

Year End Tax Checklist

June 2009



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2009 Tax Planning Highlights

Recent tax changes provide taxpayers with some important tax planning opportunities that should be considered prior to 30 June 2009. **This list is not exhaustive and your individual circumstances must be considered. Consult our office before acting on any of the information in this document.**

Individuals

Defer Income until after 1 July 2009

The increases in the income thresholds that are effective from 1 July 2008 give an incentive for some individuals to defer the derivation of income until after 30 June 2009.

Review Salary Packages

Salary packaged benefits for employees with taxable income less than \$180,000 may be less attractive due to the change in the tax rates and thresholds.

Low-income Thresholds

Consider ways of allocating income to any low income individuals in your family group. Individuals (other than minors with income below \$14,000 do not pay tax. This will increase to \$16,000 for the 2009/10 tax year).

Minors' (children under 18 years) effective tax free threshold is \$2,667. This will increase to \$3,000 for the 2009/10 year.

De Facto and Same-Sex Couples

The Government has introduced laws to ensure equality under the income tax regime for married and de-facto relationships (including same sex couples). From 1 July 2009 all couples are to be treated the same way for tax purposes regardless of whether they are married or in a de facto or same sex relationship.

Investment Allowance – Temporary Tax Break for Depreciating Assets

Consider bringing forward the purchase of depreciating assets to take advantage of the temporary investment allowance by contracting to acquire business assets before 30 June 2009.

This investment allowance is in addition to any 'ordinary' depreciation claimed.

50% for Small Business Taxpayers

Small business entities (broadly business with an annual turnover of less than \$2 million) are entitled to claim the additional investment allowance at the rate of 50% of the cost of eligible assets if it is installed ready for use by 31 December 2010.

The minimum investment for small business entities to take advantage of the investment allowance is \$1,000 per asset.

Other Business Taxpayers

Other business taxpayers (broadly businesses with an annual turnover of \$2 million or more) are entitled to 30% claim if they have the asset installed ready for use by 30 June 2010 (or 10% if it is installed ready for use by 31 December 2010).

The minimum investment for other businesses to take advantage of the investment allowance is a minimum of \$10,000 per asset.

Small to Medium Business

Private Company Loans – Amendments to Division 7A

From 1 July 2009 the application of the Deemed Dividend Rules in Division 7A will be widened to capture the use of company assets by shareholders and associates.

Taxpayers who are involved in private companies may want to determine whether any company assets are used by shareholders prior to year end to ensure that they are not caught by the new regime commencing on 1 July 2009.

Non-Commercial Business Losses – Quarantining of Losses for High Net Worth Individuals

From 1 July 2009 the non-commercial loss rules will apply to taxpayers with an adjusted taxable income of over \$250,000. These taxpayers will no longer be able to use excess deductions from unprofitable business activities to reduce their salary and wages and other income even if they pass the current non-commercial business loss tests.

Family Trusts – Definition of ‘Family’ Restored

The Federal Government has reversed its decision to restrict the definition of ‘family’ for the purposes of the family trust provisions. This effectively restores the broadening of this definition by the previous Government.

In addition the proposal to prevent Family trusts from making a once off variation to the test individual specified in a family trust election has also been reversed.

Trust Cloning CGT rollover abolished for discretionary trusts but allowed for fixed trusts

On 31 October 2008 the Federal Treasurer announced that the trust cloning CGT rollover would be abolished from 1 November 2008. However in the 2009-2010 Federal Budget the Government announced that a limited CGT roll-over will be reintroduced for assets transferred between trusts that have the same beneficiaries with the same entitlements and no material discretionary elements (i.e. fixed trusts).

Superannuation

Concessional Contribution Threshold

The 2009-2010 Federal Budget also announced reductions to the concessional superannuation contributions cap.

From 1 July 2009, the concessional contributions cap will be reduced from \$50,000 pa to \$25,000 pa. This cap will be indexed.

The transitional cap for people over 50 years old will reduce from \$100,000 to \$50,000, with a further reduction to \$25,000 at 1 July 2012 (or equivalent indexed amount at that time).

Affected taxpayers may want to make their contributions before 30 June 2009 to take advantage of the higher thresholds before they are set to be reduced on 1 July 2009.

Co-Contribution Temporary Reduction

Non-concessional contributions of up to \$1,000 are currently matched by the Government with a co-contribution of \$1,500 for people earning less than \$30,342. The co-contribution will be phased out up to an income level of \$60,342.

Taxation of financial arrangements (stages 3 and 4)

On 26 March 2009 legislation was passed which enacted the TOFA (stages 3 and 4) rules.

Broadly TOFA 3 and 4 set out the method for calculating gains and losses on financial arrangements and the time at which these gains and losses will be brought to account for income tax purposes. These methods include two default methods (accruals and realisation) and four elective methods (fair value, retranslation, hedging and financial reports).

This new TOFA regime will apply to financial arrangements that a tax payer starts to have in an income year commencing on or after 1 July 2010. However, taxpayers can elect for these amendments to apply to income years commencing on or after 1 July 2009.

The TOFA rules will have mandatory effect for taxpayers with aggregated turnover of at least \$100 million and certain financial institutions with a turnover of over \$20 million.

Ongoing Year End Tax Planning Issues

Small Business Entity

- Consider whether the taxpayer is eligible to be a Small Business Entity (SBE) if turnover is less than \$2 million.
- Benefits of being an SBE include:
 - Small business CGT concessions;
 - Simplified depreciation rules;
 - Simplified trading stock regime.

Timing of Income Derivation

- Consider whether you use cash or accruals basis of accounting.
- Can you defer income receipt until after 30 June 2009 (delay payment of tax)?
- If you are in losses, can you accelerate income receipt prior to 30 June 2009 to recoup losses.

Income Received in Advance

- Not taxed until services provided to customer;
- Must be credited to an unearned income suspense account;
- Must be released to profit when services are provided.

Timing of Expenses

- Expenses deductible if incurred by 30 June 2009;
- Provisions generally not deductible;
- Some accruals not deductible;
- Some prepayments not deductible;
- Interest deductions after business ceases may be deductible.

Repairs

- Incur expenses for repairs and maintenance on or before 30 June 2009, but most not be:
 - Initial repairs;
 - Substantial replacement of an asset;
 - Improving an asset.

Gifts

- Donate gifts to tax deductible charities on or before 30 June 2009.
- Check that payment is to an ATO endorsed “deductible gift recipient”.
- Gift not deductible if some benefit is received by the donor unless given at an “eligible fundraising event”.

Bad Debts

- Review before 30 June 2009.
- Physically write off bad debts before year end.

Trading Stock

- Consider appropriate valuation – lower of cost, market value or replacement.
- Identify any obsolete stock – special valuation rule.
- Scrap unwanted stock by 30 June 2009.
- SBE taxpayers no need to do stock valuation if difference between opening and closing value <\$5,000.

Prepayments / Advanced Expenditure

- ❑ Consider prepaying deductible expenditure by 30 June 2009.
- ❑ The prepayment rules can operate to spread the deduction over more than one year.
- ❑ The prepayment rules do not apply to salary, amounts required to be paid by law or a court, expenditure under \$1,000.
- ❑ SBE taxpayers and non-business individuals are allowed prepayments if the benefit is not more than 12 months.

Superannuation

- ❑ Discuss with a qualified financial adviser the following:
 - The transition to retirement pensions while still working;
 - Superannuation contributions for spouse to get superannuation contribution rebate;
 - Make undeducted contributions to get Government 150% co-contribution;
 - Employee superannuation guarantee contributions – 9% of employee's gross wage by 28 July 2009 – quarterly contributions are now required.

Directors' and Employees' Entitlements

- ❑ Conduct shareholders' meetings before 30 June 2009 to approve directors' fees and staff bonuses to get deductions for 2009 year.
- ❑ Ensure arrangements for employee bonuses based on 2008/2009 results are in place before 30 June 2009.

Entrepreneur's Tax Offset

- ❑ If the taxpayer is a SBE with turnover of less than \$75,000 they may be eligible to the entrepreneur's tax offset of up to 25% of tax payable on SBE income.

Sale of Investments

- ❑ Where CGT assets will be realised for a gain, delay sale until after 30 June, unless you have losses that may be lost in future years because of the company or trust loss rules.
- ❑ Crystallise capital losses to offset against capital gains, but loss may be disallowed if loss asset or similar asset is reacquired, or asset is still controlled by the taxpayer.
- ❑ If assets held for less than 12 months consider delay of sale until 12 months to take advantage of the CGT discount concessions, if eligible.
- ❑ Consider whether eligible for small business concessions. To qualify must pass the \$6M net asset threshold or \$2 turnover threshold and active asset test.

Ceasing Business or Business Assets Sold

- ❑ Consider the consequences of payments for employee entitlements, the transfer of employee entitlements to a new employer, or the payment of redundancy payments.
- ❑ Are small business concessions, rollovers, or superannuation contributions available?
- ❑ Will there be any expenses incurred after business ceases – consider whether they are still deductible?

Business Related Costs and Certain Project Costs

- ❑ Deduction for project costs – deductible over the life of the project;
- ❑ Other business related costs are deductible over 5 years for (certain costs that are not otherwise deductible or included in a CGT or capital allowance cost base).

Depreciation

- ❑ Scrap all obsolete items by 30 June 2009.
- ❑ Increase depreciation rate by reassessment of effective life of asset if use is greater than ATO estimate of effective life.
- ❑ Items that cost less than \$1,000 consider putting into a low value pool, diminishing value rate of 37.5%.
- ❑ Replacement of some items of less than \$100 (\$300 if not in business) may be deductible immediately.
- ❑ SBE depreciation concessions:
 - Immediate deduction items costing less than \$1,000;
 - Items of plant costing \$1,000 and more – automatic pooling facility: 30% rate (5% if life over 25 years)

Imputation

- ❑ If shares are not held at risk for at least 45 full days the franking offset may not be available (except for individuals whose franking offset <\$5,000 p.a.)
- ❑ Non fixed trusts receiving dividends – beneficiaries must have a vested and indefeasible interest or franking offset may be lost unless a family trust election is made.
- ❑ If partly franked dividends paid have all dividends been franked in accordance with the benchmark percentage (franking percentage of first distribution in the company's franking period).

Year End Tax Effective Investments

- ❑ Has the promoter obtained a product ruling?
- ❑ Is it the subject of an ATO Taxpayer Alert?
- ❑ Consider the impact of Part IVA and integrity measures.
- ❑ ATO warning signs include:
 - Arrangement contrived or artificial;
 - Limited or non-recourse funding;
 - Minimal cash outlay;
 - In-built exit strategies;
 - High management fees or promoters' commission;
 - Arrangement not economically viable without the tax benefit;
 - The arrangement has not been independently assessed for economic viability; and
 - There are prepayments involved (may not be fully deductible in current year).

Please note: These comments are only summaries of the issues for general information and should not be taken to be advice by WSC Certified Practising Accountants. Consequently we accept no responsibility to any person who acts on information herein without consultation with WSC.