SISFA

MINUTES OF MEETING OF VICTORIAN STATE CHAPTER
HARWOOD ANDREWS PTY LTD
HELD AT LEVEL 13, 15 WILLIAM STREET, MELBOURNE
ON MONDAY 6 JUNE 2011 AT 5.00 P.M.

Present:

Rob Jeremiah (Chair) – in Geelong office	Harwood Andrews Lawyers
Naomi Pavlakis	Harwood Andrews Lawyers
Claire Malone	Harwood Andrews Lawyers
Nigel Smith	Netwealth
Michael Harkin	Financial Review
Paul Bongiorno	MacMillan Cowan & Co.
Amanda Davidson	William Buck
Phillip Borello	Leebridge Group
Michael Martin	Leebridge Group
Andrew Cullinan	Leebridge Group
Ian Waters	Topdocs
Sharyn Frawley	MGI Melbourne
Adrian Beckwith	
Sam Marzano	Mutual Trust
Marc Ravida	Guest of Sam Marzano
Julie Tilley	Melbourne Bentleys
Philip Broderick	DLA Phillips Fox
Steven Skoglund	Davidsons Accountants
Darren Wilson	Fordham Business Advisors Pty Ltd
Joseph Casonato	Mancell Pty Ltd
Christine Dong	Boss Private Clients
Ava Chen	Boss Private Clients
Mary Bailey	Boss Private Clients
Sam Cimino	Boss Private Clients
David Baumgartner	Baumgartner Superannuation

In Geelong office

Joanna Monahan	Harwood Andrews Lawyers
Marie De Stefano	Harwood Andrews Lawyers
Michael Betts	LBW Accountants

Apologies:

Amanda Morton	Harwood Andrews Lawyers
Aileen Fulton	Fordham Business Advisors Pty Ltd
Robert Shelton	Everalls
David Burrows	Baumgartners
Tony Grosso	White & Grosso

Welcome: Rob Jeremiah as chair welcomed all those in attendance at the meeting.

Circulation of the minutes: Minutes from the previous Chapter Meeting of 4 April 2011 were tabled.

Technical Session:

1. **Budget Announcements – Implementation of SMSF forms**

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- The Government has announced the removal of the trading stock capital gains tax exemption in respect of superannuation funds.

- The Government has also announced minimum pension requirements for account based pensions in the 2012 financial year.

- The anomaly previously appearing in section 17A of SISA has been corrected: a parent or guardian of a SMSF member who is a minor can now be a director of a SMSF corporate trustee.

2. Update and report of SMSF Working Group findings and recommendations

- There will be a range of administrative penalties introduced to the legislation. Members agreed this was preferable to the current "all or nothing" approach.

- With respect to knowledge and competency requirements of auditors, an exam and minimum number of hours per year will be introduced. There will be a 12 month transitional period.

3. Excess contributions

- The ATO has indicated that there is an impending case concerning mistake before the courts.

4. Comment and discussion on the Exposure Draft regulations on artworks and other collectables

- Members expressed their concern regarding the content of the draft regulations and in particular:

  i. That regulation 13.18AA(1) did not contain an exhaustive list of personal use assets and collectables.

  ii. It was not clear why regulation 13.18AA(3) refers to a "private residence" in respect of storage of collectables and personal use assets whilst there is no reference to "business premises".

  iii. The requirement that assets must be insured in the fund's name (pursuant to regulation 13.18AA(5)), may present practical difficulties (e.g. with respect to large collections of stamps). Further there is no requirement elsewhere in SISA to insure assets.

  iv. It is not clear what a "lease arrangement" is (referred to in regulation13.18AA(2)).

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General Business:

- A submission will be lodged with the Australian Taxation Office and Treasury in respect of related unit trusts and regulation 13.22B.
- Members raised the following issues for discussion:

  i. A member noted that she had a client who had entered into a borrowing arrangement. Where a custodian was utilised in the borrowing arrangement (and it was registered for GST), the ATO was not satisfied the custodian (as opposed to the trustee of a SMSF) could claim GST. Rob Jeremiah will raise the issue at NTLG.

  ii. A member noted that he had a client whose deduction for concessional contributions was denied by the ATO because the ATO had applied the 10% rule by looking at net rental income rather than gross rental income of the member of a SMSF. It was agreed this was incorrect because the 10% rule relates to assessable income. Rob Jeremiah will raise the issue at NTLG.

Next Meeting:

The next meeting is to be held on Monday 8 August 2011 at 5.00 p.m. and will be chaired by Andrew Cullinan in Rob Jeremiah's absence.

Closure:

There being no further business the meeting was then closed at approximately 6.30 p.m.

Rob Jeremiah

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Chair

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