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PIS Timely Tips

Same Sex Couples

For some years now our media has hosted the debate on the rights of same sex couples. While this article is not participating in that debate, we will confine our discussion to some of the recent changes that have been made to the Australian legislative landscape.

In 2004, we saw the introduction of an "interdependency relationship" into superannuation law. This gave certain people who met specific conditions the right to be treated as a "dependant" in relation to superannuation benefits and, particularly, access to favourably taxed benefits on the death of their "partner". The word "partner" is used broadly in this context as it not only covered people in a "same sex" relationship, but others who may also benefit, such as two people living together where one provides the other with care and support of the type normally provided by those in a close personal relationship. For example, two elderly siblings who live together and one or both provide the other with support.

While the interdependency relationship concept has not changed as a result of the enactment of recent legislation, the situation for same sex couples has been significantly clarified.

As a result of the Government clarifying its position on same sex couples, some 68 pieces of legislation have been amended. Some of this legislation takes effect immediately, some has been backdated to 1st July 2008, and some will take effect from 1st July 2009.

The main concept behind the legislative amendments is the expansion of the definition of a spouse to include a de-facto partner, irrespective of whether the people are of different, or the same sex.

Therefore, rather than introducing a new category of person into the definition of a dependant, the meaning of de-facto has been expanded.

Another important addition to the definition is the expansion of the definition of a child to include adopted, step, and biological children of a same sex couple.

Key areas affected by these changes include superannuation, taxation, social security, aged care, Medicare, family law and child support, workplace relations, Australian citizenship and immigration, defence force and co-parenting agreements. It is evident that these changes have a far-reaching impact.

Specific aspects of the changes include:

Superannuation

As superannuation has, for some years now, been exposed to the concept of interdependency relationships, the clarification of the position regarding same sex couples probably brings certainty to a number of important areas.

The main superannuation changes arising from this legislation took effect from 1st July 2008.

Where a member of a same sex relationship passes away, their partner will continue to be treated as a dependant for the purpose of being able to receive their deceased partner's superannuation benefits on a tax free basis. Same sex couples will now be capable of being nominated as a reversionary pensioner to continue to receive their deceased partner's superannuation benefit as an ongoing income stream.

Same sex couples will now also have access to contribution splitting, spouse contributions, and will be eligible to receive anti-detriment payments where provided by a superannuation fund.

In terms of self managed superannuation funds, the inclusion of a same sex partner in the definition of a "related party" will have an impact on the application of the in-house assets rules, along with the general prohibition of trustees of superannuation funds being able to acquire assets from related parties.

Did you know?

The Australian share market has experienced 12 bear markets recording falls of 20% or more, since 1960.The average decline in markets was 34% with the average bear market lasting 11.3 months.

On the positive side, the ensuing recovery recorded an average recovery of 54%, lasting an average 17.1 months.

Source: www.asx.com.au

About our services: The Group has offices in all capital cities throughout Australia as well as an extensive regional network. Our highly skilled and trained advisers will assist you in determining the financial strategy that is right for you.

List of services:

- Wealth accumulation
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- Mortgage elimination
- Shares and property
- Fixed interest and cash
- Tax planning
- Finance services
- Home mortgages
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- Risk insurance
- Corporate superannuation
- Corporate services

Taxation

The tax treatment of death benefits arising from superannuation took effect from 1st July 2008 but most of the remaining taxation consequences have effect from 1st July 2009.

Same sex couples will now be recognised and treated as couples for the Medicare levy and Medicare levy surcharge.

A variety of tax offsets will now be available to same sex couples including same sex couples being recognised as a couple for purposes of transferring any portion of unused Senior Australian tax offset between partners.

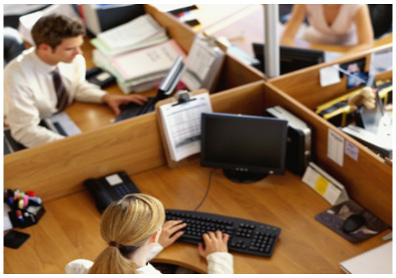
Social Security

Prior to 1st July 2009, same sex couples were treated as single people for the purposes of applying the assets and income tests and determining the rates of payment such as a pension or allowance. With same sex partners now being assessed as a couple, it is possible that such couples will now receive a reduced social security benefit.

This article has provided a very brief summary of some of the key aspects of the changes. For clients involved in a same sex relationship, good quality financial advice will assist in ensuring that your rights and entitlements are maintained, if not enhanced.

Source: Peter Kelly – Professional Investment Services.

Redundancy and Life Insurance



Many Australians have insurance cover provided by their employer under a "group insurance" or superannuation arrangement. Terminating employment, either voluntarily or as a result of redundancy can have serious implications in relation to the insurance cover provided by an employer or through an existing superannuation arrangement.

Insurance cover may take a number of forms:

Death Cover – This is a basic type of insurance cover that provides for the payment of a benefit, the sum insured, in the event that the person insured passes away. Some policies may extend their cover and actually pay out a benefit where the life insured has been diagnosed as being terminally ill and is not expected to survive for a specified period (usually six or 12 months).

Total and Permanent Disablement (TPD) – is an extension of the traditional "death only" cover. TPD benefits, as they are referred to, are payable in circumstances where the life insured becomes totally and permanently disabled and is unable to work in either their own occupation, or any occupation, depending on the specific conditions attached to the policy issued.

Income protection (salary continuance) – This type of policy pays a regular benefit designed to replace salary and wages which may stop as a result of a temporary or a permanent disablement.

Ceasing employment or changing superannuation funds may cause valuable insurance protection to be lost.

One of the first things that should be considered when employment ceases is a review of your current insurance arrangements. This should be undertaken by a qualified insurance adviser.

Many group style insurance arrangements include a "continuation option". Provided the application is made within a specified time (generally 30 days, but may vary between insurers), group insurance cover can often be replaced by an individual policy with the same insurer, without the need to meet any medical requirements. If your health has deteriorated since the insurance was originally taken out under the group arrangement, guaranteed replacement with personal cover can be of significant benefit.

When ceasing employment, for whatever reason, an appointment with a qualified insurance adviser (sometimes referred to as a risk adviser or risk specialist) should be high on your priority list.

Source: Peter Kelly – Professional Investment Services.

Your local adviser office is located at: