EVA LAW & ASSOCIATES
Chartered Accountants & Business Advisers

Year-end Tax Planning Guide - 30 June 2013

The end of the financial year is fast approaching. In the lead up to 30 June, this newsletter covers some of the year-end tax planning matters for your consideration.

BUSINESSES

Maximise depreciation deduction

Businesses should perform a review of the fixed asset register and assess whether the depreciation rate and method used for each asset is correct and maximise the tax position. Any obsolete items which are not expected to be used again for any purpose should be scrapped before 30 June 2013.

Immediate asset write off

Small business entity

Small business entities (ie. with an aggregated turnover of less than $2 million) can claim an immediate deduction for depreciating assets costing less than $6,500 (increased from $1,000 on 1 July 2012). Assets costing $6,500 or more can be pooled and depreciated at 15% in the year of purchase (and thereafter at 30% under the diminishing value method), regardless of the purchase date.

An immediate deduction of up to $5,000 can also be claimed for the cost of a motor vehicle purchased for business use. The balance of the cost can be depreciated as part of the small business depreciation pool (see above).

Where appropriate, small business taxpayers should consider purchasing these assets before 30 June 2013 to maximise the tax deductions for the 2012/2013 year.

Non small business entity

Large businesses can write off depreciating assets costing $100 or less in the year of purchase. Assets costing $1,000 or less can be pooled and depreciated at 18.75% in the year of purchase (and thereafter, at 37.5% under the diminishing value method), regardless of the purchase date.

Valuation of stock

Businesses can value closing stock at less than its cost where it is obsolete or special circumstances exist which have affected its value (for example, discontinued or damaged stock).

By electing to value stock below cost at year end, the loss which is normally not realized until the stock is actually sold, is effectively brought forward. If your business has slowed down during the year, it may be worthwhile to have a detailed review of the value that can be ascribed to the trading stock for income tax purposes.

Any unwanted stock scrapped or discarded before year end can also reduce the taxable income for the 2012/2013 year.

Accelerate expenditure

Review deductible expenses that would otherwise be incurred in the 2013/2014 income year and consider whether any of these expenses can be brought forward to the current year. For example, consider purchasing office supplies and stationery by 30 June to top-up existing supplies.

Accrued business expenses

Many businesses are not aware that expenses incurred but not yet paid can still be deductible. This is the case whether your business uses cash or accrual basis to account for its income.

There must be a “presently existing liability” in order for an expense to be “incurred”. For example, a telephone account received before 30 June 2013 is incurred in the 2012/2013 year despite payment will not be made until after 30 June.

Accrued commissions and bonuses

Employers can claim a tax deduction for accrued commissions and bonuses in the current year if they are definitely committed to paying the amount at 30 June 2013 (for example, by passing a resolution), and the commissions and bonuses are not subject to any discretions or conditions that need to be met after year end. Simply raising a journal entry after year end for the accrual is not adequate to claim a tax deduction.

An employer's PAYG withholding obligation in relation to the commissions and bonuses accrued at year end does not arise until payment. Similarly, the employees are not taxed until the bonuses and commissions are received.

Superannuation contributions

Superannuation contributions must be paid to and received by a complying superannuation fund prior to 30 June 2013 in order to be deductible in this income year. If payment is made by cheque, make sure there is adequate time for the superannuation fund to bank the cheque by 30 June.

From 1 July 2013, the rate of superannuation guarantee contributions will increase from 9% to 9.25%. Employers will also be required to make contributions for employees who are aged 70 or over.

Prepaid expenses

A "small business entity" can claim a tax deduction for expenses prepaid during the 2012/2013 income year provided that they are not prepaid for more than 12 months in advance, and the prepaid period ends on or before 30 June 2014. Common expenses which can be prepaid include:

(a) Office rent
(b) Insurance premiums
(c) Interest on business loans
(d) Professional subscriptions
(e) Seminar and training costs

For large businesses, the range of expenditure which can be prepaid to claim a tax deduction is limited to:

(a) expenditure of less than $1,000
(b) salary and wages
(c) expenditure required to be incurred by the law

Bad debts

One strategy to maximise "cashless" deductions is to write off non-recoverable customer debts before 30 June 2013.

Under the accrual method of reporting income, bad debts are generally deductible. Companies and certain types of trusts are however subject to additional requirements before a deduction can be claimed (for example, meeting the continuity of ownership test or the same business test).

Where a debt is written off, GST can also be claimed back in some cases.

It was announced in last year's Federal Budget that from 8 May 2012, bad debt deductions will no longer be available for related entities not in a tax consolidated group. At the date of publishing this newsletter, the legislation to introduce this new measure has not yet been enacted.

Defer income

If cash flow allows, you may wish to defer the derivation or receipt of income until the beginning of next income year. You should also review whether any income received in advance has not been derived and can be deferred until next income year.

If your business accounts for income on a cash basis, defer receipt of cash. If income is accounted for on an accrual basis, defer issuing of invoices.

However, the merits of this strategy must be assessed with the commercial considerations in each individual case. Also, if your business has tax losses, you may wish to bring forward the derivation of income to offset against the tax losses, especially if it is likely that the tax losses cannot be recouped in the following year.

Company losses carry back

If a company paid tax in the 2011/2012 income year but will make a loss this year, the new loss carry back measure will allow the company to "carry back" up to $1 million of tax losses and claim a refund for the tax paid last year.

Company losses carry back (continued)

The tax refund will be limited to the balance of a company's franking account. From the 2013/2014 year, tax losses will be able to be carried back and offset against tax paid up to the previous two years.

At the date of publishing this newsletter, the legislation to introduce this new measure has not yet been enacted. If you wish to take advantage of this concession for the 2012/2013 income year, you should discuss further with a tax adviser.

Non-commercial losses

If you carry on a business as an individual (alone or in partnership) and the business makes a loss, the loss cannot be offset against your other income unless the business passes one of the business tests:

(a) It produces assessable income of at least $20,000
(b) It has produced a profit in three of the past five years (including the current year)
(c) It uses real property or an interest in real property worth at least $500,000 on a continuing basis
(d) It uses other assets worth at least $100,000 on a continuing basis.

If your adjusted taxable income is $250,000 or more, you cannot offset your business loss against other income despite meeting one of the business tests, unless approval is obtained from the Tax Commissioner to do so.

Debt forgiveness

If a company had a debt forgiven during the year, the commercial debt forgiveness rules should be considered because they may reduce tax losses and deductions that would otherwise be available.

A debt is forgiven if a debtor's obligation to pay the debt is released, waived or otherwise extinguished. The tax legislation sets out the circumstances in which a debt forgiveness arises which include scenarios when there is an assignment of debt or a debt to equity swap.

Loans from private companies

All payments made, loans advanced, or debts forgiven by a private company to its shareholders or associates during the year should be reviewed before 30 June 2013, as they could be deemed as dividends to the shareholders or associates.

All loans should be repaid or made subject to a written loan agreement with the prescribed minimum repayment terms prior to the lodgement day of the company's 2013 income tax return.

Assets owned by a company but used outside a business by a shareholder or associate for less than the market value are also deemed to be a payment which can give rise to a deemed dividend.

An unpaid distribution from a family trust to a private company in the family group could be deemed as a dividend from the private company.

Trust distributions

Tax planning for family trusts should be done as soon as possible so that a trust distribution resolution can be made by 30 June 2013 (or an earlier date if required by the trust deed).

This means that by 30 June 2013, the trustees must have determined which beneficiaries will receive a distribution from the trust for the 2013 year, the amount of the distribution and whether the beneficiary is entitled to a particular class of income.

A resolution is effective if it prescribes the methodology for calculating the entitlement (for example, a percentage of the trust's income) and does not need to specify an actual dollar amount unless so required by the trust deed.

If an effective trust resolution is not made on or before 30 June 2013, the trustees could be assessed on the trust's taxable income at the highest marginal tax rate of 46.5%.

Managing withholding taxes

If your business transacts with overseas entities, consider whether any payments made to them are for intellectual property or technical services which are subject to withholding tax.

A tax deduction for the expenses is not allowable unless and until the withholding tax is paid to the Australian Taxation Office.

Building and construction reporting

From 1 July 2012, businesses engaged in the building and construction industry are required to report their payments to contractors to the Australian Taxation Office.

The annual reporting requires businesses to provide the contractor's name, Australian business number, address and the gross amount paid (with GST included).

For the 2012/2013 income year, the annual report is required to be lodged by 21 July 2013.

Late lodgement penalties

From 28 December 2012, the late lodgement penalty has increased.

For small business entities with a turnover of less than $1 million, the penalty has increased from $110 to $170 for every 28 days a tax form is overdue, subject to a maximum limit of $850 (increased from $550).

Business entities with a turnover between $1 million and $20 million have a multiplier of 2 to the above penalties. This means that late lodgement of an income tax return could attract a minimum penalty of $340, capped at $1,700. Large entities with over $20 million turnover have a multiplier of 5.

INDIVIDUALS

Increase in tax-free threshold

From 1 July 2012, the tax-free threshold which applies to resident taxpayers has increased from $6,000 to $18,200. Along with the low income tax offset, lower-income earners can earn up to $20,542 before paying any tax.

The income tax rates for 2012/2013 and 2013/2014 year for resident taxpayers are as follows:

Taxable income	Tax on this income
$0 - $18,200	Nil
$18,201 - $37,000	19c for $1 over $18,200
$37,001 - $80,000	$3,572 + 32.5c for $1 over $37,000
$80,001 - $180,000	$17,547 + 37c for $1 over $80,000
$180,001 and over	$54,547 + 45c for $1 over $180,000

The above rates do not include Medicare levy

Bring forward tax deductions

There is generally a timing advantage in bringing forward tax deductions and in deferring the recognition of income. However, the effectiveness of this strategy will depend upon your personal tax situation. For example, if your income for the 2013/2014 year is expected to be much higher than the current year and you will be in a higher tax bracket, you may wish to delay claiming tax deductible expenses until next year when the tax benefits of the deductions would be greater.

Defer income

If you expect lower income next year due to retirement or other reason, you can consider deferring income until after 1 July 2013 when you will be in a lower tax bracket.

If you are rolling over your term deposit, you may want to think about having the term deposit matures after 30 June 2013 to defer the income until next year.

Maximise medical expenses tax offset

A means test was introduced for the 2012/2013 income year. Taxpayers with adjusted taxable income of $84,000 or less (for singles), or $168,000* or less (for couples and families), can claim 20% of out-of-pocket medical expenses exceeding $2,120. Taxpayers with adjusted taxable income above $84,000 (for singles) or $168,000* (for couples and families) can claim 10% of out-of-pocket medical expenses exceeding $5,000. * Plus $1,500 for each dependent child after the first

In the recent 2013/2014 Federal Budget, the Government announced that the medical expenses tax offset will be phased out. If you do not claim the offset for the 2012/2013 income year, you will no longer be eligible for the offset for the 2013/2014 and 2014/2015 income year unless you are claiming the offset for medical expenses relating to disability aids or aged care.

Private health insurance rebate

From 1 July 2012, private health insurance rebate is means tested. High-income earners are now entitled to a lesser rebate or no rebate at all (see table below).

In conjunction with income testing of the private health insurance rebate, the rate of Medicare levy surcharge has also increased for high-income earners.

The Medicare levy surcharge applies to taxpayers whose income is over $84,000 (for singles) or $168,000* (for couples and families) and do not have a sufficient private patient hospital cover. If you are approaching the Medicare levy surcharge income threshold and do not have a private patient hospital cover, you might want to ensure you are covered for the 2013/2014 income year by taking out the insurance by 1 July 2013. * Plus $1,500 for each dependent child after the first

	Base Tier	Tier 1	Tier 2	Tier 3
Singles (income)	≤ $84,000	$84,001 - $97,000	$97,001 - $130,000	≥ $130,001
Couple / family (income)	≤ $168,000	$168,001 - $194,000	$194,001 - $260,000	≥ $260,001
Insurance premium rebate (under 65 years old)	30%	20%	10%	0%
Medicare levy surcharge	0%	1%	1.25%	1.5%

Work related expenses

Employees who wish to claim a tax deduction for work related expenses in excess of $300 must retain the receipts for the expenses.

If the work-related expenses claim does not exceed $300, receipts do not need to be kept. However, you must be able to show the deduction relates to the salary income and how the claim amount is calculated. The $300 limit does not include claims for car, meal allowance and travel allowance expenses.

Home office expenses

If you perform some of your work from a home office, you may be eligible to claim a deduction for the costs you incur in running the home office, even if the room is not set aside solely for work-related purposes.

However, the use of the room for income producing purposes must be substantial and not merely incidental. For example, if you perform your work in a room where other family members are watching television, then a deduction is not allowed. A diary for four weeks must also be kept each year to support the hours you are working from home.

Work related equipment

You are able to claim a tax deduction for the depreciation of equipment purchased and used for producing assessable income.

Generally, there is not much benefit in buying an equipment at year end if it is depreciated under the normal rules because only one month's depreciation deduction can be claimed. However, equipment costing less than $300 can be written off immediately.

Equipment costing less than $1,000 can be pooled. The depreciation deduction can be claimed at 18.75% in the year of purchase (and thereafter, at 37.5% using the diminishing value method), regardless of the purchase date.

Self education expenses

The Government announced in the 2013/2014 Federal Budget that from 1 July 2014, a $2,000 cap will be introduced on tax deduction claim for work-related self education expenses per person per year. Individuals who are planning to undertake further study may wish to do so earlier. However, it is also worth noting that the proposed new measure has sparked widespread controversy and whether it will become law is still unknown.

Donations

Donations or gifts of $2 or more to approved organizations and charities are tax deductible. Make sure the donations are made before 30 June 2013 and request the receipts be issued in the name of the higher income earner.

Manage capital gains

If you have realized capital gains during the year, you may wish to consider selling assets that have underlying capital losses in the same year. This way, the capital gains you made can be offset against the capital losses, reducing the overall taxable income. If the capital losses are crystallized in the following year, they will not be able to be utilized until there are capital gains to offset against them.

If you intend to sell a CGT asset, you should review the ownership period to determine whether the asset has been held for at least 12 months to qualify for the 50% capital gain discount. Where a CGT asset is purchased and sold under a contract, the date of acquisition and sale is generally based on the contract date, and not the settlement date. It was announced in last year's Federal Budget that the 50% CGT discount will be removed for non-residents and temporary residents in respect of capital gains accrued after 8 May 2012. However, the legislation introducing this change has not yet been passed.

Finally, it is important to remember that you should not let tax considerations alone drive your investment decisions.

Late lodgement penalties

The increase in late lodgement penalty in December 2012 also applies to individuals. The penalty has increased from $110 to $170 for every 28 days an income tax return is overdue, subject to a maximum limit of $850.

Strategies for property investors

1. Repairs - If your investment property needs repairs, have the work carried out before 30 June can bring forward the tax deduction to this year. However, care should be taken to distinguish repairs from improvements or replacement of an asset. Further, initial repairs made to a property immediately after purchase are not deductible.

2. Depreciation and capital works deductions – If a property was purchased during the current year, you can obtain a report from the quantity surveyors to determine your depreciation and capital works deductions claim. If a report is arranged before 30 June 2013, the fee for the report is deductible in the current year.

3. Low value assets - Low value assets costing $300 or less do not need to be depreciated and their cost is deductible in full in the year of purchase. Items costing under $1,000 can be pooled and depreciated at 18.75% in the first year and thereafter at 37.5% under the diminishing value method, regardless of the purchase date.

4. Borrowing costs - A deduction can be claimed for the costs of borrowing to purchase the investment property.

5. Prepay expenses - If you prepay your rental property expenses before 30 June 2013 up to 12 months in advance, the amount prepaid is allowed as a deduction in the current year. Common expenses which can be prepaid are interest and insurance premiums. Before you prepay the interest, make sure you discuss with your financier to confirm interest prepayment is allowed under your loan agreement.

6. Deferred capital gains - If you are selling your property and the sale is expected to produce a capital gain, consider whether the contract can be entered into after 30 June. Deferring the timing of making a contract until the start of the next income year means any capital gain from the sale is deferred.

SUPERANNUATION

Maximise concessional contributions

Self-employed and individuals who earn less than 10% of their income from employment can make personal deductible contributions, subject to the concessional cap of $25,000. The contributions must be received by the superannuation fund by 30 June 2013 for the contributions to be deductible.

If you have one-off income this year (for example, taxable capital gains from the sale of an investment property), you may consider maximising your concessional contributions before 30 June 2013 to reduce your taxable income.

Employees who salary sacrifice superannuation contributions need to ensure any additional concessional contributions at year end will not result in the concessional contribution cap being exceeded. Excess contribution will be taxed at 31.5% (on top of 15% paid by the superannuation fund) and will also count towards the non-concessional contribution cap.

Reduction in concessional contribution cap

From 1 July 2012, the concessional contribution cap for individuals who are aged 50 or over has been reduced from $50,000 to $25,000. If you are in this age group, you should review and adjust your superannuation contributions strategy before 30 June 2013 in light of this change. The Government recently announced there will be a temporary increase to bring the concessional contribution limit to $35,000 for individuals who are aged 50 or over. If the law is passed, the proposed increase will take effect from 1 July 2013 for those who are aged 60 or over, and from 1 July 2014 for those who are aged 50 to 59.

Excess concessional contributions tax refund

A once-only option is available to individuals who elect to have the excess concessional contributions up to $10,000 released and assessed as income.

The Government recently announced that it would introduce legislation to allow all individuals to withdraw from their superannuation fund any excess concessional contributions made from 1 July 2013. The withdrawn excess contributions will be taxed at the members' marginal tax rate plus interest charge.

Extra 15% contribution tax

From 1 July 2012, concessional contributions made by individuals earning more than $300,000 are subject to an extra contribution tax of 15% (ie. the contribution tax on the concessional contributions is doubled from 15% to 30%). The extra 15% contributions tax only applies to concessional contributions (up to the cap of $25,000) that exceed the $300,000 income threshold.

Spouse super contributions

If you make a superannuation contribution on behalf of your spouse who earns less than $10,800, you may be entitled to a tax offset up to $540 (this rebate reduces for income up to $13,800).

Government co-contribution

If your taxable income is lower than $31,920, you may be eligible for the government co-contribution which is payable at $0.50 for every $1 of your after-tax contribution, up to a maximum amount of $500 per year. A pro-rata amount can still be claimed if you earn more than $31,920 but less than $46,920. At least 10% of your total income must be from employment and / or business activities in order to be eligible (that is, you do not qualify if you only have passive income).

Account-based pensions

If you have an existing superannuation pension, you must make sure the minimum pension amounts are drawn before 30 June 2013. The consequence of not meeting this obligation means the pension account could lose its tax exemption status and any pension payments received during the year could be treated as lump sum payments.

The Government announced in April 2013 that from 1 July 2014, the tax exemption for earnings on assets supporting pension income will be capped at $100,000 per annum per person. Earnings above $100,000 per person will be subject to tax at 15%.

There will be transitional arrangements regarding inclusion of capital gains for assets acquired before 1 July 2014.

General anti-avoidance provisions

Before undertaking any year-end tax planning strategies, you should consider the general anti-avoidance provisions in Part IVA of the Income Tax Assessment Act 1936. The tax legislation contains specific anti-avoidance provisions which target schemes entered into with the dominant purpose of tax avoidance. It is therefore important that you consider your specific circumstances and discuss any tax planning options with a tax professional before implementing any tax planning strategies.

We hope you find this guide useful. For additional information on the topics covered and on services we can provide to you, please contact us at info@evalaw.com.au, or +61 2 9264 8887.

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