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 2020.

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.

Major items for consideration are outlined below. A more detailed 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.	Companies (with active businesses) with turnover less than $10m can deduct prepaid expenses if the period to which the service relates ends no later than 30 June 2021.
Small business entity asset acquisitions	Increase in the instant asset write-off threshold from $30,000 to $150,000, and increasing access to this for businesses with aggregated annual turnover of less than $500M (up from $50M) from 12 March 2020 until 30 June 2020. For assets acquired and installed prior to 30 June 2021, businesses with turnover of less than $500M will be able to deduct 50% of the cost of an eligible asset on installation. The balance of the cost of the asset will be depreciated over the life of the asset per existing rules.	• Business entities with turnover of less than $500M can obtain immediate deduction for assets acquired < $150,000 between 12 March 2020 until 30 June 2020. • Incurring expenditure before 30 June 2020 will allow immediate deduction in current financial year. • For assets acquired greater than $150,000, accelerated depreciation is available to provide significant deductions in the first year.
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 2020 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. • Some of these are required by ASIC pre year-end to prevent audited accounts being requested.
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. 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. • We see some trust deeds that don't allow for distributions to corporate beneficiaries or other un-nominated beneficiaries. These should be reviewed and updated pre year-end. • If corporate beneficiaries are not established before year-end, they are unable to be nominated as beneficiaries.

EARLY ACCESS TO SUPERANNUATION

Superannuation related matters BEFORE 30th June 2020		
Concessional Contributions	Maximise your contributions for FY2020	• Contributions cap for all people, regardless of age, is now $25,000. • 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. • The averaging or "bring forward" rules are still available to individuals under the age of 65. • If you triggered the bring forward provisions in prior years, you have a transitional cap. Your remaining contribution cap will depend on the year you triggered the provisions and how much the contribution totalled. • 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. • 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. • Ensure you notify your superannuation fund AND receive a confirmation from the super fund. • 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. • From 1 July 2020 the age limit for spouse contributions made to a spouse's account will increase from 69 to 74 years of age (per budget 2019 announcement and this has not yet been legislated).
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.
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 greater than $1M.

Superannuation related matters BEFORE 30th June 2020		
Superannuation Pension Drawings	Draw at least the minimum pension	• Minimum pension requirements must be drawn in cash by 30th June 2020, or the account will cease to be a pension account. • As a result of the significant losses arising from the COVID-19 impact on investment values and earnings, the minimum pensions for the 2020 financial year have been halved. Minimum pension is 2% of the balance at the start of the income year for individuals under 65 years of age, 2.5% if aged from 65-74, 3% if aged from 75-79 and 3.5% if aged 80-84. Higher draw downs are required for older persons. • Please check your super fund records to confirm any drawings that have been made this year that will be considered to be pension payments.
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 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. • The rules in this area are now quite complex so please contact us to discuss further.
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 in the context of all your potential superannuation benefits. • 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.

Superannuation related matters BEFORE 30th June 2020		
First Home Saver Scheme (FHSS)	Second year of operation	• The 2018 year was the first year contributions could be made under this scheme. • All contributions can be included; there is no need to nominate or separate any contributions. • From 1 July 2018, you can apply to release your voluntary contributions, along with associated earnings to help to purchase your first home. However you must meet the eligibility requirements to apply for the release of these amounts.
Early access to superannuation	If you've been financially affected by COVID-19, you can apply to access up to $10,000 of your superannuation before 30 June 2020. You can also apply to access up to a further $10,000 from 1 July 2020 until 24 September 2020.	A maximum of $10,000 can be accessed if you meet eligibility requirements, but this must be done before 30 June 2020.

INDIVIDUALS

Maximising allowable deductions

Bringing forward deductions before 30th June 2020 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.

As a result of the COVID-19 pandemic, the ATO accepts three calculation methods to calculate deductible working from home expenses for the period from 1 March 2020 until 30 June 2020 (i.e. the new Shortcut Method and the existing Fixed Rate Method / Actual Cost Method). Under the Shortcut Method, taxpayers can now claim 80 cents per work hour for all additional running expenses. Notably, multiple individuals within the same house can each claim the 80 cents per hour rate and the usual requirement for the dedicated work area has been removed for deductions claimed using this method.

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 2020 income year.

» If you have the available cash, consider prepaying interest for the 2021 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 is 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. As a result of possible depressed asset values from the COVID-19 impact on the economy, realising a capital loss to offset against prior realised gains can assist in minimising taxation payable for the 2020 financial year.

Superannuation – Personal Deductions

» All individuals are now eligible to claim a tax deduction for personal superannuation contributions. The "10% test" was scrapped on 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 2020.

INDIVIDUALS IN BUSINESS

» Income derived and deductions that are incurred, before 30 June 2020 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.

COMPANIES/ TRUSTS/ PARTNERSHIPS

Instant Asset write off

» Entities with an aggregated turnover of less than $500 million can purchase assets up to the value of $150,000 and claim an instant tax deduction for them, applicable for assets acquired from **12 March 2020 to 31 December 2020.**

» Note, up to 11 March 2020, entities with an aggregated turnover of less than $50 million could purchase assets up to the value of $30,000 and claim an instant tax deduction for them.

» This incentive applies on a per asset basis to new or second-hand assets first used or installed ready for use in the above timeframe.

Accelerated Depreciation

» For assets acquired and installed prior to 30 June 2021, businesses with turnover of less than $500M will be able to deduct 50% of the cost of an eligible asset on installation. The balance of the cost of the asset will be depreciated over the life of the asset per existing rules.

» There are some additional requirements for this incentive. Please discuss this with your Hall Chadwick advisor.

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 2020. 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 reduced company tax rate of 27.5% for Small Business and Base Rate Entities, 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 $50 million for the 2020 financial year, have the maximum franking credit rate attached to franked dividends of 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 2020.

» 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 2019-20 — 5.37%) are paid by 30 June 2020. Note, if business owners borrowed funds from the company during 2020, 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 2020).

» Treasury has a released long-awaited consultation paper to amend the operation of the Division 7A on 22 October 2018 however, the Budget 2019 announcement delayed the start date of amendments to Division 7A by 12 months to 1 July 2020. As most of the proposed changes are detrimental, clients concerned with the operation of their Division 7A loans should contact Hall Chadwick for advice.

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 and 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 2020. 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 2020. 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.

Dividends

- You may wish to pay dividends on or before 30 June 2020 in order to ensure that the dividend income is derived by the relevant shareholders during the 2020 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 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 proposed changes to the R&D tax offset for companies with turnover > $20M to introduce a R&D premium whereby the rate 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

Changes to the R&D tax offset announced in the 2018 Budget were reintroduced as a Bill and it is proposed to start from 1 July 2019. The Bill cannot pass until after the resumption of Parliament in August 2020.

Due to COVID-19, registration applications for the 1 July 2018 to 30 June 2019 income year has an extended deadline and **companies have until 30 September 2020 to submit their registration applications.**

Clients currently making R&D tax offset claims should contact Hall Chadwick for potential impact to these claims.

ESIC and tax incentives for early stage investors

Angel investors investing in qualifying early stage innovation company (ESIC), may be eligible for the tax incentives.

The tax incentives provide eligible investors:

- non-refundable carry forward tax offset equal to 20% of the amount paid for their eligible investments. This is capped at a maximum tax offset amount of $200,000 in each income year.
- Capital gains on qualifying shares that are continuously held for at least 12 months and less than 10 years may be disregarded. Capital losses on shares held less than 10 years must be disregarded.

Trustee Resolutions

- Ensure that the Trustee Resolutions are prepared and signed before 30 June 2020 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 previously.

SUPERANNUATION FUNDS

Super contribution caps for 2020 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 2019 [1]

[1] Reduced limits apply for balances > $1.3M as at 30 June 2019.

- For concessional contributions, a superfund must receive the contribution by 30 June 2020 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 and 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 2% of the balance at the start of the income year for individuals under 65 years of age, 2.5% if aged from 65-74, 3% if aged from 75-79 and 3.5% if aged 80-84. Higher rates are applicable for those aged 85 or over. These minimum pension payments must be made before 30 June 2020.

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.

Other Superannuation Changes		
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. • Only available to individuals with a super balance of <$500,000.
First Home Saver Scheme (FHSS)	Second year to access benefits	• If you have made eligible contributions under the new FHSS, you will be able to apply to have these released to purchase a home.
Downsizer Contribution Scheme	Additional contributions of $300,000 per person for retirees selling their home	• The contract must be signed after 1 July 2018. • 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. • If super balance is less than $1million you only have to report annually. • 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. • From 1 July 2018 the LRBA is 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).
Increase age limit for making voluntary contributions	Acceptance of superannuation is allowed for 65 and 66 year olds	• From 1 July 2020, the Government has proposed to increase the age limit and allow 65 and 66 year olds to make voluntary contributions. • The extension of this rule by two years may mean that an individual who is 66 at the beginning of 1 July 2020 would be eligible for bring-forward contributions.

Other Superannuation Changes		
Early access to superannuation	If you've been financially affected by COVID-19, you can apply to access up to $20,000 of your superannuation	• Access is available to $10,000 up to 30 June 2020. You can also apply to access up to a further $10,000 from 1 July 2020 until 24 September 2020.

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 2020 income year, the lifetime CGT cap is $1,515,000. These contributions are excluded from being counted towards the non-concessional contributions cap.

Note however, changes have been legislated to access the small business CGT concessions 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);
- 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 advisor.

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