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Client Alert
Tax News | Views | Clues

June 2010

Tax Planning

Put simply, tax planning is the arrangement of a taxpayer's affairs so as to comply with the tax law at the lowest possible cost. A common mistake is to believe that tax planning is optimised when every opportunity to reduce tax is taken. This is because some opportunities to reduce tax rely on strained interpretations of the law. Therefore, tax planning involves much more than taking the option that at first appears to result in lower tax costs. It involves objectively assessing and actively managing tax risk.

Common tax planning techniques are deferring the derivation of assessable income and bringing forward deductions. It is equally important that consideration be given to any pending changes to the tax legislation, especially when a proposed amendment will be backdated.

Deferring Income

- Income received in advance of services to be provided will generally not be assessable until the services are provided.
- Taxpayers who provide professional services may consider, in consultation with their clients, rendering accounts after 30 June to defer the income.
- Consider whether the requirements to be classified as a small business entity are satisfied to access various tax concessions such as the simpler depreciation rules and the simpler trading stock rules.
- Individuals operating personal services businesses should ensure that they satisfy the relevant test to be excluded from the Personal Services Income regime or seek a determination from the Commissioner.

Maximising Deductions

Business taxpayers

- Debtors should be reviewed prior to 30 June to identify and to write off any bad debts.
- Review the asset register to identify any low-cost and/or low-value assets that may be pooled to access an accelerated rate of depreciation.
- Write off any depreciating assets which are no longer being held for use because a deduction may be available.
- Review trading stock for obsolete stock for which a deduction is available.
- Employees' superannuation contributions should be paid before 30 June to obtain a deduction and to avoid the Superannuation Guarantee Charge.
- A one-off bonus deduction for new investment in tangible depreciating assets purchased between 13 December 2008 and 31 December 2009 may be available. The bonus deduction is in addition to the depreciation deductions available to taxpayers.
- From 1 July 2009, losses incurred by individuals with an adjusted taxable income of \$250,000 or more from non-commercial business activities will be quarantined even if they satisfy the four commerciality tests.

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Continued from page 1

Non-business taxpayers

- Investors should consider prepaying interest on margin loans to obtain a deduction.
- Outgoings incurred for managed investment schemes may be deductible following a Full Federal Court decision.
- A recent decision of the Full Federal Court held that a taxpayer deriving Youth Allowance was allowed a deduction for various self-education expenses. (The Commissioner has sought special leave to appeal to the High Court against the decision.)
- Assets costing \$300 or less may qualify for an immediate deduction subject to certain conditions.
- A deduction for personal superannuation contribution is available where the 10% rule is satisfied.

Capital Gains Tax

- Consider deferring the disposal of shortly-held assets to access the CGT discount, where available.
- Individual taxpayers can consider contributing some or all of capital gain to their superannuation fund because a deduction may be available for personal superannuation contributions.
- Consider whether a rollover relief is available to defer any capital gains.
- Consider the availability of the small business CGT concessions which can disregard, reduce or defer a capital gain arising from the disposal of an asset which has been used by an entity in the course of carrying on its business.

Superannuation

- Give consideration to paying contributions for the June quarter in June to obtain the taxation deduction in the 2009/10 income year.
- Low-income earners (including self-employed persons) should consider making a personal superannuation contribution to qualify for the government superannuation co-contribution payment.
- The concessional contributions cap for the 2009/10 has been reduced to \$25,000 or \$50,000 if over 50 years of age.
- For the 2009/10 income year, pensioners have the option to draw half of the year's minimum required pension amount.
- From 1 July 2009, a person's 'reportable superannuation contributions' is included in their 'adjusted income' when determining their eligibility for various tax offsets and social security benefits, such as the, the pensioner tax offset, senior Australians tax offset, and the spouse superannuation tax offset.
- From the 2009/10 income year, a spouse also includes a same sex partner where they live together on a genuine domestic basis in a relationship as a couple, or a partner (whether of the opposite or same sex) where the relationship is registered under a State or Territory law.

Self-Managed Super Funds & Acquiring Assets from Related Parties

There are strict rules which prohibit a self-managed superannuation fund (SMSF) from acquiring an asset from a related party. The Tax Office has released Self Managed Superannuation Funds Ruling SMSFR 2010/1 which explains the rules. The Commissioner states that under the rules an 'asset' means any 'form of property' and includes every type of right and intangible personal property that can be enforced by legal or equitable action such as a debt or an interest in a trust fund. The phrase 'acquire an asset' encompasses not only the purchase of an asset but also the acquisition of an asset where the SMSF does not provide any consideration (for example, in specie contributions).

SMSF Trustees with Enduring Power of Attorney

The Tax Office has released a Ruling explaining the Commissioner's views on how a person who holds an enduring power of attorney in respect of a member of a self-managed superannuation fund (SMSF) can be a trustee in place of the member (or a director of the corporate trustee) for the purposes of the superannuation legislation.

The Tax Office considers that a legal personal representative (LPR) does not become a trustee of the fund (or a director of the corporate trustee) merely by virtue of holding an enduring power of attorney. Rather, the LPR must be appointed as a trustee of the SMSF in accordance with the trust deed, the superannuation legislation and any other relevant legislation.

Furthermore, the Tax Office says a member must cease to be a trustee of the SMSF or a director of the corporate trustee, except where the LPR is appointed as an alternate director. Provided that the alternate director can only exercise the powers of a director where the main director does not, the Ruling says it is not necessary that the member resign as a director of the SMSF in these circumstances to satisfy the superannuation legislation.

Cents per Kilometre Rates

The Government has released the cents per kilometre rates for calculating motor vehicle expenses for the 2009/10 income year:

Car	Non-rotary engine	Rotary engine	Rate per km
Small car	1,600cc or less	800cc or less	\$0.63
Medium car	1,601-2,600cc	801-1,300cc	\$0.74
Large car	2,601cc or more	1,301cc or more	\$0.75

Important New PAYG Summary Requirement

This financial year employers are required to show on each employees summary the amount of any superannuation contributions in excess of the 9% superannuation payments. Effectively any amounts salary sacrificed need to be shown. This is shown under the reportable employer superannuation contributions label on each employees summary. If you as business owner pay contributions in excess of 9% of your salary then this applies to you as well. If in any doubt please call us to assist you in regards to this matter.

Kellerberrin Office Dates

The office at the Shire Hall in Kellerberrin will be open from 12.00pm until 3.00pm on the following dates:

July	Friday 16
August	Friday 13
September	Friday 17

Should you wish to see someone in the morning please call the office on 9325 4255 to see if this can be arranged.



Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also, changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.