Stanton Mienert
Chartered Accountants | Business Advisors

NEWS

AUTUMN EDITION / 2023

CLIENT FOCUS:

XAVIER FURNITURE

SUPPLYING THE INTERIOR DESIGN TRADE

Established in 2004, Brisbane based Xavier Furniture has grown to become one of Australia's leading suppliers to the interior design industry.

XAVIER FURNITURE is favoured by Interior Designers around the nation, decorating award-winning restaurants, hotels, and homes. Offering an extensive range of quality designer furniture, sofas, mirrors and other decorative pieces to transform your home.

Under the careful eye of owner Wendy Neilson, the business has grown from no clients when opening the doors back in 2004, to over 2000 active clients today.

Over the years, Xavier has diversified into the commercial and hospitality sectors from historically servicing the residential market through their large customer base of interior designers.

Xavier Furniture carries a large stock holding here in Brisbane, across four warehouses. Wendy also attributes the ability to successfully supply to larger commercial and hospitality customers is "due to the integration of our local and two dedicated offshore manufacturing facilities, we can accommodate high volume, elegant furnishings for large projects, whilst offering the same level of style, design and quality that our Xavier Furniture residential collection is renowned for." One of their recently completed commercial projects included supplying guest room furniture for the refurbishment of The Reef House Hotel in Palm Cove.

When asked how Xavier keeps up with current interior design trends, Wendy stated "the products we design draw inspiration from the exquisite classic interiors of Europe, the elegant coastal feel of the Hamptons region, and the relaxed styles of Singapore. These styles create furniture of timeless beauty, that will last a lifetime and surpass any design trend."

All furniture is manufactured using handcrafted methods and finished to the highest standard from sustainable, plantation grown timber.

If you have enjoyed a recent copy of *Home Beautiful* or *Australian House & Garden* magazines, there is a good chance the interior designer has selected Xavier Furniture to furnish the home. Xavier's full range can be explored at www. xavierfurniture.com.au, or end of line specials can be viewed at Xavier's online outlet at www.xavierfurnitureoutlet.au

Xavier Furniture has enjoyed a long and valued association with Stanton Mienert, has very much appreciated the business advisory service received, and looks forward to the continued relationship.

ELECTRIC VEHICLES EXEMPT FROM FRINGE BENEFITS TAX

EFFECTIVE 12 DECEMBER 2022, certain electric vehicles provided as a car benefit on or after 1 July 2022 are exempt from Fringe Benefits Tax.

The car needs to have been held and used for the first time by the employer on or after 1 July 2022 and cannot have been subject to the luxury car tax when it was originally purchased.

For the 2023 income year, to qualify for this exemption the car needs to cost less than the luxury car tax threshold for fuel efficient vehicles of $84,916.

Reminder: Please keep an eye out for the 2023 annual FBT Questionnaires that have been recently emailed to all clients who provide fringe benefits to employees.

DIRECTORS ID

IF YOU ACT IN THE CAPACITY as a Director for a company, you need to apply for a Director ID as the deadline for this has now passed.

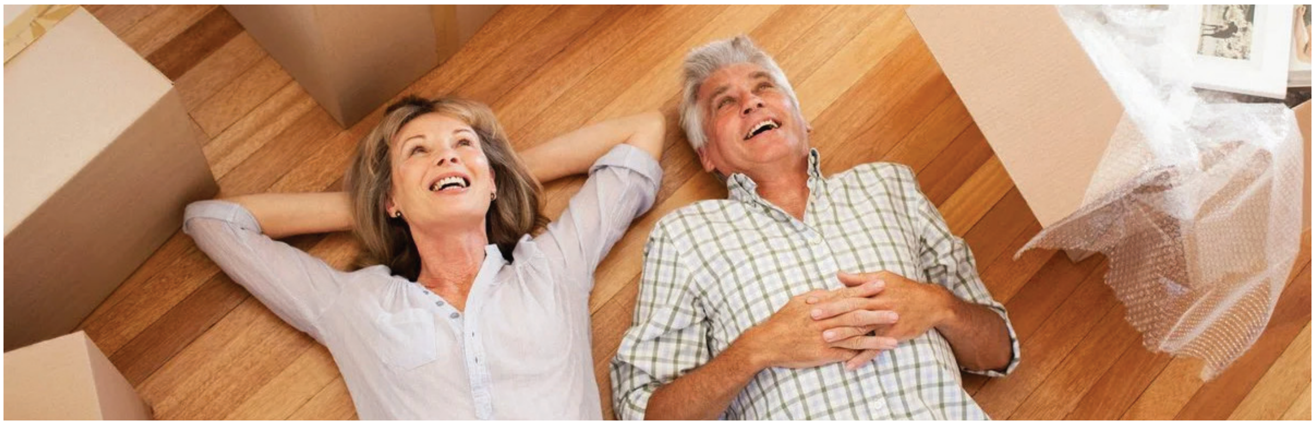
Before you apply for a Director ID online, you need to setup the myGovID app on your mobile phone.

You'll require your myGovID in order to be able to log into the ABRS website to apply for your Director ID. The ABRS online website is www.abrs.gov.au/director-identification-number/apply-director-identification-number.

You will also need a copy of a recent personal ATO Notice of Assessment for ID purposes in addition to other documents that are listed at the above website.

The process is relatively straight-forward, however this has proven more difficult for some elderly clients often requiring family or our assistance to complete the registration process.

Please advise our office of your Directors ID number if you have not done so already.



FURTHER CHANGES TO AGE LIMIT FOR SUPERANNUATION DOWNSIZER CONTRIBUTIONS

THE REDUCTION TO 55 YEARS or older in the eligibility age (down from 60 years of age) to make a downsizer contribution became law on 12 December 2022. There is no maximum age limit.

From 1 January 2023, eligible individuals aged 55 years or older can choose to make a downsizer contribution into their superfund of up to $300,000 per person (i.e. $600,000 per couple) from the proceeds of selling their home. There are no changes to the remaining eligibility criteria. Some of the eligibility criteria you must satisfy are:

- The home must be in Australia, have been owned by you or your spouse for at least 10 years and the disposal must be exempt or partially exempt from capital gains tax (CGT).
- You have not previously made a downsizer contribution to your superannuation from the sale of another home or from the part sale of your home.
- Prior to (or at the same time) as making your contribution you must provide your fund with the 'Downsizer contributions into super form'.
- The downsizer contribution into superannuation must be made within 90 days from receiving the sale proceeds of your home.

Downsizer contributions are exempt from contribution rules but they still count toward the $1.7 million transfer balance cap.

To make a contribution you will need to contact your super fund(s) to check that they accept downsizer contributions. For more information or an application form, go to www.ato.gov.au/downsizing.

REMINDER: GST CLAUSES ON PROPERTY CONTRACTS

The importance of reviewing the GST clauses in a contract is critical if purchasing or selling a property that is not an existing residential premises (existing residential premises are exempt from GST).

REIQ/QLS PROPERTY CONTRACTS are the most common form of sale contracts used in Queensland. Whilst this contract template contains standard GST clauses, we still see isolated cases where the purchaser or seller has been left financially disadvantaged due to:

- the standard GST elections being incorrectly completed;
- the standard GST clauses being modified or replaced by amendments to the terms of the contract via annexures to the contract that contain special conditions that unfairly favour the buyer or seller;
- inadequate due diligence undertaken by the legal professional on the GST clauses.

A contract to purchase or sell a property is a legal document and as such, the proper professional to engage for due diligence is a Solicitor however it is preferable to have your Solicitor and/or yourself contact our office prior to executing any contract (with the exception of residential properties) to ensure the GST clauses reflect your specific circumstances. This is particularly the case where more complex GST considerations are present.

CASE STUDY 1: NEGATIVE OUTCOME

A Seller elected on a Standard REIQ contract that the purchase price was 'GST inclusive' by marking 'yes' at item GST3 of the contract. Thus, the purchase price included 1/11th GST in the purchase price paid by the Buyer to the Seller. At settlement, the Seller provided a tax invoice to the Buyer to enable the Buyer to meet substantiation requirements in order to claim the GST input tax credits back from the ATO.

Issue: Due diligence undertaken on behalf of the Buyer was inadequate as this failed to identify the Seller was not registered for GST and was not required to be registered for GST. The ATO refused the Buyer's claim for the GST. The Seller shortly after settlement went into bankruptcy which left the Buyer out of pocket and in turn seeking compensation from the legal firm engaged to conduct due diligence on their behalf. A simple check on the ABR register would have verified the GST registration status of the Seller.

CASE STUDY 2: POSITIVE OUTCOME

A Seller began pre-contract negotiations to sell a large parcel of vacant land to a Buyer (developer). The Seller was not registered for GST and was not required to be registered for GST, hence the sale was GST free.

Issue: The Buyer's solicitor initially attached extensive special conditions to the draft contract which at best were non-sensical and at worst, denied the Seller any ability to recoup the GST payable from the Buyer* in the unlikely event the ATO deemed the sale to be a 'taxable supply' for GST purposes. Fortunately, proper due diligence undertaken by the Seller's solicitor in conjunction with advice provided to the Solicitor by our office, identified and rectified these issues prior to execution of the contract.

* As is normally allowed under a standard REIQ contract.

ATO TARGETS FAMILY TRUST DISTRIBUTIONS – SECTION 100A

Do you operate your business through a family trust? The ATO has released guidance material on the application of section 100A ... and in doing so, has clarified several issues.

FOR MANY YEARS discretionary trusts have been used as a preferred structure for both operating a business and for wealth creation/asset protection via ownership of passive investments such as commercial properties, listed equities etc. A benefit of using a trust structure is that distributions of income may be paid to eligible beneficiaries at the discretion of the Trustee in accordance with the terms and conditions of the Trust Deed.

In some cases, a tax benefit may arise where taxable distributions are made to beneficiaries over 18 years of age who have little or no other income given the distributed income is taxed at a lower marginal rate.

Unsurprisingly, the ATO has refocused their attention to Section 100A of the Income Tax Assessment Act 1936 that deals with 'Reimbursement Agreements'. In general terms, the ATO will target tax effective Trust distributions made to adult beneficiaries on lower marginal tax rates.

The ATO lists an exemption for "ordinary family or commercial dealings" however in the case of ordinary family dealings, it is subjective at best as to what legally constitutes or defines ordinary family dealings.

Whilst the final ATO guidance issued on 8 December 2022 is lengthy and beyond the scope of this article, Trustees will need to give careful consideration prior to 30 June 2023 and beyond, in relation to how they distribute profit from their Trusts to nominated beneficiaries.

The most common practical scenario that will attract ATO attention is where the Mum & Dad Family Trust:

- distributes taxable income to unemployed/low income adult children; and
- the distribution is not physically paid to the child or paid for an asset/ expense on the child's behalf.

Due to the ambiguity and complexity with the ATO's Practical Compliance Guideline PCG 2022/2 regarding 'reimbursement agreements', we will be contacting all clients likely to be affected before 30 June 2023 to discuss application and risk mitigation of PCG 2022/2 to their Trust/s.

Don't hesitate to contact us for help or more information.

TEMPORARY FULL EXPENSING TO CEASE 30 JUNE 2023

BUSINESS CLIENTS HAVE LESS THAN 2 MONTHS to take advantage of the Temporary Full Expensing (TFE) measure introduced during the COVID-19 pandemic to encourage economic growth.

Businesses have elected to use TFE to fully write off the cost of new assets in turn reducing their taxable income. The TFE brings forward depreciation deductions that would have otherwise been deducted over the useful life of an asset.

The TFE conditions allow small and medium businesses to deduct the full cost of new and second-hand assets. A summary of the TFE requirements for an immediate deduction are:

ELIGIBLE AGGREGATED TURNOVER	REQUIREMENT	DATE FIRST USED OR INSTALLED	ASSET $ COST THRESHOLD
LESS THAN $5 BILLION	NEW ASSETS	7 OCTOBER 2020 TO 30 JUNE 2023	UNLIMITED
LESS THAN $50 MILLION	NEW OR SECOND-HAND ASSETS	7 OCTOBER 2020 TO 30 JUNE 2023	UNLIMITED

ASSETS PURCHASED FROM 1 JULY 2023

FROM 1 JULY 2023 ONWARDS, only small businesses with a turnover below $10m are eligible to use the instant asset write-off. The relevant cost threshold for these assets is due to be reduced to $1,000.

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