Understand Your Structure

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Understand Your Structure (or be prepared for unexpected consequences)

I feel I have been banging on about this for a while but I still find cases where farmers don't understand their trading structure, or the consequences of not understanding it.

I met a new client recently who holds significant land in a family trust.

I asked "who is the appointor of the trust?" Blank faces!

I then explained that the appointor is the person that has ultimate control of the trust (and thereby the farm land), so this was pretty important!

We eventually located the trust deed and checked this to find out who does hold this position. Thankfully Dad and Mum held this position at present.

I then asked "who is the alternate appointor?" as there was no one nominated in the deed.

They advised no one had been nominated. As such, under the trust deed, their executor would hold that position in the event of their deaths.

"So who is your executor?"

It turns out the Wills were totally outdated and the executor was an old family friend.

That friend may be a great choice of executor, but probably not the best person to control the land, especially since a son has been on the farm for a period of time!

It's fair to say that Dad and Mum were quite shocked to find that the executor would have controlled the land.

So our first job was to get a variation prepared by a lawyer to appoint the son as the alternate appointor, such that if Dad and Mum passed away the son would control the land.

Next job is to ensure the wills get updated to ensure all children are treated equitably.

Now, I do not blame the farmer for not understanding their structure, but I do believe as accountants we owe our clients a duty to ensure they understand these things.

I would suggest that if your current accountant has not explained your structure, then you ask them to explain it the next time you meet. If they don't then find one that will!

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