Legenis

Generating living legacies

Legenis Alert!
April 2010

We have recently collected information from various sources, that combined confirm the Legenis message; we wish to share this with you as you may find this valuable.

1. Philanthropic Sector Expands Sharply

The Assistant Treasurer, Senator Nick Sherry, highlighted the Private Ancillary Fund (PAF) statistics for the 2007-08 financial year. These show continued growth in donations and assets in the philanthropic sector.

PAF's are philanthropic trust funds that can be set up as a vehicle for private giving and they received an increase in full-year donations from $533 million in 2006-07 to $728 million in 2007-08. PAF assets increased from $1.48 to $1.89 billion over the same period. There was a 28.4% increase in the number of PAF's registered during 2007-08 bringing the total number of PAF's to 769.

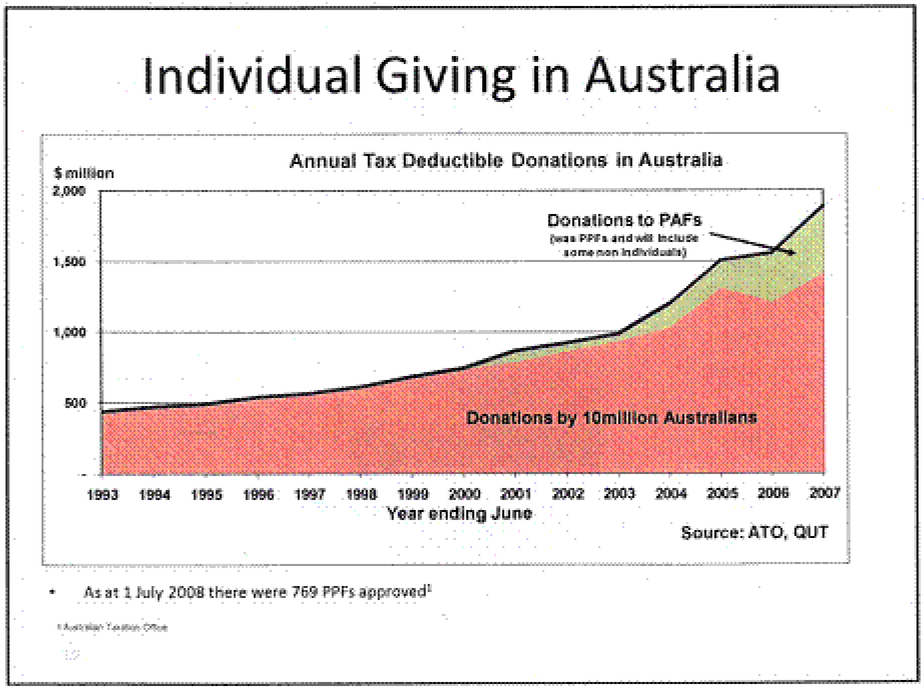
Donations to PAF's are tax-deductible and must be distributed to deductible gift recipients, such as public benevolent institutions, public hospitals and environmental organisations. "It's great to see the philanthropic sector continuing to grow, and grow very strongly," said the Assistant Treasurer.

The full statistics are available on the ATO website at www.ato.gov.au

2. The New Foundation of Individual Giving in Australia

For the 2007–08 income year, individuals claimed $2,346 million in deductible gifts, an increase of 24.5% on the previous year. In 2006-7 the total individual giving in Australia was $1889 million.

The giving to foundations during this period expanded to $728 million or 25.04% of the total individual giving. Foundations have only been available in Australia in this form (PAF) since 2001. Total giving in Australia is still growing, but foundations now represent $1 in every $4 which will be given and are expected to grow even more quickly as financial markets and businesses recover. It is expected that more than 200 new (PAF's) will be created by 30th June in 2010.



3. Capital Gains Tax

For the 2007–08 income year, net capital gains totalled $55.2 billion, a 29.5% decrease from 2006–07

Capital gains tax (CGT) payable on the net capital gains of taxable individuals, companies and funds was estimated to be $11.6 billion, a 24.5% decrease from 2006–07

671,163 taxable individuals, companies and funds declared $102.5 billion in total current year capital gains on their CGT schedules, a 16.6% decrease from 2006–07

Approximately 61.8% ($63.4 billion) of these total capital gains were sourced from share transactions

26,512 individuals and 3,517 companies claimed small business CGT concessions worth $3.2 billion and $1.3 billion respectively, a 32.1% and 27.4% increase from 2006–07. (details from the ATO www.ato.gov.au)

What does this mean, in a difficult financial year because of the GFC, capital gains are down by 30%, available concessions are up by nearly 30% and still the ATO collects nearly $12 billion in CGT. What will it be in a "good" year?

Family Succession Issues

In Australia, the expected amount to transfer to and from the "baby boomer generation is approximately $600 billion over the next 50 years. This transition has already begun as the first baby boomers have reached retirement age.

Social capital issues that will impact on these dynamic revolutionaries are, longer and better health prognosis, so children will be well established financially when estate plans are activated. So the 80+ year old "baby boomers will be leaving assets to the 60+ year old Gen X children? Will they really need it?

Because birth rates have been in decline in past decades there will be even less children to inherit even more wealth. As recently observed, “You have already spoilt the kids, are you really going to leave them enough to corrupt them completely?”

International Research shows 70% of wealthy families fail in family succession between the first and 2nd Generation and only 13% of families still have the wealth by the 3rd generation.

Capital Gains Tax will be a major impact on Social Capital for all future governments. The current CGT impact on net Capital Gains is 21.01%. Forgetting the value of the family home (prime residence) about $1 in every $5 of capital gains will be paid in tax and this is expected to increase as well.

Why Capital Gains Tax is an Optional Tax?

Capital Gains Tax is paid on investment gains, after adjusting for losses and other concessions such as such as small business and superannuation concessions. Payments to charities and foundations are allowable deductions in these years.

As well the tax is calculated on the 30th June of the tax year even if the asset is sold in the July of the previous year. The amount of tax is usually known in advance and proper taxation minimisation planning can be completed.

One option is to create a Family or Corporate Foundation (PAF) or choose a charity and to gift all or part of the CGT amount to the foundation or charity in the same tax year as the asset sale. If listed shares are the asset these may be transferred “in specie”, thereby attracting no transaction fees and minimising any tax liabilities. In 2006-7, share transactions accounted for 62% of all capital gains. Family and Corporate Foundations (PAF’s) can be very strategic and can retain control over the foundation assets for up to 80 years or several generations.

Just think, approximately $12 billion was paid in Capital Gains Tax in a bad economic year. At Legenis we have the skills and wisdom to substantially decrease these numbers in favour of your clients and their families as well improving greater philanthropy in Australia.

As Dr Robb says, “Even if you are only moderately wealthy, you will be a philanthropist, the choice by default or by your own design?” With $1 in $5 of a bigger estate to be directed towards Taxation, surely these are great reasons for powerful conversations to have with clients right now.

The result will be substantially more work with the right clients, building better relationships because you are talking about what is important to them.

Dr Robb Musgrave

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