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# SHAPING FUTURES

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FPA *Professionals* CONGRESS

BRISBANE 18-20 NOVEMBER 2015



FINANCIAL PLANNING  
ASSOCIATION *of* AUSTRALIA

**Ken Mansell**

*Taxing times...*



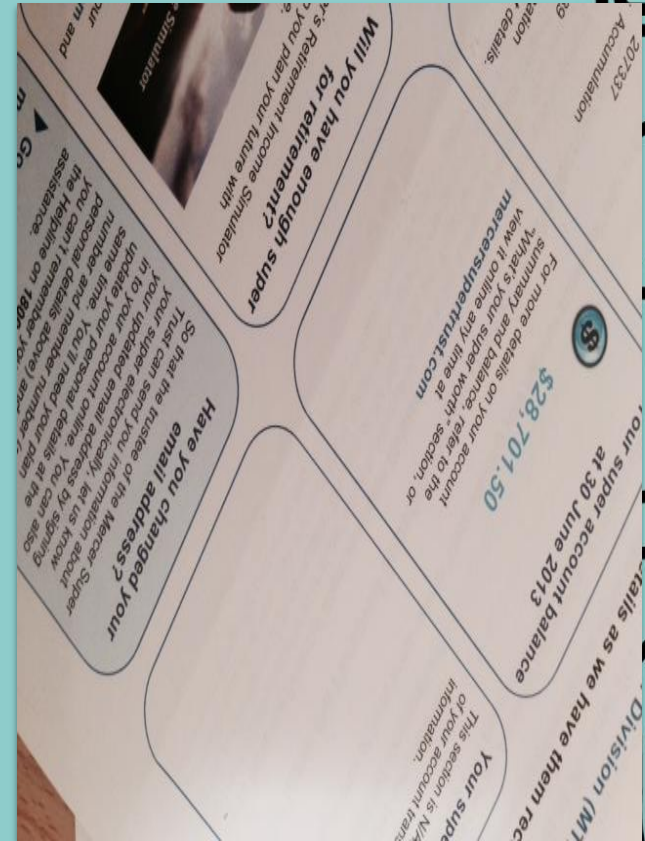
# Greece and Pools

- A pool of over 25 meters = 20,000 euros
- 300 declared
- 16,000 on Google Maps
- Solution...
- Floating Tiles to hide the pool?



# Advising non-resident and expat clients

- You cannot just use the same advice...
- *“I think that you should look at negatively gearing an investment property”...*
- Sound advice???
- On a 457 visa and negatively gears in NZ?



# Case Study

- Ken was born in Australia
- Fly in fly out basis in the Solomon Islands
- After a year his wife and kids moved over
- Peter is in Australia on a temporary visa class
- Peter a citizen for the next two years
- Both Peter and Ken own exactly the same assets
- Rental property portfolio (Aust and NZ)
- Woolworth shares
- Australian bank account earning interest
- Ken and his wife have a self managed super fund
- Peter has a foreign pension fund he wants to transfer to a self managed super fund

Australian Government  
Australian Taxation Office

Company tax return

2013

Notes to help you prepare this tax return are in the Company tax return instructions 2013 (the instructions), available from the ATO.

Day / Month / Year to Day / Month / Year

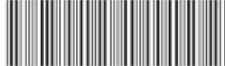
Or specify period if part year or approved substitute period.

**WHEN COMPLETING THIS RETURN**

- Print clearly, using a black pen only.
- Use BLOCK LETTERS and print one character in each box.
- Place  in all applicable boxes.

Company information

06560613



# What is a non-resident?

- Mansell rule of thumb
- Four tests
- Residence according to ordinary concepts;
- The domicile and permanent place of abode test;
- The 183 day test; and
- The Commonwealth superannuation fund test
- TEMPORARY RESIDENTS????



# Differences...

- Non resident tax rates
- What do they pay CGT on?
- Can they claim the CGT discount?
- Ceasing to be a resident or becoming a resident



# Other Issues?

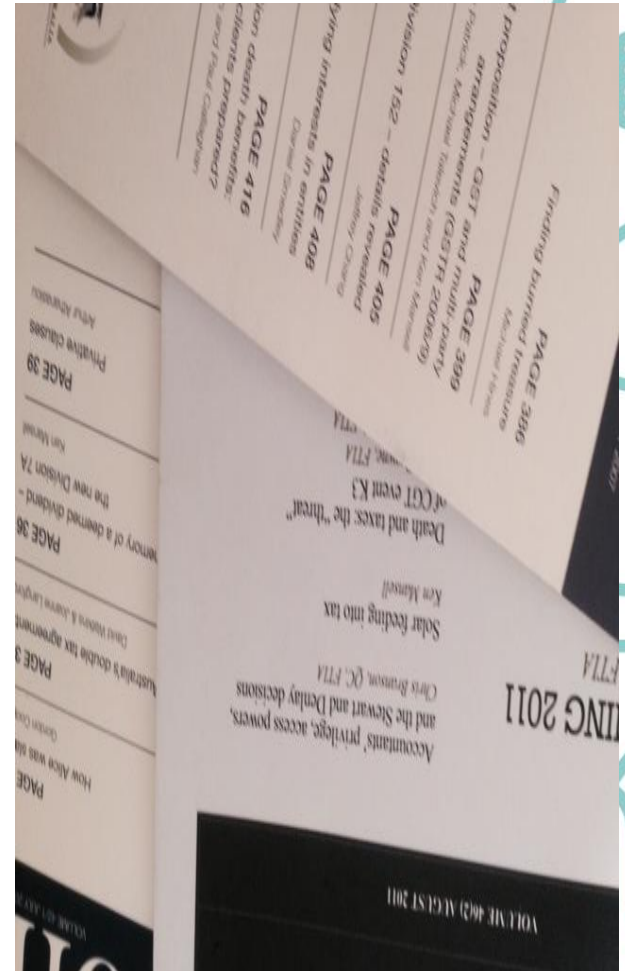
- Main residence issues
- SMSF issues
- New withholding issues
- AND
- How to convert foreign currency amounts in relation to the payment of a lump sum from a foreign pension





# Sorry if you know all this...

- #1: Small Business CGT stuff
- #2: Reserves deductions
- #3: Recontributions
- #4: Salary sacrifice after Div 293
- #5: Self employed to wipe out CGT after discount
- #6: TTRs
- #7: End of year planning



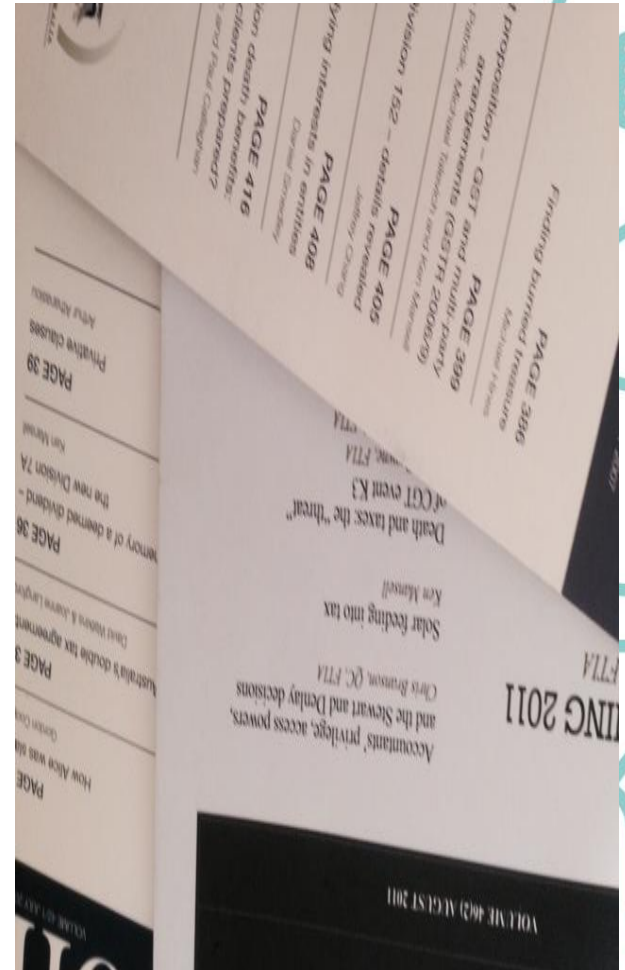
# #1: SBCGT & Super

- Start Engineering Company
- Owned by two Discretionary Trusts
- Alex is 50 and Adam is 56
- Real property & Goodwill
- Business started 12 years ago
- Adam is married
- Alex has been divorced but has a 45yo partner
- Offered \$3,000,000 for the business
- Business real property later
- Neither need the cash as the new owners will be bringing both of them on as well paid employees if they want



# #1: SBCGT & Super

- Do we have an Active Asset?
  - Goodwill?
- Do we have the right ownership?
  - The CGT asset is a share in a company or an interest in a trust?
  - When the taxpayer selling the asset is a company or a trust
  - CGT concession stakeholder / significant individual?
  - 15 year or \$500,000 lifetime



# #1: SBCGT & Super

- 15 Year
  - Elect into super above caps
  - 15 years or SI for 15 years
  - 55 or over, Retirement or incapacity
- \$500,000 Lifetime
  - Choose when return is lodged
  - Under 55 the CGT exempt to super
  - Up to \$500,000 each
- \$1.395 million for 2015-16 year



# #1: SBCGT & Super

- Stuff if we have time...
  - NOT GOING TO HAPPEN
- In species transfer
  - Example?
  - ATOID 2010/217
  - Commissioner's comments



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# Enjoyable Tax Avoidance...

- “Estimates of the effective rates on excisable products in 2014–15 range from as low as \$1.71 per litre of alcohol for low-strength non-commercial beer to \$79.38 per litre of alcohol for spirits and ready-to-drink beverages.”
- “Estimates of the effective rates for wine range from \$2.99 per litre of alcohol for a \$15 four-litre cask through to \$45.52 per litre of alcohol for a \$40 bottle.”



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