

November 2006 Newsletter

In this issue:

1. Better ways of owning property
2. Rates up again! Next move down?
3. Our best interest rates

Better Ways Of Owning Property

Most people will purchase property in their personal name. A couple purchasing a property will normally own it jointly as very little time is ever spent considering the alternatives. In fact, some people do not even realise that there are alternatives. This month's newsletter will focus on highlighting these alternatives. However, there is one very important caveat. It is extremely important to seek advice from a professional and knowledgeable accountant, financial planner and/or solicitors as they can consider your personal circumstances.

The norm

Single people will normally purchase in their sole personal name.

Married or de facto people will normally purchase as joint tenants. That is, they both own the property but no percentage ownership can be specified. Should one of the joint tenants die, the remaining ownership automatically passes to the remaining joint tenants.

Couples: one owner

Some couples (i.e. married or de facto) choose to own property in only one person's name. There are normally two main reasons for this. The motivation might be asset protection. For example, accountants, lawyers and doctors prefer their partner to own all personal assets, such as their home, in case they are sued (e.g. a doctor is at risk of being personally sued for malpractice). The other dominant motivation might be tax planning. That is, the highest income earner may decide to solely own an investment property so that they can take full advantage of the negative gearing benefit.

Different ownership percentages

Purchasing a property as 'tenants-in-common' allows you to specify an ownership percentage between 2 or more owners. For example, a couple might purchase an investment property and specify that the wife owns 99% of the property and the

husband owns 1%. This might be particularly useful where two people are purchasing a property but are contributing different deposit amounts (e.g. maybe two friends buying a property). As such, they may want to correctly record their different ownership percentages.

Family Trust

A family trust can provide some significant benefits. One of the most common benefits is its tax planning advantages. A discretionary trust allows the trustee to allocate the trusts net income to any beneficiary. For example, the trustee may allocate all dividend income to a beneficiary that can take advantage of the imputation credits and the trustee may allocate all remaining income to a beneficiary that earns no or little other income (e.g. a wife that is not working in paid employment).

A family trust can, in some circumstances, also provide estate planning (e.g. future ownership after your death) and asset protection benefits (e.g. protecting assets from risks such as being sued).

Certain types of trusts are better than others when owning property. For example, a hybrid discretionary trust allows individuals to offset negative gearing benefits against their personal income (rather than trapping them in the trust structure). It also allows property owners the opportunity to "re-gear" a property after a property loan has been fully repaid. For example, you may fully repay your home loan, then, decide to move out of the home and rent it out. You may like to increase the loan to 100% of the property's original cost to claim the tax deduction. You can't normally do this (unless you transfer the ownership but then you have to pay for stamp duty). However, a correctly structured hybrid discretionary trust will allow you to do this and avoid the stamp duty consequences.

Some clients purchase their home using a family trust and then rent the home from the trust. This converts any debt associated with the property into tax deductible debt (as opposed to a non-deductible home loan). This can work well where a person borrows a high percentage of the property's value and is on the highest marginal tax rate. However, there are some important issues to consider with this arrangement so it's extremely important that you seek professional tax advice from a suitably qualified and experienced accountant.

In a company

A property may be purchased in a company's name. This can provide some asset protection and estate planning opportunities but often provides less tax planning opportunities compared to a family trust. As such, it is quite rare that people would use a company to hold property.

You only get one shot at it!

Property ownership can be very costly to change after you have purchased it. Generally, if you change the ownership of the property, you have to pay stamp duty on the market value of that property. If the property is not your primary place of residence, then you may also have to pay for Capital Gains Tax. Therefore, as you can see, it can be very costly. That is why it is really important to get property ownership correct from the start. A lot about getting it right involves considering not only what is best for you now but also what might be best in the future as well. Some considerations include:

- ◆ Capital Gains Tax – one significant downside to owning your home (primary place of residence) in a company or trust is that you will lose the Capital Gains tax exemption. This may not be an issue as long as you never intend to sell a property. However, you must keep in mind that peoples intentions can change over time. That said, if the chances of you having to sell the property are extremely low then maybe the risk of having to pay for Capital Gains Tax is tolerable.
- ◆ Changes in your personal situation – one of the most significant considerations is to think about how your personal situation might change over time. Generally, people do not think that far ahead when purchasing a property. However, flexibility might come at a cost. For example, owning property in personal names may be cheaper than owning in a trust. However, a trust may provide you more flexibility in the future. For example, an employee that has aspirations of running their own business might benefit from the flexibility of a trust in the future (even though they may not benefit from it immediately).
- ◆ Ongoing cost – owning property via a company or trust does come at a cost. It costs money to set up a company or trust. In addition, you will have to pay an accountant to fulfil statutory

obligations and prepare taxation returns. You need to be mindful of this cost and assess if it's worthwhile. The cost of having a family trust is a little like paying for insurance. You may not get a huge benefit today (from owning property in a trust), but having a trust in place may save a lot of money in the future (by achieving tax benefits or avoiding transfer stamp duty).

Professional advice

It is very important that you seek professional advice from a qualified and experienced accountant or solicitor. Everyone's situation is different and as such you must ensure a professional adequately assesses your situation. There may be certain risks or considerations which you need to be aware of. Therefore, if you are purchasing a significant asset such as a home, it is well worthwhile sitting down with an accountant for a couple of hours to ensure you are purchasing the property in the most advantageous way. The cost is immaterial compared to the purchase price.

Rates Up Again! Next Move?

You will be aware that the Reserve Bank of Australia increased the Cash Rate by 0.25% to 6.25% on 5 November 2006. The standard variable mortgage rate is now 8.07%. This is the highest that the standard variable rate was been for ten years. Many market commentators have predicted that we are now at the top end of the rate cycle and very few experts expect further rate increases. In fact, some people are predicting that the next move is down. It is interesting to note below that the best fixed rates are all significantly lower than the standard variable rate and even less than the professional package rate (of 7.30% to 7.37%).

Our Best Interest Rates

Basic variable	7.24%
Offset	7.30% (0.77% ongoing disc.)
Offset (> \$1 million)	7.19% (0.88% ongoing disc.)
1 year fixed	6.59%
2 years fixed	7.17%
3 years fixed	7.12%
4 years fixed	7.12%
5 years fixed	7.12%

Above rates are current as at 15/11/06 and are subject to change without notice. Standard lenders terms and conditions apply. Comparison rates are available upon request.