends and family. Noting legitimate companies will never ask for you to disclose your password and always be cautious if it is requested.

For many of the large banks, all of whom now have a "digital first" approach, where you experience a financial loss due to a weak password or carelessness with sharing and storing your passwords, they may hold you liable for the loss.

Having strong passwords and digital security is not only important for preventing loss, it is just also important for recovering from it.

Lessons Learned from Cyber Attacks



In a world of continuous technological advancement, cyber security becomes just as important as physical security. With many businesses moving to cloud-based information storage, private information needs to be treated with a considerable amount of care.

Below are the top 5 lessons detailed in the ASD Cyber Threat Report, released by the Australian Signals Directorate (ASD).

01 The most common reported cyber incident is business email compromise.

Regardless of how sophisticated your cybersecurity is, human judgement and error can dethrone it. Business email compromise occurs when hackers trick an employee into sending money to their account. Hackers can send fake invoices disguised as looking legitimate and sending them to your business. The Australian Signals Directorate (ASD) recommends caution of any invoices and to contact the billing entity to confirm the invoice legitimacy.

02 The cost to recover information has increased.

Ransomware comprises of 10% of all cyberattacks but it's the costliest. Hackers may freeze or encrypt files and demand a price to recover this information. All business sizes are at risk of this threat, the average cost to recover this data for a medium business is over \$90,000. Having offline backups is an effective measure to have in place to not be vulnerable in this situation.

03 Keeping up to date with software

Being on top of your software updates is crucial for all businesses and individuals. Updates are released to improve the current program; this could be new features or reinforcing its defences. After two weeks of a program being outdated, hackers have nearly a 50% rate of success of exploiting outdated software.

04 ASD's Essential Eight

The Australian Signals Directorate (ASD) have derived eight pillars of cyber security which when applied correctly forms a strong defensive strategy from hackers and cyber-attacks. The essential eight are.

- Patch Applications
- Patch Operating Systems
- Multi-Factor Authentication
- Restrict Administrative Privileges
- Application Control
- Restrict Microsoft Office Macros
- User Application Hardening
- Regular Backups

05 Have an incident response plan!

Just as you would do for any other emergency i.e. fire, burglary etc. Having a well-rehearsed plan with individual roles and responsibilities will result in reduce damage and cost in the case an incident occurring. Additionally, getting the support from a cyber response team will help in creating a response plan as well as support during a cyber incident.