



Winter 2015

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Year End Strategies 2015

For clients with a 30 June tax year end the end of the financial year is fast approaching, so now's the time to focus on tax planning strategies and ensure you are aware of any actions required by 30 June 2015.

• ACTION REQUIRED BY 30 JUNE 2015

1. Trust distributions

If your entity structure includes a trust, then it is crucial that your trustee resolution to distribute income to beneficiaries is completed by 30 June 2015.

If a valid trustee resolution is not made by the required time, there is a risk that the ATO may deem that no beneficiary is presently entitled to the trust income and assess the trustee on the income at the highest marginal tax rate (currently 49%).

For a trustee to effectively stream capital gains or franked distributions for tax purposes, a written record will need to be in place to make a beneficiary specifically entitled to franked dividends or capital gains.

As trustees, you should firstly review the trust deed to determine if there is a clause specifying when a trustee resolution is required to be made.

The trustee will then need to review the trust's 2015 likely trust income and determine which beneficiaries will be receiving a distribution from the trust and what portion of the trust's income each beneficiary will be entitled to

and document it in a resolution by 30 June 2015 (or earlier if required by the trust deed).

2. TFN Reports for closely held Trusts – due by 31 July 2015.

If there are any beneficiaries that have not previously provided their tax file number (TFN) to your trust and the trust has not reported the TFN to the Australian Taxation Office (ATO) (e.g. due to a beneficiary that turned 18 during the year), the trustee is required to lodge a TFN report with the ATO by 31 July 2015.

3. Shareholder loans – Division 7A

If you or your "associates" borrowed money, received a benefit, or had a debt forgiven from a private company during the year, then Division 7A rules may apply to you. The documentation and legislative requirements for loans to shareholders are very strict. You may also need to transfer funds to the company or declare dividends by 30 June 2015 to meet minimum loan repayments on prior year loans.

4. Payment of superannuation pensions

In order to comply with superannuation legislation and to ensure that your Self Managed Superannuation Fund (SMSF) maintains its tax efficient status, if it is in pension phase your minimum pension needs to be paid from your SMSF to you by 30 June 2015.

5. Superannuation contributions

Contributions in respect of the year ending 30 June

2015 must be made before 30 June for a deduction to be available in the 2015 year. Concessional contributions are limited to \$30,000 pa. for all individuals, unless you were 49 years or over on the 30 June 2014. If you satisfy this age requirement, your concessional contribution limit is increased to \$35,000 p.a. Therefore, consider whether you are eligible to make an additional \$5,000 concessional superannuation contribution prior to 30 June 2015.

6. Franking account

Companies should check the balance of the franking account to determine whether the company will have a liability to pay franking deficit tax (FDT) at year end or have sufficient franking credits to enable the payment of franked dividends before year end.

• OTHER TAX PLANNING CONSIDERATIONS

1. Accelerate your deductions (applies to individual taxpayers only)

Bringing forward deductions before 30 June 2015 will minimise your tax this year. These may include:

- Prepaying interest on investment loans;
- Paying membership subscriptions in relation to trade or professional bodies;
- Paying business trip expenses even if taken after 1 July 2015; and
- Paying for training courses that run after 1 July 2015.

2. Deductions for your

business

- (i) Writing *off bad debts* - If you have any bad debts, ensure you write them off prior to 30 June and prepare minutes approving the write-off. This will also enable an adjustment for any GST charged on the original invoice.
- (ii) Ensure your super contributions are paid before 30 June - Employee superannuation contributions for the June 2015 quarter should be paid to the superannuation fund by 30 June 2015, rather than the statutory due date of 28 July 2015. This will enable your business to obtain a tax deduction for the contribution this financial year. Payment means that the funds have cleared the employer's bank account and have been credited to the superannuation fund's bank account by the end of business on 30 June. EFT's on 29 or 30 June are unlikely to be in the superfund's bank account in time and would therefore be non-deductible for tax purposes in the current financial year.
- (iii) Staff Bonuses and Commissions - Your business can claim a tax deduction for staff bonuses and commissions that are owed and unpaid at 30 June 2015 where the business is "definitely committed" to the expense (eg by passing a

resolution to approve the payment).

3. Plant and equipment write-offs

Review your depreciation schedule to be sure that there are no items on the schedule that should be removed, no longer exist or are no longer in use. The written down value of these obsolete items can be written off, which will increase the business' deductions for this year.

Consideration should be given to the timing of expenditure in relation to 'in-house software' given the increase to the period over which capital expenditure on in-house computer software can be depreciated from 4 to 5 years with effect from 1 July 2015.

4. Trading stock

You should conduct a detailed physical stock take of all stock on 30 June. As part of this process you should identify any obsolete stock and if any of the stock is to be scrapped, physically scrap it prior to 30 June.

5. Prepayments

Generally, only certain prepayments required to be made by law (eg. worker's compensation insurance) and amounts of less than \$1,000 are deductible as incurred. However, if you are a small business entity (as defined below) you can claim an immediate deduction for both your business and non-business prepaid expenses where the expense covers a period of no more than 12 months. These expenses could include:

- Rent on business premises or equipment;

- Lease payments on office equipment; and
- Interest on a deductible loan.

12 months. (*Not available for companies*)

Consider realising capital losses if you have already realised capital gains on other assets for the year ending 30 June 2015. You should also consider the availability of other small business CGT concessions which have the effect of reducing or deferring a capital gain arising from the disposal of a business asset.

- excessive deductions claimed for holiday homes,
- husbands and wives splitting rental income and deductions for jointly owned properties that are not supported,
- claims for repairs and maintenance shortly after the property was purchased, and
- interest deductions claimed for the private proportion of loans.

6. Timing of income

You should 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 capital gains tax (CGT) assets.

7. Deductions for small business

Small businesses – broadly defined as those with an ‘aggregated turnover’ of less than \$2 million - should note the impact on its current year’s taxable income of this year’s Federal Budget proposal that will allow an immediate tax deduction for the cost of a depreciating asset that has a cost of less than \$20,000 where the asset is acquired and held ready for use after 7.30pm (AEST) 12 May 2015.

8. Capital gains

It is important to note that a Capital Gain is determined at the time a contract is entered into and not settlement date. If you are considering selling shares or property you may wish to delay signing the contract until the new financial year. Realising a capital gain after 30 June 2015 will defer tax on the gain by 12 months. This can also be an effective strategy to access the 50% general discount which requires the asset to be held for at least

9. Medical Expenses (employees only)

If you have claimed the net medical expenses tax offset in 2012/13 and 2013/14, then 2014/15 is the last year you can claim the offset before it is phased out (except for very limited circumstances). Therefore if you are eligible in 2014/15, consider bringing forward and paying for medical expenses in June 2015.

ATO’s focus for this tax season

The ATO has advised that it will focus on unusually high work-related expense claims and rental property deductions this tax season.

Work-related expense claims

In addition to focusing on work-related expense claims that are significantly higher than those claimed by people with similar occupations and employment income, the ATO will also pay particular attention to claims:

- that have already been reimbursed by employers, and
- for private expenses such as travel from home to work.

Rental property deductions

In particular, the ATO will pay close attention to:

The ATO has also advised that it will actively educate rental property owners about what they can and cannot claim. It will be writing to rental property owners in popular holiday locations, reminding them to only claim the deductions they are entitled to, for the periods the property is rented out or is genuinely available for rent.

Decrease in company tax rate for small business

The Tax Laws Amendment (Small Business Measures No 1) Bill 2015 has been introduced into parliament to reduce the company tax rate from 30% to 28.5% for companies that are small business entities with an aggregated turnover of less than \$2m from the 2015/16 income year. The corporate tax rate for companies that have an aggregate turnover of more than \$2m remains at 30%.

The maximum franking credit that can be allocated to a frankable distribution will be unchanged so the same rate of 30% will continue to apply to all companies.

Decrease in R&D tax offset

When the Tax Laws Amendment (Research and Development) Bill 2013 was passed earlier this year, the Bill was amended from its original form such that the proposal to reduce the refundable tax offset from 45% to 43.5% and the non-refundable tax offset from 40% to 38.5% was dropped from the Bill. However, that was not the end of the matter as on 27 May 2015 the Federal Government introduced Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015 which, if passed, will reintroduce the original proposal to cut the R&D Tax Incentive Offset rates by 1.5%. If passed as drafted, the change will apply to income tax years commencing on or after 1 July 2014. This is despite there being no decrease in the company tax rate for large businesses.

New employee share scheme (ESS) rules

The ESS regime seeks to tax employees where they receive shares, options or rights to acquire shares in the employer (or related) company, at a discount to their market value. The employee is assessed on the discount at their marginal rate of tax.

Currently where the share, option or right is not subject to forfeiture, the employee is assessed on receipt of the share, option or right. Where the share, option or right is subject to a 'real risk of forfeiture' in the hands of the employee, the taxing point is generally deferred until the forfeiture condition and any other restrictions are lifted. These rules were often problematic for employees as they frequently resulted in a tax

liability to the employee but did not allow the employee to receive cash from the disposal of the shares, options or rights. This was particularly so in relation to share options or rights where the taxing point came at vesting instead of when they were exercised.

Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015 has been introduced into parliament which, if it is passed in its current form, broadly means that options or rights will only be taxed once they are exercised rather than when they vest.

Unfortunately, however, the old rules continue to apply to options or rights granted after 30 June 2009 but prior to 1 July 2015 such that options or rights are taxed at the date of vesting rather than at the date of exercise.

Start Up Companies

The new rules introduce some welcome changes to start-up companies.

Concessions will be available for ESS interests received by employees of eligible start-up companies, including:

- No tax on shares offered under an ESS where the discount to market value is less than 15% and share is held by the employee for at least 3 years. However, where the company is sold before the 3 years is up, the Commissioner of Taxation may exercise his discretion to waive this requirement.
- Deferral of tax on options issued under an ESS until sale of option or underlying share, where the exercise price is at least the market value of an ordinary share.
- the start-up concessions may be accessed where options/rights are granted, without the requirement to

provide ESS interests to at least 75 percent of your staff.

In addition the following changes in relation to start ups were announced in the recent Federal Budget:

- exclude eligible venture capital investments from the aggregated turnover test and grouping rules (for the start-up concession);
- provide the CGT discount to employee share scheme interests that are subject to the start-up concession, where options are converted into shares and the resulting shares are sold within 12 months of exercise; and
- allow the Commissioner to exercise a discretion in relation to the minimum 3-year holding period where there are circumstances outside the employee's control that make it impossible for them to meet this criterion.

Accountant's exemption and limited licencing

From 1 July 2016 the rules in relation to whether an accountant can advise on various superannuation matters will be changing. From that date the accountants' exemption, which allows 'recognised accountants' to recommend the establishment or wind up of a self-managed superannuation fund (SMSF) without operating under an Australian Financial Services Licence (AFSL), will be removed. As such from 1 July 2016 accountants who wish to continue to provide SMSF advice as well as other non-product strategic financial advice will need to hold an AFSL (full or limited) or operate as an authorised representative of another licensee.

Whilst these changes are some 12 months away, Blaze Acumen has been actively considering its options in accordance with guidance from the Chartered Accountants Australia & New Zealand. The main focus of our considerations is to ensure we remain well placed to provide proactive advice to our clients in relation to establishing and managing their SMSFs. The advice to be provided under an AFSL will also include superannuation contributions, conversion to pension phase and investment strategies.

Land Transfer Duty & Absentee Land Owner Surcharge

As part of the Victorian Budget and State Taxation Acts Amendment Bill 2015, two revenue measures that have been put in place that will target foreign buyers of residential property and land owned by absentee owners.

The first of these measures will add a 3 per cent additional surcharge to foreign investors when they buy or acquire residential property in Victoria, either directly or indirectly, on top of any stamp duty or landholder duty payable. This proposed surcharge is to take effect for contracts entered into on or after 1 July 2015.

The second measure, targeted at landowners who do not ordinarily reside in Australia, will result in an absentee surcharge of 0.5% in addition to any other land tax payable. This proposed surcharge is to take effect from the 2016 land tax year.

The Government, however, has drafted guidelines for circumstances in which the Treasurer will have discretion to grant exemptions to developers who are fully or partly foreign owned. These guidelines were

put in place as a safeguard measure for continued development towards affordable housing, while preventing these taxes from indirectly raising the costs of land development.

Included as part of the guidelines, the Treasurer will have regard to any or more of the following principles and circumstances for the exemption to apply:

- Nature and degree of interest or ownership and control;
- Practical influence to determine, directly or indirectly, the outcome of decisions of the entity;
- The ability to influence the outcome of financial, operating and management decisions of the corporation; and
- Any other relevant circumstances.

In conjunction with the abovementioned principles, the Treasurer may consider the implications that the foreign investor has on the following:

- Impact on the economy;
- Competition;
- Impact on the community;
- Satisfaction of Foreign Investment Review Board requirements;
- Character of the controlling interest or absentee entity; and
- Independence of management.

SuperStream

As mentioned in previous Client Bulletins and our Client Alert Issue 27, the SuperStream requirements become compulsory by 30 June 2015 for employers with 20 or more employees. These rules will require an employer to send contributions electronically in a standard format with linked data and payments.

From 1 July 2015, employers with 19 or fewer employees will also be required to send contributions data and payment electronically. These employers have the option to implement SuperStream sooner than this date but must comply by 30 June 2016.

Small businesses are able to register online for free to use the Small Business Superannuation Clearing House which will ensure compliance with the SuperStream rules by 1 July 2015.

For more information about SuperStream please refer to Blaze Acumen's Client Alert No 27 on our website:

<http://www.blazeacumen.com.au/client-alerts/client-alerts-issue-27.html>

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