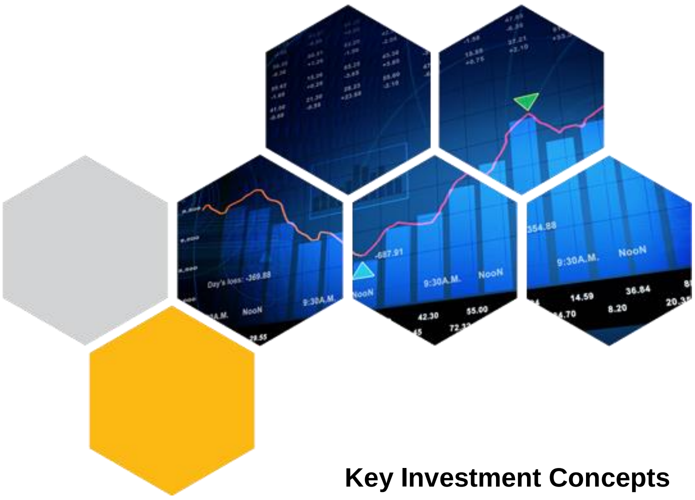

Key Investment Concepts

Asset ownership

Aon Hewitt Financial Education Series

Deciding how an asset is owned is just as important as deciding which asset to buy, but quite often does not get due consideration.

- Should the asset be owned by one individual or jointly? If it is individually, which individual should own the investment, the high income earner, or the one that pays less tax?
- Should they be owned as joint tenants or tenants-in-common?
- Should you own assets directly, or in a structure such as a trust, company or super fund? Ownership structures can provide access to benefits that may be appealing to certain groups of people.

Certain structures could provide benefits you may not otherwise qualify for. You need to consider:

- What are the tax outcomes?
- Does the structure offer asset protection benefits?
- What are the estate planning outcomes? Understanding what happens to your assets if you die is extremely important too.

Sole Ownership

Sole ownership is where you own the asset in your own name. The most common example would be a bank account. Even though you may have a joint bank account with your spouse, it is likely that you also have a bank account in your personal name. The advantage of sole ownership is that it is very clear who owns the investment, i.e. you. Any income earned is taxed in your personal name, as such it may be beneficial to hold investment assets in the name of the spouse with the lower taxable income to minimise the tax paid. Solely owned assets need to be dealt with via a Will, they will not automatically pass to another person upon your death.

Joint Assets (Non-Estate Assets)

Joint assets are those that you own jointly with another person or entity, and you each own an equal share of the asset. The most common examples of joint assets are a house purchased by a husband and wife, or a jointly held bank account.

Assets jointly owned are not considered assets of an individual's estate and cannot be disposed of via a Will. Upon the death of one owner, the asset generally passes automatically to the surviving owner.

Going back to the example of a husband and wife jointly owning their home, on the death of the husband the wife will automatically be the owner of the entire house. This will occur even if the husband's Will left his share to their children. Joint tenancy overrides a person's Will.

Tenants-in-Common Assets (Estate Assets)

A tenancy-in-common exists where two or more persons share possession of an asset. They do not have to hold the asset in equal portions, for example you could purchase a property with a friend and you own 60% while they own 40%. When one owner dies, there is no automatic transfer of that share to the other owner(s). Assets held under a tenancy-in-common are considered assets of an individual's estate. Upon death of an owner under a tenancy-in common arrangement, the deceased's portion of the asset is treated as a separate asset for CGT purposes. This means it is very important to ensure that you include assets held as Tenants-in-Common in your Will.

Company

A company is a separate legal entity and as such, provides you with a high level of asset protection. Most companies are used to run businesses mainly due to the asset protection that they provide, as a general rule, the owner's personal assets are not exposed in the event of litigation. A further benefit of a company is the reduced company tax rate of 30%, as compared to the maximum personal tax rate of 45% (plus Medicare Levy).

Investments are generally not held through a company structure for a number of reasons. The first is that while the company tax rate is 30%, a company doesn't qualify for a discount on capital gains. This means that a company will pay 30% tax on capital gains, whereas if you invested in your personal name (and held the asset for twelve months) you would pay a maximum of 22.5% (plus Medicare).

Another reason is that it is quite difficult to get money or assets out of a company in a tax effective way. A final reason is the additional cost of holding assets through a company. There is the initial cost of setting up the company as well as the ongoing expenses.

The "owner" of a company is the shareholder, and you can have one or more shareholders. The shares of the company need to be dealt with via a Will, they will not automatically pass to another person upon your death. The assets of the company belong to the company and as such the company can continue to operate after your death.

Super Fund

Super is an investment structure that enjoys special taxation treatment to encourage people to provide for their retirement. Most investments held by an individual, whether they are Cash, Fixed Interest, Property, or Shares, can also be held through the super structure.

The advantage of super is that investment earnings are taxed at a maximum of 15%, compared to investments held in your personal name which can be taxed at up to 45% (plus Medicare Levy).

The main disadvantage of investing into super is that the Australian Government has strict rules about when you can access your money held in super, as it is designed to fund your retirement. In most cases, the earliest you can access your super is at age 56, although this is progressively increasing to age 60 depending on your date of birth.

Your super account balance doesn't form part of your Estate upon your death. The Trustees of your super fund have discretion over who it will pay your super benefit to upon your death. This means that you cannot use your Will to determine who will receive the money. Instead, a death benefit nomination should be lodged with the super fund Trustees.

Family Trust

The term family trust refers to a discretionary trust set up to hold a family's assets or to conduct a family business. Generally, a family trust is established for asset protection or tax purposes.

A family trust can assist in protecting assets from the liabilities of one or more of the family members (for instance, in the event of a family member's bankruptcy or insolvency), provide a mechanism to pass family assets to future generations and can provide a means of accessing favourable taxation treatment by ensuring all family members use their income tax "tax free thresholds".

Upon death, the assets of the trust will be dealt with according to the terms of the trust deed, not the Will. In most cases, the trust will continue with minimal changes.

One of the key benefits of a family trust is that the trustee is free to distribute trust income to beneficiaries in proportions that take best advantage of those beneficiaries' personal marginal tax rates. The beneficiaries then pay the tax on distributions made to them.

You also need to consider the additional administration requirements and expenses of holding assets via a family trust, as well as the complexity of winding up the trust if it is no longer required.