Accounting | Tax | Consulting | CFO

FOR PROPERTY DEVELOPMENT BUSINESSES

Tax, Accounting, Structuring & Advisory Services

We Help You Grow

Make sure you are supported by professionals who are sufficiently equipped with **Tax Knowledge**, **Compliance Knowledge, Project Management Knowledge** and understand the **Unique Challenges of a Property Development Project.** Those professionals should be able to map out a **long term financial path** for you. Leave the specialized and time-consuming areas to the experts. Free up your time to focus on your project to make it profitable.

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PROPERTY DEVELOPMENT BUSINESS BASICS ....

Whilst property development can be an extremely rewarding business, it is highly complex. For success, there is no alternative to careful consideration of all aspects of a project , adequate planning and mapping out the journey from concept to completion. This

involves a range of important issues like structure, tax, GST, asset protection, cash flow management, project management. Getting things wrong can be seriously expensive in the long term.

Typical Business Structure:

- **Individual/Sole Trader:** flexible, easy to operate but no asset protection and distribution flexibility.
- **Trusts:** generally, owns the property, better asset protection, distribution flexibility and CGT concessions.
- **Company:** can be the owner or provide construction services. Better asset protection, some distribution flexibility but no CGT concession.
- **Partnership:** Partnership from tax point of view (in-house or with external parties), generally for combining resources.
- **Joint Venture:** like partnership with some procedural differences
- **Property Syndicate:** association of people, combining resources, generally for larger projects.

There is no 'fit-for-all' solution in structuring. What is best depends on the people involved, purpose, plan etc.

Types of Property Businesses:

- **Traders** – Those engaged in buying and selling properties without undertaking further development work
- **Developers**- Those engaged in buying and selling properties at the same time developing properties further by sub-division, construction etc.
- **Investors** – Those who acquire or construct property with a view to further develop and retain the property to derive future income.
- **Mixed Purpose** – those engaged in development & construction with an intention to sell some and retain some
- **Private Property Syndicate**- Those who pool resources to undertake large scale project which would not be possible in individual capacity.

Different tax, CGT and GST rules apply for each category.

PLEASE CALL US TO DISCUSS. WE ARE HAPPY TO DO A FREE **"STRESS TEST "** OF YOUR IDEAS. **IF YOU PASS THIS, YOU ARE WELL PREPARED.....**

GENERAL TAXATION AND GST HIGHLIGHTS ....

This is a very vast area of knowledge. How a development activity is classified for tax purpose is a question of fact. Tax consequences are vastly different. Mere realization, where possible, generally derives the best tax outcome.

How Sale Proceed is Taxed:

- **Disposal of a trading stock:** Taxed as ordinary income, applicable where property and land is acquired for resale in the ordinary course of property development & trading business.
- **A profit-making scheme** – Taxed as ordinary income, applicable if the intention was to make profit by carrying out a business or commercial transaction.
- **Mere realization of a capital asset**-Concessionally taxed as CGT, applicable when the capital asset is disposed.
- **Main Residence**: Exempt from CGT if held for more than 12 months and meeting certain conditions.

GST Rules:

- **Standard GST**- applicable where it's an enterprise or profit making scheme. Once-off transaction can also be subject to GST
- **Taxable Supplies**- sale of land, new residential premises, sale of commercial premises, sale of commercial residential premises in the course of carrying on business
- **GST-Free Supplies**: sale as a going concern
- **Input Taxed:** sale of rental property, sale of private home
- **Margin Scheme**- a concessional GST treatment that can be availed in certain circumstances where GST is payable on margin made

Some Common Strategies:

- **Capital Gain vs Ordinary Income:** Try to treat the profit as capital gain as much as legally possible. Capital gain is taxed at a concessional rate. Careful planning and documentation is very important for this.
- **GST Reduction :** explore margin scheme option before the transaction
- **Timing:** Manage the timing when the profit/gain become taxable. Careful planning is required for this.
- **Asset Protection:** Isolate the construction risk from the ownership of asset by exploring the option of transferring ownership to a new entity and engaging a separate entity to construct.
- **Stamp Duty:** Try to reduce stamp duty where possible. For example, retain the ownership, remain passive, let the builder to construct (partnership/joint venture-model)

THESE ARE HIGHLY TECHNICAL MATTERS WHERE PEOPLE OFTEN GET THINGS WRONG. **A MISTAKE CAN BE VERY EXPENSIVE DOWN THE TRACK…..**

RISK , CHALLENGES & PREPAREDNESS ASSESSMENT………

Risks & Challenges:

- Getting the **structure** wrong
- Misunderstanding **tax and GST** implications
- Inadvertently **triggering tax liability** (CGT event) - for example, 2 tenants in common own a block of land, subsequently sub-divide and agree to own one block each outright. In this case, each party will be deemed to have disposed of 50% in one lot and acquired 50% in another.
- Development & **construction** risk
- **Compliance** management
- **Cash flow** management
- Record keeping & documentation (**legal agreements/contracts/invoices/accounts**)

Self-assessment Questions:

- Is the project **financially viable**?
- Have I undertaken **market research** ?
- What is my **main purpose** and future plan ?
- Do I have enough **experience, time & energy** ?
- Should I manage it by **myself or partner** with developers/builders?
- Have I prepared my **cash flow forecast** ?
- Have I considered **project management risks** ?
- Should I play a **passive or active role** in the project ?
- What is the **best structure** for tax minimization, tax payment deferral, GST liability reduction and asset protection ?
- Do I understand main **tax related concepts** , for example, capital gain tax, carrying on a business, profit making scheme, mere realization ?
- Do I understand **what might be applicable** to my project ?
- Do I understand that even developing my main residence **can result in tax liability** ?
- Do I understand that **timing for tax liability** can be managed in certain circumstances ?
- Do I understand **GST margin scheme** , its effect, requirements ?
- Have I considered that **tax, GST, stamp duty liability can be triggered** inadvertently if I don't plan ahead ?
- Am I supported by experienced **property lawyers & accountants ?**
- What are my **registration requirements** (ABN/GST/PAYG/Payroll Tax etc)
- How will I manage my **record keeping, documentation and reporting obligations** to ATO ?
- Do I have appropriate **insurances** ?

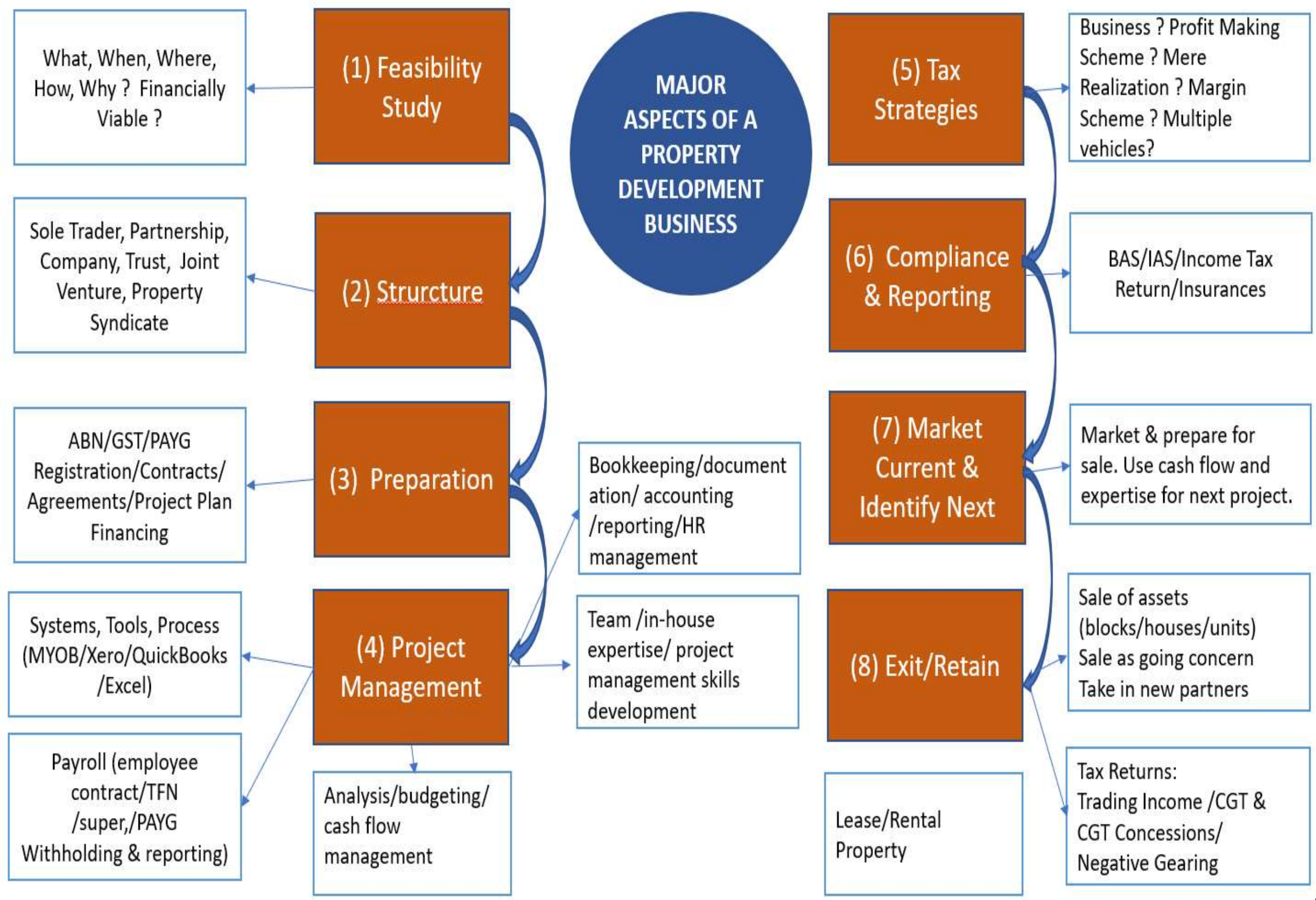
DON'T WAIT FOR THE SHOCK:

Unfortunately shocks can come from many directions:

- GST shock
- Income tax /CGT shock
- Payroll obligation shock
- Non-compliance shock
- Cash flow crisis & growth funding shock
- Market condition change shock
- Record keeping and documentation shock

Map out your journey considering _<u>all</u>_ relevant aspects……

THE JOURNEY AT A GLANCE………



WE ARE WELL POSITIONED TO GUIDE YOU ALL THE WAY THROUGH WITH OUR IN-HOUSE EXPERTISE AND OUR NETWORK OF SPECIALIST **LAWYERS, CONVEYANCERS, INSURANCE & FINANCE BROKERS, REAL ESTATE AGENTS AND POTENTIAL EQUITY PARTNERS** …..