



Commonsense Strategies for a successful Self Funded Retirement

Presented by:

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General Advice Warning

This is the fine print for the presentation by James Cotis of AdviceIQ Partners. Obviously this is a PowerPoint presentation, this is just an aid in the presentation, so don't overstate its importance. Any case studies presented are also just aids to understanding certain strategies. Any reference to your circumstances is entirely coincidental. James is going to say more in the presentation, some of it may be important and will put these PowerPoint notes & case studies into context. This is also pretty obvious but some need to be told this, so this is what this is now doing.

What does all of this mean? Again it is pretty obvious, James is a Self Managed Super Fund Adviser and Financial Planner and he is saying general things about the topics, not specific things that you can take and apply to your own circumstances and expect James to be responsible for any stuff-up. Common sense suggests that if you want to rely on what someone says, you should obtain from them specific advice where you make the facts clear to them and they are aware that you are clearly going to make decisions based on what he/she said, whether orally or in writing. Of course, you pay for this. Therefore, any advice contained in this presentation is general advice only.

Got it?

Good, now let's get on with it.

With thanks to Peter Bobbin – The Argyle Partnership

This Morning's Agenda

- What do Financial Planners Do?
- Common client issues
- Insurance considerations
- The four main asset classes
- Gearing/Portfolio Insurance
- Portfolio Construction
- Self-managed super funds
- Live case study – retirement planning
- Estate Planning considerations
- Key messages
- Our service offering
- Questions



What do Financial Planners do?

➤ Phase 1 - Strategic Advice

This involves thoroughly researching and then designing a series of solutions for person(s), couples or a family's specific issues and circumstances. It could involve superannuation and retirement planning, entity and investment structuring, risk insurance implementation, Aged Care and Centrelink advice etc.

What do Financial Planners do?

➤ Phase 2 - Technical advice

This is where planners become very specific and conduct their scenario analysis on the various strategies to determine the right path for their client/s. In this phase they “crunch the numbers” for issues such as portfolio income expectations, expected tax liabilities, superannuation contribution strategies, pension planning etc.

What do Financial Planners Do?

➤ **Phase 2 - Technical advice**

This is also where planners would liaise with insurance companies to obtain the right cover for a specific requirement or with an estate planning lawyer to ensure legal documentation accurately reflects the wishes of their client/s.

What do Financial Planners Do?

- **Phase 3 - Implementation and ongoing management of the first two phases -**

It can be very easy to confuse “the selecting of investments” as financial planning, where in fact this is simply one small component of the advice process....albeit an important one. It can be a common tendency to lose focus on one’s financial planning strategies because of an isolated event, for example – the **global financial crisis**.

How do Financial Planners add value to Self Funded Retirees?

It could be said that the greatest value Financial Planners provide to self funded retirees is to stop them from making mistakes triggered by emotion and the constant noise from outside influences – in good and bad times.

Common client issues

- Leave it far too late to strategically plan for retirement;
- Purchase investments without any methodology, limited understanding and hence invariably end up disappointed;
- Purchase investments themselves and pay far too much in brokerage and transaction/placement costs;
- Become “collectors” of investments;
- Compliance errors that will eventually attract ATO scrutiny, e.g. irregular lending and borrowing practises, &/or no written investment strategy for a SMSF;
- Too much invested in cash long-term, hence loss of purchasing power;
- Too much invested in residential property and then disappointed at the net (less taxes and costs) income yield when planning for retirement mode;
- Penny wise, pound foolish – compromising on the cost of professional advice to the detriment of their long term financial security.

Insurance Considerations

Insurance – Risk Management is an essential consideration for many people

- Term Life (around 49% of under 50's hold cover*)
- Total & Permanent Disability (around 26% of under 50's hold cover)
- Trauma (Critical Illness) (around 10% of under 50's hold cover)
- Income Protection (around 21% of under 50's hold cover*)

*With thanks to Lifebroker life insurance research report 2010

- **Accident or illness will force 1 in 5 employees to miss work for at least one year before they turn 65.** (*Council of Disability Awareness 2009*)
- **At age 35 people are 10 times more likely to be disabled from an injury or sickness than they are to die from it.** (*ABC Health Matters Consumer Guide 2003*)
- **In 2008 11.78% of all personal bankruptcies were as a result of ill health.** (*University of Melbourne – Legal Studies Research Paper No 390*)

Insurance Considerations

Should a person die – how will the family/dependants cope financially?

Should a person become disabled for 6 months or more (say for the rest of their lives) – how will that person and their family/dependants cope financially?

Should business partners die or become disabled – how will the surviving partners and family arrange smooth business succession?

The Four Main Asset Classes

- Cash
- Fixed Interest
- Property
- Equities/Shares

Alternative (Unlisted) Assets? Seeking non-correlated returns
(Hedge Funds ie long/short, convertible bond arbitrage etc, Private Equity, Commodities, Rural Farm Land)

Gearing

- Residential equity or mortgage
- Internally Geared Managed Funds
- Margin Lending
- Protected Equity Loans
- Warrants
- Derivatives (Options/Futures/CFDs)



Portfolio Insurance (Protection)

Advantages include:

- Retain share market exposure
- Protect or lock in gains
- No CGT implications (no CGT event)

Disadvantages include:

- Timing issues
- Credit risk (warrant issuer may not perform)
- Early termination
- Liquidity
- Market risk

Note: During volatile times, i.e. “bear” markets, the cost of protection is expensive, plus there may be limited upside for the investor when markets recover

Common Client Investment Approaches

“What a deal! In five years, this investment/asset will be worth a fortune!!”

- **Overconfidence:** We consistently overrate our prowess in doing everything from driving cars to investing in real estate or the share market.

“XYZ company is the greatest company in its industry...it’s about to release a new product/make a new find/patent a new formula...you should get in on the action!”

- **Herding:** A tendency to follow the crowd can cause massive numbers of investors to share the same belief about a financial asset, driving prices up or down.

with thanks to Scientific American

Intuition Vs. Rationality.

Warren Buffet Speaks & People Should Listen!

“To invest successfully over a lifetime does not require a stratospheric IQ, unusual business insight or inside information. What’s needed is a sound intellectual framework for making decisions and the ability to keep emotions from corroding that framework.”

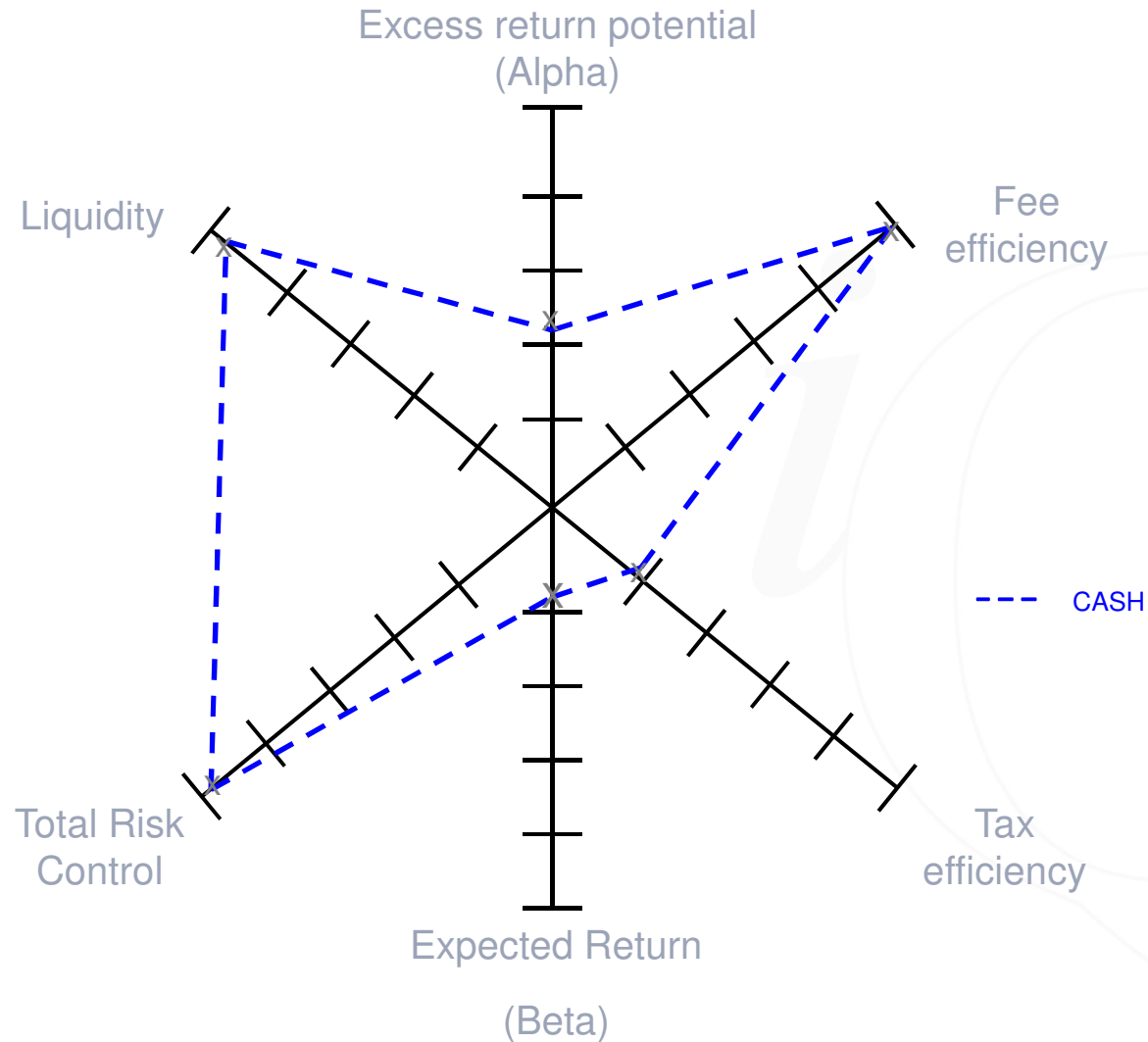
Warren Buffet (Berkshire Hathaway), arguably the world’s most successful investor

The Traditional (2 dimensional) portfolio construction approach

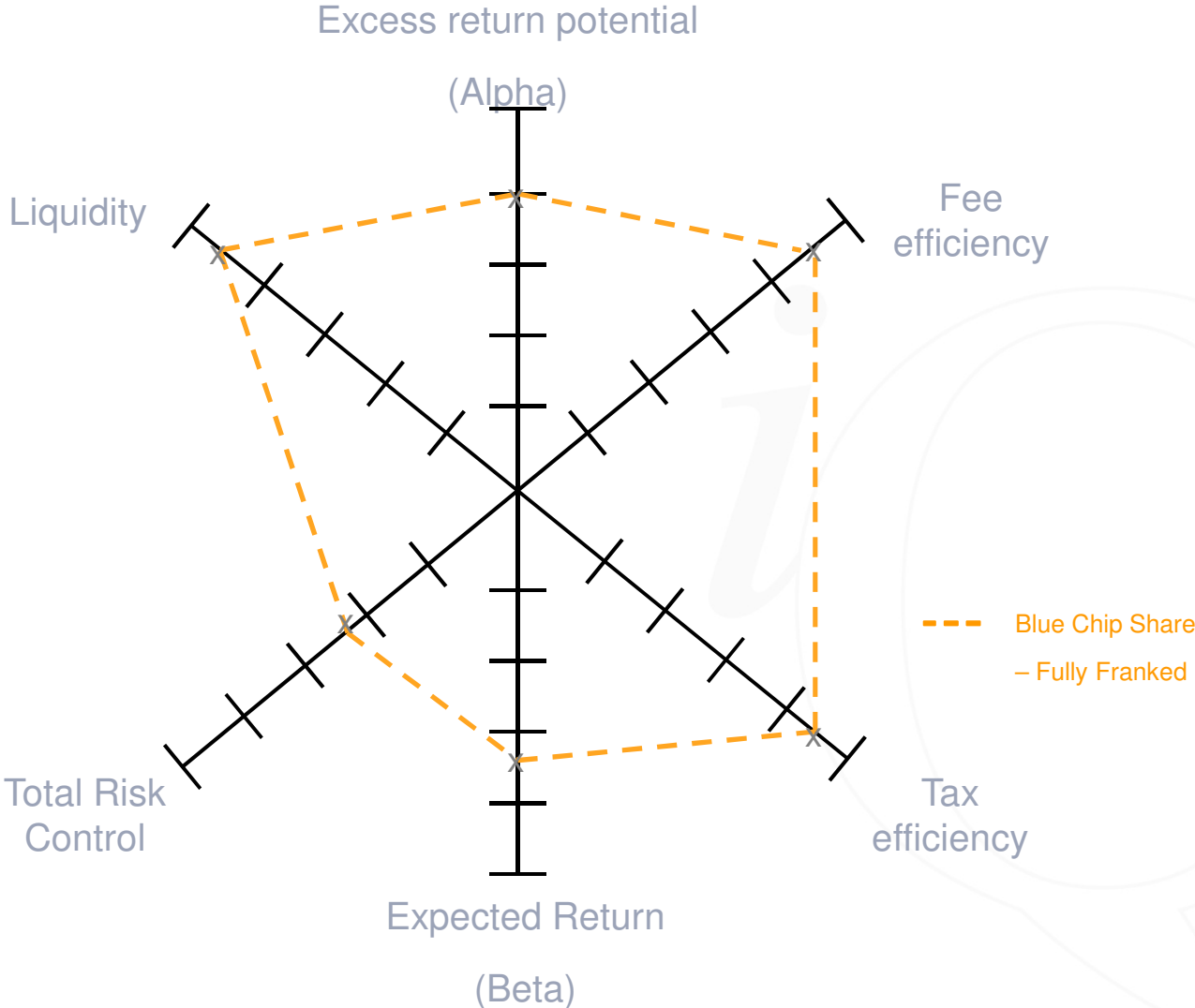
- Consider the risk(s)
- Consider the potential return(s)

Is/are the risk(s) commensurate with the potential return(s)?

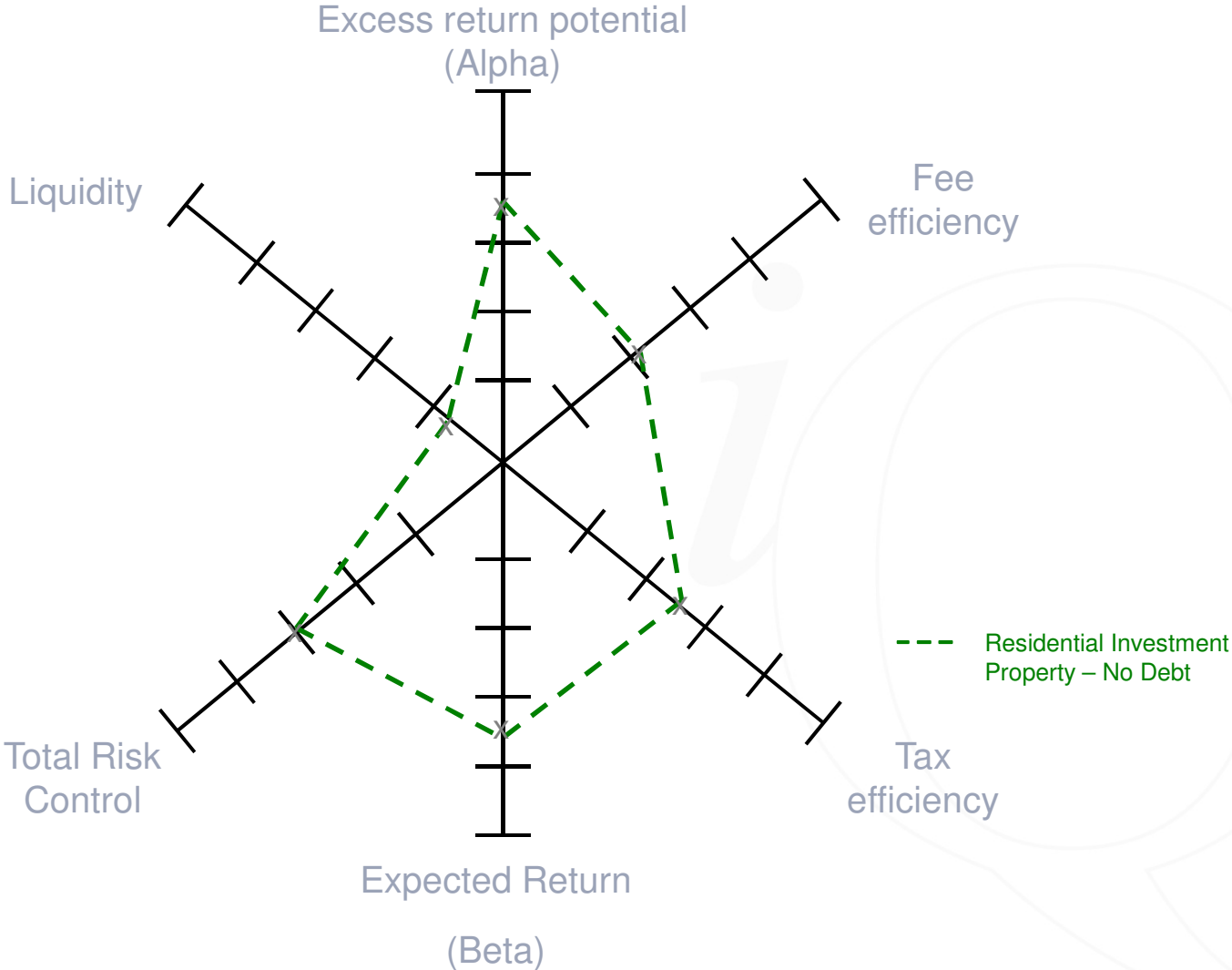
6 Dimensions of Portfolio Construction



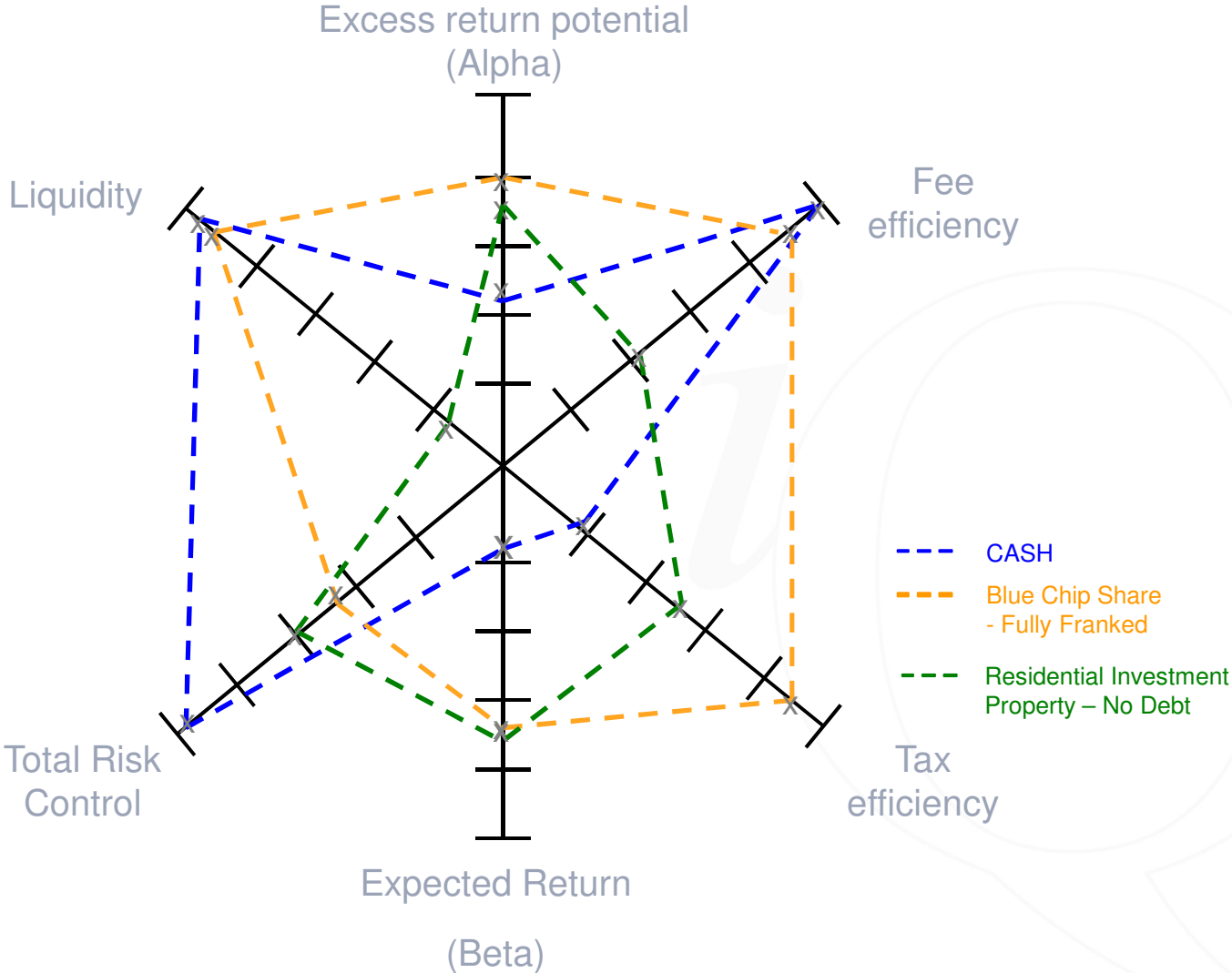
6 Dimensions of Portfolio Construction



6 Dimensions of Portfolio Construction



6 Dimensions of Portfolio Construction



A good SMSF may look like this

Strong Roof = Special Purpose Corporate Trustee

Accumulation
Account
Member 1

Taxed at 15%
on income
10% on capital
gains

Accumulation
Account
Member 2

Taxed at 15%
on income
10% on capital
gains

Pension
Account
Member 3

Taxed at 0%
on income
0% on capital
gains

Pension
Account
Member 4

Taxed at 0%
on income
0% on capital
gains

Strong Foundation = Flexible & Strategic Trust Deed

Self-managed super funds – The eight benefits

- Family
- Secure retirement income
- Disability benefits
- Investment choice – watch restrictions
- Low taxation
- Estate planning
- Centrelink
- Asset protection (See exceptions)



Self-managed funds - The Six Golden Rules to SMSF Compliance

1. Review Corporations Law
2. Review the Trust Deed
3. Review the SIS Act
4. Review the Tax Act
5. Review Family Law
6. Get the compliance documentation right



Self-managed funds - New Australian Taxation Office SMSF Publications

- “Thinking about self-managed super” – NAT 72579-03.2009
- “Setting up a self-managed super fund” – NAT 71923-03.2009
- “Running a self-managed super fund” – NAT 11032-03.2009
- “Winding up a self-managed super fund – NAT 8107-03.2009

What kind of retirement would you like to have?



Tax incentives within the superannuation environment

In accumulation mode:

- Tax on income - up to 15%
- Capital Gains Tax - 10%

In pension mode:

- Tax on income - 0%
- Capital Gains Tax - 0%

Income drawn by a pension recipient aged between 55 – 59*:

- Taxable component - MTR, less 15% tax offset
- Tax free component – Tax free

Income drawn by a pension recipient if aged over 60*:

- Taxable component – Tax free
- Tax free component – Tax free

* For pensions drawn after 1st July 2007

Case Study–Retirement Planning

Jim: Aged 64 next birthday, Engineer – Employee

Anne: Aged 64 next birthday, Book-keeper - Employee

They first came to see us in January 2005

This case study is for illustration only and is not to be used for any other purpose. You should not rely on this material or use it as a substitute for receiving financial advice suitable to your circumstances. Any reference to the readers actual circumstances is entirely coincidental.

Case Study–Retirement Planning

Assets

Non Super:	Family home	\$ 650,000
	Bank accounts	\$ 170,000
	Retail Funds	\$ 334,000
	Total Non Super	\$1,154,000
Super:	Jim (corp. master fund)	\$500,000
	Anne (industry fund)	\$200,000
	Total Super	\$700,000

Case Study–Retirement Planning

Expected retirement horizon:

When Jim turned 65 (March 2005) & commenced allocated pension **01/07/2005**
(i.e. 2005/06).

Risk profile:

Moderately Conservative. Low investment volatility.

Desired level of annual retirement income:

\$50,000 pa net of tax, indexed to CPI

Case Study–Retirement Planning

Our Assignment

Restructure current assets to enable the most tax effective income stream to be created during retirement years, based on their life expectancies and risk profile. Portfolio management fees are to be kept as low as possible. Portfolio construction to be kept simple, conservative and yet efficient.

Anne wanted to keep her super with an Industry Fund for the time being.

Jim's life expectancy: 18 years - to age 83

Anne's life expectancy: 21 years – to age 86

Case Study–Retirement Planning

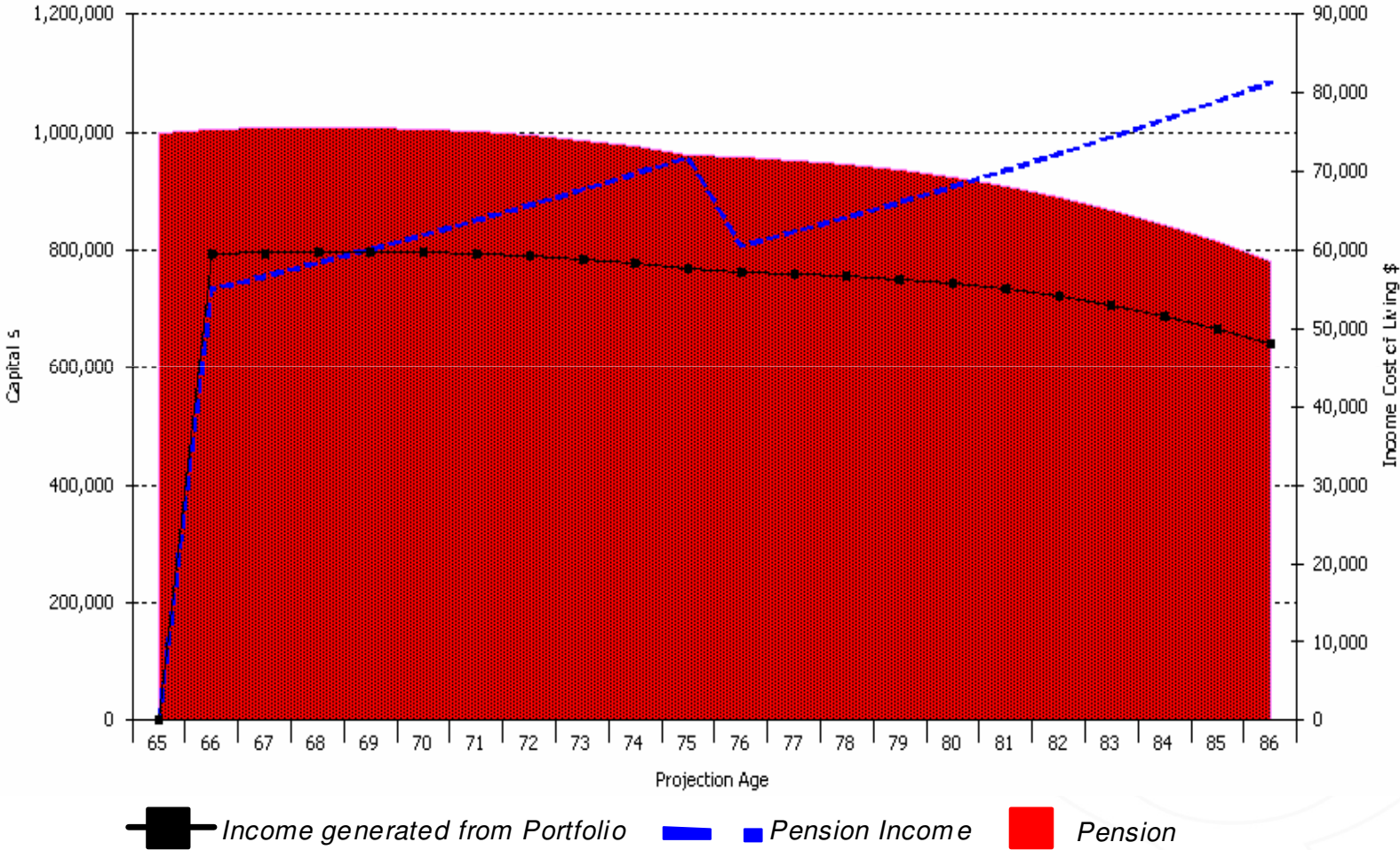
Following restructure, Jim & Anne’s assets look like this:

Non Super: Family home \$650,000

Super: (March 2005) - **\$925,000** balance comprising:

- \$425,000 deductible contributions
- \$500,000 undeducted contribution (now called non-concessional)
- Balance was \$1,000,000 by June 2005, which included additional contributions and earnings
- \$200,000 on Anne’s account in an industry fund, was not managed by us at that stage. Anne was still working.

Case Study—Retirement Planning



Case Study–Initial Portfolio (2005)

ASSET CLASS	MER*	DISTRIBUTIONS	%	TOTAL
Cash				5%
Working Cash Account	Nil	Quarterly	5	
Fixed Income (local & International)				30%
PM Capital - Enhanced Yield Fund	0.67	Quarterly	10	
ANZ StEPS (ANZPA)	Nil	Quarterly	5	
Westpac FIRSTS (WBKPA)	Nil	Quarterly	5	
IAG Reset Preference Shares (IAGPA)	Nil	Quarterly	10	
Property & Infrastructure				20%
Commonwealth Property Office Fund (CPA)	Nil	Half Yearly	5	
Envestra (ENV)	Nil	Half Yearly	5	
Stockland Property Trust (SGP)	Nil	Half Yearly	5	
Macquarie Goodman Industrial Trust (MGI)	Nil	Quarterly	5	
Australian Equities				25%
Lonsec Model Income Equity Portfolio (8 shares)	Nil	Various	25	
International Equities				20%
Platinum – International Fund	1.50	Yearly	15	
Hunter Hall Global Value Ltd (HHV)	Nil	Yearly	5	
TOTAL				100%

Case Study–Retirement Planning

Snapshot of investment rationale

Fixed income – Conservative assets

- 3 low risk, fixed income hybrid securities (listed)
- Higher yield, very liquid, no MER
- Boutique investment manager inclusion for diversification benefits

Australian Property & Infrastructure

- 3 listed property trusts (encompassing industrial, commercial, retail, development & management)
- Long term buy & hold, quality management, high income yield, no MER

Case Study–Retirement Planning

Snapshot of investment Rationale continued...

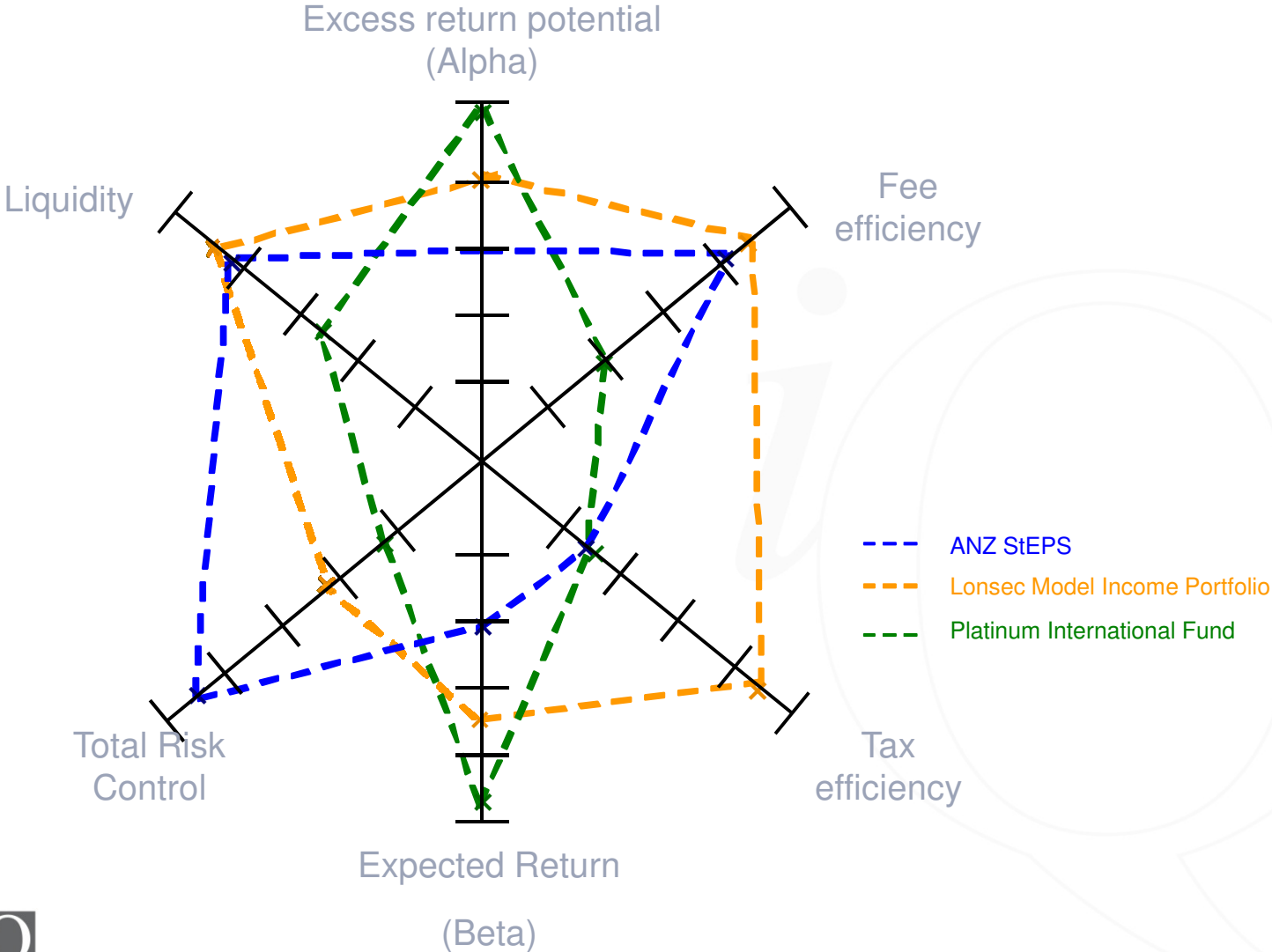
Australian Equities

- Lonsec Model Income Equity Portfolio, i.e. direct shares.
- Rationale includes adequate stock & industry diversification, liquidity, franking credits, Lonsec research (ANZ, WBC, SGB, WES, TAH, TLS, HSP, WOW).

International Equities

- Good long term growth opportunities. Diversification benefits.
- Absolute return managers selected. More flexible mandate of being able to utilise strategies to enable them to make returns in rising and falling markets.

6 Dimensions of Portfolio Construction



Case Study–Retirement Planning

Investment Portfolio Annual Income for 2005/2006

<u>ASSET CLASS</u>	<u>%</u>	<u>AMOUNT \$</u>	<u>RETURN</u>	<u>INCOME</u>	<u>FRANKING</u>	<u>TOTAL</u>
Cash	5	\$50,000	4.50%	\$2,250	Nil	\$2,250
Fixed Income	30	\$300,000	6.50%	\$19,500	\$2,486 (IAGPA)	\$21,986
Aust. Property & Infrastructure	20	\$200,000	8.00%	\$16,000	Nil	\$16,000
Aust. Equity	25	\$250,000	5.00%	\$12,500	\$5,357	\$17,857
Int'l Equity	20	\$200,000	4.00%	\$8,000	Nil	\$8,000
Total	100	\$1,000,000	6.61%*	\$58,250	\$7,843	\$66,093*

Case Study–Retirement Planning

Allocated Pension income estimate with undeducted contributions (at July 2005):

Assessable Income:	\$ 55,000
<i>Less Deductible Amount:</i>	<u>\$ 25,393</u> (taking Ann's life expectancy)
Taxable income:	<u>\$ 29,607</u>
Tax Payable:	\$ 5,055
<i>Less 15% rebate:</i>	\$ (4,442)
Medicare Levy:	<u>\$ 444</u>
Total Tax Payable:	\$ 1,057
<i>Net Income:</i>	<i>\$ 53,943*</i>

****Subject to minimum & maximum allocated pension amounts***

Case Study–Retirement Planning

Ongoing costs (total)

(based on \$1,000,000 under management @ July 2005)

<u>ONGOING CARE</u>	<u>DOLLAR AMOUNT</u>	<u>EXPENSE RATIO %</u>	<u>WEIGHTED EXPENSE RATIO OVER TOTAL PORTFOLIO</u>
Initial Service Package Fee (Advice)	\$0	0%	0%
Ongoing Service Package Fee (Advice)	\$10,000	1.000%	1.000%
Administration Fee	\$4,568	n/a	0.460%
Investment Management	n/a	0.290%	0.290%
Stockbroking*	\$0	n/a	0.000%
Total Investment Expense Ratio (TIER)			1.750%

*Execution only = 0.1%, Advice plus execution equals 0.5% + GST

Case Study–Retirement Planning

Have we met Jim and Anne’s objectives (at July 2005)?

- Low volatility/investments risk with relatively high income yield. Achieved around 6.6% gross per annum
- Good potential for capital growth from equities component (45% of the total allocation)
- Franking credits returned in the form of refundable credits (IAGPA & “blue-chip” shares as per the Lonsec Model Income Equity Portfolio)
- Low fees

Case Study–Retirement Planning

Jim's actual situation – 2 years on @ 1 July 2007

- Gross annual pension income was \$60,000 FY '07(indexed by CPI – roughly)
- Pension tax-free as he is over age 60
- Pension income not required to be submitted in tax return for 2007/08, thus “other” (if any) income becomes more tax efficient
- Jim's account balance was approx. \$1.2M, which comprises:
 - UDC component was \$500,000 at pension commencement.
Now it is less 2 yrs DA = \$450,000 approx., plus \$150,000 pre & \$600,000 post)
- As Jim was over age 60 @ 1/7/2007, this is a “trigger” for “simple super pension”. Therefore, components were:
 - Tax exempt component = \$600,000 (\$450k + \$150k)
 - Taxable component = \$600,000.
 - This locks in a 50/50 proportion which remains fixed.

Case Study–Retirement Planning

Jim's situation revised as if pension commenced 1 July 2007

- Pension income of \$60,000 FY '06 (5% of \$1.2M) is tax-free as Jim is over age 60.
- If Jim dies, pension will revert to Anne with no change to tax-free status.
- If Anne predeceases Jim, and he then dies, he will leave benefits to adult children. Therefore:
 - tax exempt component (50% locked in, irrespective of the account balance) will be tax-free;
 - taxable component (50%) will be taxable at 16.50%, including Medicare.
- This is very different (and far preferable) to pre 30 June 2007 treatment, where:
 - All investment earnings add to post 83/taxable component, and
 - Tax exempt/UPP reduced each year by the DA.

Case Study– Portfolio (July 2008)

<u>ASSET CLASS</u>	<u>MER*</u>	<u>DISTRIBUTIONS</u>	<u>%</u>	<u>TOTAL</u>
Cash				10%
Working Cash Account	Nil	Quarterly	10	
Fixed Income (local & International)				25%
PM Capital - Enhanced Yield Fund	0.67	Quarterly	5	
ANZ StEPS (ANZPA)	Nil	Quarterly	10	
AMP – Enhanced Yield Fund	0.87	Quarterly	5	
IAG Reset Preference Shares (IAGPA)	Nil	Quarterly	5	
Property & Infrastructure				20%
Transurban (TCL)	Nil	Half Yearly	2	
Macquarie Airports (MAP)	Nil	Half Yearly	3	
Westfield (WDC)	Nil	Half Yearly	5	
Stockland Property Trust (SGP)	Nil	Half Yearly	5	
General Property Trust (GPT)	Nil	Half Yearly	5	
Australian Equities				30%
ANZ, WBC, SHL, MQG, WOW, BHP, RIO	Nil	Various	30	
International Equities				15%
Platinum – International Fund	1.50	Yearly	10	
Premium (Value Partners) China Fund	1.88	Yearly	5	
TOTAL				100%

Case Study–Retirement Planning - 3 years on @ 1 July 2008

- Jim has converted to a “simple super pension”, i.e. all income he receives from his SMSF pension is tax free (over age 60)
- Jim is not required to submit a personal tax return as he receives no other income
- Portfolio investment income was \$110,000 (for 2007-2008)
- Franking credits were \$8,000 (for 2007-2008)
- Minimum income required to be taken \$60,000 (\$1.2m @ 5% = \$60,000) (for 2007-2008)

Case Study – Portfolio (January 2009)

<u>ASSET CLASS</u>	<u>MER*</u>	<u>DISTRIBUTIONS</u>	<u>%</u>	<u>TOTAL</u>
Cash				10%
Working Cash Account	Nil	Quarterly	10	
Fixed Income (local & International)				30%
PM Capital - Enhanced Yield Fund	0.67	Quarterly	5	
Macquarie CPS (MQCPA)	Nil	Quarterly	10	
Pimco Global Bond Fund	0.46	Quarterly	10	
IAG Reset Preference Shares (IAGPA)	Nil	Quarterly	5	
Property & Infrastructure				15%
Transurban (TCL)	Nil	Half Yearly	3	
Macquarie Airports (MAP)	Nil	Half Yearly	3	
Westfield (WDC)	Nil	Half Yearly	3	
Stockland Property Trust (SGP)	Nil	Half Yearly	3	
General Property Trust (GPT)	Nil	Half Yearly	3	
Australian Equities				30%
ANZ, WBC, MQG, WOW, BHP, CSL, SHL	Nil	Various	30	
International Equities				15%
Platinum – International Fund	1.50	Yearly	10	
Premium (Value Partners) China Fund	1.88	Yearly	5	
TOTAL				100%

Case Study–Retirement Planning - 3.5 yrs on @ 1 January 2009

However.....

- Portfolio value approx. \$1,050,000
- Investment income projected to be around \$80,000-\$85,000 for 2009-2010, actual income \$87,000, plus \$7,700 franking credits. Total \$94,700.
- The Global Financial Crisis – observing assets correlate to 1 (ie assets moving in the same direction), other than cash or quality sovereign debt (Govt bonds)
- Jim very nervous about market volatility caused by Global Financial Crisis....will this be the next Great Depression?

...time will tell...

Case Study – Portfolio (January 2010)

ASSET CLASS	MER*	DISTRIBUTIONS	%	TOTAL
Cash				10%
Working Cash Account	Nil	Quarterly	05.00	
Term deposit – 1 year	Nil	At maturity	05.00	
Fixed Income (local & International)				30%
PM Capital - Enhanced Yield Fund	0.67	Quarterly	05.00	
Macquarie CPS (MQCPA)	Nil	Quarterly	10.00	
Pimco Global Bond Fund	0.46	Quarterly	07.50	
Credit Suisse Global Income Fund	0.77	Monthly	07.50	
Property & Infrastructure				15%
Transurban (TCL)	Nil	Half Yearly	03.00	
Macquarie Airports (MAP)	Nil	Half Yearly	06.00	
Westfield (WDC)	Nil	Half Yearly	03.00	
Stockland Property Trust (SGP)	Nil	Half Yearly	03.00	
Australian Equities				30%
ANZ, WBC, WOW, BHP, WPL, CSL, SHL	Nil	Half Yearly	30.00	
International Equities				15%
Platinum – International Fund	1.50	Yearly	05.00	
Premium (Value Partners) China Fund	1.88	Yearly	05.00	
Magellan Global Fund	1.36	Yearly	05.00	
TOTAL				100%

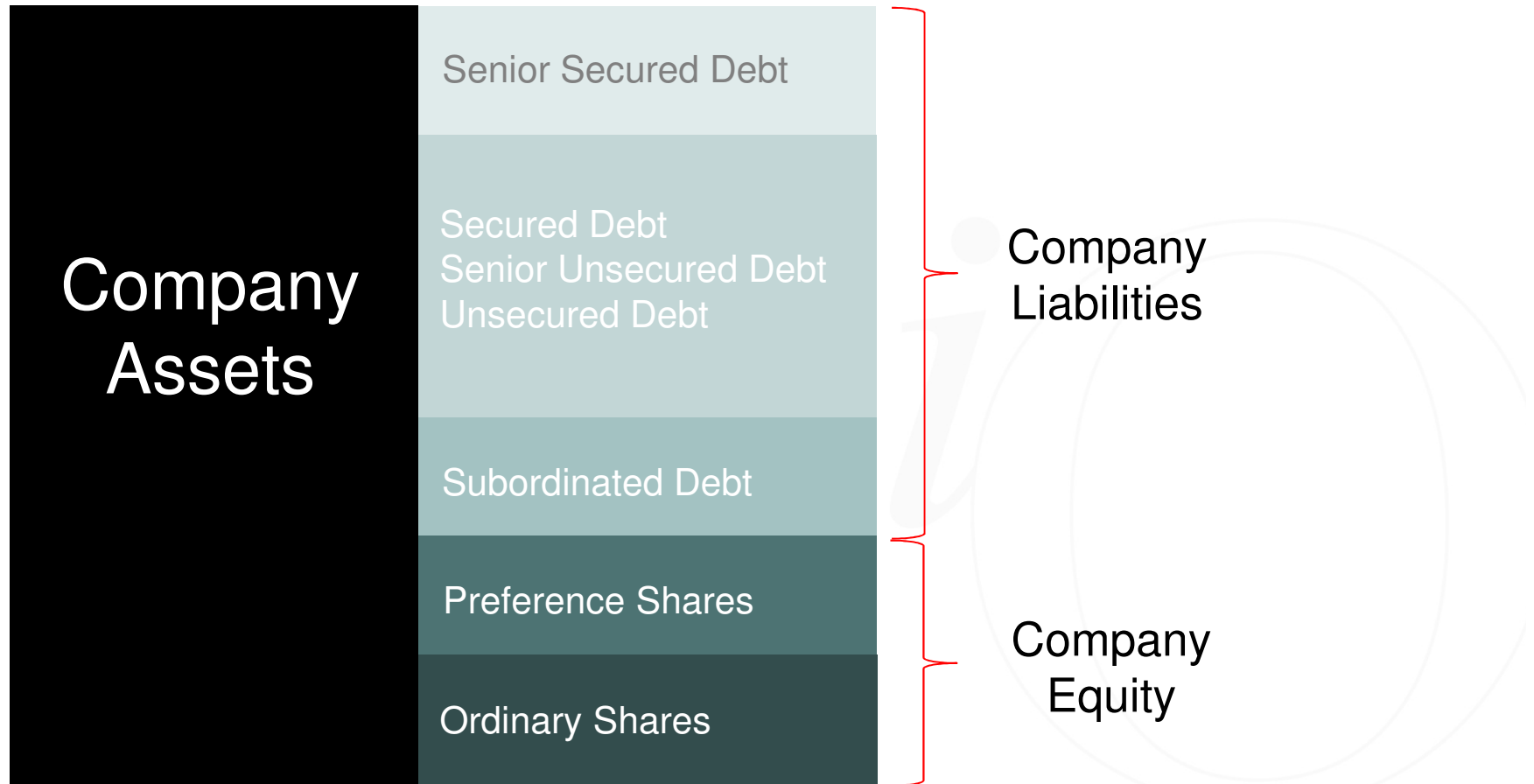
Case Study—Retirement Planning - 4.5 years on @ 1 January 2010

- Portfolio value **still** approx. \$1,050,000
- Investment income projected to be around \$70,000-\$75,000 for 2010-2011, i.e. a drop.
- Jim less nervous about market volatility caused by Global Financial Crisis....now has a **significant** weighting to credit and fixed income investments, as he is more comfortable being “**up the capital structure**” as an investor. Upon reflection, Jim feels he survived the crisis better than most.
- Jim VERY wary of current Govt that seems fixated on “tinkering” with Australia’s retirement savings.
...hoping never to see another GFC in his lifetime!

Case Study – Portfolio (August 2010)

ASSET CLASS	MER*	DISTRIBUTIONS	%	TOTAL
Cash				10%
Working Cash Account	Nil	Quarterly	05.00	
Term deposit – 1 year (6.80%pa)	Nil	At maturity	05.00	
Fixed Income (local & International)				30%
PM Capital - Enhanced Yield Fund	0.67	Quarterly	05.00	
Macquarie CPS (MQCPA)	Nil	Quarterly	05.00	
Pimco Global Bond Fund	0.46	Quarterly	07.50	
Macquarie Income Opportunities Fund	0.49	Monthly	05.00	
Bentham Global Income Fund	0.77	Monthly	07.50	
Property & Infrastructure				15%
Transurban (TCL)	Nil	Half Yearly	03.00	
Macquarie Airports (MAP)	Nil	Half Yearly	06.00	
Westfield (WDC)	Nil	Half Yearly	03.00	
Stockland Property Trust (SGP)	Nil	Half Yearly	03.00	
Australian Equities				30%
ANZ, WBC, WOW, BHP, WPL, CSL, SHL	Nil	Half Yearly	30.00	
International Equities				15%
Platinum – International Fund	1.50	Yearly	05.00	
Premium (Value Partners) China Fund	1.88	Yearly	05.00	
Magellan Global Fund	1.36	Yearly	05.00	
TOTAL				100%

The Capital Structure of a Company



“Up the Capital Structure of a Company”

- High quality fixed income investments (secured and in some cases unsecured), from a debt covenant point of view, offer far greater capital security with a good income return profile. This will become increasingly important with global cash rates remaining low. Company dividends are paid at the discretion of management whereas interest coupon payments on fixed income investments are a **contractual obligation**.

Warning: fixed income investing is far more difficult to do than simple buying of equities so it needs to be done carefully. Remember the debacles of Westpoint, Fincorp, Bridgecorp, Basis and MFS etc.

The Capital Structure of a Company

Warren Buffet example:

During the height of the GFC, when credit was very scarce, (Lehmann's Bros had just filed for bankruptcy) Buffet struck a financing deal with Goldman Sachs where essentially Berkshire Hathaway(BH):

- **23/09/08:** Lent US\$5 billion to Goldman Sachs – preference shares with a fixed annual coupon of 10% (or US\$500 million pa)
- **24/09/08:** In addition, US\$5 billion of warrants in Goldman's shares – strike price US\$115. (After announcement [the next day!], BH up US\$783 million on investment)
- **03/05/10:** Goldman's trading at US\$143.52, therefore BH is up US\$1.3 Billion on its investment. (Was \$3 Billion prior to GS/SEC lawsuit)
- **20/09/10:** 2 years later: BH has received US\$1 Billion in coupon payments (US\$500pa bill x 2). Options now US\$1.6 billion (GS valued at US\$151.90 per share).

Estate Planning Considerations...

- How long has it been since you reviewed your (and your spouse's) estate plan?

Estate Planning Considerations...

1. **Assets outside of Superannuation**

- Wills/Powers of Attorney/Deeds of Enduring Guardianship
- Do you have current and valid Wills / PoAs / DoEGs ? (remember, around 40% of people in NSW and half of all Australians who die, die intestate)

Estate Planning Considerations...

2. Assets inside Superannuation

- Superannuants do not “own” their superannuation entitlements, so they cannot make provision for them in their Will. A death benefits nomination, particularly a Binding Death Nomination, should be considered and provided to the trustees of the super fund of which they are a member.

Estate Planning Considerations...

➤ Assets inside Superannuation

In September 1999 the *Superannuation Industry Supervision Act 1993* (Cth) ("SISA") and regulation 6.17A of the *Superannuation Industry Supervision Regulations 1994* (Cth) ("SISR") were changed to allow for Binding Death Nominations ("BDNs").

As the term indicates a BDN "binds" the Trustee of a Superannuation Fund as to the payment of superannuation death benefits. A BDN is, in simplistic terms, the "Will" for a superannuant's death benefit payments. It provides a binding direction to the Trustee/s of their superannuation fund as to where the member's death benefits are to be paid subsequent to their death.

Binding Death Nominations are to be drafted in accordance with section 59(1A) of SIS and Regulation 6.17A of SISR.

Estate Planning Considerations....

➤ Assets inside Superannuation

- More people will have more money for longer periods in super
 - Potential for considerable amounts of super death benefits (including insurance) held by people at the time of their death
 - Critical that people have an effective estate plan in place
- Who is going to get control of the super benefits on death or incapacity?

Estate Planning Considerations....

- What are some of the consequences of getting Super death benefits wrong?
 - Dependants or estate subject to unnecessary tax, eg where children are independent adults
 - Death benefits may deprive wife of means-tested pension
 - Ineffective nominations – benefits received by unintended person
 - Not all children share control of the SMSF and trustee's discretion exercised accordingly
 - Unallocated reserves can pass to just one child
 - Death benefits squandered by spendthrift child

Estate Planning Considerations....

SMSF trustees and testators should consider whether to provide beneficiaries with lumps sums, income streams or combinations from assets both in and outside superannuation. Ideally, wills and binding death nominations should “dove tail” with each other.

Think about beneficiaries who...

- **are divorcing from their spouse, or are in poor relationships**
- **are in bankruptcy**
- **own their own business**
- **have substance abuse, gambling problems**
- **are not financially aware or capable**

Estate Planning Considerations....

Super death benefits paid as lump sum

Superannuation death benefits paid as a lump sum to death benefits dependants will be tax free.

Non-death benefits dependants will be taxed on super death benefits as follows:

- Tax-free component – tax-free;
- Taxable component (taxed element) – 15%, plus Medicare Levy;
- Taxable component (untaxed element) – 30% plus Medicare Levy

Consider re-contribution strategy to minimise tax for non-death benefits dependant beneficiaries.

If a lump sum death benefit is paid to the deceased's Estate, the tax treatment follows the dependency status of the beneficiary benefiting from the estate.

Estate Planning Considerations....

Super death benefits paid as a pension

- Non-death benefits dependants or estate cannot be paid a pension.
- If the deceased and/or primary beneficiary is age 60 or over, the pension will be tax free (except for any untaxed element, for example, arising from insurance proceeds). 10% offset applies to untaxed element.

If both the deceased and beneficiary are under 60, the pension is taxed as follows:

- ⇒ Tax-free component – tax-free
- ⇒ Taxable component (taxed element) – included in assessable income and a 15% tax offset applies
- ⇒ Taxable component (untaxed element) – included in assessable income. No tax offset applies.

Estate Planning Considerations....

Taxation of super death benefits

- A death benefit paid as an income stream to a child under 18 or under 25 and a financial dependant must be commuted at or before age 25 as a tax free lump sum.
- A beneficiary deemed permanently disabled can commute a death benefit pension as a lump sum at any age.

Proportion of taxable and tax-free components:

- Deceased in accumulation phase – tax-free and taxable components based on proportion of the death benefit.
- Deceased in pension phase – tax-free and taxable components based on the tax-free and taxable proportion of deceased's original pension.

Estate Planning Considerations....

Commutation of super death benefits

- If commutation occurs within 6 months after death or 3 months of probate – lump sum is tax-free when paid to a death benefits dependant
- If commutation occurs outside 6 months of death or 3 months of probate – lump sum is taxed as a normal superannuation member benefit, unless paid to a person declared permanently disabled or a child at or before 25 years.
- These time periods extended in certain circumstances e.g. disputes & can't contact beneficiary.
- Opportunity for beneficiary to rollover back to accumulation phase if commuted outside prescribed period for spouse. Can reduce income, Centrelink benefits if under pension age.

Estate Planning Considerations....

TRUSTEE APPOINTMENT UPHELD

- The NSW Supreme Court dismissed a challenge to the appointment by their late father of his sister as trustee of dad's \$1m-plus superannuation fund.
- The parents were the trustees. After the death of his wife, the father appointed his daughter as a co-trustee. He died in September 2003 and under his Will he named both his son and daughter as executor. By a deed of appointment dated 5 December 2003, the sister appointed her husband as a co-trustee with herself. Consequently, they became responsible for paying the \$1m-plus death benefit (dad had only left a non-binding death benefit nomination).
- The Court held that the sister had been validly appointed under the power conferred in the father and also upheld the sister's appointment of her husband as a new trustee.

- Katz v Grossman [2005] NSWSC 934, NSW Supreme Court, Smart AJ, 16 September 2005.

Estate Planning Considerations....

Preventing Katz v Grossman??

- May not be easy – get appropriate legal advice!!

Things to consider include:

- Binding death benefit nomination (may mean extra tax is payable on death benefit)
- Adjustment clause in Will (or family trust resolution) – need for sufficient assets
- Careful choice of fund membership & trustees/directors
- Careful choice of executors
- Special clauses in Trust Deed

Estate Planning Considerations....

Conclusion:

There may be no perfect answer!

DO NOT attempt to undertake Estate Planning for yourself.

Given the importance of Superannuation (including SMSFs) in the estate planning process, it is vital that an appropriately trained and skilled SMSF & Estate Planning lawyer be consulted to ensure the best outcome.

The above estate planning information is intended to provide a summary and general overview only. It is not intended to be comprehensive, nor does it constitute advice. We attempt to ensure that the content is current, but we do not guarantee its currency. While the information is believed to be correct, no responsibility is accepted for any statements of opinion or any error or omission. You should carefully check your circumstances and seek competent professional advice prior to embarking on a course of action.

Turbulent Times - how do we react?

“Subprime credit has become the mad cow disease of structured finance. Nobody knows who consumed the infected product and nobody has any real faith in the NRSRO (rating agencies) that gave it a clean bill of health.”

- Testimony of J. Kyle Bass, managing partner, Hayman Advisors L.P. at the United States House of Representatives Committee on Financial Services, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Turbulent Times - how do we react?

- Market dips (<10%), corrections (10-20%) and crashes (>20%) are all difficult to predict. Not many of us have "Mandrake" abilities. However, some common sense principles will stand investors in good stead:
- Must have access to good and multiple sources of **current** information AND have the ability and time to assimilate and apply it
 - Avoid unnecessary risks, i.e. over leveraging, speculation etc
 - Buy good quality assets and understand them
 - Be prepared to add to your investment positions when most are selling, and likewise consider selling or reducing exposure when frenzied buying is in full swing

Key Messages

In our view, the keys to successful self funded retirement include:

- Always consider protecting against disaster (e.g. Insurance, Portfolio Protection, Estate Planning)
- Strip out unnecessary administration & management costs
- Determine the required outcomes
- Implement appropriate structures and strategies which have the highest probability of achieving those outcomes
- Regularly review and adjust where required

“The cost of the best advice is infinitesimal compared with the amount of money frequently wasted without it”

- Dr Alistar MacKenzie

The original architect of Augusta, Royal Pines, Kingston Heath, Cypress National

Our Service Offerings for Clients

- Pro-active advice in terms of Superannuation and non-Superannuation strategy;
- Pro-active advice in relation to specific investments, including allocations to IPOs, stock placements and strategic trading ideas;
- Cash Flow Management;
- Debt Management;
- Comprehensive advice in the area of portfolio construction;
- Specialist skills in Self Managed Superannuation Funds which encompasses Retirement Planning;
- Detailed assessment of individual investments on a case by case basis;
- Individual assessments of executive share options schemes (both in terms of exercising, acquiring and tax effective disposals) – this service is provided by third party suppliers;
- Full portfolio management & administration service;
- Transactional facilities (wholesale brokerage rates);
- Insurance review – Life insurance, Total & Permanent Disability, Critical Illness, Income Protection.

Questions ?

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