

Let's chat

Asset protection – September 2021

With:

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Information provided is general in nature; precise application depends on specific circumstances

What is asset protection?

- Limiting ability for risk to affect unrelated assets:
 - Best practice
 - Insurance
 - Structures
- Keeping assets way from unwanted people:
 - Creditors
 - Tax man
 - Particular family members

Wild west?

- Clawback provisions
- Laws that look to target malicious and intentional bad faith
 - Trust relationships
 - Director duties and obligations
 - Trustee duties and obligations
 - Fiduciary duties
- *Where proper care taken, then ability to limit risk

Company

- Think 'BHP'
 - Directors
 - Shareholders

Trusts

- Legal owner
- Beneficial owner
 - Discretionary v fixed interests

Risk profile

- Risky roles:
 - Director
 - Trustee
- Non-risky roles
 - Shareholder
 - Beneficiary
- Separate roles with different people?
 - If no, then shared risk
- Low risk – takes on non-risky roles and holds assets
- High risk – takes on risky roles and incurs debt

Gift and loan back

- Family home:
 - Transfer to spouse or trust
 - 50% transfer to spouse
 - Gift and loan back
- Think about your relationship with the bank

Payments to children

- Gift
- Loan
- Relationship breakdown

Contact details

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