# WEALTH PLANNING LAW

# CAPABILITY STATEMENT

| McCrohon Bergseng Partners |

ABN 78 344 022 565

**Telephone: 02 9220 9600**

**Facsimile: 02 9230 0988**

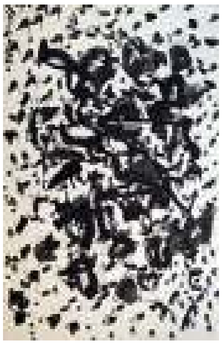
www.mbplegal.com.au

Level 6, 48 Hunter Street

Sydney NSW 2000

## Wealth and Estate Planning

### OUR FOCUS



Business succession agreements and estate planning should be an integral part of the planning and structuring of the financial affairs of every business and individual with diverse property and financial interests. Unfortunately it is an area that is neglected or often overlooked.

Our focus is to assist in wealth creation and wealth protection of our client's assets and businesses. We provide an efficient, cost effective and informed service. We listen carefully to our client's needs and requirements and participate on a team basis with our client's other advisers.

### BUSINESS SUCCESSION PLANNING

At MBP Legal we can assist you, your accountant or your financial planner to undertake a review of your financial and business affairs as part of an overall business succession plan. A business succession plan may incorporate one or more of the following:

- a Shareholders' Agreement that specifically provides for investment realisation
- Succession Agreements to allow transfer of business enterprises on an intergenerational basis
- Insurance Funded Buy Sell Agreements
- Life and total permanent disability policies
- Asset re-structure agreements using the capital gains tax (CGT) small business and rollover concessions
- Employee share plans and other incentive schemes for retention of key employees on a transfer of business ownership to preserve value within the business.

### SUPERANNUATION

MBP Legal can provide superannuation advice to assist in your wealth creation. The low 15% tax rate applicable to complying superannuation funds and the ability to draw benefits from superannuation after the age of 60 years on a tax free basis means that superannuation is by far the most tax effective vehicle for retirement wealth creation.

The fact that assets in superannuation may be protected from creditors in bankruptcy is another reason why superannuation should be a keystone in a client's wealth planning.

### OUR WEALTH & ESTATE PLANNING TEAM

Peter McCrohon
Partner
B.A. LL.B. M.Com. M.Tax. FTIA
Direct Line: 9220 9620 Email:
p.mccrohon@mbplegal.com.au

Karin Bergseng
Partner
LL.B. (Hons 2). M.Tax. ATIA
Direct Line: 9220 9601 Email:
k.bergseng@mbplegal.com.au

Dung Lam
Senior Associate
B.Com. LL.B. (Hons 1) LLM FTIA
Accredited Specialist, Taxation
Direct Line: 9220 9650 Email:
d.lam@mbplegal.com.au

Stacey Smith
Senior Lawyer
LPAB M.Tax ATIA
Direct Line: 9220 9640 Email:
s.smith@mbplegal.com.au

We are experienced in providing advice on:

• the establishment of self managed superannuation funds which allow you to control your superannuation

• the various investment and in-house asset rules which govern the investments that a complying superannuation fund can make

• the establishment of instalment warrant arrangements which permit a complying superannuation fund to borrow

• the contribution caps which limit the amount an individual may contribute to superannuation in an income year

• the tax deductions available for superannuation contributions made by self employed persons and spouse contributions

• the tax effective structuring of lump sum pay-outs and pensions from superannuation during retirement; and

• the taxation of death benefit payments from superannuation and the making of binding death benefit nominations.

## ESTATE PLANNING

At MBP Legal we can offer you innovative and well constructed estate planning solutions and services to achieve your estate planning objectives. An estate plan may incorporate one or more of the following:

• Will trusts to maximise tax effective distributions to estate beneficiaries which can also be used for future generations (grandchildren for example)

• Family trusts and/or hybrid trusts

• Use of asset protection trusts to shield at risk or vulnerable beneficiaries

• Superannuation strategies to maximise distribution of superannuation benefits

• Nominating successors to exercise your discretionary trust powers

• Power of Attorney and Enduring Guardian appointments

• Will interpretation

• Informal wills and defective wills

• Testamentary capacity and undue influence claims

• Probate, Letters of Administration and administration of deceased estates

• Contested Estates and Family Provision Act claims

• Removal and replacement of executors and trustees

## INSOLVENCY PLANNING AND ASSET PROTECTION

Given the effort, application and risk taking associated with wealth creation, it is good strategic planning to implement strategies and structures which are designed to allow clients to protect such assets in the event of financial misfortune.

Insolvency planning cannot occur at the last moment because of “claw back” provisions contained in the Bankruptcy Act. Insolvency planning should occur during the growth process. Clients should take legal advice on debt restructuring, the provision of security to financiers and in particular, cross collateralised guarantees.

Many clients in their desire to acquire an asset or to undertake a deal fail to take asset protection measures when entering into debt facilities with financial institutions. Insolvency planning is best undertaken when assets are being sold and cash is released.

The allocation of cash into safe haven trusts and the use of intra structure security documentation can effectively prevent assets falling over like dominoes in the event of an insolvency scramble. Such insolvency planning and wealth protection is specifically implemented on a client needs basis.

**We invite you to contact one of our Wealth and Estate Planning team at your convenience.**