2023
EOFY and Tax Minimisation Strategies

INDIVIDUALS
BUSINESS
SUPERANNUATION
PENSIONS

IMAGINE
ACCOUNTING

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INDIVIDUALS

SUBSTANTIATION OF RECORDS

- When your total work-related claims exceed $300
- Logbooks for motor vehicles and phone usage
- Travel diaries and written evidence (e.g. receipts, bank/credit card statements, BPAY ref numbers)
- Keep for 5 years from the due date of lodgement of the tax return

WORK RELATED EXPENSES

- Travel costs, clothing expenses, self-education expenses, union fees, home computer and phone expenses, internet, reference books, journals and magazines, work-related portion of tools and equipment and professional libraries, subscriptions, and business associations

HOME OFFICE EXPENSES

- Can be computed using the revised fixed rate method (67 cents per hour you work) or actual cost method
- Actual cost method requires detailed calculations and records

MOTOR VEHICLE EXPENSES

- Can be computed using either Log Book or Cents per km method

TRUST DISTRIBUTIONS

- The ATO announced a major crackdown on family trust's taxation especially where they are used to make distributions to adult dependent children paying tax at lower rates or company beneficiaries
- Family groups need to reconsider the use of their family trust as the new ATO regulation could apply retrospectively

OTHER DEDUCTIONS

- Donations (ensure to a DGR), income protection insurance, superannuation concessional (deductible) contributions

OTHER STRATEGIES

- Salary sacrifice, bonus payments, travel allowances, and Private Health cover

PREPAY EXPENSES AND INTEREST

- Expenses relating to investment activities
- Claim a tax deduction this FY for up to 12 months of interest on a loan for a property or share investment
- Rental property repairs, memberships, subscriptions, journals, and tax agent/ accounting fees

RENTAL PROPERTIES

- Rental property repairs (deductible) vs improvements (capital) – ensure you have a Property Depreciation Report

INDIVIDUALS

DEFER INVESTMENT INCOME AND CAPITAL GAINS

- Arrange receipt and contract date (not Settlement Date) to occur after 30 June 2023
- Consider 50% discount – must hold asset > 12 months

OWNERSHIP OF INVESTMENTS

- Always review – asset protection and tax planning
- Consider CGT and stamp duty implications
- Invest in lower income earner name or using a Trust

CAPITAL GAIN STRATEGIES

- Defer capital gains (CGT)
- The Contract Date (not Settlement Date) is generally the key date for working out when a sale or purchase occurred.
- If practical, arrange for Contract Date to occur AFTER 30 June 2023
- Consider 50% discount – must hold asset > 12 months
- Realise Capital losses - Consider selling any non-performing investments (eg Shares or Crypto) you hold before 30 June to crystallise a capital loss and reduce or even eliminate any potential capital gains tax liability; unused capital losses can be carried forward to offset future capital gains.
- Utilise small business CGT concessions where possible – eg sale of business premises
- Utilise main residence exemption – 6 year rule

BUSINESS

NO. 1 TOOL – STRUCTURE

- Do you have the optimum structure?
- Consider risks, professional requirements, size and growth

CONSEQUENCES OF CHANGING YOUR STRUCTURE – RESTRUCTURING/SELLING

- Consider CGT, stamp duty, value shifting, small business CGT concessions, CGT rollover concessions, formation expenses and adviser fees
- Consider practical implications of changing (trading, contracts, loans, etc) and timing
- When CGT triggered, ability to pay dividends (45-day rule)
- Cost/ benefit analysis

TRIGGER A SALE (SMALL BUSINESS CGT CONCESSIONS)

- Taxpayers with either an aggregated turnover <$2m, or net market value of assets <$6m (excl home and super).
- 4 CGT concessions: 15-year exemption; 50% active asset reduction, retirement exemption ($500k lifetime limit per person), and replacement asset roll-over

SPLITTING BUSINESS ASSETS FROM TRADING ENTITY

- Goodwill, IP, property, equipment, vehicles
- Use an asset holding entity or service entity and license agreements
- Better asset protection
- Split PSI
- Consider finance implications
- Consider Immediate Asset Write-Off – entity needs to be 'in business'

TRUST DISTRIBUTIONS – ASSESS BENEFICIARIES

- Check trust deed
- Avoid family trust distribution tax
- Consider forming a bucket company (must be formed before 30 June)
- Preferable to pay cash across
- Avoid div 7A, better asset protection
- Gifting to non - DGR can be via a trust distribution if entity is income tax exempt

TRUST DISTRIBUTIONS – STREAMING

- Review Trust Deed
- 3 categories of income streaming - capital gains, franked dividends, other income

TRUST RESOLUTIONS

- Must be made by 30 June
- New beneficiaries of trusts for the y/e 30 June 2023 – trustee must notify ATO with a TFN declaration by 31 July 2023

BUSINESS

TRUST DISTRIBUTIONS

- Family groups will urgently need to reconsider how they are using their family trust

COMPANY - DIFFERENT SHARE CLASSES

- Check if Company Constitution needs amendment
- Consider voting, dividend and capital rights, value shifting
- Impact on CGT small business concessions

COMPANY DIVIDENDS

- Small co. tax rate is 25% for 2022 and later years and therefore franking credits on dividends paid are franked at 25%
- Move 'frankable' profits from a trading entity to a bucket company (need another company or Trust as shareholder)
- Review accounting depreciation/ asset write-off treatment – often is different to tax depreciation
- Consider available profits/ retained earnings and 'distributable surplus' under Div 7A (private company loan) rules

DIVISION 7A LOANS

- Strategy to defer/ spread tax on dividends/ getting cash out of a company over a number of years
- Benchmark interest rate for 30 June 2023 – 4.77% (likely 7%+ for FY24)
- Loan documents are in place
- Minimum loan repayments and interest has been paid
- Franked dividends have been declared – ideally pay 1st July (reduces interest)
- Ensure re-borrowings do not occur
- The ATO has released new draft guidance on treating the UPE's as simply loans for Division 7A

ASSET WRITE OFF (TEMPORARY FULL EXPENSING)

- Assets must be first held, and first used or installed ready for use for a taxable purpose, between 6 October 2020 and 30 June 2023
- Turnover <$50m: fully deduct the business portion of new & second-hand depreciating assets (if >$50m only new assets)
- Can also deduct the business portion of improvements to eligible depreciating assets if incurred between 6 October 2020 and 30 June 2023
- Car limit ($64,741 ex GST for FY23) applies to passenger vehicles (designed to carry a load of less than one tonne and fewer than nine passengers): can only claim the business portion
- Non passenger vehicles (eg light commercial vehicle/ van/ ute) – can deduct full cost

INSTANT ASSET WRITE-OFF AFTER 30 JUNE 2023

- Businesses with an aggregated turnover < $10m
- Can write off assets costing < $20k
- This is a per asset limit, so you can claim the $20k for multiple assets once they are installed and ready to use

SCRAP ASSETS

- Review your depreciation schedule and scrap any old assets
- Eg - if you have moved offices, you can write-off any remaining fit-out costs

BUSINESS

OPTIMISE BUSINESS OWNER REMUNERATION

- Options:
  1. Salary and Wages
  2. Dividends
  3. Trust distributions
  4. Loans
  5. Management fees/ contract payments
- Consider:
  - timing of payments to yourself – eg before or after 30 June
  - overall group tax position – eg avoid losses in one entity/ ind when profit in another
  - PSI – does it apply?
  - unrelated parties in business together – makes it difficult (often not commercially possible) to be flexible

LOSS CARRY BACK TAX OFFSET

- Refundable tax offset for companies with <$5b turnover in FY21, FY22 & FY23 company tax returns
- Use current year losses to obtain a refund of taxes paid in prior years
- Limited by franking account balance at end of claim year
- Can choose not to carry back a loss, and the loss may be C/F to use in a later income year
- The eligible entity does not need to amend the earlier income years to claim the offset

ELIGIBILITY – LOSS CARRY BACK TAX OFFSET

- You can claim the tax offset if you made tax losses in FY20 to FY23, had an income tax liability for income years FY19 to FY22, and have met your tax return lodgement obligations
  - Lodge your tax return for that income year; and
  - Have lodged for the previous 5 income years

PAYROLL TAX AND OTHER CONSIDERATIONS

- Tax planning impact - Payroll tax
  - Be aware of thresholds and rates. Eg, NSW threshold now $1.2m (since 1/7/20); rate is 5.45% (from 1 July 2022)
  - Ensure you're up to date with your annual payroll tax reconciliation
  - Review and consider the use of contractors
- Tax planning impact - Other payroll considerations
  - Ensure you've declared your finalised STP by 14 July
  - If you have ESS, you must report employees' interests to relevant employees and the ATO by 14 July

FRINGE BENEFITS TAX (FBT)

- FBT rate is 47% - generally want to avoid
- Calculating FBT liability may be impacted by travel restrictions and mandatory workplace closures
- Tax planning impact - FBT calculations should be reviewed as part of year-end tax planning
- Entertainment - Generally not tax deductible. There are a couple of exceptions to this rule, but usually require you to pay at least some FBT

BUSINESS

PERSONAL SERVICES INCOME (PSI)

- PSI may have limited deductions that can be claimed so as to match those generally available to salaried employees
- PSI rules do not apply if you are considered to be carrying on a PSB
- Tax planning impact – Consider whether one of the exemptions apply, being the results test or the 80% rule. If circumstance are unusual, consider applying for a PSB determination

SBE TAX PLANNING STRATEGIES

- Understand your Asset write-off/ depreciation position
- Govt stimulus payments – assess taxable (job keeper) and non-assessment/ tax exempt (cash flow boost)
- Accrue business expenses in FY23 such as gross salary amounts, directors' fees (a resolution should be made by the shareholders and not the directors by 30 June), staff bonuses, commissions, accrued rent and interest expenses
- Maximising prepayment deductions in FY23
- Superannuation contributions – must be received by the S/F by 30 June 2023 to be deductible
- Review trade debtors and write-off bad debts
- Revenue recognition (defer invoicing from June into July, split off any 'Income in Advance').
- Trading stock valuations (businesses and SBEs can value stock at cost, market selling value, or replacement value but SBEs with <$5k stock movement can ignore)
- Year-end stock take / work in progress (write-off any obsolete stock items)
- Pay wages to children over 14
- Claim travel allowances
- SBEs can claim professional expenses associated with starting a new business in the same year incurred
- Small business income tax offset may reduce tax payable relating to your small business income by 13% (FY20/21) [16% from 21/22 onwards], up to $1k each year

OTHER STRATEGIES

- Utilise an SMSF to acquire business premises (can borrow)
- Minimise non-deductible debt, maximise deductible debt
- Utilise loan splitting to separate
- Avoid 'tainting' any deductible debt with repayments/ non-deductible drawdowns (use offset accounts not redrawing)
- Foreign exchange gains and losses are only taxed when realised
- Assess eligibility for R&D tax offset (consider a restructure or using a new entity when become profitable)
- Be aware of Non-deductibility of 'non-ABN' payment, salary/ wages/ director Fees/ contractor payments - if no PAYG withholding and late paid superannuation!
- Inter-entity transactions (profit and loss planning)
- Professional practice business (PSI) - review your salary and distribution policies to ensure the risk is mitigated within acceptable ATO levels
- Ensure understanding of private company loans and Division 7A

RESEARCH AND DEVELOPMENT (R&D) TAX INCENTIVE

- Companies with >$20m turnover receive a 43.5% refundable tax offset (can be a tax refund)
- All other eligible companies receive a 38.5% non-refundable tax offset to help reduce the tax they pay
- Only expenditure incurred on your registered R&D activities can be claimed through the tax offset. Amounts which you can claim under the program are called eligible notional deductions
- Be aware of franking account deficit issue. Consider a restructure or using a new entity when become profitable

SUPERANNUATION AND PENSIONS

WHY GET MONEY INTO SUPER?

- Tax, Asset Protection, Estate Planning

CONCESSIONAL (DEDUCTIBLE) SUPER CONTRIBUTIONS

- $27.5k cap for everyone from 1/7/2021
- If age 67-75 – must pass work test (will be abolished from 1/7/22)
- 15% tax – therefore beneficial if personal tax rate 19% or more
- If adjusted taxable income > $250k: Division 293 tax applies = 30% tax (rather than 15%) on CC's [adjusted taxable income = taxable income + taxable super contributions + reportable fringe benefits]
- ***From 1 July 2018:***
- **'Catch-up' concessional contributions**: If super balance < $500k at end of a FY; can accrue annual $25k cap and make catch-up CC's over a 5-year rolling period (eg FY23 - $130k (5 yrs cap) if no CC's in FY19 to FY22)

NON-CONCESSIONAL (NON-DEDUCTIBLE) CONTRIBUTIONS

- From 1/7/2021: $110k cap for everyone under age 75
- Cap is nil if total super balance is >$1.7m
- '3-year bring forward rule' (ie $330k in NCC's) can apply if under age 75 at any time during FY23

SPOUSE SUPER CONTRIBUTIONS/ CONTRIBUTION SPLITTING

- Tax offset of up to $540 on super contributions of up to $3k that you make on behalf of your spouse if spouse's income is <$37k
- Can split up to 85% of a FY's taxable splittable (CC's) contributions with your spouse
- Can help equalise the balance of your super accounts and increase the amount you and your spouse have in the retirement phase.
- Each person can have up to $1.6m in the retirement phase ($3.2m combined tax-free at retirement)
- Split contributions are counted towards your concessional cap
- Spouse must be either less than the preservation age that applies to them, or aged between their preservation age and 65 years, and not retired

SUPER CO-CONTRIBUTIONS

- If you earn less than $56,112 in the FY23, and at least 10% is from your job or a business, you can make an after-tax super contribution and the Govt may make a 'co-contribution' of up to $500 into your super account
- Maximum co-contribution is available if you contribute $1,000 and earn $41,122 pa or less
- May receive a lower amount if you contribute less than $1,000 and/or earn between $41,112 and $56,112 pa

THE DOWNSIZER CONTRIBUTION – OPPORTUNITIES

- To increase super by $600k ($300 p.p.)
- Aged 55+ can top up super with no work test requirement (age 60+ before 1/1/23)
- Aged 75+ can top up super (no upper age limit)
- Caution: Potential Impact on Age Pension/Centrelink entitlements (principal residence ordinarily excluded and superannuation assets and/or pension income will count for eligibility)

SUPERANNUATION AND PENSIONS

THE DOWNSIZER CONTRIBUTION

- Downsizer contributions: persons aged 65+ can make extra NCC's up to $300k each
- Must come from the proceeds of the sale of member's home (owned 10 years+)
- Can only do once
- No requirement to purchase another home
- Applies to contracts of sale from 1 July 2018
- Non-owner spouse is eligible
- Contribution must be made within 90 days of settlement (or longer as permitted by the Commissioner of Tax)
- Can still be made if member balance > $1.6m (unlike NCC)

PENSIONS - ENSURE MINIMUM PENSION STANDARDS ARE MET

- Account based pensions must be paid at least the minimum amount from their pension account in cash before the end of the FY
- If not paid, pension ceases and lose tax free benefit
- Minimum pension amounts reduced by 50% in FY20, FY21 and now FY22

2023/24 FEDERAL BUDGET – CHANGES AND OPPORTUNITIES

CHANGES AFFECTING BUSINESS TAXPAYERS

- $20,000 instant asset write-off – From 1 July 2023 until 30 June 2024, the Government will temporarily increase the instant asset write-off threshold from $1,000 to $20,000
- New Energy Incentive – Small and medium businesses with an aggregated annual turnover of less than $50 million will be able to deduct an additional 20% of the cost of eligible depreciating assets that support electrification and more efficient use of energy
- Halving the increase in quarterly tax instalments – The Government will amend the tax law to set the GDP adjustment factor for pay as you go ('PAYG') and GST instalments at 6% for the 2024 income year, a reduction from 12% under the statutory formula

CHANGES AFFECTING INDIVIDUALS

- FBT – Electric Car Discount – The Government will sunset the eligibility of plug-in hybrid electric cars for the FBT exemption for eligible electric cars. This change will apply from 1 April 2025. Arrangements involving plug-in hybrid electric cars entered into between 1 July 2022 and 31 March 2025 remain eligible for the Electric Car Discount
- Energy bill relief for some households
- Encouraging doctors to offer bulk billing by tripling the incentive for children under 16, pensioners and other Commonwealth card holders
- Increases to commonwealth rent assistance
- Increases to JobSeeker and other income support payments

SUPERANNUATION CHANGES

- Increasing the frequency of superannuation guarantee payments – From 1 July 2026, employers will be required to pay their employees' superannuation guarantee entitlements on the same day that they pay salary and wages
- Earnings for superannuation balances above $3 million taxed at 30% – From 1 July 2025, the Government will reduce the tax concessions available to individuals with a total superannuation balance exceeding $3 million. Individuals with a total superannuation balance of less than $3 million will not be affected

SUMMARY

- Understanding the tax environment in which you're operating will ensure you can optimise your tax position
- Many of strategies discussed should be explored and implemented if relevant to your situation
- There are always changes in tax rules and legislation, which are important to be across when running a business

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