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SMSF & Tax Education

MAXIMISING SUPRANNUATION FOR OVER 60s

PJ0

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Slide 1

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Agenda

- Contributing to super over age 60
- Pensions
- Consider the kids – minimize death taxes
- Selling the business tax free if possible
    - And getting that into super
- What to do under a $3 million cap

A Tax Strategy for Over 60s

- Super is not necessarily the most tax effective place
  - Over 60’s may not pay tax on their earnings so why pay super fees?
- But for those that will pay tax -
  - We want to maximise what we have in super
  - And live off tax free pensions
  - And mimimise any tax their kids pay when they die

Case Study

- Peter is 64 & Chloe is 61
- They both have an SMSF and have $750,000 each in the fund
- They have a business operating through a company that they intend to sell for $1 million over the next five years
- They have an investment property on the Sunshine Coast worth $1.2 million (coast base of $600,000)
    - They like the idea of retiring to this property (this was your advice)
- Their Main Residence in Sydney is worth $1.2 million
- They have two adult kids

What Contributions are Available after 60?

- Non-Concessional Contributions until the 28th day in the month after they turn 75
  - You can utilize the Bring Forward Rule up until this day
  - So don't use it when you are 73 or 74 (unless you will go over the caps)
- Concessional Contributions up until 67 or when working up to 75
- SG contributions over 75
- Work Test Contributions – once only for people with low balances
- CGT Cap Election Contributions (Small Business Roll Overs)
- Downsizer Contributions

Peter & Chloe

- Peter can do $360k now and at 67, 70, and 75 with two years of $120k
  - $1,320,000
- Chloe can do even more
- They can make maximum concessionals whilst ever they keep the business
  - $150,000 each
- If they sell the business for $1 million they should be able to contribute that
- If they sell their house they can contribute $600,000 under the downsizer
- That is another $4.9 million!!!!

Pensions

- The main purpose of a pension is to fund your retirement
- But they provide a nice little benefit as well
- To start a "tax effective" pension you need to be over 60 and meet a condition of release
- Definition of "Retirement"
  - A. – over age 60 and ceased work and never intend to work again;
  - B. – ceasing an arrangement under which you are gainfully employed after attaining the age of 60
- Also turning 65, TPD, terminal illness, death

Death & Taxes

- Leaving your super to your spouse has no tax consequences
- Leaving it to your kids can lead to death benefits tax at the rate of 15%/17%
- $3.5 trillion in super to pass to the next generation!!
- But we can rid ourselves of this

Death Nomination – Kids or Estate

- If it goes to the kids
  - They pay 17% tax on the lump sum
  - They may pay Div 293
  - They may lose child care support
  - They may lose the health insurance rebate
- If it goes to the estate
  - They pay 15% tax on the lump sum
  - Someone might be able to make a claim against it

Re-Contribution Strategies

- Upon reaching the age of 65 Peter starts a pension
- He then withdraws $360,000 of his super
- He re-contributes it as a Non-concessional contribution
- And immediately commences another pension
- He does this again in three years
- And again in three years and he should have converted all his super to tax free

Be Careful of Blending

- It is important that when you make the non-concessional it does not blend with taxable component.
- You may need different funds in some circumstances

What about Part IVA

- In a recent PBR regarding concessional contributions the ATO said it was a simple application of the law and Part IVA doesn't apply

What if it’s Too Late?

- Consider you have just met Marge who is 85
- She has $1 million in super – all taxable
- Income outside super is $11,000 per annum
- What should she do?
- You need to model the differences.

But Her Death is Imminent (5 days max) ……

- Make sure you have EPOA's.
- Get the EPOA to change directors/trustees
- Get the EPOA to request the member's benefits
- Do in-specie transfers of the assets
- The deal with the registration of the transfers later
- If you don't have EPOAs you have an urgent matter in the Supreme Court
  - Still cheaper than the tax!!!

Small Business CGT Concessions

- It is important to know that Peter & Chloe intend to sell within 5 years
- Remember two tests
  - Aggregated turnover below $2 million; or
  - Net CGT Assets below $6 million
  - For You, your affiliates and your connected entities

You Need to Review Every Year

- Each year check your turnover and your net assets
- Be careful of adding other entities to your group
  - By distributing to people out of a family trust
- Are you in the best structure?
  - Companies are OK for a gain of up to $1 million
  - Or for the 15 year exemption
  - Restructures need to be in place for three years

Getting the Money into Super

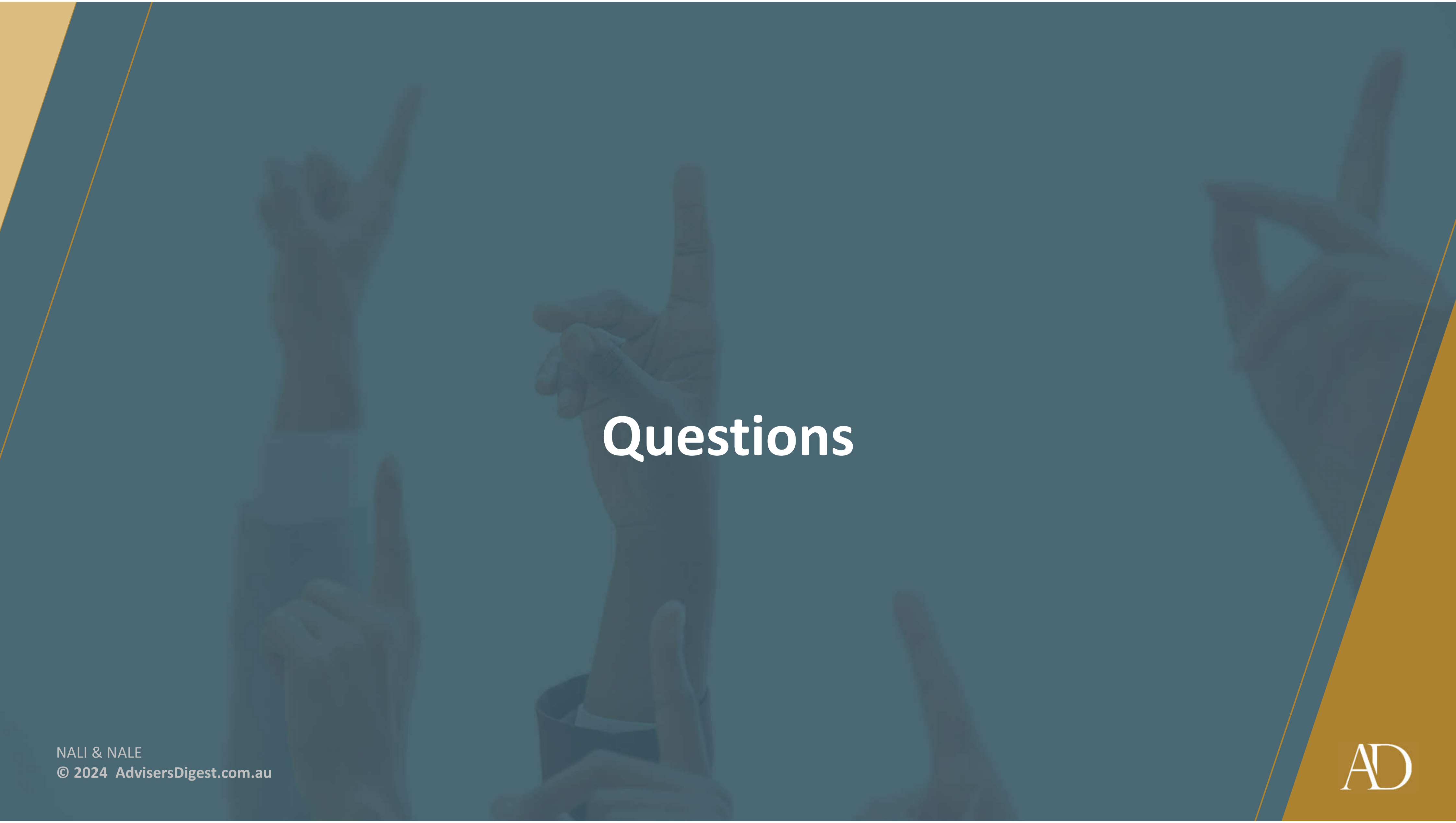
- Under 5 different events there are 4 different time frames to make the contribution
  - And clients will spend the money if they wait to contribute
  - So contribute as quickly as possible
- If you are over 55 you have to make the contribution and not the entity
- Be careful of lifetime limits
  - $500,000 for the retirement exemption
  - $1.78m under the 15 year exemption (2024/25)

Why Move to the Investment Property

- Selling their current main residence is CGT exempt
  - Or rent it and reset the cost base
- If their estate sells the investment property and it was their main residence at the time of death then any previous use to produce income is disregarded!!!
  - Sub-Section 118-190(4) ITAA97

$3 Million Cap

- Most people in this range will be paying 47% on other income so 30% I still better
- BUT
  - 30% on earnings plus 17% death taxes equals 47% tax on super
- So you MUST make sure they don't die with adult kid beneficiaries
- Consider a company
  - Same rate of tax
  - But it domes with Franking Credits



Questions