How Best to Extract Funds when Selling a Business

Carlo Di Loreto

5 March 2024

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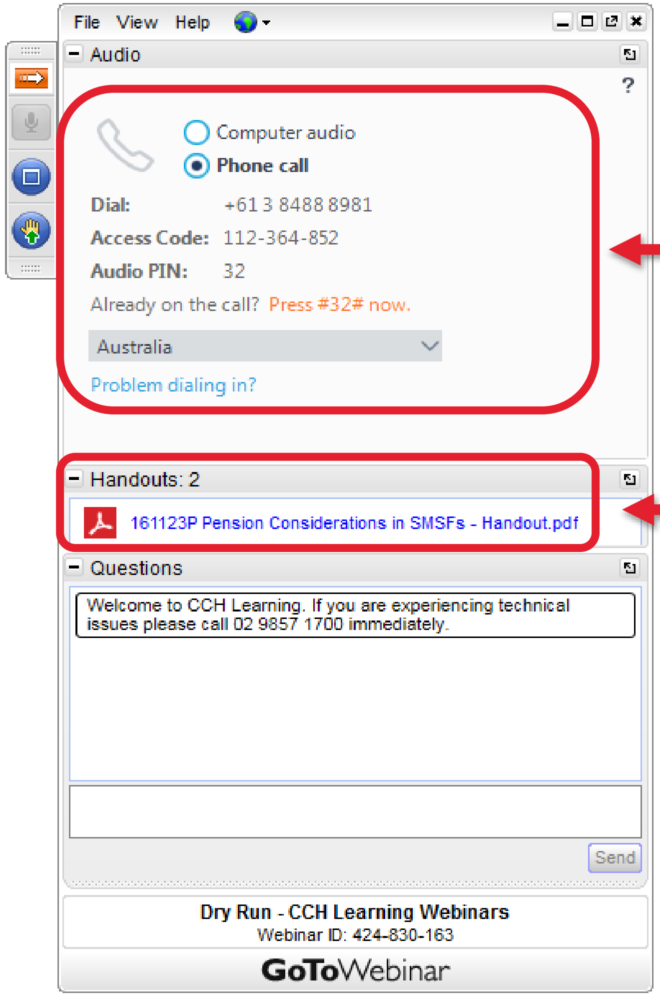
How to Participate Today



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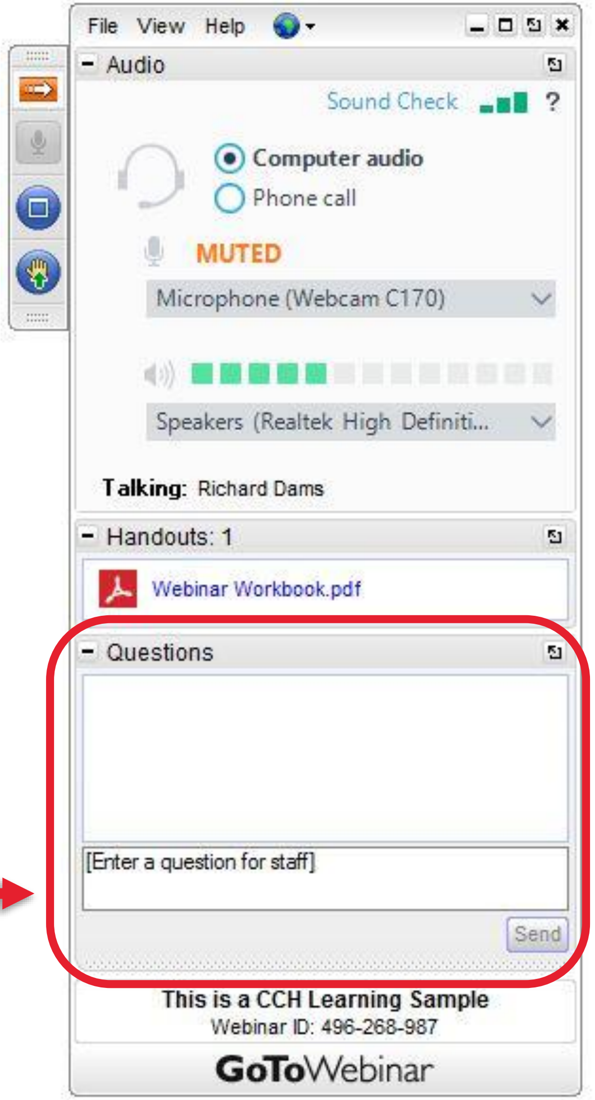

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Your Presenter

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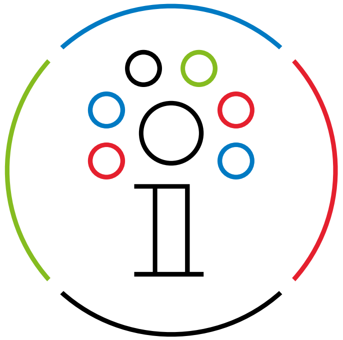
Today's session will cover



Extraction of Funds

- extracting the sale proceeds from an entity following a business sale:
  - dividends
  - liquidation
- tax implications of the sale of an entity (shares or units)

Sale of Business Case Study

Case Study recap: History of Business

- Jim & Helen currently operate a successful electrical business through their company Underground Cables Pty Ltd (UCS).
- They are both Directors of the company & were each allotted a single ordinary share upon the incorporation of UCS. The holdings have been verified by reference to the records of the Australian Securities and Investments Commission (ASIC).

Shareholder	No of shares	Date allotted
Jim	1	1 Nov 2003
Helen	1	1 Nov 2003

- The business has grown substantially over time & now has annual turnover more than $5,000,000 & employs over 20 staff. Jim & Helen have not previously applied the CGT small business retirement exemption.
- We covered ‘Sale of Business’ in November 2023 – available from CCH Learning

Case Study recap: Small Business Relief

- Summary of application of SBR:

	$
Capital gain (sale of goodwill)	$1,800,000
Less: 50% active asset reduction	(900,000)
Less: Retirement exemption payment ($450K each to Jim & Helen)	(900,000)
Net capital gain	Nil
*Jim & Helen each have a further $50K ($500K - $450K) remaining of the lifetime retirement exemption limit	

Case Study: Balance sheet after sale of business

	Book value $	Market value $	After sale $	Payment to K&J $	After retirement payments exemption $
Cash at bank	200,000	200,000	3,200,000	(900,000)	2,300,000
Trading stock	200,000	200,000	-		-
Debtors	100,000	100,000	100,000		100,000
Plant & equipment	1,000,000	1,000,000	-		-
Goodwill	-	1,800,000	-		-
Other liabilities	(500,000)	(500,000)	(500,000)		(500,000)
NET ASSETS	1,000,000	2,800,000	2,800,000	(900,000)	1,900,000
Issued capital	2		2		2
Ret earnings	999,998		2,799,998	(900,000)	1,899,998
	1,000,000		2,800,000		1,900,000

Case Study: Extraction of sale proceeds

- After the sale and payment of the retirement exemption amounts, the funds that remain are as follows:
  - $900,000 in superannuation (Jim's & Helen's retirement exemption payments - $450,000 each);
  - retained earnings in company of:

Retained earnings prior to sale	$999,998
Profit on sale of business	$1,800,000
Less: Retirement exemption payments	($900,000)
	$1,899,998

Case Study: Extraction of sale proceeds

- Net amount remaining in the company comprised of:
  - Retained earnings $999,998
  - Amount attributable to active asset reduction $900,000
  - Net retained earnings remaining in company $1,899,998

- How can the $1,899,998 be accessed?

Case Study: Extraction of sale proceeds

- A sale of business assets has 2 taxing points:
  - sale of the goodwill, plant and equipment etc (covered above); and
  - at the shareholder level when the profits are extracted

- Two options to access profits remaining in the company:
  - pay dividends; or
  - liquidate the company

Case Study: Extraction of sale proceeds

- Pay dividends (retain the company)
  - call in all receivables and payout liabilities
  - the $1,899,998 is all retained earnings
  - this is paid out as a dividend to Jim & Helen
  - the dividend is franked to extent available (ref franking account)

- Assume for purpose of case study that UCS has sufficient franking credits to fully frank dividend to shareholders of sale proceeds

Case Study: Extraction of sale proceeds - dividends

	Jim $	Helen $	Total $
Dividend	949,999	949,999	1,899,998
Gross-up: franking credit	316,666	316,666	633,332
	1,266,665	1,266,665	2,533,330
Tax @ 47%	595,332	595,332	1,190,664
Less: franking credit	(316,666)	(316,666)	(633,332)
Top-up tax payable	278,666	278,666	557,332

Case Study: Extraction of sale proceeds - dividends

	Jim $	Helen $	Total $
Dividend	949,999	949,999	1,899,998
Less: Top-up tax	(278,666)	(278,666)	(557,332)
Net after-tax proceeds	671,333	671,333	1,342,666
Amount in super	450,000	450,000	900,000
Total after-tax funds	1,121,333	1,121,333	2,242,666

Case Study: Extraction of sale proceeds - liquidation

- Implications for company:
  - liquidate all remaining assets & payout liabilities, including any tax liability on sale of the business
  - only cash remaining of $1.9m after call in $100K debtors & payout $500K liability

- Implications for shareholders:
  - assessable dividend [s 47 ITAA36]
  - net capital gain on cancellation of shares

Case Study: Extraction of sale proceeds - liquidation

Note:

- Retained earnings of $1,899,998 includes $900K of AAR amount:
  - TD 2001/14 confirms AAR amount not income according to ordinary concepts
  - therefore, not a dividend for s 47 purposes
  - AAR is capital proceeds where part of liquidator's distribution

Case Study: Extraction of sale proceeds - liquidation

- Determining assessable dividend [s 47 ITAA36]:

	$
Liquidator's distribution	1,900,000
Less: return of issued capital	(2)
Less: 50% active asset reduction (TD 2001/14)	(900,000)
Total assessable Liquidator's dividend*	**999,998**
*$499,999 each for Jim & Helen	

Case Study: Extraction of sale proceeds - liquidation

- Cancellation of shares on liquidation (CGT event C2):

	Jim $	Helen $	Total $
Capital proceeds	950,000	950,000	1,900,000
Less: cost base	(1)	(1)	(2)
Less: ass div s.118-20	(499,999)	(499,999)	(999,998)
Gross capital gain	450,000	450,000	900,000
Less: 50% CGT discount	(225,000)	(225,000)	(450,000)
Less: 50% AAR	(112,500)	(112,500)	(225,000)
Less: retirement exemption*	(50,000)	(50,000)	(100,000)
Net capital gain *$50k of lifetime limit was remaining after previous $450k rollover.	**62,500**	**62,500**	**125,000**

Case Study: Extraction of sale proceeds - liquidation

- Net cash position:

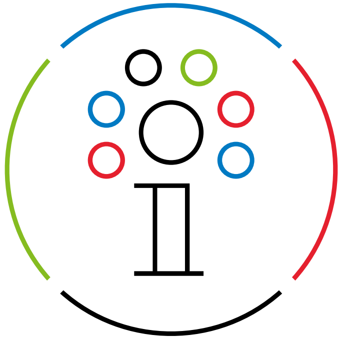
	Jim $	Helen $	Total $
Liquidator's distribution (cash)	950,000	950,000	1,900,000
Less: tax payable	(176,041)	(176,041)	(352,082)
Net after-tax proceeds	773,959	773,959	1,547,918
Amounts in super	500,000	500,000	1,000,000
Total after-tax funds	1,273,959	1,273,959	2,547,918

Case Study: Extraction of sale proceeds

- Comparison – dividend v liquidation (Option 1):

	Cash $	Super $	Cash & super $	Net saving compared to dividend
Dividend	1,342,666	900,000	2,242,666	N/A
Liquidation	1,547,918	1,000,000	2,547,918	305,252

Poll Q1. How are liquidator’s distributions treated in the hands of a recipient?



a) Capital receipts
b) Ordinary Income
c) Capital Gains
d) Dividends
e) All of the above

Option 2: Sale of entity

Sale of Entity

- Sale of entity involves:
  - sale of all the shares in a company; or
  - sale of all the units in a unit trust

- Generally, more attractive to vendor:
  - ‘cleaner’ option
  - past liabilities & problems pass to purchaser
  - no need to apportion sale proceeds across assets

Sale of Entity: CGT Status of Shares or Units

- the vendor should consider whether any shares or units were acquired pre-20 September 1985

- assets acquired by a pre-CGT entity on or after 20 September 1985 may trigger CGT event K6 [s 104-230]
  - applies where CGT event happens to pre-CGT interests in a private company or trust
  - market value of post CGT property is 75% or more of the net value of the company

- anti-avoidance rule prevents entities acquiring assets/discharging liabilities for purposes of not meeting the 75% test

Sale of Entity: CGT Event K6 [s 104-230]

Pre CGT
Shares

Company

Pre CGT-Assets
Post CGT Assets MV > 75% Net value of the company

Sale of Entity: CGT Event K6

- CGT only applies to extent the value of the post assets exceed their cost base

- if K6 triggered, CGT may apply to disposals of pre-CGT shares in company or units in a unit trust [s 104-230]

- Taxation Ruling TR 2004/18 deals with application of CGT event K6, including:
  - what is meant by 'property'
  - application of the 75% test
  - calculation of the capital gain
  - interaction with other provisions of the ITAA 1997

Sale of Entity: Accessing Small Business Relief

Reminder

- If the CGT asset is a share in a company, or interest in a trust, you must satisfy either of the following additional basic conditions [s 152-10(2)]:
  - you must be a CGT concession stakeholder in the company or trust (you must be an individual); or
  - CGT concession stakeholders in the company or trust have a combined small business participation percentage (SBPP) in you of at least 90%
- A CGT concession stakeholder in a company/trust is an individual who is [s 152-60]:
  - a significant individual in the company or trust; or
  - a spouse of a significant individual in the company or trust, provided the spouse has a small business participation percentage (SBPP) in the company or trust greater than zero

Significant Individual: Small Business Participation Percentage

- an individual is a significant individual in a company or trust if the individual has a SBPP in the company or trust of at least 20% [s 152-55]

- three situations where a significant individual is required:
  - for small business relief on sale of shares or units;
  - 15-year exemption through an entity or by selling shares or units;
  - retirement exemption on a capital gain made by a company or trust

- the 20% SBPP in another entity is the sum of [s 152-65]:
  - the entity's direct SBPP in the other entity; and
  - the entity's indirect SBPP in the other entity

Significant Individual: Small Business Participation Percentage

- An entity's direct SBPP in a company is the smallest of the following [s 152-70]:
  - percentage of the voting power;
  - percentage of dividend entitlement;
  - percentage of capital distribution entitlement

- An entity's direct SBPP in a unit trust is the smallest of the following:
  - percentage entitlement to income
  - percentage entitlement to capital

Significant Individual: Small Business Participation Percentage

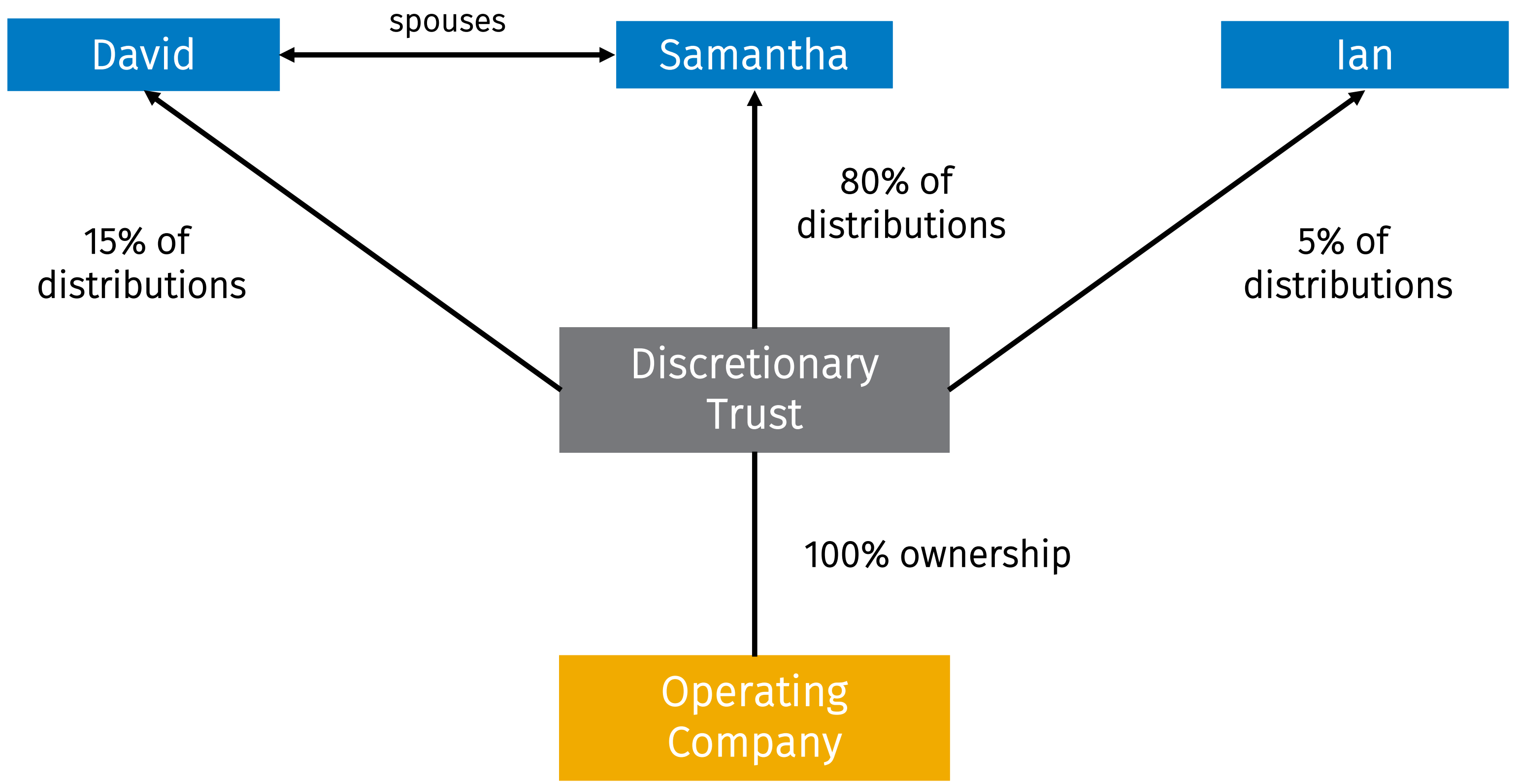
- an entity's direct SBPP in a discretionary trust is the smallest of the following:
  - if the trustee makes a distribution of income during the year, the percentage distributed to the entity
  - if the trustee makes a distribution of capital during the year, the percentage distributed to the entity

- if trust does not make a distribution, no-one has a SBPP

- the indirect SBPP is worked out by multiplying the successive direct SBPP through a chain of entities

Significant Individual: Small Business Participation Percentage

- Example



Significant Individual: Small Business Participation Percentage

- Samantha receives 80% of the distributions from the Discretionary Trust, therefore she has a direct participation percentage of 80% in the discretionary trust

- Samantha’s indirect SBPP in the Operating Company, is 80% (80% x 100%) which means she is a significant individual of Operating Company

- David receives 15% of the distributions from the Discretionary Trust, therefore has a direct participation percentage of 15% in the discretionary trust

- David’s indirect SBPP in the Operating Company, is 15% (15% x 100%) which means he is not a significant individual of Operating Company

Significant Individual: Small Business Participation Percentage

- David is a CGT concession stakeholder because he is the spouse of a significant individual, with a SBPP of greater than zero

- Ian receives 5% of the distributions from the Discretionary Trust, therefore he has a direct participation percentage of 5% in the discretionary trust

- Ian's indirect SBPP in the Operating Company, is 5% (5% x 100%) which means he is not a significant individual of Operating Company, nor a CGT concession stakeholder

Significant Individual: Small Business Participation Percentage

The 90% Test

- This test only applies if there is an interposed entity between the CGT concession stakeholder and the company or trust in which the shares or interests are held

- The interposed entity satisfies the test, if 90% of the participation percentages in that entity are held by CGT concessions stakeholders of the company or trust in which the shares or interests are held

Significant Individual: Small Business Participation Percentage

The 90% Test

- Samantha, a significant individual & CGT concession stakeholder of Operating Company, has an 80% SBPP in Discretionary Trust
- David, a CGT concession stakeholder of Operating Company, has a 15% SBPP in Discretionary Trust
- Ian, who is not a CGT concession stakeholder of Operating Company, has a 5% SBPP in Discretionary Trust
- At least 90% the participation percentages in the Discretionary Trust are held by CGT concession stakeholders of Operating Company – the Discretionary Trust satisfies the ownership requirement if it sells its shares in Operating Company and can access the concessions on those shares (provided other conditions met)

Small business participation percentage: Impact of different classes of shares

- the impact of different classes of shares, raised previously in the context of the 'connected entity' rules:
  - voting/non-voting shares
  - redeemable shares
  - preference/dividend access shares

- these classes of shares also impact the calculation of the SBPP

Small business participation percentage: Impact of different classes of shares

- for an entity to hold a direct SBPP in a company at a particular time, it must have [s 152-70]
  - voting power in the company; or
  - an entitlement in respect of any dividends payable; or
  - an entitlement in respect of any distribution of capital

- all classes of share except redeemable shares [s 152-70(2)] are taken into account for the purpose of applying SBPP

- if the voting, dividend and capital entitlements are different, then you are required to select the 'small or smallest' percentage

Small business participation percentage: Impact of different classes of shares

Question:

What if Helen's share was a non-voting share?

Answer:

- She would have a 'nil' SBPP - when the voting, dividend & capital entitlements are different, then you are required to select the 'small or smallest' percentage (0%)
- Helen would not be a CGT concession stakeholder in UCS and would not be able to access the CGT small business relief concession

Dividend access share & significant individual trap

- if a company has issued dividend access shares, with the dividend payments being discretionary, it may not have a SI because:
  - no one individual has right to receive at least 20% of any dividends paid
  - no shareholder will receive 20% of the dividends that company pays

- if company pays 100% of dividends to holder of dividend access share, this means other shareholders do not receive dividends

- a company may pay nothing to dividend access shareholder, with all dividends paid to other shareholders

- always check operation of SI rules where client has dividend access shares

Case Study: Accessing Small Business Relief

- Jim & Helen have 50% voting, dividend and capital entitlements
  - this means that their SBPP each is 50%
  - SBPP is at least 20%
  - therefore Jim & Helen are both SI's
  - Jim & Helen are both CGT concession stakeholders

Case Study: Accessing Small Business Relief

- Jim & Helen seeking to apply SBR on the sale of their shares
  - Basic conditions:
    - SBE [not applicable as neither Jim or Helen carry on a business]
    - NAVT
  - Need to consider the net asset value of:
    - Jim and Helen;
    - Entities connected with Jim & Helen;
    - Affiliates of Jim & Helen

Case study: Accessing small business relief - NAVT

- Jim and Helen's assets are:

Assets	Market value $
Main residence	1,730,000
Jim's boat	980,000
Investment property	1,000,000
Listed company shares	300,000
Helen's vintage car	250,000
Superannuation	1,200,000
	5,460,000

Case study: Accessing small business relief - NAVT

- net asset value of connected entities:
  - UCS
  - J&H Investment Trust (JHIT) (total net assets $500,000)
  - the UCS Trading Trust (UCTT) ($1,000,000)

- affiliates – none

- therefore, sum net asset value of Jim, Helen, UCS, JHIT and UCTT

Case study: Accessing small business relief - NAVT

Assets	Market value $	Included NAVT $
Main residence	1,730,000	-
Jim's boat	980,000	-
Investment property	1,000,000	1,000,000
Listed company shares	300,000	300,000
Helen's vintage car	250,000	-
Superannuation	1,200,000	-
UCS	2,800,000	2,800,000
JHIT	500,000	500,000
UCTT	1,000,000	1,000,000
	9,760,000	5,600,000

NAVT satisfied

Accessing small business relief: Additional basic conditions

- if the CGT asset is a share in a company, or interest in a trust, you must satisfy either of the following additional conditions [s 152-10(2)]:
  - you are a CGT concession stakeholder in the company or trust (i.e. you must be an individual); or
  - CGT concession stakeholders in the company or trust have a combined small business participation percentage (SBPP) in you (i.e. the shareholder/unit holder) of at least 90%
  - ‘CGT concession stakeholder’ is a ‘significant individual’ (SI)
  - SI is a person who, generally, holds at least a 20% interest in the company

- Jim & Helen are both significant individuals & therefore both CGT concession stakeholders

Accessing small business relief | Active asset test - shares or units

- a share or unit can be an active asset but requires you to "look through" to the entity's underlying active assets [s 152-40(3)]
- broadly, where 80% of the entity's assets were active assets, the share/unit would be an active asset
- financial instruments (such as loans, options) are expressly excluded from being active assets – they do not count towards the 80% threshold
- where financial instruments, such as cash, are inherently connected with the business the entity carries on, they count towards satisfying the 80% threshold
- If main use is to derive interest or rent – cannot be an active asset

Accessing small business relief | Active asset test - shares or units

- A share or unit is an active asset at a point in time if [s 152-40(1), (3)]:
  - the market value of the active assets of the entity; and
  - the market value of any financial instruments inherently connected with a business the entity carries on; and
  - any cash of the entity that is inherently connected with such a business
  - is 80% or more of the market value of all the entity's assets

Note

That cash at bank holding working capital funds will count towards satisfying the 80% threshold, but surplus cash, or amounts held in a term deposit, would not count

Accessing small business relief | Active asset test - shares or units

- the assets of UCS are used or held ready for use in the course of carrying on its business;
- the cash is inherently connected with such a business [s 152-40(3)(b)(iii)]
- therefore, 100% of the assets are active assets i.e. >80%
- the active asset test is satisfied for the shares

Case Study: Accessing small business relief

- 15-year exemption [Subdivision 152-B]
  - basic conditions: satisfied
  - shares continuously owned for 15 years: satisfied
  - sale must happen in connection with retirement of a significant individual who is 55 years or over - both under 55 years: not satisfied
  - therefore no 15-year exemption

Case Study: Accessing small business relief

- 50% active asset reduction [Subdivision 152-C]
  - no additional conditions
  - capital gain can be reduced by 50%

- Retirement exemption [Subdivision 152-D]
  - basic condition: satisfied
  - if CGT concession stakeholder < 55, CGT exempt component to be rolled over to superannuation: satisfied
  - amount to be paid into superannuation is the amount of capital gain being reduced (50% each to Jim & Helen)

Sale of entity: CGT computations

- Enterprise value - market value of UCS required to determine value of shares

	Book value $	Market value $
Cash at bank	200,000	200,000
Trading stock	200,000	200,000
Debtors	100,000	100,000
Plant & equipment	1,000,000	1,000,000
Goodwill	-	1,800,000
Other liabilities	(500,000)	(500,000)
NET ASSETS	1,000,000	2,800,000

Sale of entity: CGT computations

- Enterprise value:
  - estimated market value of the company is $2.8m;
  - this is the price shares will be sold for (capital proceeds)
  - allocation of capital proceeds for shares:

Shareholder	Number of Shares	Capital proceeds $
Jim	1	1,400,000
Helen	1	1,400,000
Total	**2**	**2,800,000**

Sale of entity: CGT computations

	Jim $	Helen $	Total $
Capital proceeds	1,400,000	1,400,000	2,800,000
Less: cost base	(1)	(1)	(2)
Gross capital gain	1,399,999	1,399,999	2,799,998
Less: 50% CGT discount	(699,999)	(699,999)	(1,399,999)
Less: 50% AAR	(349,999)	(349,999)	(699,999)
Less: retirement exemption	(349,999)	(349,999)	(699,999)
Net capital gain	-	-	-
Tax @ 47%	-	-	-

Sale of entity: CGT computations

- Net after-tax position:

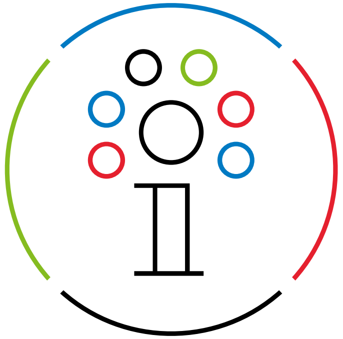
	Jim $	Helen $	Total $
Capital proceeds	1,400,000	1,400,000	2,800,000
less: CGT on disposal of shares	-	-	-
Less: rolled over CGT exempt amounts in super	(349,999)	(349,999)	(699,999)
Net cash position	**1,050,000**	**1,050,000**	**2,100,000**
Add: CGT exempt amts in super	349,999	349,999	699,999
Net cash and super position	**1,400,000**	**1,400,000**	**2,800,000**

Summary of after-tax outcome: Sale of assets v sale of entity

- Sale of shares produces the optimal after-tax outcome for Jim and Helen:

	Cash $	Super $	Cash & super $	Net saving compared to dividend $	Net saving compared to liquidation $
Option 1 (Dividend)	1,342,666	900,000	2,242,666	N/A	N/A
Option 1 (Liquidation)	1,547,918	1,000,000	2,547,918	305,252	N/A
Option 2	2,100,000	699,999	2,800,000	557,334	252,082

Which of the following concessions requires a significant individual to retire?



a) 15 Year Exemption
b) 50% Reduction
c) Retirement Exemption
d) Small Business Rollover

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CGT small business relief: Variations & planning

Case Study Variation 1: Additional share allotment

- What if Jim and Helen were issued with a further 9 shares each in 2014?

Shareholder	No of shares	Date allotted	No of shares	Date allotted	Total shares
Jim	1	1 Nov 2003	9	1 Nov 2014	10
Helen	1	1 Nov 2003	9	1 Nov 2014	10

Case Study Variation 1: 15-year exemption

- What is the impact on applying the 15-year exemption?
  - under a business asset sale, the goodwill could satisfy 15 year holding requirement – disregard whole capital gain on sale of goodwill (provided other requirements met);
  - under share sale, only the one original share issued in 2003 has been held for at least 15 years;
  - this means that only 1/10 shares could qualify for 15-year exemption (provided other requirements met);

- Could asset sale produce optimal after-tax outcome?

Case Study Variation 1: 15-year exemption

- Were the additional 9 shares acquired each by Jim & Helen, part of an ‘allotment’ or a ‘share split’?
  - if an ‘allotment’, shares acquired in 2014 – 15 yr holding requirement not met;
  - if a ‘share split’, the 1 original share each has been ‘split’ into 10 shares
    - not a CGT event [s 112-25] [TD 2000/10]
    - all 10 shares each acquired 1993
  - if not a ‘share split’, need to ‘crunch the numbers’ to determine whether asset sale or entity sale produces optimal outcome

15-year exemption & pre-CGT gains: opportunity

- Where a company or trust sells pre-CGT asset – capital gain normally disregarded [s 104-10(5)] - how can this tax-free amount be extracted tax effectively?
  - if a dividend – unfranked;
  - also possible to extract tax-free by liquidating company and where shares are pre-CGT;
  - unit trust – CGT event E4 could apply if distributed to unit holders and unit holder holds post-CGT units

15-year exemption & pre-CGT gains: opportunity

- If the 15-year exemption would have applied had asset been a post-CGT asset and the gain would have been disregarded under the 15-year exemption: [s152-125(1)(iii)]:
  - the company or trust can pay the disregarded (untaxed) gain to shareholders / beneficiaries in tax-free manner
  - effective strategy where:
    - a company sells pre-CGT asset and either some of the shares are post-CGT; or
    - liquidation not desired
    - to extract tax-free capital gain

Case Study Variation 2: Effect of death & SBR

- If Jim died in March 2024 - what happens to his shares?
  - under Division 128, generally LPR or beneficiary taken to have acquired the shares on date of death [s 128-15(2)] - Helen & LPR therefore acquires shares at date of death i.e. March 2024
  - for general CGT purposes shares do not satisfy 12 month holding for CGT discount [s 115-25]
  - if additional 9 shares were acquired under a 'share split':
    - Jim's original acquisition date is 2003, but Helen acquires March 2024
    - generally, 15-year exemption cannot apply for Helen on disposal of shares as she has not held Jim's shares for at least 15 years

Case Study Variation 2: Effect of death & SBR

- What if Jim died at age 57?
  - Original one share held for >15 years;
  - Other 9 shares – if issued under a 'share split', would also be held for >15 years
  - All shares also held for > 12 months

- Jim could have applied:
  - 15-year exemption (provided in connection with retirement)
  - CGT discount; and
  - If retirement exemption applied, not required to rollover to superannuation

Case Study Variation 2: Effect of death & SBR

- Section 152-80:
  - if a CGT event happens to an asset (acquired from deceased) within 2 years of death; and
  - if deceased would have been entitled to reduce or disregard capital gain under Division 152 (i.e. small business relief);

- LPR or beneficiary 'stands in the shoes' of deceased
  - means Helen could apply the 15-year exemption to sale of Jim's 2016 shares even if she was not yet 55;
  - Helen would not have to rollover an amount to super in respect of Jim's shares even if she is not yet 55
  - Commissioner has discretion to extend the 2-year time limit

- Helen could also apply the 50% CGT discount [s 115-30(1)]

Small business relief | planning opportunities

Planning | Deferral strategy: small business rollover

- a planning opportunity is available where small business rollover concession is used [Subdiv 152-E]

- company makes a capital gain

- shareholder is a CGT concession stakeholder, who is 53 years old

Planning | Deferral strategy: small business rollover

- can apply small business rollover to defer capital gain to end of replacement asset period (broadly 2 years)
  - even though no intention of acquiring a ‘replacement asset’

- CGT event J5 happens in 2 years [s 104-197]
  - replacement asset period ends, and no replacement asset is acquired

- individual shareholder will then be 55 years old

Planning | Deferral strategy: small business rollover

- a capital gain arises on CGT event J5

- section 152-10(4):
  - 15-year exemption [Subdiv 152-B] and 50% AAR [Subdiv 152-C] cannot apply to CGT event J5
  - cannot utilise small business rollover [Subdiv 152-E] again
  - does not mention retirement exemption [Subdiv 152-D]

Planning | Deferral strategy: small business rollover

- therefore, can apply retirement exemption to J5 gain
  - confirmed in EM to TLA (2009 Measures No.2) Act 2009
  - payment made to CGT concession stakeholder - no requirement to rollover to super (individual now 55);

- can use to offset against capital loss (if knowledge of possible loss at time of applying small business rollover)

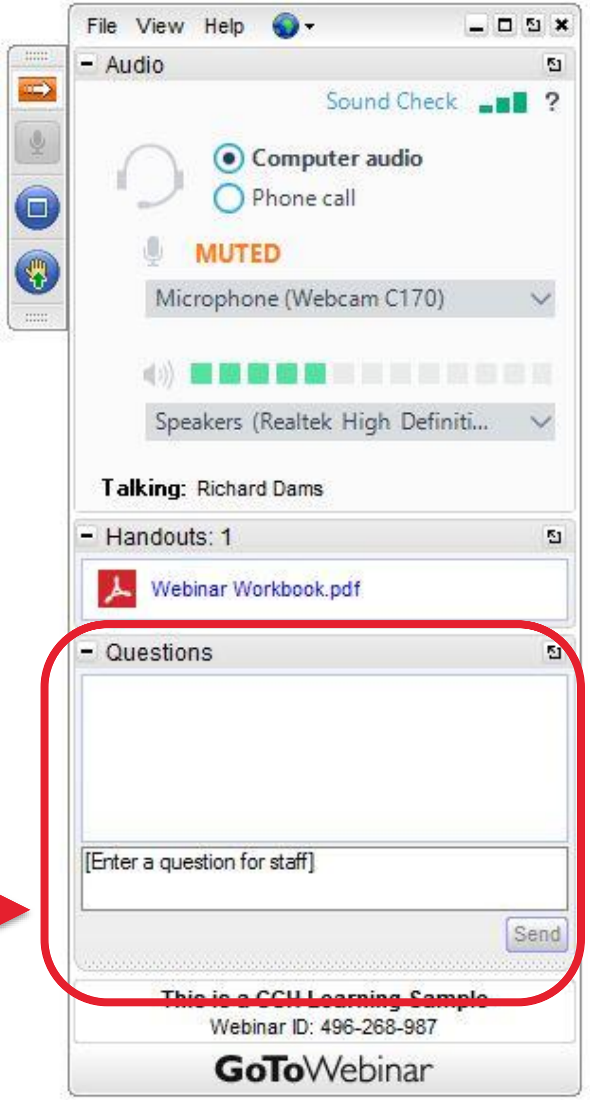
SBR rollover & CGT event J2, J5 & J6 Trap

- if you obtain a new client – should ask client and/or former tax agent whether small business rollover applied in the past
- is client carrying forward a potential CGT event J2, J5 or J6 gain
- client will often not be aware & rollover need not be shown on tax return each year
- does the J2, J5 or J6 gain crystallise in the year you are doing the tax return
- check client is not applying the rollover again

Questions?

Alison Wood
CCH Learning Moderator

Type your question and hit Send



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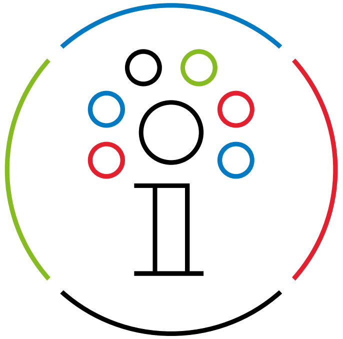

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- 7 March – Income Tax Case Update
- 7 March – Non-commercial Loss Rules for Individuals
- 13 March – The Ins and Outs of Super – A broad look at Contributions and Pensions
- 13 March – FBT – Understanding Entertainment and Meals
- 14 March - Tax Implications of Business Structures

Questions?

You can type them in the “Questions” box now,
Or contact me via:

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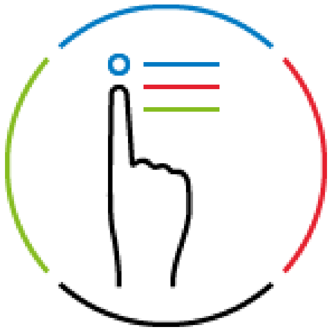
Next Steps

Please complete the Feedback Survey.

Within 24-48 hours you will receive an email when the following is ready;



- E-Learning Recording
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- CPD Certificate
- PowerPoint Presentation

Thank you for attending

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