RENSHAW DAWSON LANG
overVIEW
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Not-For-Profit Sector – Efficient and Effective?

From local tennis clubs through to the likes of World Vision, there are around 600,000 not-for-profit (NFP) organisations operating in Australia. It is a large and diverse sector under the raft of various regulations and legislative frameworks. No wonder the contribution of this important sector is often misunderstood by the wider community.

On 11 February 2010 the Productivity Commission released its report on the contribution of the not-for-profit sector including recommendations to improve its efficiency and effectiveness.

The report includes recommendations to:

» Adopt a statutory definition of charitable purposes (currently a concept developed over centuries of case law)

» Establish a Charities Registrar as a one-stop-shop for NFP regulation including
  - National fundraising registration
  - A single portal for corporate and financial reporting
  - Responsibility for tax concessional status (instead of ATO)

» Establish a separate chapter in the Corporations Act dealing with companies limited by guarantee. Reporting, fees and charges should be proportional to the organisation's size.

» Harmonise various state and territory Incorporated Association legislation.

» Expand Deductible Gift Recipient terms to include all charitable institutions.

» Allow mandatory vetting requirements of volunteers (ie. Police Checks) to be portable within jurisdictions.

» Simplify tendering, contracting, reporting and acquittal requirements for Government funding, in proportion to funding levels and risk.

Over the last 14 years there have been five major reviews of the NFP sector. Many of the recommendations from these reviews have not yet been implemented so it remains to be seen what will actually result from these findings.

Australia's Future Tax System Review (the Henry Review) is also due to report on the not-for-profit sector. No doubt the government will consider the Productivity Commission report together with the findings of the forthcoming Henry Review before any decisions are made.

The report is available in full at http://www.pc.gov.au/projects/study/not-for-profit/report.

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How do I know how much my business is really worth?

Business owners are often so invested in their business that they lose sight of what the true value of their business really is. If owners put their heart and soul, sweat and tears into the business they expect it to be worth all the effort.

If you own a publicly listed company or have an interest in one, you know what the market says your interest in that business is worth, on any day of the year. A private business is very different. For most private businesses, there is no ready or automatic market that tells what the business is worth.

Knowing the real worth of the business is fundamental to being in business and not just for sale or succession. Proving the value of the business is critical if owners:

1. are looking to borrow
2. to understand where they are growing the business
3. for assessing business performance and the adequacy of profits or
4. for completing a restructure.

The value of the business is a key benchmark, a frame of reference against which to measure business performance. Not knowing this could cost business owners a lifetime of under-performance.

Not all businesses are measured in the same way. One reason why many business owners misunderstand the value of their business is because they compare it to another business which may be fundamentally different. There are a number of different valuation methods for small and medium businesses. At a high level, the majority of businesses will be valued on their earnings, their cash flow, or their assets. Different approaches will produce different results. The right answer is not the one that produces the best result but rather the one that is in line with the fundamentals of the business. For example, a business that has a limited life with a defined income stream will be valued on the cash stream it will produce. Whereas a mature business, like a wholesale business being valued as a going concern (as an ongoing business), is likely to be valued on a multiple of its earnings. A business, like a farm, is more likely to be valued on its tangible assets.

Risk also influences business value. The higher the risk, in most cases, the lower the relative value. Risk impacts the ability of the business to maintain its earnings, the stability of the cash flow or the reliability of the assets. Irrespective of the valuation method employed, variations in risk will influence value. Risk is measured at an economic, industry, business and ownership level. To enhance business value, look at areas to 'de-risk' the business without impacting on earnings.

Ideally, the business should generate and grow its earnings, its cash flow and its asset base. These factors and a positive growth trend are indicators of the real and ongoing value of the business. The absence of these factors may bring into question the value that really exists.

If commercial or tax decisions are based on business value then a business valuation should be completed. At least then the business has a third party opinion of its real worth.

Dotting the 'i's and crossing the 't's with SMSF property investment

The Taxation Office is taking their job of regulating Self-Managed Super Funds (SMSFs) seriously. In recent years they have focused on education, but the tide is turning and it is clear that they are now prepared to wave a big stick at SMSFs not doing the right thing.

One area of their interest is investment in property – whether directly or indirectly via a Unit Trust. In their sights are breaches of the arm's length principle and failing to obtain market valuations as necessary.

To keep the property side of your SMSF in order, we recommend the following:

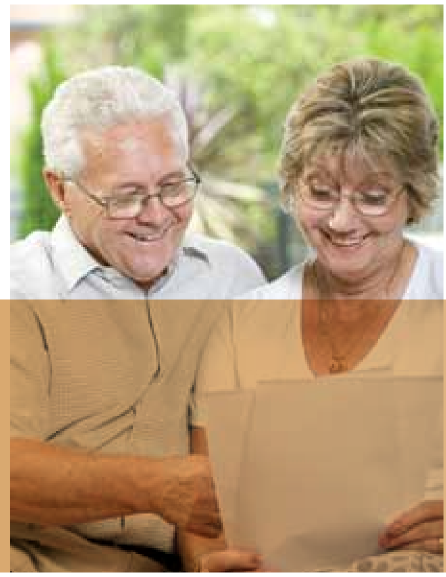
» Obtain independent market valuations for your property.
  - At least every three years
  - Before starting a new pension
  - Before a member leaves the fund
  - In a change in market conditions (ie. after a property crash, or renovations)
  - Anytime the unit holders in the property unit trust change

» Establish lease agreements, even with related parties.

» Review the rent each time the property is valued to ensure the rent is appropriately priced. Any potential advantage to the members of the fund, or to a related party leasing the property, will put the compliance of the fund at risk.

» Enforce the terms of the lease agreement. It is technically a breach of the SIS Act if related parties get away with late lease payments because it is unlikely that unrelated parties would receive the same concessions.

Please ensure that you keep copies of everything and make them available for audit. We will be checking them to ensure that your fund is fully compliant.



Still working and over 65 – Commonwealth Seniors Health Card

As a result of the recent financial crisis, many people are continuing to work beyond age 65 in order to increase their retirement savings.

The Commonwealth Seniors Health Card (CSHC) may be available to clients in this situation. The CSHC assists self – funded retirees that are age pension age in covering health costs, and access to concessions on prescription medicines through the Pharmaceutical Benefit s Scheme (PBS) and certain Medicare services at cheaper rates including:

» bulk billed general practitioners;

» a reduction in the cost of out-of-hospital medical expenses, through the Medicare Safety Net;

» state based community services such as additional health, household, education and transport may be available at a concession rates which can vary state by state.

A client who obtains the CSHC may be entitled to receive the Seniors Supplement, which is a non-taxable payment made every three months to help with regular bills such as energy, rates and motor vehicle registration fees.

To qualify for the CSHC, a person must:

» not be receiving an income support from Centrelink or Department of Veterans Affairs (DVA);

» be an Australian resident; and

» meet the income test based on a person's adjusted taxable income*:

- under $50,000 per annum (single);
- under $80,000 per annum (couple combined); or
- under $100,000 per annum for a couple living separately due to illness.

* Note that the adjusted taxable income for the CSHC does not include income from a superannuation pension but does include reportable super contributions.

Clients who continue to work past age pension age, especially on a part time basis, may be interested to access the CSHC to assist with living costs.

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