Thoughts for the year ahead – Tax + Wealth in 2019

There are a huge number of tax laws that may change this year as a result of the upcoming 2019 Federal Election.

Individuals could be affected by:

- Losing franking credit refunds to their Self-Managed Super Funds and to themselves**
- Paying higher capital gains tax
- Losing tax benefits from negative gearing into investment property

Businesses could be affected by:

- Changes to the laws for loans from Companies (known as “Div 7A”)
- Discretionary Trusts (also known as “Family Trusts”) being taxed at 30% of their income

We’re not going to recommend who you vote for, but it’s important that you have an understanding of how these tax and other changes will affect you.

For the moment, we are recommending to our clients a “wait and see” approach before taking any specific action on any of these proposals. An election needs to be won and then legislation needs to be passed before new laws take effect.

But there may be some opportunities that open up soon to restructure your tax and wealth affairs to give you some significant tax benefits.

Over the next few months, we plan to send you a number of brief updates to keep you fully informed.

If you have any questions about this, please feel free to contact the team at **CMA Accounting & Taxation Services** so we can help you.

2019 is shaping up to be a very interesting year!

Refund of excess imputation credits – room for compromise?

Labor's proposal to deny refunds for excess imputation credits from 1 July 2019 is a policy proposal which warrants careful consideration.

This is all the more so because the impact of the policy proposal, if implemented, will differ depending on the character of the recipient. In particular, in the context of individuals, anyone who receives the age pension or part thereof, will be exempted from the rule that would deny them an excess imputation credit refund.

Further, a self-managed superannuation fund (SMSF) will also be exempted from this rule if it has one member who as at 28 March 2018 was the recipient of the age pension or part thereof (or allowance).

It is interesting to look at the number of people and the distribution of cash refunds across four key categories as revealed in the table below:

	Cash refund	Approximate number of people
Individuals	$2.3b	1,160,000
SMSFs	$2.6b	420,000
Other super funds	$300m	Unknown
Tax exempt entities	$700m	Unknown, but includes the Future Fund
Total	$5.9b	

Interestingly, of the 1,160,000 individuals who claim $2.3billion in cash refunds, 320,000 of them in broad terms are expected to be exempt as a result of the pension rule. Accordingly, there will be some 840,000 individuals who will be subjected to the rule.

In the context of SMSFs, there are apparently 420,000 people involved in such funds, with the funds receiving somewhere in the order of $2.6 billion in cash refunds. On the current information available, it is almost impossible to tell with any certainty how many of these SMSFs will have members who were recipients of even a part age pension as at 28 March 2018. Given the breadth of the proposed exemption – one member receiving a part pension of $50 will exempt the whole fund - one would surmise that the number that would qualify for the exemption from the refund denial would be significant.

Still on the SMSF sector of the $2.6billion case refund received, it appears to be the case that somewhere in the order of half that amount is received by SMSFs that are in full pension mode with assets in excess of $2.4million. It would appear to be the case that that is the main target of the Labor proposal since funds with assets of a lesser value are likely to already be subject to the Coalition's $1.6million cap on funds held in pension mode. Accordingly, such funds will already be subjected to a 15% tax having transferred the excess into the accumulation side of their SMSF.

Large industry funds will not feel the brunt of the Labor proposal as their imputation credit excess amounts will be absorbed by virtue of the mix of their membership.

What this table indicates in particular, is that the effect of Labor's proposal will not be felt uniformly. Individuals not in receipt of a part or full age pension and SMSF funds with no age pension members as at 28 March 2018 will be most heavily impacted, and they in particular will need to rethink the allocation of their investment funds across different asset classes having regard to the new environment that will exist if Labor is elected and successfully implements its policy.

Labor is of course right that a policy which involves no refund of excess imputation credits was the original policy that was implemented by the Hawke/Keating Government back in the late 1980s. However, this was, as has been mentioned elsewhere, significantly revised by the Howard/Costello Government which introduced a full refund of excess imputation credits some 17 years ago. For almost two decades people have quite legitimately adjusted their behaviour to lean more heavily on franked dividends which serve to supplement their income through the receipt of the very refunds of excess imputation credits that Labor is now seeking to reverse.

Whilst one might argue quite cogently that no one would be complaining if no refunds had ever been allowed, the reality is that people have become accustomed to the refund of excess imputation credits and weaning them off that reliance is a difficult and potentially politically challenging process to engage in.

As with all things political there may be some room for compromise here and Labor might well consider a more staged introduction of the measure so as to allow those people most dramatically affected some time to adjust their thinking and their investments. One possibility might be a phased introduction over a two-year period during which time a partial denial of excess imputation credit refunds would be applied.

WANT TO TALK?

Feel free to contact our office anytime by phone or email – We can't wait to provide you with better advice now for a beautiful future!

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