ADDITIONAL RETIREMENT STRATEGIES

TAXATION

There are a number of tax issues that need to be considered when a change of asset ownership is proposed. Livestock profit, stamp duty, capital gains tax (see below), fringe benefits tax, GST and gifting (see below) all have tax implications that need to be considered. Seeking appropriate professional advice is important to make sure that the right steps are taken to manage the tax liabilities.

Some of the tax issues for consideration

Primary producers

Primary producers can claim an exemption from stamp duty on the transfer of the family farm to a later generation. The rules are technical but reasonably generous. The amount of stamp duty that can be saved can be very substantial. It should be noted though that the exemption is NOT available to other forms of businesses even if they are transferred down the family tree.

Gifts to charity

If a gift of a capital asset to a charity is proposed, consideration should be given to doing so while still alive as some tax relief will be available as a gift deduction. If the gift is made in a will, the estate will be liable for capital gains tax on that asset as if it had been sold at market value.

Rollover of capital assets

If there are assets with substantial accrued taxable capital gains, it may be worth considering a rollover of those assets into a company and claiming the available rollover relief. The shares in the company, instead of the assets themselves, can then be left by will to the relevant beneficiary, thus postponing capital gains tax.

Capital gains tax exemptions

There are now a number of exemptions or discounts available to anyone selling out of a business or a share in a business. The rules are quite complex but well worth considering as it is possible for any capital gains tax bill to be very substantially reduced or even eliminated. The 2006 Federal Budget makes access to these concessions easier. Essentially the concessions available, if the pre-requisites for being a 'small business' can be met, are:

- 15-year exemption - a total exemption for a capital gain if the relevant asset was continuously owned for at least 15 years and the relevant individual is 55 years or over and retiring, or is permanently incapacitated.
- 50% active asset reduction - a 50% reduction of a capital gain.
- Retirement exemption - an exemption for capital gains up to a lifetime limit of $500,000. If the recipient is under 55 years, the amount must be paid into a superannuation (or similar) fund.
- Rollover - a deferral of a capital gain if a replacement asset is acquired.
- An immediate 50% discount for (nearly) all capital gains where the relevant asset was owned for at least 12 months.

Social security

Apart from being very complex, it also changes regularly. Specialist independent assistance should be obtained if social security is likely to be part of a retirement plan. In particular, some care must be exercised if both Centrelink and trusts are involved in plans.

Trust cloning

If a trust is involved in the structure, 'cloning' of that trust may be a useful way of achieving a separation of trust assets without triggering adverse taxation or stamp duty consequences. This procedure is quite delicate and great care needs to be exercised.

INSURANCE

Insurance needs to be considered in the planning to cover contingencies such as sudden death or illness of key individuals. This contingency planning may allow the business to continue to operate, protect business partners or families, and facilitate buying or selling of a partnership. Insurance is only effected for those risks requiring insurance and other strategies are implemented for controlling other risks. Commonly adopted insurances for dairy farm businesses include:

- life insurance;
- trauma insurance;
- income protection;
- workers compensation insurance;
- fire, flood and tempest insurance.

As with all insurances, it is important to understand:

- the extent of cover, and in particular, what is excluded;
- the duration of cover and the basis on which claims are recognised;
- any limits or caps on the cover.

When issues such as succession, retirement and estate planning arise it becomes important to also ascertain what 'run-off' cover may be needed and what arrangements are to be made for that cover.

SPECIAL DISABILITY TRUSTS

With amendments recently made to Social Security and Veterans Affairs legislation. It is now possible to establish trusts for the benefit of persons suffering severe disabilities. The statutory requirements are very prescriptive of nearly every aspect of the structure and the trust must have as its only purpose the care and accommodation needs of the beneficiary. There is even a prescribed form of trust deed. Compliance with those requirements will mean that neither the assets nor income of the trust will be included when applying the assets and income tests for assessing eligibility for Social Security and Veterans Affairs benefits. Such trusts can be established *inter vivos* or on death. There remain, however, some impediments in operating such trusts.