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SMSF succession planning: tips, traps and nuances

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Agenda

- 1) SMSF member passes away, with insurance inside
- 2) Setting up Life/TPD for clients – non-tax dependant beneficiaries
- 3) Check shareholder agreement – business owner clients
- 4) Illiquid SMSFs – commercial/res property
- 5) Auto-reversionary



Learning outcomes

- Explain the key insurance issues that clients must consider before setting up an SMSF and discuss the most practical way to document their decision
- Explain the basics of policy ownership, payment of premiums and allocation of proceeds
- Analyse whether or not trustees should claim a tax deduction for insurance premiums and discuss the benefits and implications of doing so
- Recognise the ATO's views on certain insurance strategies, such as buy/sell insurance and using insurance to repay SMSF borrowings, and discuss the risks involved in implementing such strategies





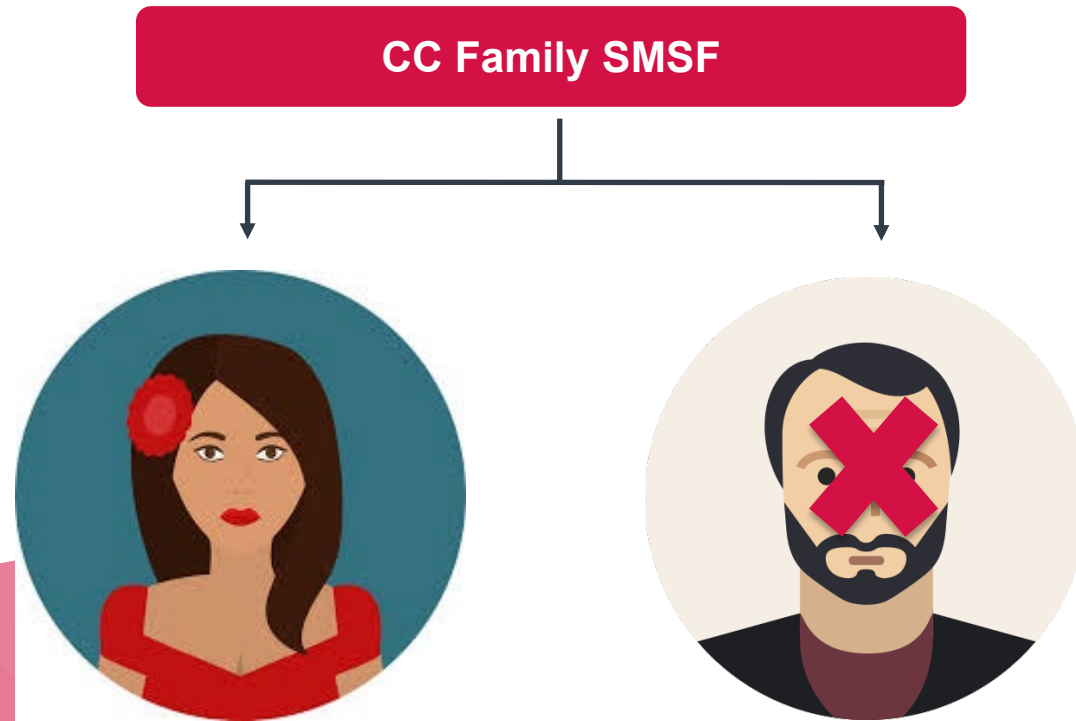
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Number 1

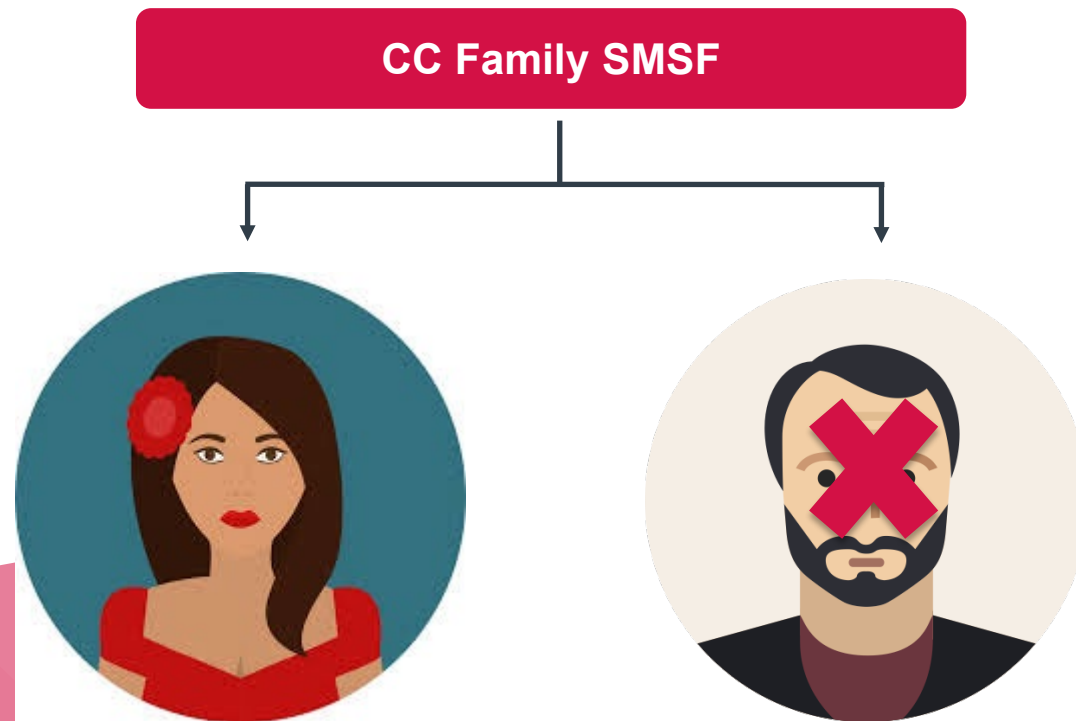
'Future liability' deduction – s295-470

- Client has an SMSF, with Life/TPD/IP in it
- Life insured dies/TPD/temporarily disabled before 65, and was gainfully employed
- An alternative to SMSF claiming premium as fund tax deduction in year of death, and beyond

Example



- Carlos dies at age 50
- Service period = 15 years
- Total death benefit (incl insurance) = \$2,450,000
- **SMSF claims tax deduction for premiums OR s295-479 election?**



\$1,225,000 SMSF carry forward tax deduction

SMSF can earn \$1.225m of income without paying tax

\$183,750 SMSF tax benefit

'Future liability' deduction - takeaway

- SMSF member passes away / tpd'd / temporarily disabled
- Insurance in SMSF – premiums paid monthly ideally
- Adult children admitted as SMSF members?





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Number 2

s307-290 election

- SMSF trustee elects, from inception, not to claim premiums as deduction
- No taxable component - untaxed element (30% tax impost)



Practical application

- Blended family
- Client (50) wants \$1m insurance = adult biological children as beneficiaries = estate equalise
 - Cover must be super-owned
 - Annual premium = \$1,200
 - Already has \$1.2m in SMSF
 - ESP = 1/1/96

Untaxed element

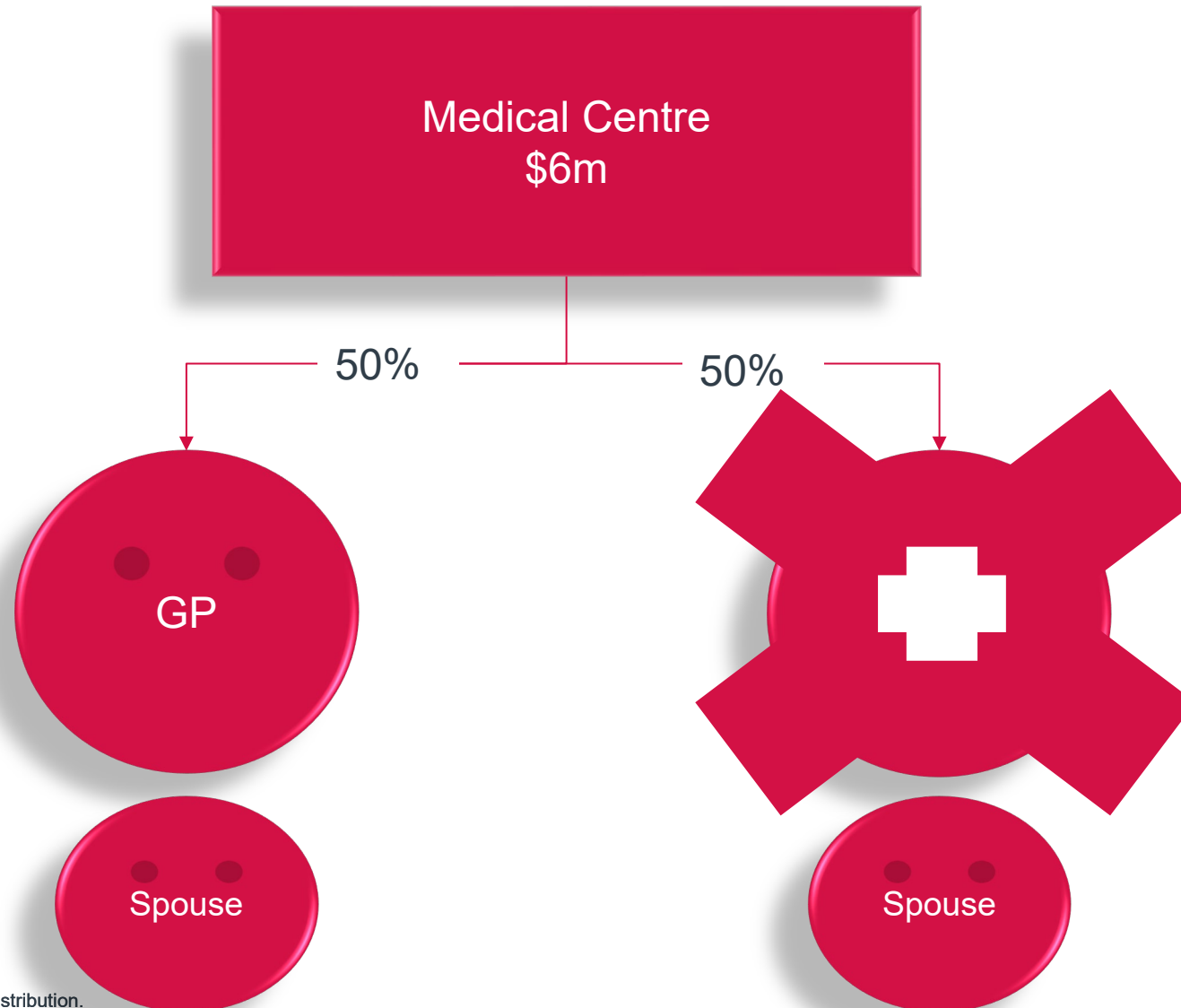
Year	2	4	6	8	10
Foregone tax benefit – not claiming premium (cumulative)	421	1008	1811	2921	4397
Tax on untaxed element avoided	227,993	192,899	157,852	122,758	87,711
Actual tax payable – adult beneficiaries	121,121	102,477	83,859	65,215	46,596
Net benefit	\$106,871	\$90,421	\$73,993	\$57,542	\$41,114



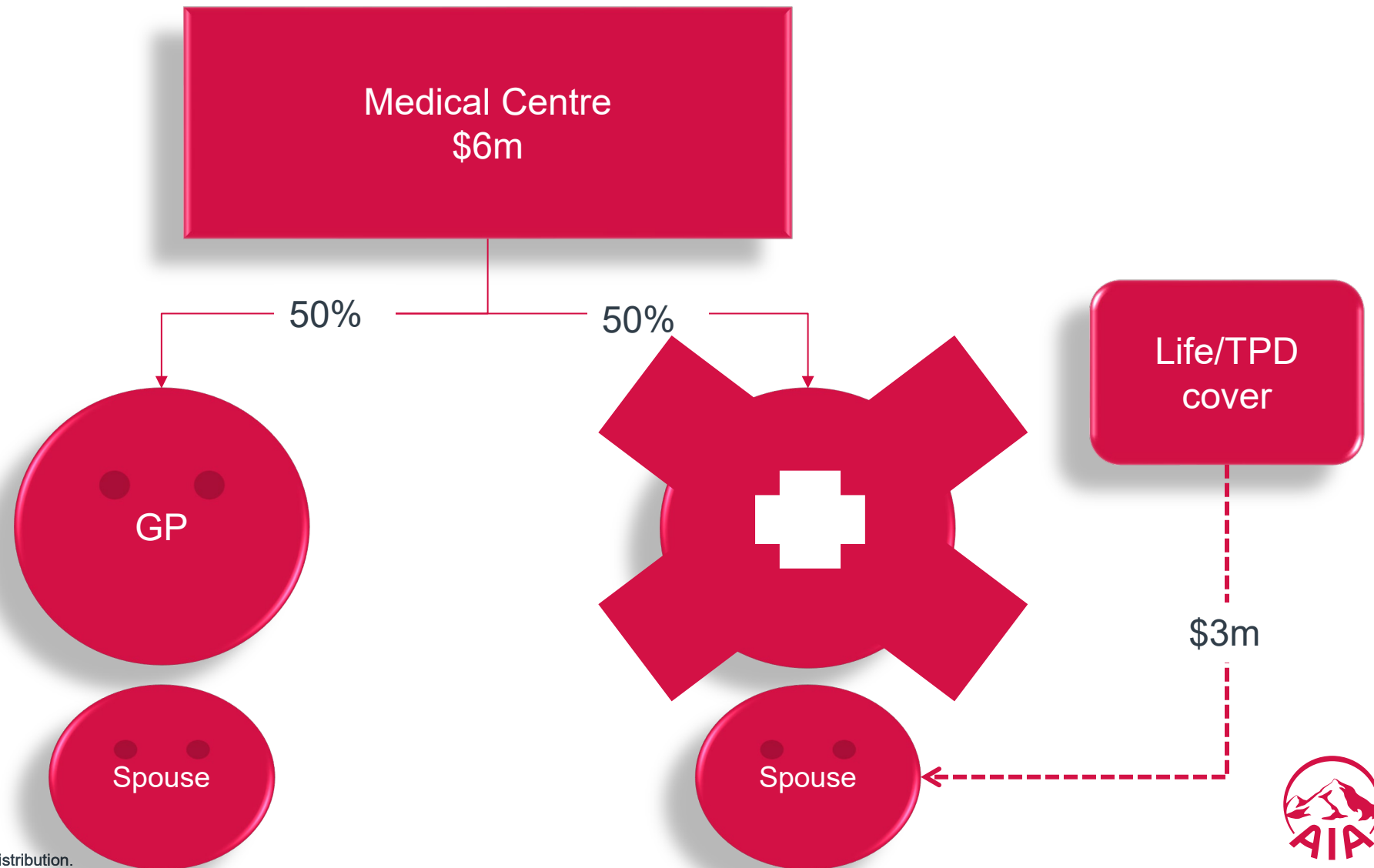
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Number 3

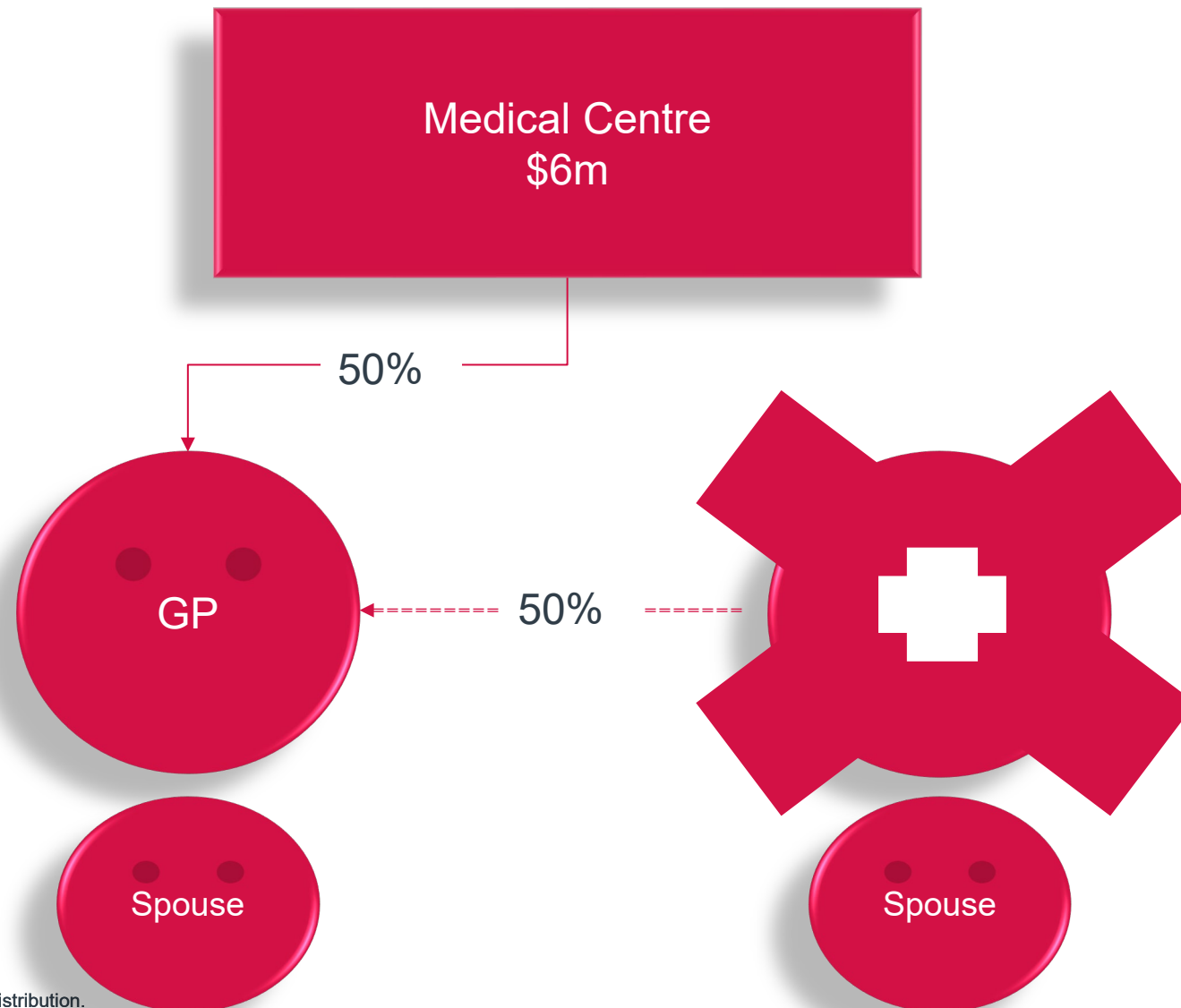
Involuntary exit



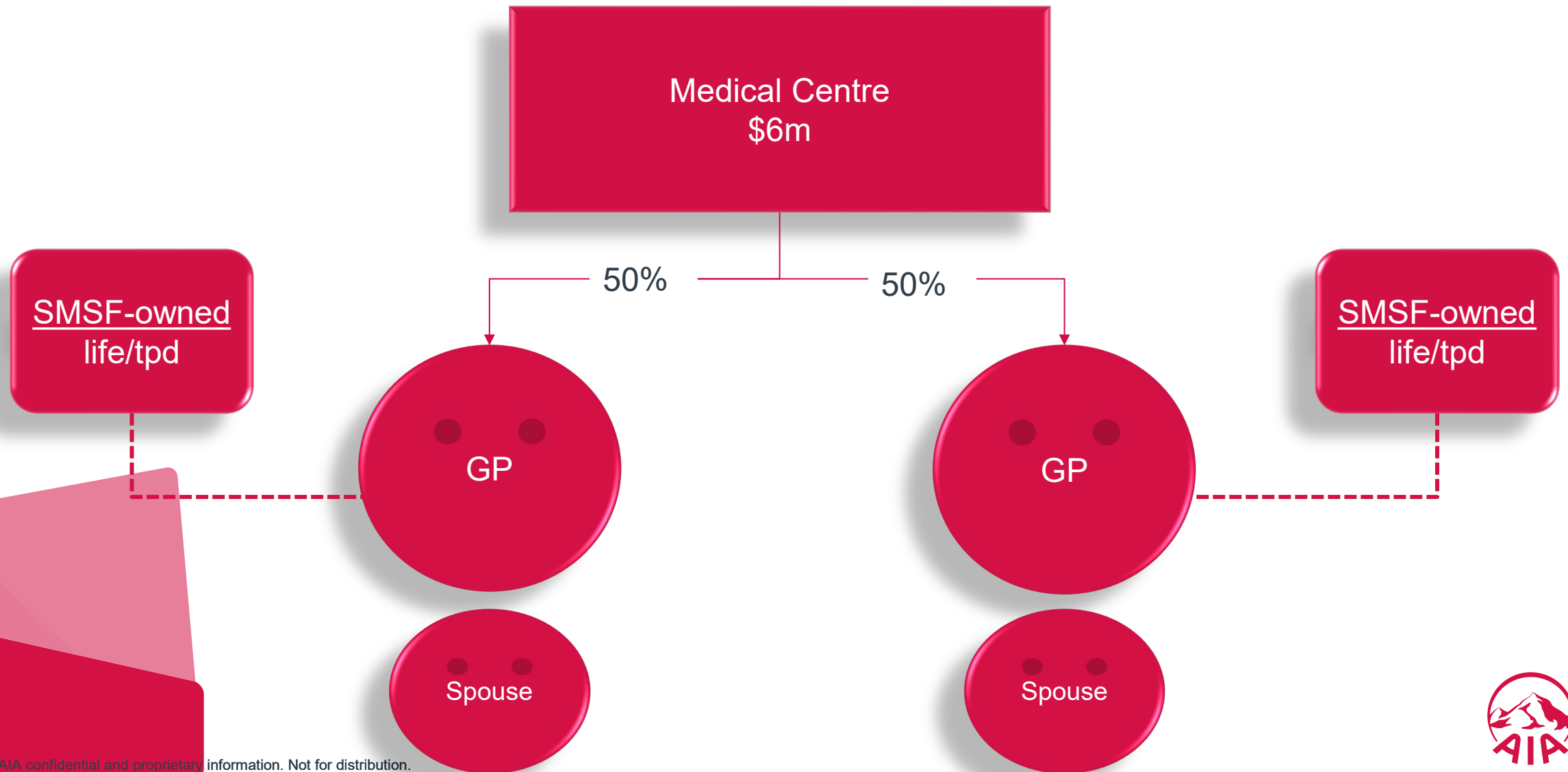
Involuntary exit



Buy/sell 101



SMSF-owned cover?!



SMSF-owned buy/sell insurance?

- Avoid, if possible (ATO ID)
 - Preferably self-owned
- With premiums funded from company trading account if required
 - Otherwise, private ruling
- Check licensee standards

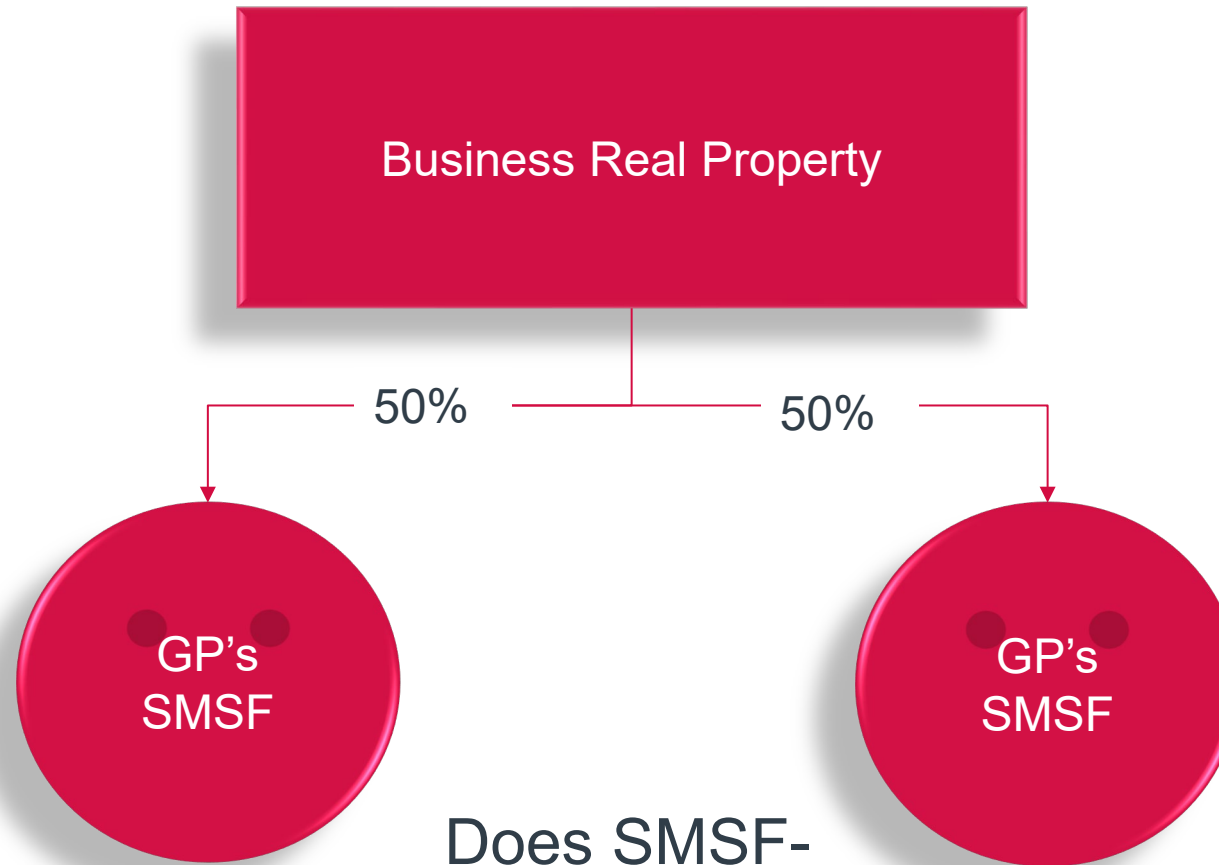




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Number 4

SMSF Liquidity



Does SMSF-
owned
insurance
help?

BRP – SMSF owns cover

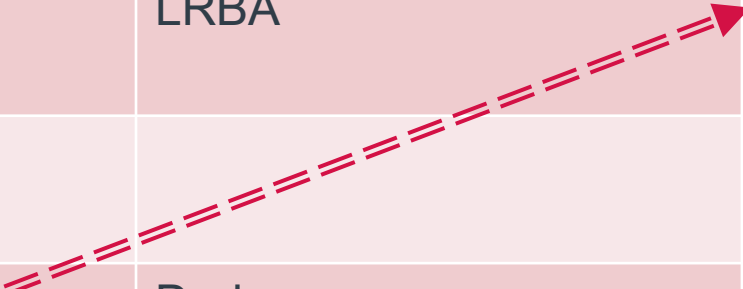
Assets		Liab + Equity	
Business Real Property	800	LRBA	(500)
Cash	200		
		Dad	250
		Mum	250

BRP – SMSF owns cover

Assets		Liab + Equity	
Business Real Property	800	LRBA	(500)
Cash	200		
Proceeds from life cover	500	Dad	250 + 500
		Mum	250

BRP – SMSF owns cover

Assets		Liab + Equity	
Business Real Property	800	LRBA	(500)
Cash	200		
Proceeds from life cover	500	Dad	250 + 500
		Mum	250



BRP – SMSF owns cover

Assets		Liab + Equity	
Business Real Property	800	LRBA	Nil
Cash	200		
Proceeds from life cover	nil	Dad	250 + 500
		Mum	250

BRP – SMSF owns cover

Assets		Liab + Equity	
Business Real Property	800	LRBA	Nil
Cash	200		
Proceeds from life cover	nil	Dad	250 + 500
		Mum	250

Still need to pay a \$750k death benefit!

Cross owned (non-super) by business partners

Assets		Liab + Equity	
Business Real Property	800	LRBA	(500)
Cash	200		
		Dad	250
		Mum	250

Cross owned by business partners

Assets		Liab + Equity	
Business Real Property	800	LRBA	(500)
Cash	200		
Cash (consideration for purchase of BRP interest)	800	Dad	250
		Mum	250

Surviving GP uses ordinary life proceeds to acquire BRP interest from deceased business partner's SMSF

Cross owned by business partners

Assets		Liab + Equity	
Business Real Property	800	LRBA	Nil
Cash	200		
Cash (consideration for purchase of BRP interest)	300	Dad	250
		Mum	250

Liquidity for SMSF with BRP

- Fund-owned life cover likely to be unworkable
- Consider insurance outside the SMSF



Residential Property – SMSF owns cover


Assets		Liab + Equity	
Residential Property	800	LRBA	(500)
Cash	200		
		Dad	250
		Mum	250

Residential Property – SMSF owns cover

Assets		Liab + Equity	
Residential Property	800	LRBA	(500)
Cash	200		
Proceeds from life policy	500	Dad	250 + 500
		Mum	250

Residential Property – SMSF owns cover

Assets		Liab + Equity	
Residential Property	800	LRBA	(500)
Cash	200		
Proceeds from life policy	500	Dad	250 + 500
		Mum	250



Residential Property – SMSF owns cover

Assets		Liab + Equity	
Residential Property	800	LRBA	Nil
Cash	200		
Proceeds from life policy	Nil	Dad	250 + 500
		Mum	250

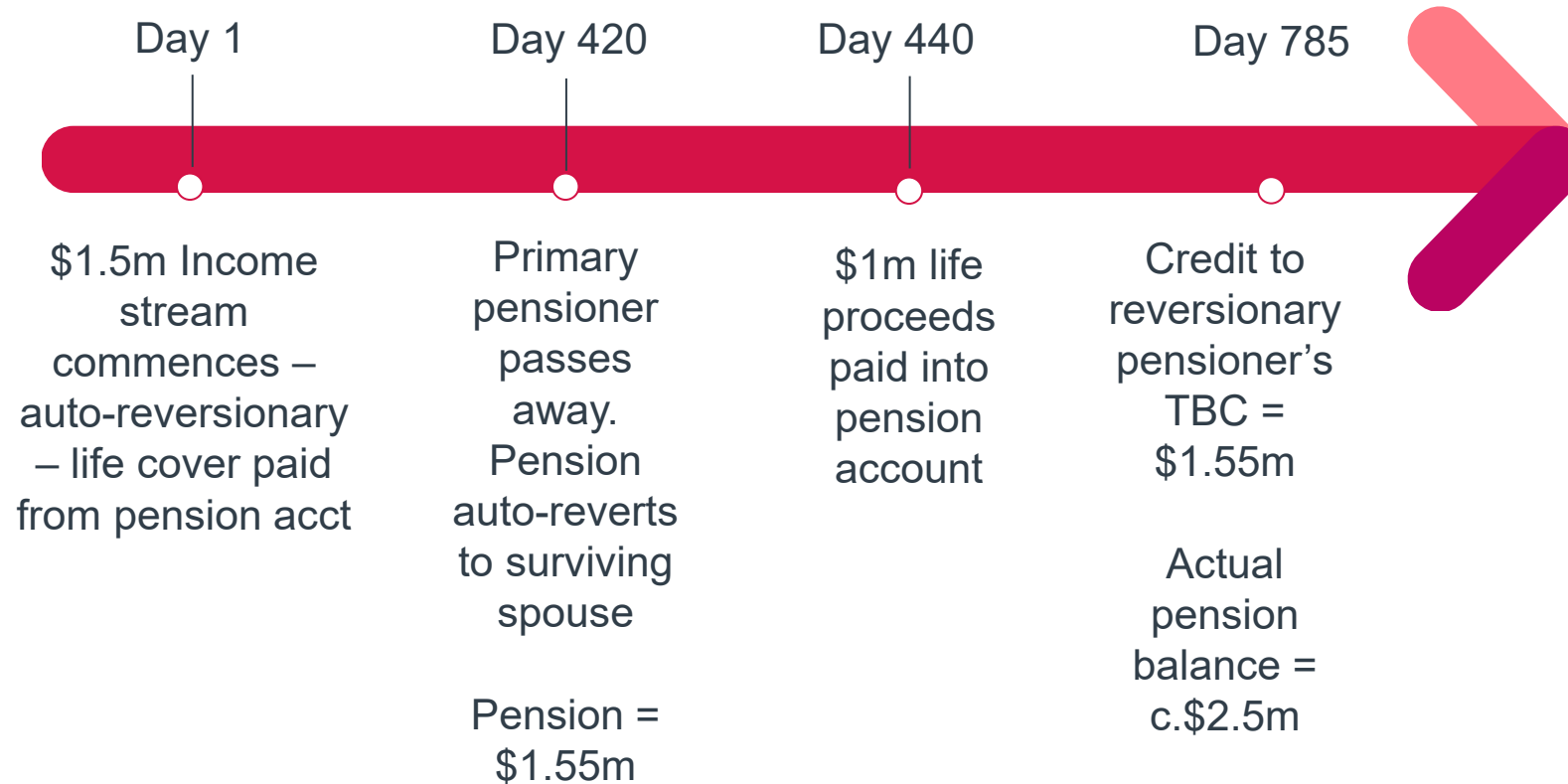
SMSF-owned cover - workable - in a Mum/Dad SMSF



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Number 5

Auto-reversionary - SMSF



Takeaways – triggers

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- 5) Auto-reversionary





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Thank you

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