YEAR-END TAX PLANNER

2016 TAX HIGHLIGHTS

Federal Budget announcements

The 2016/17 Federal Budget made some important announcements, but because of the Federal Election on 2 July 2016, the announcements will not be implemented until after the Federal Election (assuming the current Government is re-elected). Below is a summary of some of the important Federal Budget issues that are relevant for year-end tax planning

Superannuation

Maximum pension balances

From 1 July 2017 transfers to superannuation pension accounts will be restricted to $1.6 million. Superannuation fund members who are already in receipt of a superannuation pension, and have a superannuation account balance in excess of $1.6 million as at 1 July 2017, may have to transfer the excess back to the funds accumulation account.

Concessional contribution caps

From 1 July 2017 superannuation concessional contributions caps will be reduced to $25,000 per year. Superannuation fund members who can take advantage of the current higher concessional contribution caps may want to contribute up to these caps before 1 July 2016 and again before 1 July 2017.

Non-concessional contribution caps

The Superannuation non-concessional cap is to be restricted to a $500,000 life time cap applicable from Budget night 3 May 2016. Superannuation fund members who were intending to make non-concessional contributions before 1 July 2016 need to be aware that these contributions should not be made if it puts them over the $500,000 lifetime limit.

Transition to retirement pensions

Superannuation transition to retirement income streams (TRIS) pensions will no longer be tax free from 1 July 2017. Superannuation fund members who are in these arrangements, or intend to go into these arrangements, need to be aware that the concessional nature of these arrangements will be reduced from 1 July 2017 and they may want to reconsider either going into them or if already in, whether they unwind them.

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Individuals 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.

Affected taxpayers may want to delay the derivation of income or capital gains until after 30 June 2016 to obtain lower tax rate on income or bring forward the incurring of deductible expenses or capital losses to gain advantage of the higher tax benefit before 1 July 2016 (subject to prepayment rules and general anti avoidance rules).

2016-17	INDIVIDUAL TAX RATES	
	Threshold	Rate
1st rate	$0 - $18,200	0%
2nd rate	$18,201 - $37,000	19.0%
3rd rate	$37,001 - $87,000	32.5%
4th rate	$87,001 - $180,000	37.0%
5th rate	$180,001 +	47.0%

The temporary debt levy that was introduced in 2014/15 will continue for this year. Therefore taxpayers with a taxable income in excess of $180,000 will be liable to an additional tax of 2% of income in excess of $180,000. In addition, the Medicare levy is 2% of taxable income. Therefore the top marginal tax rate for resident individuals will be 49% (including Medicare levy).

Non-resident tax rates

The temporary debt levy also applies to non-residents, resulting in the marginal rate for non-resident individuals whose taxable income exceeds $180,000 being 47% on amounts in excess of $180,000.

Small businesses

From 1 July 2016 the small business company tax rate will be cut from 28.5% to 27.5%. In addition the small business turnover threshold will increase from $2 million to $10 million. Thresholds for the small business CGT concessions remains at $2 million turnover or $6 million net asset test and small business tax discount will have a $5 million turnover threshold.

Affected taxpayers may want to delay the derivation of income until after 30 June 2016 to obtain lower tax rate 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).

Increase of the unincorporated small business tax discount

From 1 July 2015, individuals and individual partners in a partnership with business income of less than $2 million have enjoyed a tax discount of 5% of tax paid on business income. This discount amount is capped to $1,000 per individual.

From 1 July 2016, the tax discount will increase to 8% and the annual aggregated turnover threshold will increase to $5 million.

The tax discount will also increase over the coming ten year period to 16% by 2026/27.

However the maximum rebate will remain at $1,000 pa.

Tax consolidated groups - removing the double benefit of deductible liabilities

The Government will delay and modify a previously announced 2013-14 Budget integrity measure that was designed to prevent a consolidated group from obtaining a double tax benefit when an entity with deductible liabilities joined the group. The modifications mean that a consolidated group that acquires a subsidiary with deductible liabilities will no longer include those liabilities in the consolidation entry tax cost setting process.

The previous 2013-14 Budget measure required the consolidated group to recognise an additional income amount over the first four years after acquiring an entity with deductible liabilities. The modified approach of denying an increase in the consolidated entry cost setting process will mean there will not be a definite tax liability over four years but instead will result in lower CGT cost bases and depreciation allowances, which will usually spread the tax cost over a longer period of time.

The start date for this measure has been deferred from 14 May 2013 (under the original announcement) to 1 July 2016. This means companies that are contemplating tax consolidation or acquisition of a new consolidated group member may want to consider finalising the consolidation or acquisition before 1 July 2016 if there are substantial deductible liabilities in the joining members of the group.

Multinationals

Multinationals should be aware of the various new multinational tax rules that have been announced in the Budget including Diverted Profits Tax, Hybrid Mismatch rules, Transfer Pricing amendments and increased administration penalties for multinationals not keeping required documentation.

Multinationals need to ensure their international transactions are not being affected by these new rules and ensure they have the appropriate documentation, particularly in relation to Transfer Pricing to ensure they have a reasonably arguable position for their Transfer Pricing arrangements.

Important year-end planning issues

Director penalties

Company directors should review their companies' reporting mechanisms to ensure they are adequately informed of their companies' financial position. The director penalty provisions may leave directors personally liable where their company fails to make PAYG Withholding and SGC payments by the respective due dates.

Defences against director liabilities include situations where the director has been ill, has taken all reasonable steps to ensure the outstanding liabilities have been paid, or in limited circumstances the director has been appointed to the company in the last 30 days. However, good evidence will be required for these defences.

Loans from private companies - Division 7A

Private company directors are reminded to ensure they comply with Division 7A where they provide loans or other financial assistance to shareholders and associates or allow them to use company property.

Loans made by private companies to their shareholders or associates will be subject to Division 7A unless the loan is repaid by the earlier of the date of lodgement or due date for lodgement for company's tax return for the year, or the loan is converted to a formal loan with the following features:

- Is under a Division 7A complying written agreement and on commercial terms by lodgement day
- Has a minimum benchmark interest rate
- Has a term of no more than seven years, or 25 years for registered mortgages over real estate.

Other important Division 7A issues:

- Ensure minimum loan repayment amounts are paid in years after the loan is made; any shortfall will be a deemed dividend in that year
- A Division 7A deemed dividend is generally unfranked
- Payments and debt forgiveness to a shareholder or associate can also be a deemed dividend
- The private use of company owned assets for less than market value consideration can be a deemed dividend under Division 7A
- These rules apply to shareholders and associates, which includes relatives of shareholders, and trusts, companies and partnerships the shareholders or their associates are connected with
- There is Commissioner's discretion for non-complying loans not to be treated as a deemed dividend or to be treated as a franked dividend if it resulted from an honest mistake or inadvertent omission
- Loans for income producing purposes can be caught as a deemed dividend under Division 7A
- Make sure all Division 7A loans made in the 30 June 2015 tax year were either repaid or put under a complying Division 7A loan agreement by the lodgement date of the company's 2015 tax return
- If the company has an unpaid present entitlement from a trust, it may be a deemed dividend to the trust and/or the shareholder or their associate in some circumstances (see comments under 'Trusts' below).

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 or their associates. If such a facility loan agreement is already in place review it regularly to ensure it complies with current law and covers all relevant shareholders and associates.

Trusts

Unpaid trust distributions

Distributions made by trusts to private companies which remain unpaid at the end of the following year may be deemed to be a loan to the trust and become subject to Division 7A.

For the 2016 tax year, unpaid distributions to a private company that arose in the 2015 tax year may be a deemed dividend to the trust for the 2016 tax year unless the trustee:

- Has put the amount in a sub-trust for exclusive benefit of the private company by the earlier of the lodgement date or due date for lodgement of the trust's 2015 tax return (usually 15 May 2016)
- Converts the amount to a Division 7A complying loan by the earlier of the lodgement date or the due date for lodgement for the 2016 company tax return
- Pays the amount to the company by the earlier of the lodgement date or due date for lodgement for the company's 2016 tax return.

For unpaid distributions that have been placed into a sub-trust, the annual return on the sub-trust investment must be paid to the private company by 30 June 2016.

Loans from trusts

In addition, where there are unpaid distributions to a private company (including those under sub-trust) that have not been converted into a Division 7A loan, and the trustee has made loans or payments to shareholders of the private company (or their associates), these loans or payments may also be subject to Division 7A.

- A loan from a trust will be a deemed a dividend where:
  - The trust has made a distribution to a company
  - The trustee has not paid the distribution to the company that is presently entitled to the distribution
  - The trust makes a loan to company's shareholder or associate
- The loan is deemed to have been made by the company to the company's shareholder or associate and therefore subject to the Division 7A loan rules as discussed above
- Loans will not be deemed dividends if they are repaid or put on a commercial footing before the lodgement day for the trust tax return
- This can apply even if the unpaid distribution is put under a sub-trust for the benefit of the private company, as described above
- Certain payments and debt forgiveness from the trust may also be deemed dividends on this same basis.

Trust distributions and resolutions

Most trust deeds for discretionary trusts require trustees to make their distribution determination for the year ended 30 June on or before 30 June, or sometimes earlier. It is essential that trustees make these determinations prior to 30 June or earlier date if required in the trust deed (notwithstanding the requirements of the trust streaming rules discussed below).

The Tax Office stated they expect there to be evidence of the trustees making determinations in accordance with their trust deeds by the date as stated in the trust deed.

We suggest that written evidence of the 2015/16 trustee determination of income of the trust (preferably in the form of a trustee resolution) be prepared by 30 June 2016 (or whatever earlier date is required by the trust deed).

Trust streaming

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

To stream franked dividends and capital gains, the trust deed must not prevent the trustee from streaming these amounts to specific beneficiaries. The trust accounts must also separately account for the streaming of the capital gains and franked dividends to the 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.

The trustees' distribution resolution in favour of the specifically entitled beneficiary would generally be sufficient for this purpose.

Where beneficiaries are streamed franked dividends, this must be recorded by 30 June 2016. Where beneficiaries are streamed capital gains, this must be recorded by 31 August 2016. However, where capital gains are included in the 'income of the trust' (accounting/trust law income) the trust deed will usually require the trustee's distribution determination to be made by 30 June 2016, or earlier).

Where the definition of income in the trust deed includes capital gains and franked dividends, the determination to stream these amounts must be done prior to making the determination to distribute the balance of the trust income. For example where the distribution of streamed franked dividends and/or capital gains is in the same resolution as the distribution of the balance of the income of the trust, make sure the distribution of the streamed franked dividends and capital gains is mentioned before the distribution of the other income of the trust.

TAX PLANNING TIP

You, and/or your tax adviser, should regularly review your trust's deed to ensure that 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 that 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 distribution. The beneficiary will be entitled to claim a credit on the tax when they lodge their income tax return.

The report of the new beneficiaries' tax file numbers to the Tax Office must be made by no later than the end of the month after the end of the quarter in which the trustee received the TFN. For example if the TFN was received by the trustee on 25 June 2016, the report to the Tax office would have to be by 31 July 2016.

The trustee only has to report each TFN once. You only have to report the TFN for beneficiaries you have not previously reported to the Tax Office.

Affected beneficiaries include individuals, companies, partnerships and other trusts, except for non-residents and beneficiaries under a legal disability (such as minors).

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.

Superannuation

Super guarantee changes

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

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

Tax planning tip

Although the June 2016 quarter SGC does not have to be paid until 28 July 2016, tax deductions for the superannuation contributions will only be available in the 30 June 2016 tax year if the contribution is received by the superannuation fund by 30 June 2016.

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Ongoing year-end issues

Small business entities

- Is the taxpayer eligible to be Small Business Entity i.e. for 2015/16 annual turnover less than $2 million (aggregated with connected entities and affiliates)
- Benefits of being a small business entity include:
  - Small business CGT concessions
  - Simplified depreciation rules
  - Accelerated write off of assets (see budget announcement above)
  - Simplified trading stock regime
  - 100% deduction for certain prepaid expenses
  - Two year amendment of assessment period.

Timing of income derivation

- Consider whether the amount is income or capital - Income and capital gains have different tax timing rules
- What is the appropriate method of income recognition for each type of income: cash or accruals
  - Cash generally for income from personal services, rent, interest, dividends and other income from non- business investments
  - Accruals generally for trading income or other business income that relies on circulating capital, or staff or equipment to produce income
- Consider specific rules to determine when income derived Consider whether income can be deferred until after 30 June 2016
- Alternatively if you are in tax loss consider whether you accelerate income receipt prior to 30 June to recoup losses that may not be available in future years.

Income received in advance

- Income received in advance may not be derived (and taxed) until the services are provided
- Income received in advance should be credited to an unearned income account
- This rule will generally not apply if payment is not refundable if services are not provided
- Income received in advance must be released to profit when services are provided, or if services are not provided, when it is determined the services will not be provided and no refund is claimed by customer.

Timing of expenses

- Expenses are generally deductible if incurred by 30 June 2016. This requires a presently existing liability
- Provisions are generally not deductible
- Some accruals are not deductible
- There are specific rules that determine when some expenses are deductible (in particular, see pre-payment rules below)
- Interest paid after business ceases may be deductible.

Repairs

Incur repairs on or before 30 June 2016 to obtain the deduction in the 2015/2016 income year, but they must not be:

- Initial repairs
- Substantial replacement of an asset
- Improving an asset.

Gifts

- Donate to deductible charities before 30 June 2016
- Ensure the payment is to an endorsed deductible gift recipient (DGR)
- Donations are not deductible if a benefit is received by the donor, unless the contribution was made at eligible fundraising event for a DGR and contribution is more than $150:
  - Deduction will be reduced by value of any benefits received at the event
  - GST inclusive value of benefits received must not exceed lesser of 20% of contribution and $150.

Bad debts

- Review bad debts before 30 June 2016
- Physically write-off bad debts before year-end
- Bad debts may not be deductible if there has been a change in ownership or control of a company or trust (unless company passes the same business test).

Trading stock

- Consider an appropriate valuation method - you can choose cost, market selling value or replacement price
- Identify any obsolete stock – special valuation rule
- Scrap unwanted stock by 30 June 2016
- If taxpayer is a small business entity, stock valuation is not required if the difference between opening and estimated closing value of trading stock for the year is $5,000 or less.

Non-commercial losses

- Losses from businesses carried on by individuals (or partnerships which have individuals as partners) are quarantined and deductible only against income from that business, or a related business unless the tests below are met
- For individuals with adjusted taxable income less than $250,000, at least one of these tests must be met:
  - Assessable income from the business of $20,000 or more
  - Profit from the business in three out of the five previous years, including the current year
  - Real property of $500,000 or more, or other assets of $100,000 or more used in the business
  - The Commissioner exercises his discretion
- For individuals with adjusted taxable income in excess of $250,000, the only test they can access is the Commissioner's discretion (they will have losses quarantined unless they can satisfy the Commissioner the loss was the result of unusual circumstances beyond the control of the taxpayer or because of the nature of the business).

Home office expenses

- Home office expenses may be deductible where you carry on business or employment activities at home
- 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
- If carrying on business from home, deductibility of interest, rent etc. may be determined by the space occupied by the home office, as well as extent the space is used for income producing purposes
- Converting the spare room is not sufficient to be classified as a home office
- Power, heating and depreciation can be claimed at a flat rate established by the Tax Office even if the 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.

Car expenses for individuals

- If claiming actual expenses, check the log book is current and that log book details are correct
- Ensure year-end odometer readings are taken
- Ensure all relevant receipts have been kept.

Pre-payments

- If expenses are not subject to the prepayment rules, prepay deductible expenditure by 30 June 2016
- The prepayment rules spread a pro-rated deduction over more than one year, where the expenditure provides benefits after end of the current income year
- The prepayment rules do not apply to excluded expenditure, which includes:
  - Salary
  - Amounts required to be paid by law or a court
  - Expenditure under $1,000
- Small business entity taxpayers and non-business individuals are allowed prepayments if the benefit does not extend beyond 12 months.

Tax shelters – prepaid investments

- The prepaid investment expenses rules apply to all taxpayers
- There is an exception for interest expenditure on:
  - Real estate investments
  - Shares in listed companies
  - Units in widely held unit trust (at least 300 beneficiaries)
- Deductions for prepayments of managed investments are spread over the service period if:
  - Expenses of investment exceed the income of the investment for that year
  - The taxpayer does not have day-to-day control over investment
  - There is more than one investor in same capacity or a manager manages similar arrangements.

Audit fees

Audit accruals are not deductible unless the audit contract creates a presently existing liability before 30 June 2016 (subject to the prepayment rules discussed above).

Building and construction reporting

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

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

Superannuation

Some of the following super fund issues require advice from a qualified financial adviser:

- If you are over 55 years of age, consider salary sacrifice superannuation contributions and use a transition to retirement pension while still working (note that from 1 July 2017 these pensions will no longer be tax free)
- Employee superannuation guarantee contributions are required by 28 July 2016 - quarterly contributions are now required
- Ensure at least the minimum pension payments have been made for those in pension phase
- Before making any contributions prior to year-end, ensure you are aware of your contribution caps
- Make sure you take into account contributions already made and ensure contributions made for the year do not exceed the concessional and non-concessional contribution limits
- Ensure that contributions made near the end of the year are actually received by the fund by 30 June to ensure deductibility
- Review salary sacrifice arrangements, especially if you have more than one employer, to ensure you do not breach your concessional cap in total.

Deductible personal super contributions

If an individual is making personal super contributions, the contribution will only be deductible if the individual's income from employment is not more than 10% of their total assessable income.

Caution needs to be exercised to ensure the individual's employment income does not exceed the 10% threshold (this restriction is to be removed from 1 July 2107.

In addition, individuals are required to notify the fund if they intend to claim a deduction for their personal contributions.

Super Guarantee and Contractors

Employers need to ensure they make super contributions for all eligible employees, including certain independent contractors for SGC purposes.

Under SGC, 'employee' includes individuals who are employees in the ordinary sense (PAYG) and independent contractors engaged under a contract primarily for the provision of labour.

Where you engage contractors, you should review the contracts to determine whether the individuals are treated as employees for SGC purposes.

Director and employee entitlements

- Conduct shareholders' meetings before 30 June 2016 to approve directors' fees and bonuses to receive deductions for the 2015/2016 year
- Ensure arrangements for employee bonuses based on 2015/2016 results are in place before 30 June 2016 to receive the deduction for the 2015/2016 year
- Ensure employee salary packages that include fringe benefits and/or additional employer super contributions are in place before the sacrificed salary is earned by the employee.

Payment summaries – salary sacrifice

- Employers are required to report (on PAYG payment summaries) reportable super contributions
- These are contributions in excess of the amount required under the SGC (industrial award or law where the amount exceeds the SGC amount) where employee influenced the additional contribution (salary sacrifice)
- Contributions out of post-tax salary are not included.

Losses

- Check to ensure companies and trusts seeking to claim a deduction for current year or prior year losses satisfy the company loss and trust loss rules by 30 June.

Debt forgiveness

- Where a debt owed by the taxpayer is released prior to 30 June, ensure there are no adverse consequences from the application of the commercial debt forgiveness rules
- These rules operate where a debt is released and interest on the debt is deductible, or if the debt is interest free, interest would have been deductible if interest was charged
- The beneficiary of the release may forfeit tax losses, future deductible amounts and/or Capital Gains Tax (CGT) cost bases
- In certain circumstances, there may be advantages in deferring the forgiveness until the following tax year. Where you are considering releasing debts, you should consider the optimal timing of the release.

Year-end Tax effective investments

- Ensure the promoter has obtained a product ruling and operated scheme in accordance with product ruling
- Consider if investment is the subject of a Tax Office Taxpayer Alert
- Consider impact of the general anti-avoidance rules and integrity rules
- The Tax Office has stated schemes should be considered in the light of these warning signs:
  - 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 tax benefit
- – The arrangement has not been independently assessed for economic viability
- – There are prepayments involved (these may not be fully deductible in current year).

Sale of investments – CGT issues

- Where CGT assets will be realised for a gain, consider delaying making the contract for sale until after 30 June unless you have losses that may be lost because of the loss integrity measures
- Caution is required if you crystallise capital losses to offset against capital gains just before 30 June 2016 as this may result in the loss being denied if the taxpayer does not lose effective control of the loss assets, or they are replaced with substantially identical assets (wash sales)
- Timing of disposal under a contract for CGT purposes is generally the date of making the contract
- If assets are 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
- Take care if using options to defer the date of sale of an asset to pass the 12 month rule for CGT discount or to delay CGT event until the next year, as certain options may not be effective for these purposes
- Recoup capital losses against indexed capital gains before discounted gains.

CGT small business concessions

- The concessions are:
  - – 15 year exemption
  - – Active asset reduction
  - – Retirement exemption
  - – Small business rollover.
- To qualify for the basic concessions, the taxpayer must either pass the $6 million net asset value test, or be a small business entity; and the assets must satisfy the active asset test used in the relevant business
- To qualify for the 15 year exemption, the taxpayer must also be retiring or permanently incapacitated and assets must have been held for at least 15 years. To qualify for retirement exemption, if the taxpayer is less than 55, the exempt amount must be contributed to a super fund
- If the taxpayer is a trust or company, special rules determine if the entity can access the concessions
- If the taxpayer sells shares in a company or interests in a trust which conducts a business, there are rules to determine whether the sale qualifies for the concessions
- There are special rules where an asset owned by one entity is used in a business by a related entity.

Depreciation

- Scrap all obsolete items by 30 June 2016
- Consider reassessing the effective life if the asset has excessive use
- Balancing adjustment on disposal – excess assessable or deficit deductible – rollover is available
- Consider delaying disposal of items for a profit until after 30 June and bringing forward disposal of items for a loss to before 1 July
- Cars acquired after 1 July 2002 have an eight year effective life
- Plant costing less than $1,000 - option to allocate assets to a low value pool:
  - – Depreciated at diminishing rate value of 37.5%
  - – First year rate 18.7% diminishing value
  - – New low value assets must go into low value pool
- The replacement cost of items costing less than $100 each can be deducted in the conduct of a business where the items have a short life and may be subject to breakage or loss (see PS LA 2003/8).

Depreciation for small businesses

- Small businesses can claim an immediate deduction for assets they start to use or install ready for use, where the asset costs less than $20,000
- The $20,000 threshold will apply to assets acquired and installed ready for use between 12 May 2015 and 30 June 2017. From 1 July 2017, the threshold reverts back to $1,000 per asset
- A small number of assets are not eligible for the immediate write-off, including horticultural plants and in-house software allocated to a software development pool. In most cases, specific depreciation rules apply to these assets
- Assets valued at $20,000 or more may be placed in the small business depreciation pool and depreciated at 15% in the first year and 30% in subsequent years
- The pool can be immediately deducted if the balance falls below $20,000 over the period (including existing pools).

Depreciation for computer software

Software mainly used as a business tool rather than for sale (in-house software) is depreciated over four years if acquired before 1 July 2015 and over 5 years if acquired after that date.

Immediate deduction - non-business assets

- Immediate deduction for items less than $300 (non-business taxpayers) for:
  - – Income producing assets used predominantly for non-business, e.g. tools of trade or briefcase, or small items of furniture in rental property
  - – Not part of set of assets costing more than $300
  - – Not substantially identical to other assets which in total cost more than $300.

Personal Services Income (PSI)

- If you, or an entity you work for (personal services entity) receive income for the reward for personal efforts or skills (e.g. consultants), the PSI rules may limit the deductions that you or the personal services entity (PSE) may be entitled to claim, and you may be taxed on the PSI received by the PSE
- The rules do not apply to a personal services business (PSB) if you or the PSE:
  - Pass the results test (engaged to produce a result)
  - Do not receive more than 80% or more of PSI from one source and pass one of the PSB tests:
    - Unrelated clients test
    - Employment test
    - Business premises test
- Where more than 80% of the PSI is derived from a single client and you do not pass the results test, you may apply for Tax Office discretion to be classified as a PSB.

Year-end cut-off

- If the accounts close before or after 30 June, a tax adjustment may be required unless the taxpayer has an approved substituted accounting period.

Ceasing business or assets sold

- Consider paying a redundancy or long service leave to employees - must be arm's length if paid to associate
- Defer retirement payment beyond 30 June if employee will be on a lower marginal rate in the following year
- Consider whether small business concessions, rollovers, or super contributions will still be available
- Consider whether expenses incurred after a business ceases will still be deductible.

Project costs/business related costs

- Project costs can be pooled and deducted over the life of project using diminishing value -
- The costs include:
  - Upgrade community infrastructure
  - Site preparation for depreciating asset
  - Feasibility studies; environmental assessment
  - Obtaining information associated with project.
- Mining and transport project capital expenditure not otherwise deductible may be amortised over project life
- Other costs not otherwise deductible, not included in the CGT cost base of an asset, nor included in the depreciable cost of an asset, may be deductible over five years – they must be directly related to a business that is, was or proposed to be carried on for taxable purposes (blackhole expenditure)
- Software development expenditure incurred before 1 July 2015 is deductible, over four years and after 1 July 2015, over five years.

Debt/equity rules

- Review all shares, loans and other financial instruments used to raise finance to determine whether they are debt or equity
- This may include traditional non-debt or equity interests (contracts with remuneration contingent on profit are considered financing arrangements)
- Closely associated debt and equity transactions may be combined and treated as a whole as debt or equity
- Year-end actions to consider for debt/equity rules:
  - Consider whether payments on instruments are deductible debt deductions (interest) or non-deductible dividends
  - A non-share capital account needs to be established if instruments other than membership interests (shares) issued by the company, which are treated as equity
  - At call loans made on or after 1 July 2005 to a company from a connected entity may be equity. Companies with a turnover of less than $20 million are exempted from this rule.

Thin capitalisation

- Consider whether thin capitalisation rules apply to reduce deductions for interest and debt deductions if the taxpayer:
  - Has a foreign investment;
  - Has a foreign owner; or
  - Is a non-resident investor.
- Thin capitalisation applies to all debt deductions, not just related foreign party debt deductions (includes unrelated Australian or foreign debt)
- If the entity's debt exceeds maximum allowable debt, a proportionate amount of entity's debt deductions may be disallowed
- Consider whether the de minimis rules apply:
  - Interest amounts less than $250,000
  - Foreign assets constitute 10% or less of the taxpayer's combined total assets (applies to outward investors that are not also inward investors).

Year-end steps to meet thin capitalisation at 30 June:

- Review all entities to ascertain whether they are caught by the definitions of inward or outward investing entity
- Calculate value of assets, liabilities and equity to determine maximum debt levels
- Valuation must comply with relevant accounting standards
- Identify and value assets. If possible consider revaluing upwards, to maximise the asset base
- Identify and value liabilities with a view to revaluing them downwards;
- Review hybrid debt/equity instruments to determine whether they are debt or equity
- Obtain reasonable valuation from a professional valuer as Commissioner can substitute values if assets are overvalued or liabilities undervalued.

Imputation

- Companies paying less than 100% franked dividends, benchmark franking percentage rules apply
- The franking percentage chosen for the first frankable dividend paid in a franking period establishes the benchmark percentage
- The franking period is usually the income year for private companies and six months for public companies
- All frankable dividends paid during the franking period must be franked in accordance with the benchmark percentage
- Companies should determine whether a franking account is in deficit and whether they are liable for Franking Deficit Tax (FDT), payable by 31 July 2016 for year ended 30 June 2016
- Where the franking deficit exceeds 10% of the franking credits for the company in the year, the company's entitlement to a tax offset for FDT is reduced by 30%
- If shares were acquired after 1 July 1997 and are not held at risk for at least 45 full days the franking offset may not be available (except for individuals whose franking offset is less than $5,000)
- If shares were acquired by a trust after 31 December 1997, both the trustee and the beneficiary have to pass the 45 day holding period rule in order to obtain the benefit of franking credits
- Trust beneficiaries that have a vested and indefeasible interest in the shares or a fixed interest in the corpus on which the dividends were paid will pass the 45 day holding period rule if the trustee does
- Beneficiaries of a non-fixed trust e.g. discretionary trust will not pass the 45 day rule unless a family trust election is made or the Commissioner exercises his discretion to deem the trust to be a fixed trust or the beneficiary is an individuals whose franking offset is less than $5,000.

Consolidated group

- If the taxpayer is a company with 100% owned subsidiary companies, partnerships or trusts, consider making a consolidation election
- Company groups have to consolidate to be able to:
  - Transfer losses between members
  - Pay unfranked dividends between members without paying income tax
  - Rollover assets between members without paying CGT or income tax.

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