GREEN & STERNFELD
Chartered Accountants & Business Advisors

201 Balaclava Road
Caulfield North
Victoria 3161
Australia

Tel: +61 3 9527 5041
Fax: +61 3 9527 2297
Email: info@gsca.com.au
Website: www.gsca.com.au

client alert

tax news | views | clues

Tax planning

There are many ways in which taxpayers can take advantage of tax planning initiatives to manage their taxable incomes. In order to maximise these opportunities, taxpayers need to start the year-end tax planning process early. Of course, when undertaking tax planning, taxpayers should be cognisant of the potential application of anti-avoidance provisions. However, if done correctly, tax planning can provide possible tax savings.

Deferring income

- Income received in advance of services to be provided will generally not be assessable until the services are provided.
- Taxpayers who provide professional services may consider, in consultation with their clients, rendering accounts after 30 June to defer the income.
- A taxpayer is required to calculate the balancing adjustment amount resulting from the disposal of a depreciating asset. If the disposal of an asset will result in assessable income, a taxpayer may want to consider postponing the disposal to the following income year.
- Consider whether the criteria for classification as a small business entity are satisfied to access various tax concessions such as the simpler depreciation rules and the simpler trading stock rules.
- Individuals operating personal services businesses should ensure that they satisfy the relevant test to be excluded from the personal services income regime, or seek a determination from the Commissioner.

Maximising deductions

Business taxpayers

- Debtors should be reviewed prior to 30 June to identify and to write off any bad debts.
- A deduction may be available on the disposal of a depreciating asset if a taxpayer stops using it and expects never to use it again. Therefore, asset registers may need to be reviewed for any assets that fit this category.
- Review trading stock for obsolete stock for which a deduction is available.

Non-business taxpayers

- A deduction a for personal superannuation contribution is available where the 10% rule is satisfied.
- Assets costing $300 or less may qualify for an immediate deduction, subject to certain conditions.
- Outgoings incurred for managed investment schemes may be deductible.

Companies

- Companies should ensure that all dividends paid to shareholders during the relevant franking period (generally the income year) are franked to the same extent to avoid breaching the benchmark rule.
- Loans, payments and debts forgiven by private companies to their shareholders or associates may give rise to unfranked dividends that are assessable to the shareholders or associates. Shareholders and entities should consider repaying loans and payments on time or have appropriate loan agreements in place.

- Companies should consider whether they have undertaken eligible research and development (R&D) activities that may be eligible for the R&D tax incentive.
- Companies may want to consider consolidating for tax purposes prior to year-end in order to reduce compliance costs and take advantage of tax opportunities available as a result of the consolidated group being treated as a single entity for tax purposes.
- Companies should carefully consider whether any deductions are available for any carry forward tax losses, including analysing the continuity of ownership and same business tests.

Trusts

- Taxpayers should review trust deeds to determine how trust income is defined. This may have an impact on the trustee's tax planning.
- Trustees should consider whether a family trust election (FTE) is required to ensure any losses or bad debts incurred by the company will be deductible and to ensure that franking credits will be available to beneficiaries.
- If a trust has an unpaid present entitlement to a corporate beneficiary, consideration should be given to paying out the entitlement by the earlier of the due date for the lodgment of the trust's income tax return for the year and the actual lodgment date, in order to avoid possible tax implications.
- Avoid retaining income in a trust because the income may be taxed at 46.5%.

Capital gains tax

- A taxpayer may consider crystallising any unrealised capital gains and losses in order to improve their overall tax position for an income year.
- Eligible small business entities can access a range of concessions for a capital gain made on a CGT asset that has been used in a business, provided certain conditions are met.

Superannuation

- The ATO has reminded taxpayers to consider the superannuation contributions caps and the timing of when contributions are made when planning their tax affairs, in order to avoid excess contributions tax.
- Eligible individuals who breach the concessional contributions cap by up to $10,000 will be given a once-only option for the excess contributions to be refunded without penalty.
- A member of an accumulation fund (or whose benefits include an accumulation interest in a defined benefit fund) may be able to split with their spouse superannuation contributions.
- A tax offset of up to $540 is available for a resident taxpayer in respect of eligible contributions made by the taxpayer to a complying superannuation fund or a retirement savings account for the purpose of providing superannuation benefits for the taxpayer's low-income or non-working resident spouse (including a de facto spouse).
- Taxpayers aged 50 years or over should review their transition to retirement pensions and salary-sacrificing arrangements to take into account the reduction in the concessional cap from $50,000 to $25,000 for 2012–2013 and 2013–2014. However, note that the Government proposes to increase the concessional contributions cap to $35,000 for seniors.
- For eligible individuals, a government low income superannuation contribution of up to $500 will be available.

Fringe benefits tax

- The living-away-from-home (LAFH) rules have been significantly overhauled. While the rules remain in the FBT regime, there is an increased requirement to ensure LAFH payments are properly tracked, categorised and substantiated.
- The four rates used in the statutory formula method for determining the taxable value of car fringe benefits are being replaced with a single statutory rate of 20%. Taxpayers should review contracts for changes to a "pre-existing commitment".
- The Government has proposed amending the FBT law to remove the concessional FBT treatment for in-house fringe benefits accessed by way of salary-packaging arrangements.

Individuals

- For 2012–2013 and later income years, the dependent spouse tax offset will only be available to those born on or before 1 July 1952.
- The Government has announced that it will remove the 50% CGT discount for foreign residents on capital gains accrued after 7.30pm (AEST) on 8 May 2012. However, the CGT discount will remain available for capital gains that accrued prior to this time where foreign residents choose to obtain a market valuation of assets as at 8 May 2012.