2010 Year-End Tax Planning

The end of the financial year is approaching. As you know, legitimate tax minimisation for the year can often be achieved by taking certain action prior to 30 June.

The following are some of the issues you may wish to consider:

1. In order to maximise benefits for the current year, it is usually helpful to prepare a preliminary assessment of your taxable income for the year to date, so that it can be seen whether or not there is a problem to fix.

2. Review all deductible expenses and assessable income in the latest available figures (or prior years figures if current figures are not available) to determine the prospects for pre-payment, deferral or other action.

This is not a comprehensive list and terms and conditions may apply to some of these strategies if used in your circumstances.

Tax Minimisation Strategies

In order to minimise liability to taxation for the current year, the general strategy options for most taxpayers are as follows:

1. Delay receiving assessable income.

2. Bring forward incurring deductible expenses or losses.

3. Pre-pay next year's expenses.

4. Shift income to a taxpayer with a lower marginal tax rate (e.g. your super fund).

5. Negative gearing strategies (extreme caution is required).

6. Make payments that receive special tax treatment e.g. certain superannuation contributions.

Warning! The circumstances under which those principles can be applied are limited by certain conditions placed on taxpayers by the legislation e.g. not all pre-payments will be allowable as tax deductions.

The Benefits

The effect of the above actions is either to permanently reduce or eliminate the amount of tax payable or to delay the need to pay the tax for at least another 12 months. In addition lower personal tax rates and increased tax offsets apply from 1 July 2010.

In particular, you may benefit from tax minimisation strategies, if your taxable income for the year ended 30 June 2010 will be significantly higher than the year ended 30 June 2011. This could happen if:

- you have a 'one-off' capital gain or other irregular income amount in 2010.

- you will not be working or earning as much income next year (y/e 30/6/2011).

A reduced taxable income can also have the effect of allowing receipt of Government benefits which are means tested e.g. family allowance, child day care fee relief etc, private health insurance surcharge.

Consider the Following Items

1. Income Delay

- Timing of Derivation of Income

- Timing of Raising a Bill for incomplete work (Businesses)

2. Bringing Forward Deductible Expenses or Losses

- Superannuation contributions (you may be entitled to a Government Co-

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Contribution if you make an undeducted contribution).

- Capital gains/losses - timing of transactions.

Businesses should also consider:

a) Stock valuation options.

b) Writing off obsolete stock/plant.

c) Bad debt write-offs.

d) Paying the Compulsory Employee Super payment before 30 June.

e) Paying the last week/month of the year's wages/commissions/ bonuses before 30 June.

f) Bringing forward repairs and maintenance before 30 June.

3. Prepayment of Expenses

The expense must be incurred and there must be a non-tax benefit associated with the payment.

E.g.: Insurance premiums, membership of organisations, travel, advertising, and interest.

Insufficient Taxable Income

If you have insufficient taxable income this may result in:

- a loss of credit or inability to get credit.
- the loss of certain tax benefits associated with donations, retirement allowances, superannuation contributions, franking credits (companies only) and tax rebates (offsets).

THE GENERAL STRATEGY FOR MAXIMISING TAX SAVINGS IS REVERSED WHERE THE TAXPAYER IS IN A POSITION OF INSUFFICIENT TAXABLE INCOME.

Other Year-End Issues

In addition to the above, the following obligations in relation to the year about to end should be remembered:

If you use a car in producing your income

- Motor Vehicle Odometer readings at 30 June.

- Prepare a 13 week log book if your existing one is older than 5 years.

If you are in business or earn your income through a company or a trust

- Award Superannuation and/or Superannuation Guarantee Charge:

The deadline for employers to pay superannuation guarantee contributions for the 2009/10 financial year is the 28 July 2010. However if you want a tax deduction in the 2009/10 year you must pay it by 30 June 2010.

Employers who fail to make sufficient contributions by 28 July will be required to pay the superannuation guarantee charge. Compared to making actual contributions, the charge can cost employers almost double the amount, since the charge is not tax deductible and includes an additional administration and interest component.

- Is your Loan Account in your business in debit? Will the interest be tax deductible? Will your drawings be considered a deemed dividend?
- Preparation of Stock Count Working Papers.
- Preparation and reconciliation of PAYG statements.

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Economic Focus

Slow and Steady Wins the Race

The concerns over sovereign debt contagion across the Eurozone have continued but, generally, the global economic outlook improved. The situation in Greece has improved after the European Union (EU), in conjunction with the International Monetary Fund (IMF), has pledged to offer financial support. However, the instability of the EU could present barriers to progress in the future as deep divisions appear to be widening between key members. As history shows, France and Germany rarely agree on anything. Meanwhile, the European economies with high debt will continue to experience constrained growth.

The US economy has been solid but unspectacular as often contradictory data has confused economists questioning the strength of the recovery. While there are few signs of another downturn in the economy (the 'double dip'), acceleration in growth is not apparent either. Most of the economic data released last quarter was above market expectations but remains inconsistent. Consumer spending and employment are still well below 2007 levels. As a result, the Federal Reserve has admitted that they don't expect to tighten monetary policy in the short term.

Conversely, Australian interest rates increased after home prices, employment and public investment spending all rose. Rising commodity prices and the mining sector are expected to drive Australian economic growth to 3.5% in 2010-11 - a massive turnaround from only a year ago.

While many emerging economies are rapidly recovering from the global recession, most of the major developed nations continue to lag. Major growth imbalances are now occurring between different countries and regions. Further deleveraging will put constraints on consumer spending and slow the pace of growth. Investors look nervously forward to the inevitable withdrawal of economic stimulus (via interest rate rises), but the trend in share markets is upward.

Superannuation Focus

Post Mortem

Superannuation is a tax-effective tool for wealth creation in preparation for retirement. The tax concessions that can be achieved while you are alive are well documented, but what happens to your superannuation once you are deceased? The distribution of superannuation assets is at the discretion of the fund's trustees (except where a binding death nomination is made) and a superannuation benefit can only be paid to the member's legal personal representative or a dependant. Broadly speaking, a dependant is a spouse, child or a person with whom the member has an interdependency relationship (usually financial). This distribution can be in the form of a lump sum or a pension.

The taxable portion of a superannuation benefit which is paid to a non-dependant beneficiary will be taxed in the hands of the recipient at 16.5% whereas a dependant will receive the benefit tax-free. To qualify for the tax-free status, a child dependant must be under the age of 18 or, if over 18, must have been financially dependent on the deceased. Once a child reaches 25, they are no longer eligible (unless permanently disabled). The tax-free portion is not taxable to the beneficiary, regardless of whether they are a dependant or not.

In most cases, children will be non-dependants by the time they become beneficiaries of superannuation proceeds. A strategy to minimise the amount of tax payable for them is to reduce the taxable portion in your superannuation benefit. This can be done by withdrawing a lump sum then re-contributing it back into superannuation. The taxable portion of the withdrawal will then become tax-free. You will need to ensure you keep within the superannuation contributions limits.

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The sale of assets by a superannuation fund in the pension phase is not subject to Capital Gains Tax (CGT). However, if assets are sold to fund a lump sum death benefit, it is considered a CGT event. To avoid a hefty CGT liability for your beneficiaries, consideration should be given around assets with large unrealised gains and strategies implemented to minimise or eliminate the CGT liability.

Div 7a Ruling on Trusts

Unpaid Present Entitlements Under Attack – Time to Review or Restructure Your Trusts

The Tax Office has now issued its final ruling on the application of Division 7A to unpaid present entitlements (UPE) payable from a trust to a private company. The Tax Office maintains its view Division 7A will apply to unpaid present entitlements, but it has backed away from the more serious retrospective application of the draft Ruling.

For UPEs payable by trusts to private companies created after 16 December 2009, the only way to ensure they are not treated as loans is to ensure they are held for the absolute benefit of the private company.

It is crucial for you to ensure you satisfy the requirements of the Tax Office, which can be complicated. Where the UPE is subject to Division 7A and is subsequently deemed to be a dividend, this will result in double tax on the same amount – once in the hands of the company when the original trust distribution is made, and then a second time when the trust is deemed to have received a dividend from the company.

Please contact us to discuss your specific situation.

New Requirement for BAS and Tax Agents

All registered tax agents and bookkeepers now required to hold professional indemnity insurance

Dale Boucher, Chair of the Tax Practitioners Board, announced that from 1 July 2011, registered BAS and tax agents will need to have professional indemnity insurance coverage.

Mr Boucher commented that ‘The Board recognises professional indemnity insurance as an important and sensitive matter for agents. It is also an important protection for consumers. As such, the Board has made this one of its priority areas for consideration. While the Board has yet to undertake detailed research and consultations with stakeholders, the overall case for setting an insurance requirement is clear. The Board wants to give stakeholders as much notice as possible that coverage will be required from 1 July 2011. This will be a general requirement that will not apply until then and it is likely to be subject to exceptions.’

He continued, ‘Over the next three months the Board will be consulting, through its Committee on Professional Indemnity Insurance, with stakeholders including the insurance industry to develop its approach on the insurance cover required by each agent segment. Agents will be given time to comply with the requirements. We anticipate publishing an exposure draft statement in four months time, with the details to be publicly announced in September 2010. Following this announcement, registered agents will have adequate time to comply with the Board’s requirements.’

Contact Us

For much more information about these recent tax changes or for advice regarding your personal situation please contact us.

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