EVA LAW & ASSOCIATES
Chartered Accountants & Business Advisers

Year-end Tax Planning Guide - 30 June 2014

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

Defer income

If cash flow allows, you may wish to defer the derivation or receipt of income until the beginning of next income year:

(a) Review whether any income received in advance has not been derived this year and can be deferred.
(b) If your business accounts for income on a cash basis, defer receipt of cash until after 30 June.
(c) 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.

Accelerate expenditure

Review deductible expenses that would otherwise be incurred in the 2014/2015 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 2014 is incurred in 2013/2014 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 2014 (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 in the following year.

Prepaid expenses

A “small business entity” can claim a tax deduction for expenses prepaid during the 2013/2014 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 2015. 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 law

Superannuation contributions

Whilst super guarantee contributions for the quarter ending 30 June 2014 is not due until 28 July 2014, they must be paid to and received by a complying superannuation fund by 30 June 2014 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 2014.

From 1 July 2014, the rate of superannuation guarantee contributions will increase from 9.25% to 9.50%.

Employers are now required to make contributions for employees aged 70 or over.

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 2014.

Immediate asset write off

Small business entity

Currently, 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. Motor vehicles costing $6,500 or more qualify for an upfront deduction of $5,000. The balance of the cost can be depreciated as part of the small business depreciation pool (see below).

However as part of the proposed repeal of the mineral resource rent tax, with effect from 1 January 2014, the government intends to reduce the $6,500 threshold to $1,000 and remove the $5,000 motor vehicle concession. At the time of writing, this proposal is not yet law. If it becomes law, the new measure will apply to depreciating assets acquired and used (or installed ready for use) on or after 1 January 2014.

Depreciating assets not immediately deductible 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.

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 in 2013/2014.

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.

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

(a) It has produced a profit in three of the past five years (including the current year)

(a) It uses real property or an interest in real property worth at least $500,000 on a continuing basis

(a) 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.

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 2014, 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 2014 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.

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 (ATO).

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 2014 (or an earlier date if required by the trust deed).

This means that by 30 June 2014, the trustees must have determined which beneficiaries will receive a distribution from the trust for the 2014 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 2014, the trustees could be assessed on the trust's taxable income at the highest marginal tax rate of 46.5%.

It is important to note that the tax free threshold for minors is only $416.

Other administrative issues pertaining to a trust making a 30 June 2014 distributions include:

(a) Beneficiaries must quote their tax file number (TFN) to trustees before a distribution is made to them; and

(b) The trustee must report details of all new TFNs quoted to the ATO by 31 July 2014.

PAYG payment summaries

PAYG payment summaries must be provided to employees by 14 July 2014 and lodged with the ATO by 14 August 2014, unless the ATO has granted your business an extension of time.

Late lodgement penalties

For small business entities with a turnover of less than $1million, the late lodgement penalty is $170 for every 28 days a tax form is overdue, subject to a maximum limit of $850.

Business entities with a turnover between $1 million and $20million 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.

Areas of ATO focus in 2014

The ATO have advised that they will be focusing on a number of areas in its 2014 compliance program including:

(a) Benchmarking reviews of small businesses.

(b) Reporting of payments to contractors in the building industry.

(c) Non compliance with employer super guarantee obligations (especially in real estate, cafes and restaurants businesses).

(d) Eligibility to access Capital Gains Tax (CGT) small business concessions on sale of assets in business.

(e) Goods and Services Tax (GST) on property sales.

(f) Cross border business transactions.

INDIVIDUALS

Rise in Medicare levy

From 1 July 2014, the Medicare levy will increase from 1.5% to 2%. However, there will be no change to the Medicare levy surcharge which is imposed at a rate of 1%, 1.25% or 1.5% depending on your income. The surcharge only applies when a taxpayer does not have adequate private health insurance cover and exceeds the relevant income threshold (see below).

Medicare levy surcharge

For the 2013/2014 income year, the Medicare levy surcharge applies to taxpayers whose income is over $88,000 (for singles) or $176,000* (for couples and families) and do not have a sufficient private patient hospital cover. ** Plus $1,500 for each dependent child after the first child*.

Medicare levy surcharge income threshold – 2013/2014

	Base Tier	Tier 1	Tier 2	Tier 3
Singles (income)	≤ $88,000	$88,001 - $102,000	$102,001 - $136,000	≥ $136,001
Couple / family (income)	≤ $176,000	$176,001 - $204,000	$204,001 - $272,000	≥ $272,001
Medicare levy surcharge	0%	1%	1.25%	1.5%

Medicare levy surcharge income threshold – 2014/2015

	Base Tier	Tier 1	Tier 2	Tier 3
Singles (income)	≤ $90,000	$90,001 - $105,000	$105,001 - $140,000	≥ $140,001
Couple / family (income)	≤ $180,000	$180,001 - $210,000	$210,001 - $280,000	≥ $280,001
Medicare levy surcharge	0%	1%	1.25%	1.5%

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 2014/2015 income year by taking out the insurance by 1 July 2014.

Income tax rates for 2013/2014

The income tax rates for the 2013/2014 year for both resident and non-resident taxpayers are as follows:

Resident taxpayers

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 rates above do not include Medicare levy*

When combined with the low income tax offset, residents pay no tax on income below $20,542. Higher thresholds apply to senior Australians and pensioners.

Non-resident taxpayers

Taxable income	Tax on this income
$0 - $80,000	32.5c for each $1
$80,001 - $180,000	$26,000 + 37c for each $1 over $80,000
$180,001 and over	$63,000 + 45c for each $1 over $180,000

Non-resident taxpayers are not eligible to the tax-free threshold. Individuals who are resident for part of the year are entitled to a partial threshold.

Private health insurance rebate

Since 1 July 2012, private health insurance rebate is income tested. This means that high-income earners are entitled to a lesser rebate or no rebate at all.

You can either receive this rebate upfront through a reduction in the cost of your premiums from your insurer or in the form of a refundable tax offset when your income tax return is lodged. If too much rebate is claimed as a premium reduction, you will need to pay the difference in your annual income tax assessment.

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, taxpayers who will be liable for the temporary deficit levy in 2014/2015 may wish to delay claiming tax deductible expenses until next year when the tax benefits of the deductions would be greater.

You may also wish to adopt the same strategy if your income for the 2014/2015 year is expected to be much higher than the current year.

Defer income

Deferring income is another way to defer the amount of tax you should pay in one income tax year to the next year. One of the strategies is having a term deposit matures after 30 June 2014 to defer the income until next year.

If you expect lower income next year due to retirement or other reason, you will pay less tax by deferring income until after 1 July 2014 when you will be in a lower tax bracket.

Again, with the introduction of the 2% temporary budget deficit levy, high income earners may want to rethink this strategy of deferring income to the 2014/2015 year if this would push their income over the $180,000 threshold.

Donations

Donations or gifts of $2 or more to organizations and charities that are deductible gift recipients (DGRs) are tax deductible. Make sure the donations are made before 30 June 2014 and request the receipts be issued in the name of the higher income earner.

Prepaid expenses

Employees can prepay their work related expenses to bring forward tax deduction claim in the current year. Examples of expenses that can be prepaid include:

(a) Subscriptions to professional journals
(b) Memberships to professional associations
(c) Income protection insurance

Self education expenses

Self-education expenses which have a relevant connection with an individual's income-earning activities are deductible. Examples of self education expenses include accommodation and meals if travel away from home overnight, course fees, student union fees, subscriptions to journals, purchase of equipment costing $300 or less, depreciation of equipment costing more than $300.

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.

Substantiation

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.

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 $300 or less 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.

Maximise net medical expenses tax offset

Since the 2012/2013 income year, this offset is income-tested:

(a) Taxpayers with adjusted taxable income of $84,000 or less (for singles) or $168,000* or less (for couples and families) can claim 20% out-of-pocket medical expenses exceeding $2,120.

(b) Taxpayers with adjusted taxable income above $84,000 (for singles) or $168,000* (for couples and families) can only claim 10% of out-of-pocket medical expenses exceeding $5,000.

* Plus $1,500 for each dependent child after the first child.

For 2013/2014, most individuals will only be eligible to claim the offset if it was claimed in last year's income tax return. Similarly, the offset will only be available in the 2014/2015 year if it is claimed in the 2013/2014 year.

However, expenditure relating to disability aids, attendant care or aged care may continue to qualify for the offset regardless of prior year eligibility.

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. However, be careful of the public ruling issued by the ATO relating to “wash sales”.

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.

Non-resident and temporary resident taxpayers need to note that they are no longer eligible for the 50% CGT discount in respect of capital gains accrued after 8 May 2012. Please contact our office if you need advice on this.

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

Late lodgement penalties

The ATO lodgement penalty which applies to individual taxpayers is $170 for every 28 days an income tax return is overdue, subject to a maximum limit of $850.

Areas of ATO focus in 2014

The ATO has released a list of areas it will focus on this year. Instead of focusing on individual taxpayers’ occupation, ATO will focus on specific types of work-related claims including:

(a) Deduction for use of computer, mobile phone or other electronic device.
(b) Work-related travel
(c) Rental property deductions

There is also an emphasis on having the required evidence to substantiate the deduction claims.

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 and invoiced before 30 June 2014, 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 2014 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 and assessable in the following year.

SUPERANNUATION

Maximise concessional contributions

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 by 30 June 2014 to reduce your taxable income.

The contributions must be received by the superannuation fund by 30 June 2014 for the contributions to be deductible. For example, you make an electronic funds transfer on 29 June 2014 but the amount is not received by the superannuation fund until 1 July 2014, then the contribution is not deductible in the 2014 year.

Self-employed and individuals who earn less than 10% of their income from employment can make personal deductible contributions, subject to the concessional contribution cap.

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 concessional contributions

Commencing from the 2013/2014 income tax year, excess contribution will be included in your assessable income and taxed at your marginal tax rate. You will also have to pay the excess concessional contribution (ECC) charge on the increase in your tax liability. To reduce your tax liability, the ATO will apply a 15% tax offset to account for the contributions tax that has already been paid by your super fund provider.

You may elect to withdraw up to 85% of your excess concessional contributions from your superannuation fund to help pay your income tax assessment when you have excess concessional contributions.

Any excess concessional contributions withdrawn from your fund will also no longer count towards your non-concessional contribution cap.

Increase in concessional contribution cap

From 1 July 2014, the concessional contribution cap for individuals will be increased to 30,000 (up from $25,000 for the 2013/2014 year) for those who are aged under 49 years. It is important to start planning for the increase.

Income year	Aged less than 49 on 30 June 2014	Aged 49 or over on 30 June 2014	Aged 59 or over on 30 June 2013
2013/2014	$25,000	$25,000	$35,000
2014/2015	$30,000	$35,000	$35,000

Non-concessional contribution cap

The non-concessional contribution cap is a multiple of the concessional contribution cap. Accordingly, from 1 July 2014, the non-concessional contribution cap will also be increased to $180,000 (up from $150,000 in 2013/2014) .

Taxpayers who are under the age of 65 can contribute more than the annual cap by bringing forward the next two years of non-concessional contributions. If you contribute more than $150,000 in 2013/14, you would automatically trigger the “bring forward” rule so that you can contribute up to $450,000 over a three-year period from the 2013/2014 year to the 2015/2016 year.

For taxpayers who are approaching 65 and wish to take advantage of the “bring forward” provisions may wish to consider the timing of contribution. This is because if you delay until 2014/2015 to trigger the “bring forward” rule, you can contribute up to $540,000 (instead of $450,000) in one year before you turn 65.

Individuals aged 65 and over must consider whether they have passed the “work test” before they contribute. Individuals aged 75 and over are generally prohibited from making further superannuation contributions.

Extra 15% contribution tax

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.

Government co-contribution

If your taxable income is lower than $33,516 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 $33,516 but less than $48,516. 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).

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).

Account-based pensions

If you have an existing superannuation pension, you must make sure the minimum pension amounts are drawn before 30 June 2014. 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.

Prepare for SuperStream from 1 July 2014

From 1 July 2014, employers with 20 or more employees will need to begin making superannuation contributions using the new Data and Payment Standard which links contributions data and payment electronically. In other words, contributions cannot be manually paid by cheque. Employers with 19 or fewer employees will be required to comply with this standard from 1 July 2015.

For employers, this is likely to require an update to the payroll software or engaging the services of a clearing house.

This standard is also applicable to SMSFs which receive contributions from employers who are not related parties of the SMSFs.

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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