



BRIEFING PAPER FOR ACCOUNTANT

A Trust has been set up for our mutual clients. The purpose of this is to invoke the principle of indefeasibility of title under our Torrens Title system of registration of interests in land to protect the client's equity in property.

We have created an Equitable (or unregistered) Mortgage over the client's equity in both real and personal property, in favour of the Trust with the clients as debtors. The Trust will then lodge a Caveat on the titles to real property to record this interest. Registration on the Personal Property Securities Register is also recommended.

The Caveat and PPSR interest will become a fixed and floating charge over asset equity and charge equity in property after the first mortgage or any other prior registered interest. There will therefore be nothing for any other creditors or a Trustee in bankruptcy to obtain from the property. Available equity will effectively be mortgaged to the hilt to the Trust.

The Caveat can of course be withdrawn should the client wish to refinance so they will retain control and flexibility in this respect.

There will be no transfer of title and property ownership will remain as is. All CGT benefits will be retained and nothing will change concerning tax liability because the transaction is essentially a mortgage and not a change of ownership by transfer. Registration on the Personal Property Securities Register (PPSR) can be done online in order to defeat a writ of possession for items of personal property of value. (www.ppsr.gov.au)

The clients have also been advised to hold any savings of significance (beyond anything held in an offset or line of credit account and not required for everyday living and expenses) in an account in the name of the Trust in order to defeat any garnishee order. If interest is earned then there will be the need to obtain a tax file number and file a return for the trust but otherwise nothing will change.

Should you require any further clarification, please contact our office on mwc@dginstitute.com.au, or phone 1300 658 653.