YEAR-END TAX BULLETIN

2016 TAX HIGHLIGHTS

Federal Budget announcements

Superannuation

Maximum pension account contributions

Superannuation pension account with balances of more than $1.6 million as at July 2017 must be reduced to $1.6 million. Transfers to the pension account after that date cannot be made if they increase the pension balance by more than $1.6 million.

Concessional contributions cap

From 1 July 2017 superannuation concessional contributions caps will be reduced to $25,000 per year. Consider contributing before 1 July 2016 and again before 1 July 2017 to use the current higher contribution caps.

Non-concessional contributions cap

The superannuation non-concessional cap is to be restricted to a $500,000 life time cap applicable from Budget night 3 May 2016.

Transition to retirement pensions

Superannuation transition to retirement income streams (TRIS) pensions will no longer be tax free from 1 July 2017.

SUPERANNUATION PLANNING TIP

Advice on Superannuation planning matters is generally considered to be financial advice, therefore from 1 July 2016 such advice should only be provided by a licenced financial adviser.

Tax cuts

Individual tax cuts

From 1 July 2016 there will be individual tax cuts for individuals with over $80,000 taxable income. This is as a result of the increase in the 32.5% marginal tax rate threshold increasing from $80,000 to $87,000.

Small business concessions

The small business company tax rate will be cut from 28.5% to 27.5%, and increases in small business turnover threshold from $2 million to $10 million (except for small business CGT concessions and small business tax discount, see below).

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Unincorporated small business tax discount will increase from 5% to 8% from 1 July 2016, income. In addition, the annual aggregated turnover threshold for this discount will increase from $2 million to $5 million. However the discount amount continues to be capped to $1,000 per individual.

TAX PLANNING TIP
With the reduction in tax rates on 1 July 2016, affected taxpayers may want to delay the derivation of income and capital gains until after 30 June 2016, to obtain lower tax on income or bring forward the incurring of deductible expenses to gain advantage of the higher tax benefit before 1 July 2016 (subject to prepayment rules and general anti avoidance rules).

Super guarantee

The rate for superannuation contributions by employers on behalf of their employees under the superannuation guarantee contributions (SGC) for the year ended 30 June 2016 is 9.5%.

Employers must make SGC for their employees on a quarterly basis within 28 days after the end of each quarter (September, December, March and June).

TAX PLANNING TIP
Tax deductions for the superannuation contributions will only be available in the 2016 tax year if the contribution is received by the superannuation fund by 30 June 2016.

Building and construction reporting

Businesses in building and construction are required to record payments to contractors and report these payments to the Tax Office.

The annual report due to be lodged by 21 July 2016.

Director penalties

Company directors need to pay attention to companies' PAYG and SGC liabilities as there are strict penalties for directors of companies that fail to make outstanding PAYG and SGC payments.

Loans from private companies - Division 7A

Shareholders of private companies and associates may be assessed on a deemed dividend if the company provides them with loans, payments, loan forgiveness or private use of company assets, unless the requirements of Division 7A are satisfied.

Make sure all Division 7A loans made in the 30 June 2015 tax year have been either repaid or put under a complying Division 7A loan agreement by the lodgement date of the company's 2015 tax return.

Make sure the minimum repayment amounts have been made by 30 June 2016 for complying Division 7A loans made in the 2015 and previous years.

TAX PLANNING TIP
To ensure all future Division 7A loans are covered by a qualifying loan agreement, consider entering into a Division 7A complying facility loan agreement that will be able to cover all future loans to shareholders and/or their associates.

Trusts

Unpaid trust distributions

Trust distributions to a private company for the 2015 tax year, which are unpaid at end of the 2016 tax year, may be a Division 7A loan unless paid out to the company or converted to a complying Division 7A loan by the lodgement date of the company's 2016 tax return, or held in sub-trust for the company by the lodgement date of the trust's 2015 tax return (usually 15 May 2016).

If the unpaid distribution for the 2014/15 tax year has been converted to a sub trust ensure the trustee has paid the company all the income under the sub trust before 30 June 2016.

Trust distributions and resolutions

Most discretionary trust deeds require distribution determinations for 30 June year-end be made before 30 June, or earlier. Trustees must make these determinations prior to 30 June or the date in the deed if earlier than 30 June.

Trust streaming

Under the streaming provisions, trustees can stream franked dividends and capital gains to specific beneficiaries, rather than distributing these amounts as part of the general distribution to beneficiaries.

The deed must not prevent the trustee from streaming these amounts to specific beneficiaries. In addition, the beneficiaries who are to receive these amounts must be specifically entitled to them, and the trustee must record the streamed distributions in the accounts or records of the trust, by 30 June 2016 for franked dividends or by 31 August 2016 for capital gains (although the trust deed will usually require the trustee's distribution determination to be made by 30 June 2016).

TAX PLANNING TIP
You and/or your tax adviser should regularly review your trust's deed to ensure you and/or your tax adviser understands how it interacts with the various tax requirements, some of which are mentioned above.

TFN trust reporting

Trustees of resident discretionary trusts, family trusts and other closely held trusts are reminded they are required to report new beneficiaries' tax file number (TFN) and certain personal information to the Tax Office. For 30 June 2016 the TFN report of new beneficiaries must generally be made to the Tax Office by 21 July 2016.

If the beneficiary has not provided their TFN to the trustee, the trustee will have to withhold tax from the trust distribution where the beneficiary becomes presently entitled to trust income or is paid an amount of trust income.

TAX PLANNING TIP

To ensure you don't miss the reporting of beneficiaries TFN's, we suggest you report the TFN's of all likely beneficiaries of the trust now, even though they may not be receiving a distribution until a future year.

Ongoing year-end issues

Small business entities

- The taxpayer is eligible to be a small business entity for 2015/16 if annual turnover is less than $2 million
- Benefits include small business CGT concessions, simplified depreciation and trading stock rules.

Timing of income derivation

- Determine whether you should use cash or accruals tax accounting
- Consider deferring receipt until after 30 June 2016
- Alternatively if you are in a tax loss, consider accelerating the receipt of income prior to 30 June 2016.

Income received in advance

- Income received in advance is not taxed until services are provided as long as income credited to unearned income account, and released to profit when the services are provided.

Timing of expenses

- Expenses are deductible if incurred by 30 June 2016
- Provisions are generally not deductible
- Some accruals are not deductible
- Some prepayments are not deductible until future years
- Interest paid after business ceases may continue to be deductible.

Repairs

- Deduct repairs and maintenance incurred before 30 June 2016, unless they relate to initial repairs, substantial replacement or improving an asset.

Gifts

- Donate to deductible charities before 30 June 2016 - check recipient endorsed deductible gift recipient.
- Gifts not deductible if some benefit is received by donor except when given at an 'eligible fundraising event' (special conditions apply).

Bad debts

- Review all debts before 30 June 2016
- Physically write-off bad debts before year-end.

Trading stock

- Valuation - choose cost, market value or replacement
- Identify any obsolete stock – special valuation rule
- Scrap unwanted stock by 30 June
- Small business entity taxpayers do not undertake a stock valuation if the difference between opening and closing value is less than $5,000.

Prepayments/advanced expenditure

- Prepay deductible expenditure by 30 June 2016
- Prepayment rules operate to spread deduction over more than one year
- Prepayment rules do not apply to salary, amounts required to be paid by law or a court, or expenditure under $1,000
- Small business entity taxpayers and non-business individuals are allowed prepayments if the benefit does not extend beyond 12 months.

Director and employee entitlements

- Conduct shareholders' meeting before 30 June 2016 to approve directors' fees to obtain deductions for 2016
- Ensure arrangements for employee bonuses based on 2015/2016 results are in place before 30 June 2016 to get deductions for the 2016 year.

Sale of investments

- Where CGT assets can be realised for a gain, delay sale until after 30 June, unless you have losses that may be lost because of company/trust loss rules
- Crystallise capital losses to offset gains – losses may be disallowed in the event of wash sale where loss asset or similar asset reacquired or continues to be controlled by the taxpayer
- If assets held for less than 12 months by individuals, trusts or super funds that are eligible for the CGT discount, consider delaying sale until 12 months has passed
- For small business entities with CGT assets less than $6 million or annual turnover less than $2 million, consider small business concessions.

Ceasing business or business sold

- Consider consequences of payments for employee entitlements, transfer of employee entitlements to a new employer and redundancy payments
- Consider if small business concessions, rollovers, or super contributions are available
- Consider whether expenses incurred after business ceases may still be deductible.

Business related costs / project costs

- Project costs are deductible over the life of the project
- Other business related costs not otherwise deductible, not included in a CGT cost base nor capital allowance cost, are deductible for over five years
- It is essential the costs relate to a business that is, was, or will be carried on for a taxable purpose.

Depreciation

- Scrap obsolete items by 30 June 2016
- Increase depreciation by reassessing effective life of assets if use exceeds ATO estimates of effective life
- For items that cost less than $1,000 consider a low value pool, with diminishing value rate of 37.5%
- Some depreciable items of less than $100 ($300 if not in business) may be immediately deductible
- For small businesses this immediate write off threshold is $20,000 and for other assets they may be placed in the small business depreciation pool and depreciated at 15% in the first year and 30% in subsequent years.

Imputation

- If shares not held at risk for at least 45 full days, franking offset may not be available (except individuals whose franking offset less than $5,000)
- Non-fixed trusts lose franking offset unless beneficiaries have vested and indefeasible interest in the shares held at risk for at least 45 days or family trust election made and trustee held shares at risk for at least 45 days
- Where more than one dividend paid in franking period, ensure all dividends franked under with benchmark rate (franking percentage of first dividend)

Year-end tax effective investments

- Has promoter obtained product ruling
- Ensure promoter operated the scheme in accordance with product ruling
- Check if the investment is the subject of a Taxpayer Alert
- Consider Part IVA and other integrity measures
- Warning signs include contrived or artificial arrangement, limited or non-recourse funding; low cash outlay; in-built exit strategy; prepayments; arrangement not economically viable without tax benefit; arrangement not independently assessed for viability.

Home office expenses

- Portion of interest, rent and insurance are not deductible unless you are carrying on business from home and the area is separate and distinguished from private living areas
- Converting spare room not sufficient
- Power, heating and depreciation can be claimed at a flat rate established by ATO even if room is not exclusively set aside for a home office
- If an office is provided by the employer, working from home as a convenient place to do part of the work may not be sufficient to claim home office expenses.

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