

TAX MATTERS

Tax strategies for you and your business



CHARTERED ACCOUNTANTS

A blow for superannuation

Changes to superannuation laws in the 2012 Federal Budget may cause some Baby Boomers to rethink their retirement plans. Increased contributions may now lead to cap breaches.

From 1 July 2012 individuals with income exceeding \$300,000 will have a tax concession on their contributions reduced from 30% to 15%. The effect of this change will be that those taxpayers will face an increase in tax of up to \$3,750.

The matter is further complicated by the fact that the tax includes all concessional superannuation contributions, including super guarantee payments.

Last year the Government created a higher contribution limits for individuals over 50 years old who's superannuation balance is less than \$500,000. This would have allowed these individuals to make up to \$25,000 more in concessional contributions than allowed under the general concessional contributions cap. Concessional contributions includes employer contributions for members of defined benefit funds.

However it is not all bad news, for over 50's with an income of less than \$300,000 per year there will be no changes. The Government has also announced a deferral of the start date. That means until 1 July 2014, all individuals have a cap of \$25,000.

The announcement includes a provision to prevent the new surcharge from applying in addition to excess contributions tax. This may reduce the benefit of the 'transition to retirement' strategies that many individuals are currently taking advantage of.

These changes may result in accidental contribution cap breaches, leading to further contributions tax assessments for clients. Many clients planning their retirement may need to assess what these changes mean to them. It also means that many individuals over 50 may need to re-assess their salary sacrifice arrangements.



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Loss carry-back scheme to encourage investment



To stimulate investment and risk-taking in new businesses, companies will be permitted to carry-back up to \$1 million of losses annually, against taxable income arising in the prior two years. This enables the companies to receive a refund against tax previously paid.

The measures will provide some relief for companies that suffer temporary losses. Whilst this may be seen as a positive step for business owners, there are some factors that must be taken into consideration before being able to take full advantage of the new rules.



A one year loss carry-back will apply in 2012/2013, where tax losses incurred in that year can be carried back and offset against tax paid in 2011/2012.

For 2013/2014 onwards, tax losses can be carried back and offset against tax paid up to two years earlier.

Companies will be able to carry back up to \$1 million of losses each year. This measure may provide a cash benefit of up to \$300,000 a year.

An additional important limitation to the availability of any loss carry-back is that it will be capped at the balance of a company's franking account.

In effect, this will ensure that a company is only able to claim a refund of tax that it has already paid and that it has not used to frank dividend payments.

It also avoids potentially troublesome interaction with franking deficit tax (which hits a company when its franking account balance becomes negative).

The loss carry-back tax reform is a recommendation of the Business Tax Working Group. The Government is expected to hold further discussions in the near future.

Increased director obligations

Each year the ATO identifies several industries where employers have a higher risk of not complying with their super obligations.

In 2012, the ATO will focus on the following high-risk industries:

- cafes and restaurants
- real estate services
- carpentry services.

Typical mistakes that have been identified by the ATO include:

- paying insufficient super contributions
- missing the quarterly cut-off dates for payment
- failing to meet super obligations for contractors,
- not keeping accurate records
- not providing an employee's tax file number on to their super fund.

The Government has recently introduced draft legislation proposing to increase directors obligations in relation to employee superannuation.

The proposed changes operate to extend penalty regime to make directors personally liable for unpaid superannuation guarantee amounts and ensuring that directors cannot

escape their director penalties by placing their company into administration or liquidation.

The amendments also serve to make directors personally liable when unpaid PAYG withholding or superannuation guarantee remains unpaid three months after its due date.

Company directors now have to deal with an ever changing legal landscape. This means increased understanding of tax, superannuation, human resource and company laws.

These recent changes significantly increase the onus on directors to become aware of what these new laws mean. If you feel any of these issues may affect you or your business, please feel free to contact our office to discuss the matter.



SMSF compliance and insurance

Changes to the management of assets in relation to self managed superannuation fund's (SMSF) have been announced.

The new rules relate to insurance and the importance of having the right policy for fund assets. The regulations require all collectables to be insured in the name of the SMSF within seven days of acquisition. One of the consequences of not adequately insuring the assets is that the fund may lose its complying status.

The key items in these changes are the collectibles listed under the SMSF policy. These assets include jewellery, antiques, artefacts, coins, medallions and more.

The items must be listed in the policy in the name of the fund, which has an insurable interest. These items cannot be listed under any other insurance policy. The SMSF must be the beneficiary of any accident or damage that the listed items may encounter, and the subsequent payout.

A separate policy for each item is not necessary, a 'group' policy can cover all the assets, provided they are clearly identifiable as fund assets.

The rules apply immediately, although a transitional arrangement is in place for assets that were owned prior to 1 July 2012. Each fund has until 1 July 2016 to implement a policy for all items. Having the appropriate insurance in place for valuable items is a must for any collector of valuables.



Trust resolution deadlines

Trustees who distribute the income of a trust by resolution must comply with a new ruling from 30 June 2012.

This ruling applies where distribution of trusts, through a resolution to beneficiaries must do so by the end of the income year (30 June).

If the trustee does not make the resolutions, beneficiaries will not be entitled to the trust income and the trustee may be assessed on the income of the trust.

Top 10 budget highlights

1 No standard deduction

The Government will not proceed with the standard deduction for work-related expenses
Increase revenue by \$4269m



2 Family Tax benefit A

Increase to payments for Families with children, as well as individuals living off welfare payments
Expenditure \$1844m

3 No company tax cut

The proposal to lower company tax for small businesses will not proceed
Increase revenue by \$1612m

4 Schoolkids bonus

The education expenses tax offset will be replaced with a new Schoolkids Bonus from 1 January 2013.
Expenditure \$1110m

5 Super high contributor's tax

From 1 July individuals with income greater than \$300,000 will have the tax concession on their contributions reduced from 30% to 15%
Increase revenue by \$1030m

6 GST additional compliance

Funding for additional GST compliance activities will be extended for a further two years until 2015/16
Increase revenue by \$986m

7 Deferral of contributions cap increase

The start date of the 2010/11 budget measure increasing concessional contribution caps for individuals over 50 with low superannuation balances will be deferred for two years
Increase revenue by \$860m

8 No 50% discount on interest income

This tax discount will not proceed as promised.
Increase revenue by \$795m

9 Company loss carry-back

Companies will be allowed to carry back up to \$1million of tax losses in 2012/13 to offset against tax paid in 2011/12
Increase revenue \$700m

10 New Income support supplement

This tax gives extra financial support to employees on low incomes with children
Expenditure \$596m

WE ARE HERE TO HELP

Make good use of us! This guide is merely a starting point, designed to help you identify areas that might have a significant impact on your tax planning.

Please keep us informed of your plans and consult us for help in taking advantage of tax-saving opportunities and tax efficient investments.



Write-offs to help drive investment



Small businesses that are suffering after the economic slowdown following the Global Financial Crisis and declining demand will benefit from a range of measures in the budget designed to stimulate investment spending.

The changes directly impacting small businesses from 1 July 2012 relate to previously enacted or announced measures. These include:

- Allowing small businesses to write off depreciating assets costing less than \$6,500
- The introduction of simplified pooling rules for depreciating assets costing \$6,500 or more, and
- Immediate deductions of up to \$5,000 for the cost of a motor vehicle (even if the cost exceeds \$6,500).

The Government believes these measures will free up cash flow

and encourage businesses to invest. The reforms will undoubtedly bring welcome tax relief, and reduce compliance costs to some small business taxpayers. However many will be unable to access them because they will fall outside of the operative \$2 million 'turnover test' which taxpayers must satisfy in order to qualify as a 'small business'.



Compliance extended

The last few years have been financially tough on many businesses, increasing the temptation to cheat with their GST. This is clearly recognised with the Government's renewed commitment to the ATO's compliance program.



The Government continues the pressure for another two years with the announcement that it will provide \$195.3 million to the ATO in 2014-15 and 2015-16 to extend the GST compliance measures announced in the 2010-11 Federal Budget.

The measures are intended to ensure that the ATO can continue to closely examine issues relating to fraudulent GST returns; under-reporting of GST liabilities; failure to lodge GST returns; and outstanding GST debts

The extended compliance program is anticipated to result in an additional \$432 million revenue in 2014-15, taking the increase from this measure to \$986.2 million over the forward estimates period.

It is clear that while the Government continues to move forward with its GST administration reform agenda, the ATO will maintain a high level of scrutiny of taxpayer compliance.



TAX FOCUS: LOYALTY PROGRAMS GST

A ruling on the 4 April 2012 has been passed clarifying the role of GST in regards to consumer loyalty programs.

GST on loyalty programs has previously been frustratingly complicated for consumers and vendors. A loyalty program is an agreement between customers and vendors, where the customer benefits from remaining loyal to a brand, through either a points system or other benefits.

When the customer redeems the points with the vendor, the operator of the program reimburses the programs partners for the provision of their goods to the loyalty program.

The ruling determines if the supply of the product or goods is GST free. In the guidelines, rules applying to the loyalty program arrangements, where the supply of rights from the operator to the program partner is treated wholly as a taxable transaction. In some circumstances, the tax is not disputed by the input tax credit entitlement of the program partner.

This ruling is put into effect immediately, however allowance period of six months from the date of issue will be given to allow operators and vendors to adjust their systems.

