FACT SHEET

GIFT AND LOAN BACK ARRANGEMENTS

A "Gift and Loan Back" arrangement is an effective asset protection strategy in instances where a direct transfer of an asset such as a house would carry with it significant tax or stamp duty costs.

What is a Gift and Loan Back?

It is common for the equity in a personal asset, such as the family home, to be owned by one or more persons in their own names. If these persons face risks through their day-to-day personal or business dealings, the equity in these assets is exposed.

Unfortunately, transferring the title to assets can cause significant transaction costs, including stamp duty and capital gains tax. It can also lead to the loss of future capital gains tax exemptions in the case of the family home.

A Gift and Loan Back arrangement enables the equity in an asset to be safeguarded, providing asset protection outcomes without the transaction costs associated with a transfer of title.

How does a Gift and Loan Back Arrangement Work?

Broadly, a Gift and Loan Back arrangement works as follows:

- A Trust is created;
- The "equity" in an asset is quantified;
- The amount of that equity is gifted by the owners of the asset to the Trust;
- The Trust lends the amount back to the owners;
- The loan by the Trust to the owners is secured by a mortgage or second mortgage over the asset.

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What happens if the equity in an asset increases over time?

If the equity in an asset increases - either because its value increases or the debt to an external lender decreases, or both - then it will be advisable to “top up” the arrangement by way of a further gift and loan back. This can easily be dealt with when the time arises.

Can a Gift and Loan Back be used to defeat current problems?

A Gift and Loan Back Strategy should be viewed as a proactive, asset protection strategy. Its purpose is to better protect the equity of an asset that is owned personally by an “at risk” person or persons.

It is not however a “silver bullet” in instances where bankruptcy is imminent or where the intention is to defeat existing creditors. Bankruptcy laws in Australia provide trustees with the ability, in most cases, to claw back transactions for a period of up to five years.

What is the role of PT Partners?

Our role is to facilitate and implement the Gift and Loan Back arrangement. In short, we make everything happen.

Once we’ve determined your key objectives, we will then drive each of the steps in the process including establishment of the trust, liaison with your bank, and working with a specialist lawyer from within our Advisor Network to draft the legal documentation and register the security.

Next steps?

The process starts with a Planning Meeting with our director, Darren Hagarty, who specialises in asset protection strategies.

The Planning Meeting is at a fixed price of $330. Following the meeting, we’ll put together for you a fixed price quote for the work that needs doing.

For further information, please contact Darren Hagarty on (07) 3808 4499 or at darren@ptpartners.net.au, or to make an appointment with Darren, simply go to our online booking facility.