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Client Information Bulletin

Charitable Foundations Now More Accessible

Philanthropic foundations have always been considered the province of the very wealthy, the very altruistic, or those who have no family to leave their assets to. They've also usually been considered complex and expensive to set up. This has changed markedly over the past 12 months.

Philanthropic giving in Australia in recent years has seen a significant growth trend, 11.2% in the most recent annual assessment, and many believe it is set to increase exponentially over the next 10 years.

It is also known that approximately two-thirds of charitable donations are not claimed as deductions. This is thought to be due to two main reasons; people forget to claim or lose their receipts, and, bequests provided from estates are not tax deductible.

The main reasons for the increase in charitable giving include:

- An increasing awareness of the need and the opportunity for effective philanthropy;
- New taxation provisions;
- New products and services which improve access to foundation structures; and,
- The greater level of wealth, combined with the commencement of an inter-generational transfer of assets.

The government has introduced a number of tax changes in recent years to encourage philanthropy. These include the ability to spread deductions for gifts (cash, shares or real estate) over periods of up to 5 years if that suits the taxpayers circumstances.

There are companies that can facilitate your wishes with private trusts and other gifting structures.

Debit Loans in Private Companies - Beware

Overdrawn loan accounts to shareholders and associates in private companies are considered deemed dividends unless the loans were in existence pre 4th December 1997 or a properly structured loan agreement is executed.

The pre 4th December 1997 loans are quarantined unless the loan is varied by extending the term of the loan or increasing the amount. Also, if a loan is forgiven it will be deemed a dividend irrespective of start date. The Australian Taxation Office take the view that there is an effective forgiveness if the lender (company) becomes statute barred from claiming on the loan. This would normally happen after 6 years.

It is therefore appropriate that pre 1997 loans be acknowledged to ensure they do not become statute barred.

No more Company Annual Returns?

Corporate law is being reformed to simplify document lodgments and compliance procedures for companies. Small businesses will particularly benefit as the burden of compliance and paperwork will become easier and the timeframe in which to notify ASIC of changes will increase.

A major change is in relation to company annual returns. The annual return lodgment procedure will be changed whereby an annual review procedure requiring less paperwork where details have not changed. The review will coincide with the company's date of incorporation/registration.

There is also a move to electronic notification procedures instead of hard copy lodgments.

The ASIC will email an extract of data base details to each company within 2 weeks of the anniversary date of incorporation. Any changes must be notified back to the ASIC within 28 days of the anniversary date (annual review date). If there are no changes to company details no action is required. An annual review fee will be payable within 60 days after the company review date. The fee is fixed at \$200 per company until 30th June 2004.

Most companies will therefore, not need to send the ASIC an annual statement.

Compliance Made Easier:

Notification to the ASIC of changes to company details will be required within 28 days of a change. ASIC will issue an updated extract of particulars whenever a company notifies a change to enable a company to confirm that changes have been correctly recorded on the register. Late fees will apply.

Year End Tax Planning

With the end of the tax year (30 June) rapidly approaching, now is the time to implement year-end tax saving strategies. Correct structuring of salaries, bonuses, superannuation, dividend levels, negative gearing, prepayments, etc can be of great benefit when carried out prior to 30th June.

1. Accelerate Deductions

Due to prepayment rules, only small businesses (turnover under \$1million and depreciable assets under \$3 million) can prepay business expenses and receive a full deduction this year. You can prepay expenses by ensuring that a cheque is drawn for the expense in June, rather than July or August. The tax laws only allow prepayment of expenses up to 13 months in advance. Even so, this is still an excellent way to legally delay payment of tax for a year, particularly for those businesses classified as "small business".

To improve the chances of deductibility, the prepayment should be a condition of the contract or arrangement that requires or allows that advance payment. Check the terms of the contract before any prepayment is made.

Some examples of this are:

- Interest can be prepaid on a business or investment loan.
- Prepay business rent of premises or certain lease rentals on business assets.
- Repairs to vehicles and equipment can be carried out in June, rather than in July.
- Business travel and conference costs.
- Other general business expenses such as property maintenance, stationery and insurance.

2. Deferring Taxable Income

Check the items of income that are possible to delay into the next tax year.

Some Specific Points:

- Where income will be derived by a minor who is nearing the age of 18, income deferred into the following year will attract the much lower adult rates of tax.
- Where income in the next tax year is likely to be substantially less and the applicable tax rate much lower; eg in the case of a downturn in business, extended holidays, retirement, etc.
- The deferring income strategy can also be utilized for personal exertion income. Salary and wages and other payments for services rendered are generally taxed when they are received. This is so whether the payment is for current or past services. This means that back pay, retrospective increases, lump sum workers' compensation arrears, bonuses, directors fees, holiday pay and the like are all assessable in the year they are received. This can work to the advantage of the taxpayer, eg receive a bonus or

commission on 1 July rather than 30 June.

3. Superannuation

Must be paid before 30 June to claim Tax Deduction. A business is able to pay its June Superannuation Guarantee contribution by 28 July quite legitimately but it won't be tax deductible in June.

You also need to consider the superannuation surcharge. Super funds are currently taxed 15% on most superannuation contributions. However, if your adjusted taxable income (including superannuation contributions and fringe benefits) exceeds \$90,527 the superannuation surcharge may also apply.

For each thousand dollars received over that amount, the surcharge rate on the super contribution climbs by one per cent up to a maximum of 15 percent.

4. Farm Management Deposits

The Farm Management Deposits scheme system should allow primary producers to plan their taxation affairs to perfection. That is reduce taxable income when in the top marginal tax bracket (above \$60,000) and defer the income to a year when taxable income falls into the lower marginal tax brackets. Interest on amounts borrowed to fund the tax deductible deposits should also be tax deductible.

Deposits are fully tax deductible in the year of deposit. The deposit must be made prior to 30 June to be effective in this tax year. Amounts are taxable in the year of withdrawal.

5. Offset Capital Gains Against Capital Losses

This is an area that has caught many investors out. Capital losses realized in a tax year can only be offset against capital gains, made in the same year or future years. Capital losses cannot be offset against ordinary income, although they can be carried forward to future years. Therefore you must ensure that

capital losses are realized before or in the same year as the capital gain. If you have a realized capital gain in the current year, and are sitting on unrealized capital losses, you must give serious consideration to realizing the loss to offset the gain in the same year.

6. **Bad Debts**

Write off before 30th June to gain a tax deduction in the 2003 year.

7. **Stock on Hand**

Review stock levels, write down obsolete and damaged stock, and look at the most advantageous method of valuation i.e. cost or market selling value

Motor Vehicle Expenses

Rates per kilometre for the 2003 income year

The prescribed rates for calculating a deduction for car expenses for the 2003 income year are as follows:

Type of Car	Engine Capacity (Non-Rotary)	Rates per kilometre
Small	Not exceeding 1600cc	50 Cents
Medium	Exceeding 1600cc but not exceeding 2600cc	60 Cents
Large	Exceeding 2600cc	61 Cents

Fringe Benefits

The cents per kilometre rates are also used to calculate the taxable value of some fringe benefits relating to motor vehicles (eg remote area holiday travel). The 2003 income year rates are to be used for fringe benefits provided in the fringe benefits tax year ending 31st March 2003

Federal Budget

The Treasurer, delivered the 2003-04 Federal Budget in May. Included in the Budget were the following tax measures:

1. Personal income tax cuts (by increasing the personal income thresholds), from 1 July 2003;
2. An increase in the low income tax offset, also from 1 July 2003;
3. An increase in the Medicare levy low income threshold, from 1 July 2002;
4. Increases in the maximum income level thresholds for the Senior Australian tax offset, effective from 1 July 2003;
5. Alienation of personal services income measures (to allow excess personal services income deductions to be used against other income and to prevent the double taxation of fringe benefits), effective from 1 July 2000;
6. Imputation changes – allowing the carrying forward of surplus exempting credit balances.

Personal Income tax cuts

The Treasurer announced that, from 1 July 2003, personal income tax cuts will be achieved by increasing the personal income thresholds as follows:

- increasing the upper income limit for the 17% tax rate from \$20,000 to \$21,600;
- increasing the upper income limit for the 30% tax rate from \$50,000 to \$52,000; and
- increasing the upper limit for the 42% tax rate from \$60,000 to \$62,500.

Effective from 1 July 2003, the following personal tax rates (excluding the Medicare levy) will apply:

2003-04 threshold income range	2003-04 tax payable (residents)
\$0 - \$6,000	Nil
\$6,000 - \$21,600	Nil + 17% of excess over \$6,000
\$21,600 - \$52,000	\$2,652 + 30 % of excess over \$21,600
\$52,001 - \$62,500	\$11,772 + 42% of excess over \$52,000
\$62,501 +	\$16,182 + 47% of excess over \$62,500

GST Requirements For Businesses Selling Property

The Australian Taxation Office 'will relax the GST requirements for businesses that sell property'.

Under these changes, businesses that elected to use the margin scheme, but did not use a valid valuation of the property, will be given the choice of:

1. substituting another existing valuation, where one is available (for example, an existing ratings value of the property);
2. obtaining a valid valuation (for example, by engaging the services of a professional valuer); or
3. defaulting to calculating the margin as the difference between the selling price and the original purchase price.

Under this approach, no penalty will apply in cases of 'genuine misunderstandings or honest mistakes'.

Superannuation Guarantee

From 1 July 2003 superannuation guarantee payments must be paid quarterly. 9% of an employee's salary package that is subject to superannuation must be remitted to their superannuation fund by the 28th day of the following month at quarters end. Employees must be informed in writing of superannuation remittance. This can be by way of email, letter or on the employee's pay slip.

Significant penalties apply for non-compliance.

Credit Loans in Private Companies

Under new debt and equity rules credit balance loans in private companies can be deemed to be equity and therefore largely inaccessible to the lender as debt repayment. When making a loan to a private company you must ensure loan documentation exists - in particular the documentation must detail the term of the loan and the interest rate of the loan if you wish the funds to be considered debt and thus redeemable. Consult your advisor prior to making loans.

Training Grants

Many businesses are not aware that both State and Federal Governments offer grants for training staff. If you employ a trainee aged between 16-64 years with no formal qualifications your business maybe eligible for grants of up to \$4,400 per employee.

The training can be conducted at your business premises or by distance education. Please contact our office for further details.

Workers Compensation

The definition of wages has now been expanded to include working directors fees and superannuation guarantee payments for employees.

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