

End of financial year, only 1 more day to go!

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Following for your information are some guidelines for 2010 financial year tax planning.

YEAR END TAX PLANNING – FOR 2009/10 FOR INDIVIDUALS (INCLUDING SUPERANNUATION)

Individuals

Bringing Forward

- a. Bring forward any expenses currently budgeted for July 2009 or later, to incur in this financial year.
- b. Medical expenses should be paid prior to 30 June if already over or approaching the \$1,500 level. Medicare will provide you with an annual statement showing your expenditure net of claims, and your private health insurer, if applicable, should be able to do the same.

Delaying

- c. Salaries, Fees, Bonuses, Interest, and Rent are assessable when received. If possible defer such receipts until after 30 June.

Prepaying

- d. Prepay expenses before 30 June such as rent, leases, interest and insurance etc for up to 12 months, as a 100% deduction is available to individuals not carrying on a business and Small Business Entity (SBE) taxpayers.

Maximising

- e. Consider maximising superannuation contributions and ensuring the payments are made in time to have the super fund clear the cheque before 30 June (for details on your superannuation limits see Superannuation section below).
- f. Don't get caught not having private health insurance if for single taxpayers, your income exceeds \$100,000, or for taxpayers with a spouse, your combined taxable income exceeds \$150,000, as you will incur a 1% Medicare levy surcharge on your taxable income.
- g. If considering making a charitable donation do so before 30 June 2008 so that you claim the deduction in 2008.

Tax Effective Investments

- h. Consider entering into tax effective investments before end of year, such as forestry agribusiness investments. From 1 July 2007 the treatment of forestry investment schemes was to be treated separately to non-forestry investment schemes. Forestry schemes investors receive a statutory 100% tax deduction on initial contributions.
- i. A Federal Court decision held this financial year has now clarified the law in relation to deductions for contributions to registered agricultural managed investment schemes (MIS), other than forestry schemes. Essentially the court decision overruled Taxation Ruling TR 2007/8 which ruled that investor contributions for MIS were capital in nature and therefore not deductible, and the ATO responded by withdrawing the ruling. This can be viewed as a win for taxpayers.
- j. There are also new rules introduced during the 2008 financial year on the tax treatment of sales of investments in these schemes, for both the vendor and secondary acquirers of the investments. The treatment is different depending on the length of time the investment has been held before a secondary sale takes place.

Change of Income Tax Rate – for Individuals

- k. From 1 July 2009 the threshold for 30% rate will increase from \$34,000 to \$35,000, the 40% rate will remain unchanged at \$80,000, and the threshold for the 45% rate will also remain unchanged at \$180,000, i.e. taxpayers will be taxed at a marginal rate of 30% when their taxable income exceeds \$35,000, 40% when their income exceeds \$80,000, and at a marginal rate of 45% when their taxable income exceeds \$180,000.

Realise Capital Losses

- l. If you have certain assets which have been disposed of and you have derived capital gains, and you have other assets which are in a loss position which you are considering disposing of, do so before 30 June 2009 so that capital losses incurred on them can be offset against capital gains on other assets. This strategy is beneficial if used when transferring shares into a Self Managed Superannuation Fund (SMSF) to minimise tax on transfer, via an in-specie transfer.
- m. Advice should be sought before considering this strategy to ensure it is acceptable by the ATO, with respect to their position on 'wash sale arrangements'.
- n. A wash sale arrangement is where a taxpayer may dispose of an asset, but doesn't actually change the economic exposure in the asset, and traditionally involves a taxpayer getting the asset back usually at the same price, after realising the loss. Commissioner may attack arrangements where shares sold and then bought back a few days later.
- o. Wash sales also occur by selling between related parties, in order to crystallise a loss. If the acquiring entity is the taxpayer's SMSF then there is a stronger argument that the transfer has been effected not for tax purposes but for retirement planning purposes.

Defer Capital Gains

- p. Timing the disposal of assets to occur on or after 1 July 2009 may delay the incurring of capital gains tax by a year.
- q. Also, remember that assets held for more than 12 months by individual taxpayers are entitled to a 50% reduction in the capital gains assessable on the asset/s.

Rental Properties

- r. Consider prepaying interest and insurance expenses before 30 June 2009 to maximise deductions.
- s. Consider incurring expenditure on repairs prior to 30 June 2009 if budgeted for early in the new financial year.
- t. Ensure that you maximise claims for depreciation and capital write offs.
- u. If you wish to receive the tax benefits from a negatively geared property throughout the year, rather than after lodging your tax return, prepare an Income Tax Withholding Variation so that your employer will withhold less tax each pay period.

Salary Sacrificing & Salary Packaging

- v. The most noteworthy change is that the foregone salary will have to be added back and counted towards whether the taxpayer has exceeded various thresholds such as the Medicare levy surcharge threshold, government co-contribution, or qualifying under the 10% rule as a substantially self-employed person so as to be able to claim a deduction for personal superannuation contributions.
- w. The other important element of salary packaging for the new financial year is the changes to the way FBT works in relation to some benefits. Previous salary sacrificing strategies to get laptop or other portable electronic devices needs to be reviewed in light of the requirement that all such items must now be primarily for use for employment purposes to qualify for FBT exemption. The employee will also no longer be able to 'double dip', by claiming depreciation on a salary sacrificed item.
- x. Another key change relates to jointly held assets. Previously, an employee could salary package their investment loan interest payments for jointly held assets such as investment properties. Under the former rules, all interest on the loan was effectively deductible to the employee who salary sacrificed the interest repayments, and considering the employee was often the higher income earner with higher marginal rates, this arrangement was more tax effective than both owners obtaining the deduction. Now only the proportion of the deduction available to the employee, not their associate, will be effectively deductible. The remainder may be subject to FBT.

Tax Debts

- y. The ATO has released a factsheet entitled 'Economic Downturn – Frequently Asked Questions', which states that in some circumstances the ATO may be able to offer assistance with tax debt by arranging the following;

- i. More time to pay tax debts without interest charge;
 - ii. Tax debts to be paid by instalments;
 - iii. Remission of General Interest Charges (GIC);
 - iv. Release from payment of certain taxes or penalties.
- z. On 10 June 2009, the Commissioner of Taxation announced that the ATO would be offering practical assistance to small business taxpayers with respect to their tax debts, including measures similar to those listed above. Although the speech related to small businesses in particular, information releases by the ATO indicate they are adopting a more co-operative and lenient approach to tax collections during the economic downturn.

Superannuation

Making contributions

- aa. Tax deductible superannuation contributions could be a good way to reduce your taxable income this year. The limits for deductible superannuation contributions made by 30 June 2009 are \$50,000 per annum for taxpayers under 50 years of age, and \$100,000 per annum for those over 50 years of age. These limits may be halved from 1 July 2009 onwards therefore it may be prudent to maximise contributions this year under the higher limits (see below for further detail regarding proposed changes).
- bb. The government has proposed in the recent Budget announcements, to reduce the cap on the previous \$50,000 limit to persons under 50 years of age to \$25,000 effective 1 July 2009. For those aged over 50 years of age, the proposal is that contributions will be reduced from \$100,000 to \$50,000 effective 1 July 2009.
- cc. The limit for un-deducted contributions is \$150,000 per annum, and the government has not proposed changing this limit. The per annum limits for un-deducted contributions allow the bringing forward of two years worth of contributions, so \$450,000 can be contributed by 30 June 2009 for taxpayers who have not yet turned 65.
- dd. This is particularly advantageous for taxpayers who wish to alter the tax free and taxable components and proportions of their superannuation assets. The benefits of this are likely to flow through to the member's estate, and can result in better tax outcomes for non dependent beneficiaries of a member's estate.
- ee. It is paramount that all amounts contributed are properly accounted for by the superannuation fund member as the contribution limits apply to the member, not to the person contributing, which may be a different individual or entity. A trap with any contribution strategy is that it is possible to exceed the caps and incur potentially 46.5% tax penalties.
- ff. Super Splitting; For those taking out an income stream before age 60, contribution splitting may be advantageous in reducing tax payable overall. It may also be beneficial where there is an age differential between the partners.

Transition to Retirement Strategy & Salary Sacrificing

- gg. If you are over 55 and still working, consider a transition to retirement pension tax strategy. A 15% tax offset is obtained on the taxable component of this pension between the ages of 55 and 60, and the pension is tax free from age 60 onwards. Combined with a salary sacrifice re-contribution strategy, tax savings are made both at a personal income level, and at the super fund level as monies are diverted to this tax advantaged investment environment. This dual strategy can be set up so that pension income replaces the lost salary which was sacrificed, so that the net cashflows at the individual level are unchanged before and after the arrangement is effected.
- hh. Even without a transition to retirement pension, a straight salary sacrifice strategy of sacrificing before tax salary into superannuation can provide a significant tax benefit, considering the immediate tax saving is the taxpayer's marginal rate less the 15% tax on their superannuation contributions. In addition, future earnings on funds contributed are taxed at the relatively low rate of 15%.

Government Co-contribution

- ii. For low to middle income earners, the government co-contribution is a compelling reason to invest in superannuation. For contributions made by 30 June 2009, it gives lower income earners a \$1.50 contribution from the government for every \$1.00 in after tax contributions they make themselves, up to a maximum government co-contribution of \$1,500. The full contribution applies to taxpayers with income plus reportable fringe benefits of up to \$29,980, and phases out on incomes up to \$58,980.

- jj. The government contribution of up to \$1,500 can be a material amount for those on a low income, and if it's possible to contribute \$1,000 to superannuation, a guaranteed 150% additional benefit isn't a bad rate of return.
- kk. From 1 July 2009, the government will reduce the co-contribution matching rate from 150% to 100%, up to a reduced \$1,000 limit.

Paying out Superannuation benefits

- ll. For taxpayers who have reached 60 years of age & meet the conditions of release, superannuation benefits can be paid out as a lump sum or pension completely tax free.

Superannuation Instalment Warrants

- mm. Another strategy to consider at year end is that superannuation funds, in particular SMSFs, can now borrow using a type of structure with limited recourse loan/s. Taxpayers can now unlock equity in the superannuation funds and leverage it to acquire investments such as residential property. Your 9% employer superannuation contributions can go a long way to meeting the servicing costs of holding a negatively geared investment property in a superannuation fund, and the flexibility of tax effective salary sacrificing enables further contributions to be made to pay for costs or make additional loan repayments, if required or desired.
- nn. The taxpayer is not only in a position to potentially magnify their gains and wealth accumulation through gearing, they are doing so in a very low tax investment environment. Capital gains will be taxed at 10% provided the property is held for 12 months or longer, or tax free if the taxpayer is over 60 and the fund benefits are in pension phase.

Transitional Rules for In-house Assets End

- oo. Ten years ago the government widened the definition of in-house assets of superannuation funds, but allowed transitional rules and concessions to operate until 30 June 2009. As part of year-end strategies, funds need to examine assets they hold which qualified for these concessions. While they generally will not have to sell them down to the 5% in-house limit, any reinvestments will need to be made before 30 June to take one last advantage from the concessions.