

# ASPECTS OF FINANCIAL PLANNING



## End of financial year planning Business and investors considerations April 2015

With 30 June 2015 fast approaching, now is a good time to ensure your year-end financial strategies are in place. You may also want to take the opportunity of reviewing your finances for the coming financial year. In doing so, it may be worthwhile to consider the following list of suggestions relating to 'Business and Investors Considerations'.

# End of financial year planning

## Business and investors considerations April 2015

### Business and Investors Considerations

Important in 2014/15

#### Reduction to company tax rate from 1 July 2015

The Government remains committed to its 2013 election pledge to reduce the company tax rate for small businesses from 30% to 28.5% for income years beginning on or after 1 July 2015.

The reduction was originally to apply to all companies; however, large businesses with taxable income over \$5 million were to be subject to the Paid Parental Leave levy of 1.5%, to offset the tax reduction.

As the Paid Parental Leave scheme shall no longer go ahead, it is unclear how the company tax rate reduction will be designed to limit its application to small businesses. Further details of this are expected shortly.

As a result of the reduction to the company tax rate from 1 July 2015, small business companies should consider the following:

- The timing of income and deductions being recognised for tax purposes in the 2014-15 year versus the 2015-16 year
- The impact on franking credit account balances and whether to pay franked dividends in the 2014-15 year versus the 2015-16 year
- The adjustment to Pay As You Go (PAYG) instalment rates for quarters commencing from 1 July 2015; and
- Impacts on tax effect accounting for the year ending 30 June 2015 (including adjustments to deferred tax asset and liability balances).

These matters should be addressed as more details come to hand regarding the tax rate reduction and any consequential changes (e.g. to franking accounts and PAYG instalments).

#### Research and Development (R&D) tax offset

Legislation to reduce the rate of the tax offsets available under the R&D tax incentive by 1.5% for 2014-15 and later years was defeated in the Senate on 2 March 2015.

Accordingly, despite the reduction to the company tax rate for small businesses, the R&D tax offsets shall remain at 45% (refundable offset for eligible entities with turnover of less than \$20 million) and 40% (non-refundable offset for all other eligible entities).

Businesses who may have undertaken eligible R&D activities within companies should speak to Financial Index Wealth Accountants to consider whether they may be entitled to the R&D tax incentive.

#### Tax related changes for businesses upon repeal of the Mineral Resources Rent Tax (MRRT)

##### Capital allowance

- The \$6,500 write-off threshold for depreciating assets, costs incurred in relation to depreciating assets, and low pool values under the small business entity capital allowance rules was reduced to \$1,000 in effect from 1 January 2014; and
- The special rules for motor vehicles costing more than \$6,500 whereby the first \$5,000 plus 15% of any excess cost was immediately deducted also ceased to apply from 1 January 2014, and motor vehicles are now subject to the same rules as other depreciating assets.

##### Company loss carry-back rules

- The short-lived company loss carry-back rules have been abolished as of the 2013-14 year. Under those rules, a company was able to apply a loss against taxable income in previous income years, and effectively claim a refund of tax paid in those years up to a limit of \$300,000.

##### Superannuation Guarantee

- The gradual increase in the Superannuation Guarantee rate to 12% has been re-phased, with the 2014/2015 year rate of 9.5% now frozen until 1 July 2021, from which date it will increase by 0.5% per year.

#### Monthly PAYG tax instalments

From 1 January 2015, companies which had base assessable instalment income over \$100 million (as determined from their most recent tax return) moved to the monthly PAYG tax instalment program. From 1 January 2016, this shall apply more broadly to companies with assessable income over \$20 million.

The disclosures in company tax returns for 2014-15 and later years (particularly in relation to showing net versus gross income amounts) will be important in terms of whether they meet the \$20 million threshold to be subject to monthly tax instalments.

# End of financial year planning

## Business and investors considerations April 2015

### Trust distributions

If your entity structure is a trust, then it is crucial that your trustee resolution to appoint or distribute income to beneficiaries is effective as at 30 June 2015. This means that tax planning for trusts should be done as soon as possible to ensure the resolution can be made with tax effective considerations in mind and also finalised/ documented prior to 30 June.

### Areas of ATO focus in 2015

The ATO has developed small business benchmarks for over 100 industries, using data from income tax returns and business activity statements. Taxpayers can use these benchmarks to compare their performance with the rest of their industry. Moreover, they enable the ATO to identify taxpayers whose performance is outside of the benchmark range, and are more likely to be subject to compliance activities such as reviews and audits.

The ATO is concerned with small businesses who fail to report income and over-claim tax concessions, whether as a result of deliberate attempts to hide income and operate in the hidden or cash economy, or through inadvertent mistakes such as companies inappropriately seeking capital gains tax concessions.

The ATO has expanded their information-gathering capabilities to include more small business transactions, such as payments to contractors in the building and construction industry and capital gains from the sale of shares and property. The ATO will use this data to identify businesses that fail to report income, leading potentially to the issue of default assessments and, in some cases, prosecution.

For businesses with turnover in excess of \$2 million, the ATO is particularly concerned by the inappropriate use of trusts as part of tax avoidance and evasion arrangements (with a Trusts Taskforce established to investigate), and private company owners misusing company money or assets for private purposes without repaying or accounting for it properly.

The ATO will focus additional compliance activities on taxpayers with capital losses, poor tax and economic performance, and large one-off or unusual transactions including wealth shifting.

### Other planning considerations

#### Variation of PAYG tax instalments

Subject to a review of your year-to-date tax position, it may be possible to reduce the amount of your remaining tax instalments for the 2014/2015 year (i.e. specifically the quarterly tax payments for March 2015 and June 2015). This can provide a cash flow advantage as compared to the delay in waiting for your 2015 tax return refund to be paid by the ATO. Please contact your Financial Index Wealth Accountants Adviser to discuss this issue.

#### Bad debt

If you have any bad debt, ensure you write them off prior to 30 June 2015 and prepare minutes approving the write-off. This will also enable an adjustment for any GST charged on the original invoice.

#### Franking credits

Shares must generally be held "at risk" for at least 45 days for entitlement to franking credits. Individuals and superannuation funds can receive a refund of excess imputation credits. Unutilised excess franking credits in a company may be carried forward as a revenue loss.

#### Maximising allowable deductions

Expenses that are incurred before year end can reduce taxable income. Consider upcoming liabilities and the value in incurring them before year end. Allowable deductions may include:

- Paying directors' fees and bonuses
- Repairs on property and machinery
- Pooling depreciating assets; and
- Scrapping of depreciating assets which are no longer being used.

#### Non-commercial losses

Non-commercial loss provisions restrict the ability of an individual who carried on a 'non-commercial' business activity to offset that loss against other income earned in that income year. The provisions will not apply if certain tests are satisfied. There are also special exceptions for primary producers and artists.

Individuals with an adjusted taxable income of \$250,000 or more will generally not be eligible to offset losses from non-commercial activities against other income. However, there may be an opportunity to request the Commissioner's discretion to allow you to claim your losses.

# End of financial year planning

## Business and investors considerations April 2015

### PAYG payment summaries

PAYG payment summaries must be provided to employees by 14 July 2015 and lodged with the ATO by 14 August 2015, unless the ATO have granted your business an extension of time.

### Personal Services Income (PSI)

There are special rules about the tax treatment of Personal Services Income (PSI). The rules can apply to individuals, contractors and contracting entities by:

- Limiting the deductions available; and/or
- Attributing personal service income derived by an entity to the individual who performed the service.

An individual or personal services entity is subject to the PSI rules, unless it can show that the “results test” is satisfied, or it does not derive 80% or more of its income from one client and passes one of three additional tests.

### Personal use assets

Where assets owned by a company are used outside of a business by a shareholder or “associate” – this may result in a breach of Division 7A. This can give rise to an unfranked dividend to you for tax purposes.

If your company owns any assets that are available to be used for non-business purposes, please contact your Financial Index Wealth Accountants Adviser to discuss this issue.

### Prepayments (other than for Small Business Entities)

Unless you are a Small Business Entity (refer below), only certain prepayments which are required to be made by law, such as worker’s compensation insurance and other prepaid amounts of less than \$1,000 are deductible as incurred.

### Shareholder loans

If you or your associates borrowed money, received a benefit, or had a debt forgiven from a private company during the year, the Division 7A rules may apply to you.

### Small Business Entities (SBE)

In general terms, you are a Small Business Entity (SBE) if you carry on a business and your aggregated turnover is less than \$2 million, or is likely to be less than \$2 million as at the commencement of the financial year.

SBEs can choose to access certain concessions including:

- Immediate deductions for prepayments of up to 12 months; and
- Simplified depreciation and trading stock rules.

If you are transitioning beyond being able to be considered a SBE based on your turnover, it is important we consider the implications for you in this transition and consider whether there are any opportunities to minimise this impact on you and your associated entities.

### Small business Capital Gains Tax (CGT) concessions

In addition to the above SBE concessions, four specific small business concessions may apply to reduce capital gains from the sale of your business, or active business assets, where you meet the \$6 million “maximum net asset value test”.

These CGT concessions are:

- A 15 year exemption;
- A 50% reduction for active assets;
- \$500,000 retirement concession; and
- Replacement asset roll-over relief.

If the 15 year exemption does not apply, you may apply one, two or all three of the remaining concessions.

If you sell your business or sell the entity that carries on the business, or are considering selling your business in the future, please contact us prior to entering into any agreement to discuss eligibility and planning to access these concessions. Note that we are observing this is an area of high risk for ATO audits at the moment.

### Timing of income

Consider issues associated with the timing of income close to 30 June, such as:

- The time of billing work in progress
- Timing of sales income; and
- The date of entering into a contract for the sale of CGT assets.

# End of financial year planning

## Business and investors considerations April 2015

### Superannuation

Contributions in respect to the quarter ending 30 June 2015 must be made before this date for a deduction to be available in the 2015 year. For family businesses, consider maximising concessional contributions for key individuals.

The concessional contributions cap from 1 July 2014 is \$30,000 p.a. for all individuals, unless you were 49 years of age or older on the 30th June 2014. If you satisfy this age requirement, your increased concessional contribution limit is \$35,000 p.a. Therefore, consider whether you are eligible to make an additional \$5,000 concessional superannuation contribution prior to 30 June 2015. Concessional contributions above these caps are assessed on an individual basis, taking into account their marginal tax rate, and also incur an interest charge from the ATO.

The non-concessional contribution cap for 2014-2015 is \$180,000 p.a., or a total of \$540,000 on a bring forward basis over a 3-year period (provided that the bring forward rule wasn't triggered in either 2012-2013 or 2013-2014).

### Trading stock (including Livestock)

Stock can be valued under different methods for each item of stock:

- Cost;
- Sales Value; and
- Lower of Market Value or Replacement Cost.

Conduct a stocktake before year end and identify obsolete items. Determine whether to conduct "sales" prior to 30 June 2015.

### *Have you been wondering whether a Self Managed Superannuation Fund (SMSF) is suitable for you?*

Now is a good time to seek specific advice in relation to this question, as it may be appropriate to establish a SMSF in conjunction with other tax planning opportunities, to maximise the benefit of the SMSF in your circumstances.

### A new year

Last year's tax tips may not be appropriate for this year, as changes to superannuation and taxation have shifted the tax planning goal posts. Start afresh this financial year and work off the information available to you for 2014/15.

### More Information

Speak to your Financial Index Wealth Accountants Adviser for more information about these End of Financial Year strategies, as well as new financial planning opportunities for the year ahead.

# End of financial year planning

Business and investors considerations April 2015

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