TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

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A family allowance agreement might save your family a lot of tax.

Family Allowance Agreement

Why a family allowance agreement?   In search of an answer, we spoke to Grant Abbott of LightYear Docs and I love SMSF.

Here is what we learned but please listen in as Grant Abbott explains all this much better than we ever could.

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As usual – please take all this as entertainment, talk to your financial advisers and don't believe a word we say.

Why a Family Allowance Agreement

A family allowance agreement might make somebody financially dependent on you, who otherwise might not be so. There are three reasons why you might want this to happen:

1 – To enable your super fund to pay a death benefit directly without going through the estate to somebody who otherwise wouldn't qualify to receive a direct benefit from your super fund.

2 – To enable your super fund to pay an income stream to somebody who otherwise wouldn't qualify to receive an income stream.

2 – To pay a death benefit tax-free to somebody who otherwise wouldn't receive the benefit tax-free.

Grandchildren and In-laws

Your grandchildren and daughter or son-in-law are the typical candidates for all three scenarios. Without being financially dependant on you, they would neither be able to directly receive your super from your fund, nor receive an income stream, nor receive your super tax-free. By formalising their financial dependancy, they can do all three.

Per agreement you might pay a portion of your grandchildren's school fees or living expenses. Put all this into the agreement to formalise that financial dependency.

Children and Spouse

Your children and spouse are a completely different story though. Different rules apply to them.

They can always receive your super directly from your fund, whether financially dependant on you or not. So reason 1 is not relevant to them.

Your children aged 25 are barred from receiving an income stream from you, whether financially dependant on you or not, since specifically excluded by law. So reason 2 is not relevant to them either.

Your spouse is always your tax dependant, whether financially dependant on you or not. so reason 3 is not relevant to him or her either.

But…your children are no longer automatically your tax dependant past a certain age just because they are your children. But they can still be your tax dependant past 25 if financially dependant on you. And so this is where the family allowance agreement comes in again. If they are financially dependant on you, they can receive your super tax-free.

Dependency Declaration

The next step is to write a a dependency declaration saying " I thereby declare xyz as my dependents. I believe they are my dependents because I am paying their school fess, and this and this and this". It becomes a fairly tight binding element.

That does not mean the Commissioner won't have a go at it. But with the family allowance agreement and the dependency declaration you have a much better defence.

This is a glimpse of what we learned in this episode. Please listen in as Grant explains all this much better than we do.

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