HALL CHADWICK

# YEAR-END PLANNING

## KEY ISSUES

With the end of financial year fast approaching, now is a good time to think about opportunities and risks that should be addressed before 30th June 2018.

To help you with this, we have included some of the key issues that clients should be thinking about pre year end.

If you would like to discuss any of these, or other things that are on your radar, don't hesitate to contact your Hall Chadwick team.

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Major items for consideration are outlined below. A more deailed list is attached at the end of this newsletter.

| ITEM | DETAILS | WHY NOW? |
|---|---|---|
| Pre year-end expenditure | Consider whether any expenditure should be brought forward before 30th June. | • For companies (with active businesses) with turnover between $25M and $50M, your tax rate will drop from 30% to 27.5% for 2019, meaning deductions will be available at the 30% rate up to 30th June 2018 and 27.5% thereafter.<br>• Franking will also drop from 30% to 27.5% corresponding with the reduction in tax rate.<br>• All other companies (with active businesses) with turnover <$25M should already be on the lower tax and franking rate of 27.5%. |
| Pre year-end invoicing | Even if you don't have the cash flow for pre-year end expenditure, have all your suppliers invoice you so that you can accrue and deduct for services already supplied? | |
| Pay franked dividends if benefits of franking reduced | Franking credits will be limited to the tax rate payable by the entity making payment. | • Franking credits attached to dividends may reduce to 27.5% from 30% notwithstanding tax paid to give rise to credit was at 30%. |
| Small business entity asset acquisitions < $20,000 | Immediate deduction for small business entities that acquire assets before year-end if asset is less than $20,000. | • Small Business Entities with turnover of less than $10M can obtain immediate deduction of assets acquired before 30th June 2019 (per Budget 2018 announcement). Incurring expenditure before 30 June 2018 will allow immediate deduction in current financial year. |
| Single Touch Payroll | Mandatory for employers with 20 or more employees from 1 July 2018. | • From 1 July 2018, an employer is required to report payments such as salaries and wages, PAYG withholding and superannuation electronically from their payroll software at the same time the employees are paid. This will be mandatory for employers with 19 or less employees from 1 July 2019. |
| Employee Bonus Plans | Did you know that deductions are NOT available for accrued bonuses unless all steps have been taken before year-end for employees to legally qualify for payment of the bonus by year end. | • If your bonus plan is based on financial results for the year ended 30th June and you have already met those targets, if board approval or other processes are required to create the legal liability to pay the bonus, consider whether these should occur before 30th June to make sure your bonus accrual is deductible in the 2018 year. |

| | | |
|---|---|---|
| Pre Year-End Board initiatives | Have you considered all of the resolutions that the board should be making pre year-end. These can include solvency declarations and reporting decisions and in the case of trustee companies, determining distributable income and which beneficiaries should receive distributions. | • Good housekeeping with contemporaneous documentation<br>• Some of these are required by ASIC pre year end to prevent audited accounts being required. |
| Pre Year-End Trustee initiatives | Have you considered all of the resolutions that your trust's trustee should be making pre year-end? These can include determining distributable income and which beneficiaries should receive distributions.<br>If you intend to distribute to a corporate beneficiary, has that legal entity been established yet? | • The ATO has withdrawn its administrative concession allowing trustees to determine distributable income and distributions to beneficiaries in the 2 months after year-end. Based on most trust deeds, this means decisions need to be made pre year-end.<br>• We see some trust deeds that don't allow for distributions to corporate beneficiaries or other unnominated beneficiaries. These should be reviewed and updated pre year-end.<br>• If corporate beneficiaries are not established before year-end, they are unable to be nominated as beneficiaries. |
| Update Family Trust Deeds to exclude foreign persons as beneficiaries | Retrospective surcharges apply in NSW, Victoria and Queensland from 2017 land tax year | • For the purpose of applying various State-based foreign duty surcharges, State legislation generally deems each beneficiary in a discretionary trust to have 100% beneficial interest in the trust fund. If there is a potential foreign beneficiary, the Trust Deed would need to exclude them as a beneficiary otherwise the discretionary trust could be liable for foreign duty surcharges.<br>• Contact Hall Chadwick if your family trust holds land and have potential foreign beneficiaries for advice. |

| Superannuation related matters BEFORE 30th June 2018 | | |
|---|---|---|
| Concessional Contributions | Maximise your contributions for FY2018 | • Contributions cap for all people, regardless of age, is now $25,000.<br>• Please check all contributions received by your fund (not due or accrued) for the year to date contributions before making further contributions. |
| Non Concessional Contributions | Maximise your Non Concessional Contributions | • The contribution cap for all regardless of age is $100,000; provided your member balance is below $1.6M.<br>• The averaging or "bring forward" rules are still available to individuals under the age of 65.<br>• If you triggered the bring forward provisions in the 2016 or 2017 year, you have a transitional cap (not the full $540,000 you may have received in previous years). Your remaining contribution cap will depend on the year you triggered the provisions and how much the contribution totalled.<br>• If you have a total superannuation balance between $1,300,000 - $1,600,000 you may also have a restricted transitional cap so you don't exceed the total super balance of $1,600,000.<br>• If your super balance exceeds $1.6M you can no longer make non-concessional contributions. |
| Personal concessional (deducted) contributions | No 10% income test | • All individuals are now eligible to claim a tax deduction for personal contributions made to a complying super fund.<br>• Ensure you notify your superannuation fund AND receive a confirmation from the super fund.<br>• Concessional contribution caps still apply so you can only top up above the amount already contributed (e.g. via SG). |
| Spouse contributions | Changes to calculation of tax offset | • A maximum tax offset of $540 is available if you make a contribution on behalf of your spouse, your total super balance is under $1,600,000 and the spouse's taxable income is under $37,000. |

| Superannuation related matters BEFORE 30th June 2018 | | |
|---|---|---|
| Low Income Superannuation Tax Offset (LISTO) | Replaces Low Income Super Contribution (LISC) | • Tax offset of 15% of concessional contributions via a payment to your superannuation fund is available for anyone with an income under $37,000 to a maximum of $500. |
| Superannuation Pension Drawings | Draw at least the minimum pension | • Minimum pension requirements must be drawn in cash by 30th June 2018, or the account will cease to be a pension account.<br>• Minimum is 4% of the balance at the start of the income year for individuals under 65 years of age, 5% if aged from 65-74, 6% if aged from 75-79 and 7% if aged 80-84.<br>• Please check your super fund records to confirm any drawings that have been made this year that will be considered to be pension payments. |
| New pension accounts | Advise our office if new pensions have commenced | • Due to new reporting requirements, if you have commenced a new pension or intend to do so in the near future, please contact us immediately if your super balance is >$1M. |
| Lodge your SMSF tax return | Concessional lodgement date | • Extended due date for all Funds is the 30th June 2018. |
| Division 293 | Reduction in income threshold | • From 1 July 2017, when an individual's adjusted taxable income exceeds $250,000, an additional 15% tax will be levied on the concessional contributions made for the year. This means their concessional contributions will be taxed at a total of 30%. |
| Transition to Retirement Income Stream (TRIS) | No longer a tax-exempt pension | • If you are receiving a TRIS but your circumstances have changed, you may be eligible to convert your pension to a full account based pension.<br>• The rules in this area are now quite complex so please contact us to discuss further. |

| Superannuation related matters BEFORE 30th June 2018 | | |
|---|---|---|
| Death Benefit Pensions | If you are receiving a superannuation reversionary pension following a recent death or are nominating a reversionary beneficiary for your pension account | • You need to seek advice regarding how this is to be treated after 1st July 2017 in the context of all your potential superannuation benefits.<br>• This is URGENT and may require changes to your SMSF Trust Deed. |
| Trust Deed and Estate Planning | Schedule a review of your Trust Deed and Binding Death Benefit Nominations | • Due to the changing rules and regulations, your existing arrangements may no longer be suitable or feasible, so it is essential that your arrangements and the deed be reviewed promptly. |
| First Home Saver Scheme (FHSS) | First year of operation | • The 2018 year was the first year contributions could be made under this scheme.<br>• All contributions can be included; there is no need to nominate or separate any contributions. |

## INDIVIDUALS

### Maximising allowable deductions

Bringing forward deductions before 30th June 2018 will reduce your assessable income for this financial year and may include:

» Work-related expenses;

» Professional memberships;

» Donations to deductible gift recipients;

» Income protection insurance.

### Investments

» Rental property income and expenses – ensure all payments are made before year-end and that you retain records of all income and expenses relating to the property during the 2018 income year.

» If you have the available cash, consider prepaying interest for the 2019 income year on your rental property (or interest in relation to loans used to acquire other income-producing assets);

» Investment property deductions:

- Consider arranging for a quantity surveyor to prepare a Property Depreciation Report to allow you to claim the maximum amount of depreciation and building write-off deductions available, and allow you to claim the cost of obtaining the Property Depreciation Report itself.
- However, depreciation is no longer allowed on previously used plant and equipment bought on or after 9 May 2017 (i.e. if you bought a residential property after 9 May 2017, you can only claim the building write-off deduction and not the depreciation on plant and equipment unless you buy it directly).
- From 1 July 2017, you can no longer claim travel expenses as a deduction relating to inspecting, maintaining, or collecting rent for a residential rental property.

### Defer Investment Income & Capital Gains

» Capital gains are determined on the date the relevant contract is entered into. If you are considering selling shares, business or property you may wish to bring forward or delay signing the contract until the new financial year, depending on whether you are seeking to crystallise a loss before year end or delay a capital gain.

### Superannuation – Personal Deductions

» All individuals are now eligible to claim a tax deduction for personal superannuation contributions. The "10% test" has been scrapped from 1 July 2017. This is subject to super caps of $25,000 for concessional contributions and $100,000 for non-concessional contributions. You should check existing contributions before making any additional contributions as excess contribution taxes apply where caps are breached.

» Concessional contributions are only deductible when paid before 30 June 2018.

## INDIVIDUALS IN BUSINESS

» Income and deductions that are incurred before 30 June 2018 will be included in this income year.

» If you use a motor vehicle for work-related purposes, it is important to monitor your work-related kms travelled and have your logbook up-to-date to ensure you can claim the highest deduction available. Note that the 12% of the cost of the car and one-third of actual expenses method of claiming motor vehicles deductions no longer apply.

» Accelerated depreciation - Small Business Entities with an aggregated turnover of less than $10 million could purchase assets up to the value of $20,000 and claim an instant tax deduction for them. This measure has been extended to 30 June 2019, after which the threshold reverts from $20,000 to $1,000. There are some additional requirements for this incentive. Please discuss this with your Hall Chadwick adviser.

## COMPANIES/TRUSTS/PARTNERSHIPS

### Defer Income

- Where practical for Small Business Entities and depending on whether it returns on a cash or accruals basis, you may wish to consider deferring the issue of invoices and/or the receipt of cash until after 30 June 2018. Please note that the ATO will generally require you to pay tax on income that you have either received or become entitled to due to the completion of work. Given the reduction to the company tax rate to 27.5%, and increase in the turnover threshold to which the rate applies, the deferral of income may be useful if you are able to defer the derivation of income.
- Base rate entities, being companies with turnovers less than $25 million for the 2018 financial year, will have the maximum franking credit rate attached to franked dividends reduced to 27.5%, the same as the rate of tax they pay on income.

### Maximise Your Deductions

- Review inventory and assets schedules for obsolete items and items that may be scrapped. Pay professional fees or other employment or business related deductions before 30 June 2018.
- For companies and other business that are taxed on an accruals basis, it is not always essential that an invoice is received for an expense to be deductible. Prior to year end consider what additional specific accruals can be booked into the accounts and deducted for tax purposes on the basis that you are wholly committed to the expense at year end, it is capable of reasonable estimation (e.g. accrued utilities) and the accrual relates to work or services provided before year end.

### Private Company ("Division 7A") Loans

- Business owners who have borrowed funds from their company in previous income years and put the loan under a complying loan agreement must ensure that the appropriate minimum payments of principal and interest repayments (ATO Benchmark interest rate for 2017-18 — 5.3%) are paid by 30 June 2018. Note, if business owners borrowed funds from the company during 2018, then they must ensure that it is either repaid in full or put under a complying loan agreement by the relevant date (that is, generally the due date for the lodgement of the relevant company's tax return for 2018).

### Prepayments

- Generally, businesses must deduct expenses of $1,000 or more over the relevant period to which they relate. However, if the entity is a small business entity (generally, aggregated turnover <$10m), they may prepay up to 12 months' worth of expenses and claim the full amount in the current year.
- Taxpayers that are not in business may also prepay up to 12 months' of deductible expenses, including interest on investment loans, insurances and work-related subscriptions.

### Year End Stock Take / Work in Progress

- If applicable, you need to prepare a detailed stock take and/or work in progress listing as at 30 June 2018. Review your listing and write-off any obsolete or worthless stock items.
- If the 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.

### Write-off Bad Debts

- Review your trade debtors listing and write off all bad debts before 30 June 2018. Prepare a minute of a Directors' meeting, listing each bad debt, as evidence that these amounts were actually written off prior to 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).

### Employee Superannuation Payments

- The current superannuation guarantee charge rate is 9.5% of an employee's ordinary time earnings and will remain at this rate until 30 June 2021.

Contributions are only deductible when paid and when on time. Please ensure all contributions are paid within 28 days after the end of the quarter. All payments must be made electronically and the fund must be notified in an electronic format.

The government has announced a 12-month amnesty available from 24 May 2018 to 23 May 2019 as a one-off opportunity for employers to self-correct past superannuation guarantee non-compliance with no penalties. This is currently proposed legislation, see here for more information.

### Single Touch Payroll

- You should contact your payroll software provider to ensure their software has the ability to report to the ATO directly under the single touch payroll system from 1 July 2018.

### Dividends

- You may wish to pay dividends on or before 30 June 2018 in order to ensure that the dividend income is derived by the relevant shareholders during the 2018 income year (particularly where shareholders, or beneficiaries of a family trust that is a shareholder of a company have losses or are otherwise on low tax rates so as to minimise the overall tax payable). Note, however, the Commissioner's views in relation to 'reimbursement agreements', that is, where trustees make a tax distribution to a low rate beneficiary as part of an arrangement whereby the actual benefit is received by a higher rate beneficiary. In these circumstances, the Commissioner may seek to assess the trustee at the top marginal tax rate.
- Changes to the company tax rates now means that franking credits attached to franked dividends are limited to the corporate tax rate applicable to the entity paying the dividend. This means that entities that now have access to the 27.5% tax rate will only be able to frank dividends at the franking rate of 27.5%, irrespective of whether the tax rate applicable to the profits generating the franking credit was at the 30% rate.

### Research & Development Tax Concessions

- As part of the 2018 Budget, the Government has proposed changes to the R&D tax offset for companies with turnover > $20M to introduce a R&D premium whereby the rates of the non-refundable R & D tax offset is based on the incremental intensity of R & D expenditure as a proportion of total expenditure for the year. As follows:
  - 4% for R&D expenditure between 0%-2% R&D intensity
  - 6.5% for R&D expenditure between 2%-5% R&D intensity
  - 9% for R&D expenditure between 5%-10% R&D intensity
  - 12.5% for R&D expenditure above 10% R&D intensity

  This is proposed to start from 1 July 2018. Bringing forward expenditure eligible to R&D tax offset before 30 June 2018 may result in a greater R&D tax offset benefit. For FY2019, you may need to assess if the proposed changes mean a reduction in your expected R&D tax offset.

### Trustee Resolutions

- Ensure that the Trustee Resolutions are prepared and signed before 30 June 2018 for all Discretionary ("Family") Trusts. Most trust deeds (and the tax law) generally require such discretion to be exercised by 30 June each year and in the absence of such exercise, either:
  - default beneficiaries under the trust will be assessable in relevant proportions (and this may not be tax effective); or
  - in the absence of default beneficiaries, the trustee will be assessed at the top marginal tax rate.

### Trust To Trust Distributions

- Trusts are generally subject to carry forward loss rules, including the 'income injection' test. However, if trusts are within a 'family group', trust income from one trust may be 'injected' into a loss trust so as to soak up the losses and reduce assessable income – have you made appropriate Family Trust Elections and/or Interposed Entity Elections?
- Trust deeds should be regularly reviewed to confirm how it interacts with the various tax requirements, some of which are mentioned above.

## SUPERANNUATION FUNDS

Super contribution caps for 2018 financial year:

| | |
|---|---|
| Concessional (deductible) | $25,000 |
| Non-concessional (non-deductible) | $100,000 only if super balance is <$1.6M, and bring forward rules can apply if under 65 and if super balance is <$1.5M as at 30 June 2017 [1] |

[1] Reduced limits apply for balances > $1.3M as at 30 June 2017.

- For concessional contributions, a superfund must receive the contribution by 30 June 2018 for it to be deductible by the payee.
- If you are 55 years of age or over, you can commence a transition to retirement (TTR) pension. Transition to retirement means you are able to contribute to your fund a withdraw a maximum pension amount of 10% of your member balance at the beginning of the income year (or when you commence the pension). Earnings to support a TTR pension are taxable from 1 July 2017.
- If you have started a pension, you need to make sure you meet the minimum annual pension requirement. Minimum pension payment is 4% of the balance at the start of the income year for individuals under 65 years of age, 5% if aged from 65-74, 6% if aged from 75-79 and 7% if aged 80-84. Higher rates are applicable for those aged 85 or over. These minimum pension payments must be made before 30 June 2018.

### Division 293

- If you have adjusted taxable income over $250,000, you will need to pay additional tax of 15% on your concessional superannuation contributions.
- Adjusted taxable income is ordinary taxable income plus reportable fringe benefits, total net investment losses (which is added back) and reportable super contributions.

| Plan for the Superannuation changes coming - 1st July 2018 | | |
|---|---|---|
| Unused concessional Contributions | Additional catch up concessional contributions allowed from 1 July 2018 | • From 1 July 2018, where an individual has not fully used up their concessional contribution caps (of $25,000), they will be able to increase their concessional contribution in a year up to their cumulative available unused cap.<br>• Only available to individuals with a super balance of <$500,000. |
| First Home Saver Scheme (FHSS) | First year to access benefits | • If you have made eligible contributions under the new FHSS, this is the first time you will be able to apply to have these released to purchase a home. |

| Plan for the Superannuation changes coming - 1st July 2018 | | |
|---|---|---|
| Downsizer contribution scheme | Additional contributions of $300,000 per person for retirees selling their home | • The contract must be signed after 1 July 2018.<br>• A number of other eligibility requirements must also be met so please check specifically before making any contributions. |
| Transfer Balance Cap | This is a new concept that needs to be reported to the ATO on a regular basis | • Changes in member balances between accumulation and pension (or vice versa) need to be reported to the ATO within 28 days of the end of the quarter.<br>• If super balance is less than $1million you only have to report annually.<br>• Penalties may be applied for late or incorrect reporting so compliance is required. |
| Limited Recourse Borrowing Arrangement (LRBA) | Borrowing in an SMSF will be counted to the member balance | • If your SMSF has a Limited Recourse Borrowing Arrangement as well as both pension and accumulation benefits, extra care needs to be taken in relation to your record keeping.<br>• From 1 July 2018 the Government has proposed LRBA will be counted as part of a member's total super balance where the LRBA is from an associate, or the member is older than 65 years old (or has otherwise met a condition of release). |

## SMALL BUSINESS CGT CONCESSIONS

- If you make a personal super contribution using the capital proceeds received from the sale of certain small business assets, you could consider whether to apply the small business capital gains tax cap election. For the 2018 income year, the lifetime CGT cap is $1,445,000. These contributions are excluded from being counted towards the non-concessional contributions cap.
- Note however, changes are proposed to access the small business CGT concessions from 1 July 2017 when the capital gain is from the sale of shares in a company or interest in a trust. Please discuss this with your Hall Chadwick advisor.

## THINKING FURTHER AHEAD

In conjunction with your year-end planning, it is also important to consider where you and/or your business are and where you would like to be going forward.

Whether you are:

- planning to expand your business interstate or internationally;
- planning to purchase an investment property, a share portfolio;
- planning for your retirement (whether it be establishing an SMSF, structuring property investments/ developments in an SMSF);
- reviewing the adequacy of your current insurance coverage (income protection, life insurance, TPD insurance);
- thinking about business succession; and thinking about estate planning.

Given the complexity of some of the issues mentioned above and some other issues which may apply to your business it is important that you obtain expert tax advice in relation to your particular circumstances.

If you would like to make an appointment for further discussion, please feel free to contact your Hall Chadwick adviser.

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