NEWSFLASH BOOKLET

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WITH ATTITUDE BOOKLET

Thank you to the risk takers - With attitude

NewsFlash Issue: 70, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, November 3rd

I am becoming overwhelmed by the barriers our government has created to anyone trying to innovatively stimulate our economy.

In FCT v Zoffanies P/L (Macquarie's case) the taxpayer won in the AAT so the ATO appealed claiming the AAT had erred at law and applied a subjective test rather than an objective test. The Federal Court granted the ATO's appeal. It did not find that the taxpayer was not entitled to a deduction for the cost of the scheme it simply directed the AAT to reconsider the matter and even expressed doubt that the ultimate outcome would be any different to the original finding. Nevertheless as the taxpayer technically lost the argument in the Federal Court it had to pay the ATO's and its own costs and then go back to the AAT! The issue in this case is whether the taxpayer was entitled to utilise the Research and Development concessions offered by the government to encourage initiative. The technology was to produce, more food efficient, faster growing and leaner pigs. Interestingly, it seems to be accepted in the case that the reason the venture failed was because "commercialisation was hindered by government inaction as a result of the public perception unfavourable to transgenic meat."

It takes a very brave person indeed to put their money behind any project no matter how viable in a commercial sense. Let alone take on the ATO legal machine with unlimited taxpayers' funds.

This doesn't just happen to the big players; investors in Tea-Tree Oil and Olive Projects have also been caught. In the case of Kevin Sleight, he has lost his business which employed 30 people and his business premises because the ATO decided to make an example of him. He won his case, eventually but he will not be compensated for the path of destruction the ATO left on his life.

One has to conclude why on earth would a person risk everything just to find some tax free dollars to invest in a new agribusiness. David Vos Inspector General of Taxation has been quoted in the Australian Financial Review and Tax IQ Monthly, expressing his concern for taxpayers who have committed suicide or who have been bullied into fire selling their homes to pay tax assessed by the ATO.

Even tradespeople are being hunted. In many cases these tradespeople chose their occupation because they did not want to deal with paperwork and are now battling to cope with the GST.

The moment of reckoning has come for many subcontractors who didn't fully understand their tax obligations. They were also misled by advertising during the 1999 election campaign stating "not a new tax but a new tax system" they didn't realise that despite having sent a considerable amount of money off to the ATO each quarter for GST they were still liable for income tax. For two years now the ATO has decided to leave these people alone to get used to the idea but what has really happened is that they now have a debt they cannot manage to pay and the ATO is able to charge them interest at exorbitant rates.

While on the subject of our new simplified tax system lets have a look at how easy GST has made life for businesses. Just one simple example is the impact of GST on various thresholds that businesses must consider on a regular basis and whether these amounts are GST inclusive or not:

1) The Minor Fringe Benefit limit of $100 is GST inclusive price.
2) The $300 plant and equipment immediate write off limit is the GST inclusive price.
3) The $1,000 write off threshold for STS taxpayers is GST exclusive.
4) The $100 threshold at which non STS businesses can write off non-composite assets is GST inclusive.
5) To switch to the Simplified Tax System you must have an average income of under $1million per year. This amount is GST exclusive.
6) Prepayments are still fully deductible to all taxpayers if the amount is under $1,000 (GST Inclusive),
7) The $20,000 income threshold for non-commercial losses (section 35-30) is GST exclusive.

Then there is your average small business operator who is still trying to find the time for all the extra paper work, trying to recover from the downturn in their trade when GST was initially introduced and decreased depreciation claims. One of the major problems faced by an expanding business is to find the working capital to support that expansion and buy the equipment necessary to increase employment. In a direct attack on expanding businesses the ATO has extended the amount of time a piece of equipment must be amortised for.

For example:

- Cars purchased after 30th June, 2002 over 8 years instead of 6 and 2/3rd years.
- Compressors purchased before 11.45am on 21-9-99 were allowed to be written off over 7 years. Purchased one minute later and they must be written off over 20 years. Similar increases have applied to most business equipment.

It is time for the ATO to offer the olive leaf (Genesis 8:11) if it can find a plantation that still grows olives. After all, the ATO is supposed to be a public servant not a public nuisance.

GST and chocolate body paint

NewsFlash Issue: 73, By: Julia Hartman B.Bus CPA – Tax Accountant
Last Updated: 2004, February 1st

The ATO officer who wrote ID 2004/38 definitely has no life. A Taxpayer wrote to the ATO asking if the Chocolate Body Paint it manufactured was subject to GST. The Taxpayer's argument being that as it was food it should be exempt. The ATO responded by saying that in order to be exempt as food the substance must not only be food but must be used as food. The ATO further went on to site the fact that a paint brush etc was supplied meant that it was not being sold as food.

My question is, why would a person cover themselves in sticky chocolate if it wasn't in the hope that someone would consume it?

The budget surplus absolutely fabulous but still small

NewsFlash Issue: 74, By: Julia Hartman B.Bus CPA – Tax Accountant
Last Updated: 2004, February 15th

If you want really big darlings go for Taxation Legislation which is nearly 7,000 pages long. This does not cover rulings and case law. It was only 1,000 pages long 10 years ago. The Chairman of the Productivity Commission, Gary Banks, pointed out that if the current rate of growth continues, by the end of this Century it will be 830 billion pages long and take 3 million years of continuous reading to assimilate and would weigh the equivalent of 20 aircraft carriers.

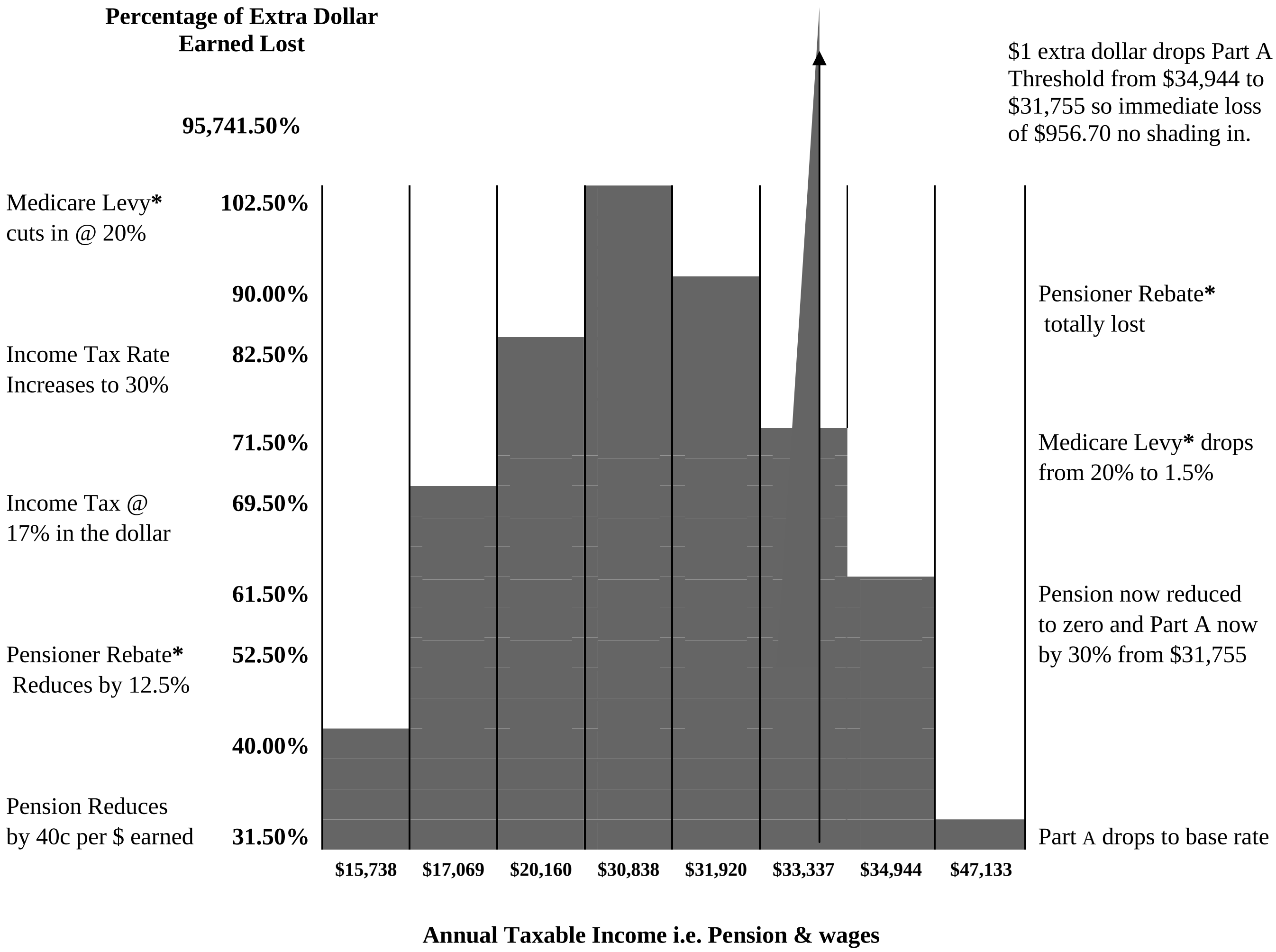
Just as well our currently elected government's policy is to simplify the tax system.

The poverty trap explained

NewsFlash Issue: 79, By: Julia Hartman B.Bus CPA – Tax Accountant
Last Updated: 2004, June 6th

If a sole parent with two children decides to earn a dollar more than $30,838 he or she will lose $1.025 in taxes and loss of Centrelink benefits. This is without even considering the other costs associated with working that are not tax deductible such as child care, clothing for work, travel to and from work. The family may also lose rental assistance. But that's not the worst of it. If the sole parent is unfortunate enough to go from earning $34,943 to $34,944 dollars that extra dollar costs them $957.42 in lost Centrelink benefits and taxes. You see at the magical figure of $34,944 the sole parent losses his or her pension. The threshold for Part A is $31,755 for a family with two children but if the parent is on a pension the threshold does not apply. So by earning that extra dollar the sole parent has to pay back Part A of 30 cents for every dollar he or she earned over the $31,755 threshold. Note he or she also has to pay income tax of 31.5% and losses that last 40 cents of pension. It is devastating to do tax returns for sole parents and have to explain to them they now have a huge tax bill because they chose to work. Then watch the look of despair as they realise they have deprived their children both financially and of family time by trying to work their way out of their financial difficulties and slowly they resign themselves to the fact there is no way out.

Fixing this ridiculous situation is the single most constructive step the government can take towards solving the problem of the cash economy. Even the most honest taxpayer will be tempted to circumvent the system under such harsh penalties against poor families. There is a direct link between compliance and the perceived fairness of the taxation system. Note, the following assumes no child maintenance is received.



*These figures have been estimated by adjusting the 2003 thresholds for inflation as 2004 not yet available.

The poverty trap explained another way

NewsFlash Issue: 80, By: Julia Hartman B.Bus CPA – Tax Accountant
Last Updated: 2004, May 15th

For readers who had trouble with the graph in the last edition here is an example of how it works:

The full annual sole parent pension is $11,772.80 and he or she can earn another $4,010 ($154 per fortnight) without any tax or Centrelink consequences accordingly they get to keep the whole $15,783 ($11,772.80 + $4,010). Plus $6,803.60 in Part A if he or she have two children. Total cash to the house hold of $22,587. The rot starts after this point and really heats up when the sole parent starts to receive combined wages and pension of $30,838. At this point if the sole parent works say an extra 6 hours at casual rates of $16.50 and earns an extra $100 they will lose $102. This is made up of $30 income tax, $40 loss of pension, $20 Medicare levy and the Pensioner Rebate is reduced by $12.50. Note this is without considering the extra costs of childcare, travelling to and from work and clothing for work.

It gets even worse if they manage to earn $34,944. At this point earning the extra dollar from $34,943 has cost them 30 cents in tax, 40 cents in loss of the pension, 1.5 cents Medicare levy and $956.70 in loss of Part A. That is $957.41 lost for an extra dollar earned and that is before considering childcare etc.

Please note the above ignores the Part B payment as this remains the same regardless of income.

Hot house

NewsFlash Issue: 75, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, March 1st

Things will get a lot hotter in the Hot House once the tax man moves in!

One couple will eventually win the house but it won't be like wining the lottery, they have worked for the prize. In accordance with IT 167 the value of the prize will be income to them. This value has been highly advertised at $2 million. For GST purposes they would be considered to be an enterprise (MT200/1 & TR2000/14) as they are providing services**,** paid on the basis of a result and accept the risk. The ATO will score $181,818 in GST. This leaves $1,818,182 combined in taxable income for the 2004 tax year. Assuming they already both have jobs with reasonable pay packets the extra $1,818,182 is going to attract the maximum tax rate of 48.5%. That is $881,818 in income tax. They will need to find a bank that will lend them $1,063,636 to pay the tax if they want to keep the house. Basically the tax man will pick up more than half their prize. Worse still the advertising might say the house is worth $2,000,000 but a lot of that is hype. By the time they realise the trouble they are in and have to sell it to pay the tax bill they may not be able to find a buyer for $2,000,000 especially when the whole country knows what went on in the construction. So what happens if a year later when they sell it to pay the taxes and they can only realise $1.6 million? The ATO would have a good argument to still tax them on the $2 million, the change in the value since then could be put down to the fickleness of the property market over the year. They now have an asset worth $1.6million that they, notionally, purchased the year before for $2 million (IT 2584)**.** If they have lived in it since it was built the capital loss on the sale is private so no tax concessions at all. If they did not live there they can recognise a capital loss but this can only be offset against future capital gains not other income. Let's hope they already have private health insurance because if they don't the income from the house will push them into the Medicare Levy Surcharge which will be $18,182 on the house income alone plus another 1% on their wages income. To eliminate the surcharge they must have had the insurance from 1st July, 2003 and you can't back date the insurance for the love of money. Still not bad for a few months work $1.6 million dollars less GST of $181,818, income tax of $881,818 and $18,182 in surcharge leaves them with $518,182. But the taxman scored $1,081,818 which is more than twice as much as them.

There is also the fact they have been provided with food and accommodation, and because they are not travelling but have set up a new home (MT2030), this will be a non cash business benefit on which they will also be subject to tax. I cannot quantify how much this would be but they will have to find the cash to pay this as well.

So in a year's time when they realise the mess they are in with the ATO they will need to sell the house for more than $1,081,818 before they make a cent out of their efforts.

Now that's the real reality!

The Taxman may do even better if they aren't aware of all the traps. What if after living in it they decided to rent it out. Section 118-192 deems the cost base of the house to be the market value at that time. Making the same assumptions as above that is $1.6 million. After a few years the property's value reaches maybe $1.9 million and they sell. The taxman would then assess them on a $300,000 capital gain (ignore commissions etc). They would receive the 50% discount so would only be taxable on $150,000. Assuming they still had decent jobs this gain would be taxed at 48.5%. The tax man just made another $72,750, even if they have learned their lesson this time by having private health insurance. So of the $1.9 million they end up receiving the taxman takes more than half ($970,000 income tax, $20,000 surcharge plus $72,750 CGT) $1,062,750 and they are left with $837,250.

The tribe of Oz

NewsFlash Issue: 81, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, June 1st

In the Magical Land of Oz there was a tribe ruled by King Little John. The tribe's two main enterprises were fishing and farming. The tribe worked hard at building a plough and fishing boat so they no longer had to pay hire fees to neighbouring tribes. In order to support those in the tribe that could not work and those that where building the boat and plough King Little John introduced a tax based on ability to pay. Those with very little income paid nothing, those on below average income contributed 10% of their net income, those on an average income paid 1/3rd and the high income earners paid half. When the boat and plough were built King Little John found that there was no longer need to collect as much tax. Especially considering he was making far more than expected from GST. Which he had previously introduced as it was easier to spell than TAX and the people wanted simplification. So in his May budget he decided to return half of the $930,000 collected that year, to the tribe members, a total of $465,000 over two years. There was a big feast to discuss how this amount should be returned. The whole tribe agreed that it should only be returned to those who had contributed to the original tax collected. Each class of taxpayer had about the same number of tribe members in it except the very little income earners who represented half the tribe. The contribution of each tax paying class to the $930,000 had been; $100,000 from the below average income earners, $330,000 from the average income earners and $500,000 from the high income earners. The tribe initially thought that the refund should be distributed equally amongst all taxpayers. That is $155,000 to each class. Then the tribe members on very little income protested because the below average income earners were getting more back than they put in, yet those on very low incomes received no benefit. Accordingly, it was resolved that the amount should be refunded on a pro rata basis in other words everyone got half of their tax back. But as the below average income earners were in more immediate need they would get their's in the first year and the remaining taxpayers would be paid in the second year. All was well, everyone got half their tax back, but in the second year the below average income earners realised that while their class only got $50,000 back the high income earners got $250,000 back. This outraged the below average income earners who then enlisted the sympathy of the very little income earners as they were all down with a dose of tall poppy syndrome. This was quite a coup as the very little income earners combined with the below average income earners represented 76% of the tribe.

King Little John through great political skill managed to avoid civil war by organising political asylum for the high income earners on a nearby island called Naroo the Tax Haven. Having lost the high income earners offshore he then increased the tax rate applicable to the average income earners to 50%.

No, you are wrong in thinking that this story will end with the economic destruction of Oz because of the remaining people only 20% contributed 10% of their income in tax, another 20% contributed 50% of their income in tax but 60% contributed nothing.

Remember, I told you this was a magical land.

Treasury's review of self assessment

Treasury has announced its response to the Review of Self Assessment. The main issue being that tax law requires taxpayers to assess for themselves whether something is taxable or deductible. Receiving a tax refund cheque does not mean the ATO approves of the claims in your tax return they can come back many years later, find something they disapprove of, assess you for extra tax, charge you 12% interest over the years and possibly penalty interest of 50%. The trouble is the laws are too complex and the ATO is not very helpful if you have a complex question, nor does it currently have any real obligation to provide answers to taxpayers. Taxpayers can apply to the ATO for a Public Binding Ruling (PBR) but the ATO does not have to respond.

Hopefully the changes to legislation as a result of the review will mean I will get an answer to several PBR requests I made nearly a year ago. These PBRs effected FBT returns that were due to be lodged last May. The ATO's excuse so far has been that they don't want to answer as they are considering changing the law. My response to that was I don't want to know what the law will be in the future but what it is now so I can do the returns. Their response was that they have a right to refuse to answer to a PBR if they consider it unreasonable to do so and they can do this for any reason at all. This is right, section 14ZAN(j)(ii) gives the ATO unlimited right to refuse to answer a taxpayer's question. I said this was an abuse of power and asked how I should complete the returns. The ATO said to do what I consider reasonable and if later they disagree with it, as long as I had a reasonably arguable case I will not be subject to penalty tax. But I will have to pay interest of around 12%. Sounds like a penalty to me.

It appears I am not the only one who has been put in an impossible situation by the ATO. So much of this abuse of power has been going on that it has become necessary for the government to legislate to make the ATO behave reasonably.

One has to question whether officers of the ATO consider themselves public servants or public nuisances when you need the following to be legislated because without legislation it is not happening:

Taxpayers who rely on a PBR from the ATO will no longer be liable to pay tax or interest if the ATO later changes its mind.

When the ATO changes its mind it cannot do so retrospectively and must set a date far enough in the future to give taxpayers reasonable time to become aware of the changes.

Taxpayers who rely on a draft ruling because the final has not been issued at the time of lodging their tax return will no longer be subject to interest and penalties if the final ruling expresses a different opinion.

If a taxpayer does not receive an answer to their PBR within 90 days they will have the right to make a formal objection or appeal to the courts.

The interest rate charged if the ATO changes your tax return will be reduced to around half.

The ATO can now only go back 4 years when auditing taxpayer's returns and in some cases only 2 years.

The ATO must fully explain any refusal to remit penalties and interest.

PBRs will now cover questions of administration and procedure.

It's all a matter of who you have sex with

It amuses me just how much our taxation and welfare laws, when brought down to basics, are about who you have sex with. Probably one of the hardest things to prove. Well the situation is not getting any better.

If your life insurance is in your superannuation fund and you die the policy is paid out tax free to your spouse (heterosexual only) or your dependant children. But if it is received by your parents or adult independent children they would have to pay tax on the amount. There is also a tax free concession if the payout is received by someone with whom you have an "interdependent relationship". This would cover your parents if you were caring for them, adult siblings living together and same sex couples. But have a look at some of the factors the regulations require to be considered in determining if an interdependent relationship exists whether or not a sexual relationship exists, the reputation and public aspects of the relationship and the duration of the relationship

Nevertheless, this is a timely reminder to consider a binding nomination on any life insurance you have in superannuation and make sure the person you nominate qualifies to receive it tax free. Without a binding nomination the trustees of the super fund decide who receives your insurance payout even if you have named someone else in the policy. If you need help contact Tony Townsend, our insurance Guru on 07 5543 3209.

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What does **APIN** offer ?

Seminars & Workshops

Why is that most people aren't taught how to be rich or happy? We are trained to do most things in our lives, in order to do them well enough to get by. We are taught how to read and write, how to cook, how to drive. We are taught how to do incredibly complex and challenging tasks like designing and building bridges over wide spaces, how to cure diseases, to fly airplanes, yet when it comes to creating personal wealth and happiness, we're left to find out for ourselves.

There's another, more subtle reason why most people don't achieve wealth and happiness. Deep down they don't believe that there is a choice to be made between being rich and being happy. They believe that somehow you can't have both, which is why in the end they don't get either.

The money that slips through your fingers could make you wealthy if spent more wisely.

Our free seminars and information evenings will provide you with leading edge valuable and up to date information. As a bonus you will be able to meet other like minded people who are either starting out on the road to success or are avid investors sharpening their investment knowledge. As a further advantage we encourage you to meet and freely talk with our alliance partners. These hand picked people both male and female are leaders in their own right, they are also licensed, qualified and independent.

These evenings are fun and informative plus you will have access to lots of support material in the form of e-books, books and cd's on a wide range of topics. Come and learn the many strategies used by successful investors NO SECRETS just sensible plain English techniques that really work in any market at any time.

Education

It's true what they say "*the difference between the rich and poor is what they know and what they do*". Property is more than houses and unit investing. Do you know how to buy a property using an option, how about knowing all the ins and outs of being your own "DIY Developer"?

There are many ways to make money in real estate and with the correct tools and strategies you too can play with the best.

TIME x INTENSITY = SUCCESS.

You can't expect to get results in life if you have all the information but fail to apply the principles needed to succeed.

Our programs, e-book, books and home study kits will give you the ability to learn and gather what you need at your own pace in your own time. We encourage you to learn from our expert alliance partners all that you can, so when you are ready to act you will have the education to get into your first investment or do your own JV building renovation makeover.

On going Support

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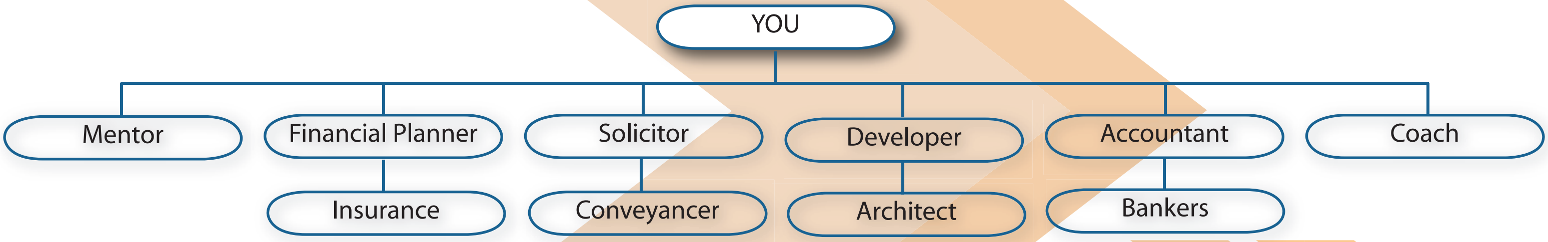
We have a mentoring service for those that are not quite ready to take those steps without guidance, extra information and some affirmation. Helping you to create a "*safe*" environment for your first steps.

Who is on your team?

When looking at people who are successful, you will notice they have a hand selected group of people to support and advise throughtout the journey to success.



Property Opportunities

Through our Australia wide network we select opportunities that "stack up". We use an independent Research company (Guardian) who are licensed financial planners and real estate agents to use our pre selection due diligence program. From investment properties, development sites, future land subdivisions, building makeovers to even golf course resort projects.

APIN also align ourselves with a select group of builders and developers where we negotiate wholesale purchasing, saving you 10% off the retail price. These opportunities are not available to the public but only members of the APIN site. We can introduce you to the key people who are experts in their fields, saving you thousands of hours of frustration and heartache. Very shortly APIN will also be offering FREE property advertising on our site through resisearch.com who are one of our alliance companies. APIN is fast becoming the most exciting site in Australia.