

scoops

entertaining the law



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We are sometimes asked by clients **whether or not a document can be backdated.**

Generally speaking, a document should not be dated any date prior to the date that the last party executes it.

To do otherwise would be a **fraud.**

Of course, there is nothing wrong with dating a document today, and recognising in the document that terms were agreed, and the transaction actually occurred, in the past. In that case, the parties are simply **documenting today**, matters that occurred yesterday.



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New Year's Resolutions – Make 2015 the year!

We hope you all had a happy and safe holiday season!

This is the time of year when you and your clients will be clearing out the closet and resolving to do many things that may have been deferred in the past.

It is an opportune time to turn your and your clients' minds to those legal and financial matters which are on the "to-do" list but **never get done.**

We set out below a simple **checklist** of various **housekeeping** items which, in our experience, are very often **incomplete** or which have not been **reviewed** in a while. You might raise these with you clients when you catch up with them next:

- Do you have an Enduring Power of Attorney and Advance Care Directive?
- Do you have a binding death benefit nomination for your SMSF?
- Do you have a written pension agreement for your SMSF?
- Do you have a will? Does your will incorporate a testamentary trust if you have high net personal worth. Does it address entities and complex structures?
- Do you have life/ TPD insurance? Are you insured for sufficient amounts?
- Do you have a Business Succession Deed?
- Do you have a Shareholders Agreement/ Deed?
- Have you structured your assets so that they are held by your non-risk spouse?
- Do you have trade terms for your business? Have those trade terms been updated for the PPSA?
- Have you received structuring advice for your entities? Have your significant inter-entity loans been documented and secured if appropriate?
- Do you incorporate companies within the South Australian jurisdiction? Don't.
- Do you have tax audit insurance?
- Have you maintained your statutory records properly (FBT log book, payroll, etc.)?

We regularly advise our clients regarding the above matters. Where clients need accounting or financial advice, we are able to **work collaboratively** with you to achieve the best result for the client.

Let us know if we can help.

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