



Simple Partnership

For simple Joint Ventures and Tenants
in Common Partnerships plus JVs


This webinar will commence at 11am AEDST. Please use the chat feature to ask any questions throughout the webinar.

29 October 2020





Where two or more parties get together and enter into an undertaking, whether it be a sophisticated business or simple tenants in common, a choice of structure is important. For many where there is an arm's length relationship between the parties it is usually a unit trust or a company.



Partnerships are less common due to the lack of asset protections unless a company or trust is used as a shield by having them as a partner. Assets are on the line in the partnership which plays to the positive side as any tax losses flow through to the partnership, unlike the company or unit trust. So there is good and bad – jointly and severally liable but great for tax losses.

Simple Partnership

- Our first partnership agreement was for a business partner where the partners get paid salary, are entitled to leave and operate the business together.
- In contrast the simple partnership is great vehicle for tenants in common when dealing with spouses. This is crucial compared to joint tenancy particularly when dealing with blended families
- But the simple partnership is more than simple. It is simple in its operation, has strong parts and rules but can be used between any parties including companies, trusts and SMSFs

Advanced Uses

- Partnership or better known as a joint venture between arms length or non-arms length parties
- A discretionary trust enters into a partnership with a SMSF to acquire property or develop property. Have to be careful on contributions but the simple partnership works well. Just watch out any borrowing by the trust cannot be secured by that part of the property held by the SMSF – SIS Regulation 13.14
- Two SMSFs enter into a joint arrangement to buy a property with both SMSFs owned by brothers. The SMSFs have a small amount of capital but the brothers have capacity to do a related party loan.

Two SMSF Joint Venture

- Follow the Commissioner of Taxations ruling on related party loans for SMSFs – PCG 2015/6
- Need to use the LightYear Docs related party loan agreement with simple partnership to deliver:
 - SMSF trustee minutes to enter into the transaction
 - Establishment of the SMSF Bare Trust
 - Bare Trustee minutes to enter into the transaction
 - Related party loan agreement
 - Mortgage deed
 - Simple partnership

Wrap Up

- Next week is the big one – the release of the Moat and the Castle
- Short form Qld EPOA and long form Vic EPOA will also be released at the same time
- Victorian and NSW AHCD will be released on Friday 30 October
- 18 November Abbott & Mourly will be holding a two hour introduction to estate planning workshop which will have two CPD points and is free for LYD users



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