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**Hold the Press...  
Super Funds can now borrow!**

The prohibition on borrowing has been relaxed to allow (subject to strict lending covenants) superannuation funds, including ‘Self Managed Super Funds’ to borrow in order to purchase any asset the fund would otherwise have been permitted to acquire. This includes **residential or commercial properties!**

This change allows individuals or couples with sufficient accumulated super balances to establish a ‘Self Managed Super Fund’ (SMSF) and roll existing benefits into the SMSF as a deposit to purchase residential or commercial property. Additional tax effective super contributions can be made (ie. deductible salary sacrifice or self employed contributions) in order to provide sufficient monies, if required.

Accordingly an opportunity now exists to purchase a significant underlying capital asset, such as an investment property, in the superannuation environment in order to achieve significantly higher levels of capital growth over the medium to long term. Clearly a long term investment time frame will be mandatory for most people given superannuation cannot be accessed until preservation age (55 – 60 years).

Additionally, the superannuation environment is very tax effective with net earnings taxed at a flat 15% and Capital Gains Tax (CGT) of between 10–15%. However in “pension phase” a superannuation fund is completely tax free. Accordingly, if the property is sold after retirement there would be no CGT whatsoever.

Importantly there are a number of strict conditions associated with this option including the structure of the investment and the associated lending. For example, the property must be purchased in a ‘special’ trust owned by the superannuation fund and the associated loan must be on a “limited recourse” basis within the fund which means only the investment property itself can be used as security. Additionally certain restrictions apply to the super fund in terms of allowable investments, including a restriction on acquiring existing residential property from a member or “related party”. This restriction does not apply to commercial property.

Given the significance of this change we intend to hold in-house information sessions in our boardroom. We are limiting these sessions to existing Hoffman Kelly clients (and family) with a maximum of 10 per session. The format will be a very informal “workshop” style, where we discuss the legislative change, several worked examples, details of the required structure including costs (ie. SMSF, special trust, lending requirements etc) with plenty of time for specific questions and discussion.

**If you would like to attend one of these information sessions please complete and return the attached invitation, with your preferred time, as soon as possible.**

**EXAMPLE 1**

Jim and Jill Watson are both teachers 40 years of age. They do not have much equity in their own home (or perhaps would like to maintain any existing equity for possible future private expenditure eg. holiday, boat etc). They would however like to invest in property for their retirement. They are each on \$60,000 per annum. They have each accumulated \$60,000 in their industry superannuation funds.

If they establish the Watson Self Managed Superannuation Fund (SMSF) and associated special Trust, they can roll their existing

superannuation balances (\$120,000) to their new SMSF. The SMSF then borrows \$480,000 and transfers the entire \$600,000 to the Trust which purchases a residential rental property for \$600,000

The accounting figures for the Superannuation Fund group looks like:

**Special Trust (owns property)**

Net Rent received after agent fees, rates etc  
(assume 4% yield)..... \$24,000

**Superannuation Fund**

Net rent distributed from Trust ..... \$24,000  
Less Interest (\$480,000 x 8%) ..... \$38,400  
Net Loss..... \$14,400

Compulsory employer contributions (9%) could be applied toward the above loss, but let’s assume Jim and Jill decide to salary sacrifice the extra \$14,400 between them into their superannuation fund to utilise the tax losses in the fund. No tax will be payable on the additional \$14,400 going into the fund and Jim and Jill would have saved \$14,400 x 31.5% = \$4,536 in personal tax. Their combined after tax amount of wages is only \$193 less per week.

**Of course the main attraction for Jim and Jill is that their super fund now has an underlying capital asset worth \$600k which they can expect will have very significant capital growth over the ensuing 20 years (approx) to their retirement. Additionally, no capital gains tax will apply assuming the property is held until retirement!**

**EXAMPLE 2**

Example 2 highlights some extremely attractive asset protection and tax effective outcomes achieved where commercial premises used in a business are sold to the owners SMSF using the SMSF borrowing option...

John operates a business from commercial premises which he owns in his name (or could be related partnership/trust structure). He purchased the commercial building in 2002 for \$300,000 and has since paid the debt down to \$50,000. John owns his own house with a private debt of \$550,000. The commercial building has just been valued at \$900,000. John has never been given any professional advice on his structure, tax planning or asset protection.

**Solution:** John established a Self Managed Super Fund and a Special Trust. The Super Borrowing Trust purchased the building from John for \$900,000. John will have a capital gain as follows:

Selling Price.....	\$900,000
Less Cost .....	\$300,000
Nominal Capital Gain .....	\$600,000
Less .....	(general 50% discount as building owned > 12 months) <b>\$300,000</b>
Balance .....	\$300,000
Less.....	(additional 50% discount as operated business from the building) <b>\$150,000</b>
Balance .....	<b>\$150,000</b>

If John puts the remaining \$150,000 into his superannuation fund, the capital gains tax is reduced to nil.

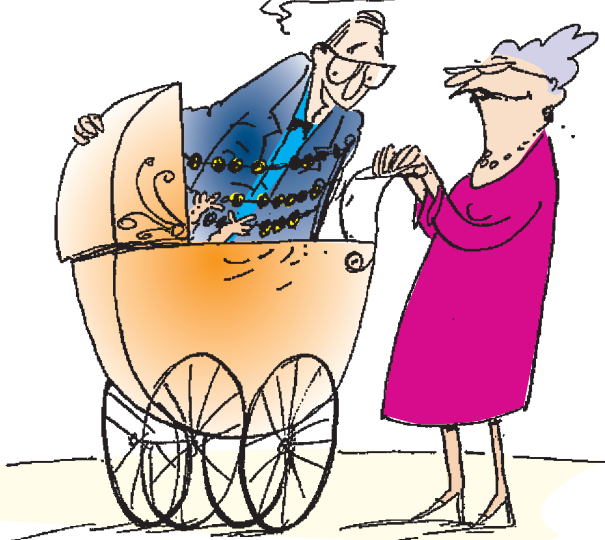
The Superannuation fund now has \$150,000 (being Johns contribution necessary to remove all the capital gains tax from the sale of the building).

The Superannuation Fund then passes the \$150,000 to the Special Trust which uses these funds as a deposit toward the building. The superannuation fund therefore only needs to borrow \$900,000 – \$150,000 = \$750,000. The superannuation fund having received \$150,000 from John + \$750,000 from the bank, then purchases the property from John for \$900,000.

John’s personal cash position is now:

Funds received from sale.....	\$900,000
Less deposits back to super fund.....	<b>\$150,000</b>
	\$750,000
Less payout old bank loan on building.....	<b>\$50,000</b>
Net disposable cash (tax free).....	<b>\$700,000</b>

He's got tax accountant written all over him!



John has now got \$700,000 of which he can repay the private home loan of \$560,000 saving \$45,000 in private interest which previously needed to be funded from his private wages from the business. John also has \$140,000 in available cash which he can inject back into his business and make further contributions to his super fund to save tax in his business and cover any gearing in the superannuation fund.

**Cost:** Stamp duty on transfer

**Benefits:**

1. Home loan extinguished allowing reduced wages from business resulting in lower personal tax as private debt is paid out
2. Family home can be used as equity for further investments outside super
3. Pure asset protection for the building
4. Gearing in super fund can be used to offset tax on contributions to the fund
5. No income tax or capital gains tax on sale of building if super fund is in retirement (pension) phase
6. Business pays rent to superannuation fund at commercial rates

**Congratulations Beshara!**

Some clients may be aware that Beshara Anstis has recently completed the (notoriously challenging) 5 module CA program and is therefore now a fully qualified "Chartered" Accountant!

However, her modesty will prevent you being aware that she achieved a 'Merit Award' for every module in which it was offered (4 out of 5 modules). The 'Merit Award' is only given to the **top 5%** of candidates in each module! Accordingly, based on her outstanding result over all modules she ranks amongst the top graduates in the country!

Everyone at Hoffman Kelly is extremely proud of Beshara and this outstanding achievement!

Thomas Aitkenhead and Kelly Graham are currently doing the final module of the CA program with Craig Mitchell about to commence his final module. All are doing extremely well with more outstanding results being achieved! We wish them well and look forward to formally advising of their "chartered" qualification in the near future. They are looking forward to "getting a life back".

**Lodgement Due Dates...a Reminder**

Some clients are unaware of the due date for lodging their returns and this can lead to late lodgements which incur fines. Alternatively some clients are anxious about lodging when they may still have some time to do so. For example, the general October 31 deadline for individuals only applies for those who do not lodge through a Tax Agent. If you are unsure of your due date please call us if you require more specific advice, however in general the following dates apply.

**Individuals**

- 3 June (If last year refund and on time)
- 31 March (If tax payable in current/previous or late last year)

**Companies/Trusts (under \$20M turnover)**

- 15 May (assuming good lodgement history)

**Super Funds**

- 15 May; 28 February (If first year of operation)

For example your 2007 tax return will be due for lodgement on 3 June 2008 (if you lodged your 2006 return on time, you are receiving a refund for 2007 and you received a refund for 2006).

**In line with our standards of producing only the highest quality returns and maximising tax-planning, we require your work at least 4 weeks (individuals and partnership) and 8-10 weeks (all other entities) prior to the above dates to allow sufficient time to complete accounts/returns and all associated tax planning.**

**Grey Nomads "In Training"**

Beshara and Mike are taking a very well deserved extended break between March and June including driving the "Great Ocean Road" followed by 3 weeks in Thailand (including several days jungle trekking), then the 'reel' fun starts, when they return to hook up the camper trailer and fishing rods onto the 1987 "Cruiser" and head north to the Cape and across Savannah way to Darwin. They plan to return on 1 July (assuming the eskies are full of Barramundi.)

Thomas Aitkenhead will be maintaining the same high level of service to Beshara's clients while she is on leave. Please do not hesitate to call Tom (or Tony) during this time.

**Economic Update from Steve Ham**

Since mid December we have seen the equity markets drop in value by around 15% and above. This has been mainly due to concerns about USA recession fears and the credit tightening flow on from the sub prime mortgage issues. The question that many are asking is how long can this period of negative volatility last, and when will it be a good time to buy in. Share prices in the finance sector have been beaten down as a result of the global liquidity issues and our major banks have compensated for this liquidity problem by rising interest rates in excess of reserve bank increases to preserve profit margins. Income yields from the major banks are now at an attractive 9% level (including franking).

Inflation is expected to persist at around 3.8% given high labour cost growth and oil prices around US\$ 90/bbl. The risks of the cash rate rising further beyond the 7% level remain high given wages growth is accelerating into the 5% to 6% range. While we are looking at a higher interest rate environment and some further credit tightening, it is important to look at the long term picture. It is during these times that those prepared to purchase at lower prices, and hold for the longer term, ultimately win higher investment yields and greater potential for longer term growth.

**Meet the Team**

**Business Services**

- Partner ..... Anthony Hoffman
- Partner ..... Troy Kelly
- Manager ..... Beshara Anstis
- Manager ..... Greg Roberts
- Accountant ..... Thomas Aitkenhead
- Accountant ..... Kelly Graham
- Accountant ..... Craig Mitchell
- Accountant ..... Michael Kerwin
- Accountant ..... Claire Waterhouse
- Accountant ..... Ramil Alpuerto
- Accountant ..... Shelly Nakamura
- Accountant ..... Elise Jione
- Office Manager ..... Lisa Cronin
- Admin Manager ..... Tracy Warren
- Receptionist ..... Megan Cowan

**Financial Planning**

- Financial Planner ..... Steve Ham
- Para Planner ..... John Rose
- Administration ..... Amanda Lynch

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