

# Death Benefits Tax

Minimising death benefits tax & estate planning  
through Super

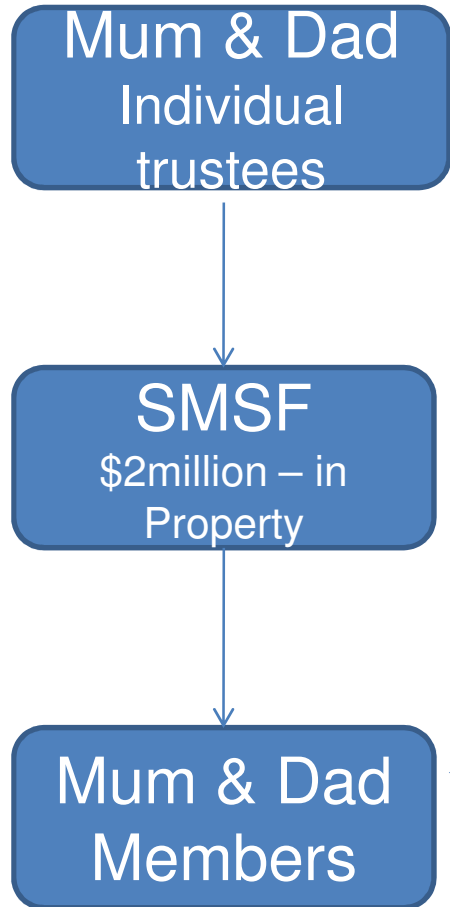
Tuesday 25<sup>th</sup> October 2011



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# Example

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30% of their benefits are tax free component

3 children  
All named as executors of their estates

## Example

**Who would get control of the fund?**

**How much tax would the beneficiaries pay?**

## Example

**Only one executor per  
member can be  
appointed trustee**

**Tax payable would be  
\$441,000**

# Overview

**Control.**

**Potential Beneficiaries.**

**Tax Impact.**

**Minimising tax.**

**Case Studies.**

# Control

**Control of the SMSF**

**Control of your Benefits**

**Corporate vs Individual  
Trustees**

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# Control

## Binding Death Benefit Nominations

## Corporate Trustee

# Benefit of a Corporate Trustee

- **Avoid the administration nightmare**
  - **Loss of capacity??**
- **Clear ownership of Fund assets**
- **Reduced exposure, when SMSF is a landlord**
- **Can have a sole director trustee company**

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**Where can your super  
go?**

**SIS Dependents**

**Estate**

# SIS Dependants

**Spouse**

**Child**

**Interdependency relationship**

# Tax Dependants

## “Death Benefits Dependant”

**Spouse or Former Spouse**

**Any child under the age of 18**

**Interdependency Relationship**

**Dependant on the deceased**

# Tax on Death Benefits

**Dependants – tax free**

**Non-dependants – taxed at 16.5%**

**Estate - it depends**

**Tax on the fund?**

**Stamp Duty?**

# Non-Dependant

**Taxed at 16.5%**

**Tax Free / Taxable Portions**

# Estate

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**Depends on how it is worded**

**Potential to be tax free**

**Consider solvency of Estate**

**Consider chances of disputes**

# Taxation to Fund

**Income Tax**

**Capital Gains Tax**

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# Stamp Duty

## Property

**How do we ensure that  
your super ends up with  
who you wish?**

**How do we minimise the  
tax in getting it there?**

# **Tax Minimisation**

**Reversionary Pensions**

**Recontribution**

**Strategies**

**Restructures**

# Reversionary Pensions

**Can only be paid to an 'entitled recipient'**

**Must be automatic**

**Offer great tax savings**

# Recontribution Strategies

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**The goal is to boost your tax free %**

**Recontribution for children?**

**Minimise the tax for non-  
dependant beneficiaries**

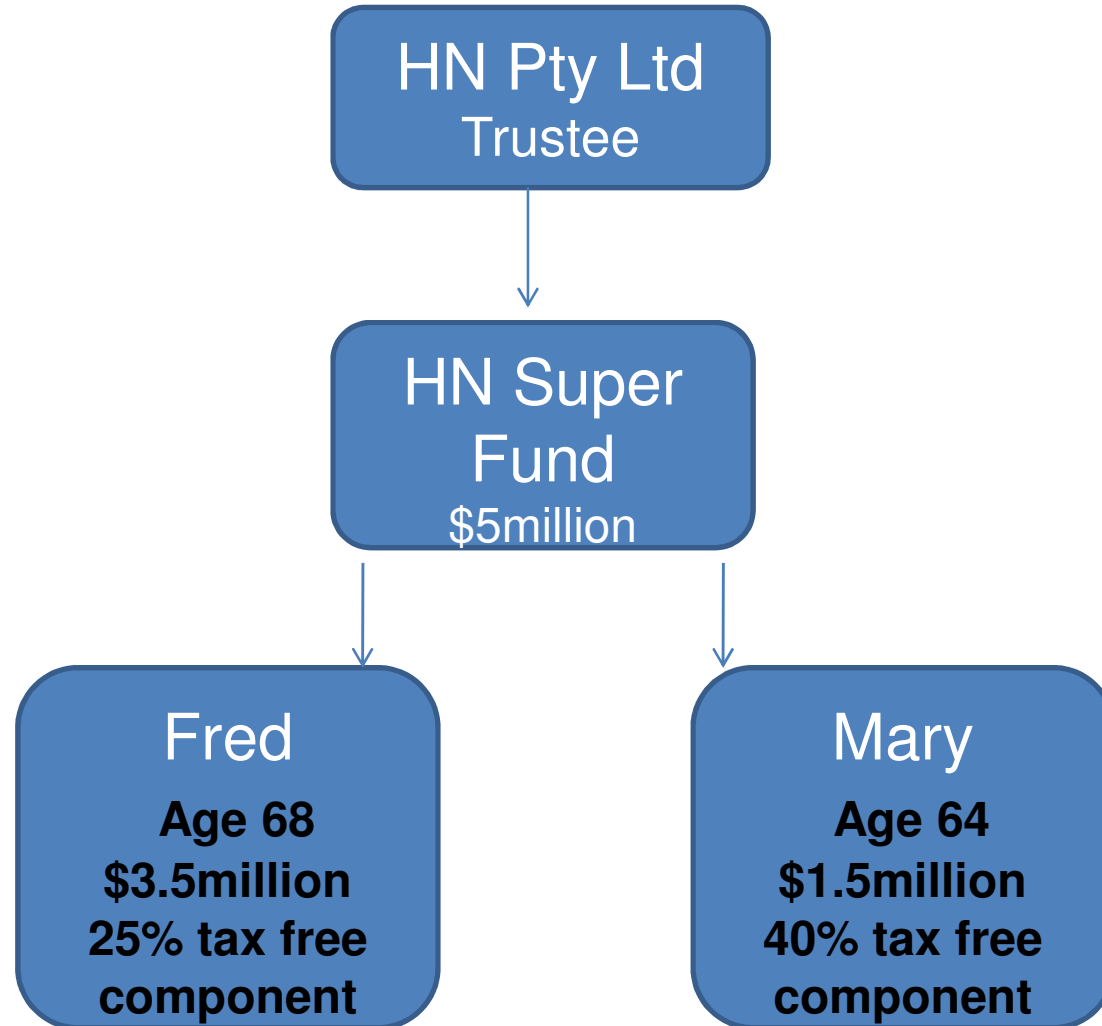
# Restructuring your Fund

## Simplifying

- Consider unwinding unit/property trust structures
- Transferring out Business Real Property
  - Purchasing it in family trust for ease of succession planning to the children in the business

# Case Study

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# Case Study

<b>Asset</b>	<b>Last Valuation</b>
XYZ Property Trust	2,500,000
Shares	1,000,000
Units in Public Trusts	250,000
22 Business Blvd	750,000
Cash	500,000
<b>Total</b>	<b>\$5,000,000</b>

# Case Study

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<b>Asset</b>	<b>Cost Base</b>	<b>Last Valuation</b>	<b>Estimated CG</b>
XYZ Property Trust	250,000	2,500,000	2,250,000
Shares	750,000	1,000,000	250,000
Units in Public Trusts	200,000	250,000	50,000
22 Business Blvd	500,000	750,000	250,000
Cash	500,000	500,000	NIL
<b>Total</b>	<b>2,200,000</b>	<b>5,000,000</b>	<b>2,800,000</b>
<b>Estimate of CG Tax payable</b>			<b>\$280,000</b>

# Case Study – Tax Payable

Capital Gains Tax	\$280,000
Estimated Stamp Duty	\$130,000
Death Benefits tax on Fred's Account	\$408,870
Death Benefits tax on Mary's Account	\$140,185
<b>Total tax Payable</b>	<b>\$959,055</b>

# Strategies to Reduce Tax Payable

- Strategy 1 – Recontribution Strategy
- Strategy 2 – Recontribution for Children
- Strategy 3 – Uplift of cost bases
- Strategy 4 – Sell unit in the unit trust
- Strategy 5 – Transfer of Business Property

# Strategy 1 - Recontribution

- Is there opportunity for Fred and Mary to meet the works test every year until they are aged 75?
- Could they work in their son Tom's business for 40hrs in 30 days?
- If so, why not withdraw \$300k from Fred's account each year and contribute \$150k each for themselves?

# Strategy 1 – Tax Saving

- By doing this every year until they are aged 75 they have boosted Fred's tax free to 43% (from 25%) and Mary's to 64% (from 40%)
- Taking into account earnings at an estimate of 7% each year this has given them an overall tax saving of \$360,000

## Strategy 2 – Recontribution for their children

- Is there opportunity for Fred and Mary to withdraw \$450k each and gift it to each of their 3 children?
- What are the issues with doing this?
  1. Divorce
  2. Asset protection?
  3. Co-ordination with children's strategy
  4. Pension phase

## Strategy 2– Tax Saving

- By doing this strategy alone just once, they will save their children \$167,000 in death benefits tax
- However they can do this strategy every 3 years if they feel comfortable doing this.

## Strategy 3 – Uplift in Cost Bases

- One of the easiest strategies to implement
- Can't really do this for unlisted investments or direct property – stamp duty
- Doing this in relation to their shares they can save \$30,000 in tax for minimal administration cost.

# Case Study

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<b>Asset</b>	<b>Cost Base</b>	<b>Last Valuation</b>	<b>Estimated CG</b>
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## Strategy 4 – Sell unit trust units out to the family trust

- This strategy can save \$225k in capital gains tax and \$310k in death benefits tax if the family trust doesn't have the cash to purchase the units.
- If the family trust does have the cash to purchase the units its worth considering paying cash, and making the SMSF assets more liquid.

## Strategy 4 – Sell unit trust units out to the family trust cont.

- Stamp Duty - is a downside to this strategy as you are incurring around \$100k in duty now.
- Taxable income stream – move from SMSF 0% to Fred and Mary's marginal rates up to 46.5%.

## Strategy 4 – Sell unit trust units out to the family trust cont.

- These strategies require analysis as to how long you expect it would take for the tax saving to be eroded. (ie. On a taxable distribution of \$150k per year from the unit trust this saving would erode in 10 yr's).
- It may be a strategy that you hold off implementing, until you feel the tax savings will surely outweigh the extra tax being incurred now.

## Strategy 5 – Sell the business property to a SMSF for Tom

- This would give some certainty to Tom to ensure that he can continue in the business premises in the event that Fred and Mary both pass away.
- Do a recontribution strategy for Tom into his own fund, but may need to consider how to equalise this between children. I.e. Do it now or in the future.

## **Strategy 5 – Sell the business property to a SMSF for Tom Cont.**

- Tom could then do a borrowing arrangement to purchase the property from his parents SMSF.
- This strategy will save tax, but it is more about the overall plan for Fred and Mary's estate.

**How do we ensure that  
your super ends up with  
who you wish?**

**How do we minimise the  
tax in getting it there?**

# What should you be thinking about?

**Switching to a Corporate Trustee**

**Who do you want to leave your Super to?**

**Have you got an EPOA – is it the right person?**

**Do you need to update your estate plan**

**Reversionary pension update**

**How can we help you minimise tax to your beneficiaries**

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# Questions?

**Business Improvement Services**

**Accounting & Tax Services**

**Superannuation**

**Complex Tax**

**Audit & Assurance**

**Estate Planning**

**Valuations**

**Litigation Support**

**Probity Services**

**Real Estate Industry Services**

**Indigenous Business Services**



# Thank you

**Please join us for drinks and nibbles!**

**Slides will be available at  
[www.uhyhnbrisbane.com.au](http://www.uhyhnbrisbane.com.au).**

**Please complete feedback form.**

**New Office:  
Sunshine Coast**



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