



2009 YEAR END TAX PLANNING CHECKLIST (Pre Budget Version)

We have released our 2009 tax planning checklist early (before the 2009 Federal Government Budget).

Many Queensland businesses are feeling the effects of the global and local economic slowdown, yet are continuing to pay tax based on 2008 income and profit levels. By considering your 2009 tax planning now, you may be able to reduce your March and June 2009 PAYG Instalments to assist your cash flow.

Care must be taken when varying PAYG instalments as penalties can apply, so we suggest you contact your Hanrick Curran advisor for assistance.

Tax Planning involves many issues. In particular in the 2009 year there is some tax arbitrage because of the further expansion of the personal income tax bands in the 2010 year. Company Tax rates will remain constant at 30%.

Outlined below are a number of suggestions that may assist taxpayers to legitimately minimise or defer their taxation exposure.

Please note these suggestions are of a general nature only and we recommend that you contact your Hanrick Curran advisor to assist you with your own tax planning requirements.

BUSINESS

General Tax planning considerations for business include:

Accelerate Asset Purchases and Expenditure

With the Temporary Investment Allowance providing an immediate additional 30% deduction to businesses in the 2009 year,

consider bringing forward any asset purchases. (Please refer to our website for further information about the Investment Allowance).

Also consider bringing forward any planned expenditure such as repairs and maintenance etc to the current year.

Deferral of Income

If cash flow allows, defer the derivation or receipt of income until the next financial year. If on a cash basis, defer receipt of cash. If on an accruals basis, defer the derivation of income by holding back invoices if possible.

Conversely, if you have losses, you may wish to bring forward the derivation of income if possible.

Income Received in Advance

Consider whether income received is actually derived. Income received in advance may not be derived until the services are provided. Conversely income such as interest, royalties, rent and dividends are usually derived upon receipt.

Timing of Expenses

Expenses are only deductible when incurred, ie there must be a presently existing liability to pay the expense. Many accruals and provisions are not deductible as they represent an estimate of expenses and do not relate to a presently existing liability.

Most prepayments now are not deductible until the period to which they relate (some exceptions apply), although small businesses and individuals may be able to deduct some prepayments in the year paid.

Bad Debts

Review your debtors and if any are unlikely to be recovered, physically write them off as bad before the end of the year.



Trading Stock

Prepare for a stock take on 30 June. Identify any obsolete or old stock and scrap it or write it down to its correct market value. Individual items of trading stock can be valued at cost, market value, or replacement value for tax purposes. The tax value may differ to the accounting value.

Bonuses

Bonuses are only deductible when they are actually incurred ie at 30 June the business must be committed to paying them and they are not subject to any discretion.

Depreciation

Assets purchased during the year can be depreciated using the diminishing value method at 200% of the prime cost rate.

Consider whether to allocate assets costing less than \$1,000 to a low value pool to get a write-off of up to 37 ½%.

Small Business taxpayers may use other accelerated depreciation methods.

Review your asset register and scrap any obsolete items before 30 June. If you will be selling any items of plant that will realise a profit on sale, consider delaying the sale until after 30 June.

The ATO considers (in administrative practice statement PS LA 2003/8) that items costing less than \$100 can generally be claimed as deductible outright (some exceptions apply). All assets above this amount should be depreciated.

Superannuation

Ensure that superannuation contributions have been paid to the superannuation fund by 30 June to ensure a deduction this year. If not paid by 30 June, it must be paid by 28 July to avoid Superannuation Guarantee Charge (SGC) implications. Check to ensure that the 9% SGC limit has been met for all relevant employees.

The maximum concessional superannuation contribution for individuals is \$50,000, or \$100,000 for people aged 50 or more at 30 June. This is now a per person cap, not a per employer cap and age based limits no longer apply.

Employers can claim tax deductions for contributions above these amounts. However, the individual or the superannuation fund will pay tax of 31.5% on the excess above the cap.

Company Loans – Division 7A

Any payments, loans or debts forgiven from private companies to shareholders and their associates could be deemed to be an unfranked dividend. The deemed dividend rules in Division 7A can also include loans from trusts to shareholders where the company is presently entitled to income from the trust.

Ensure that such loans are either repaid or documented and made subject to minimum interest and repayment terms before the lodgement day of the company / trust's tax return.

Ensure that minimum repayments are made before 30 June in relation to prior year loans.

Company Dividends & Interest

When deciding whether to pay a dividend, consider the application of the benchmark franking rules.

When paying dividends or interest to non-bank lenders, there may be a requirement to complete a dividend and interest schedule.

Trust Distributions

Trustees of discretionary trusts need to consider which beneficiaries they will make presently entitled to the income or capital of the trust on or before 30 June.

The trust deed should be reviewed to consider how trust income is to be determined and to which beneficiaries classes of income can be distributed.



In making the decision to distribute income, trustees need to consider whether a family trust election has been made or needs to be made to recoup losses, transfer franking credits etc. If a family trust election has been made, the beneficiaries may be restricted to the 'family group' to avoid family trust distribution tax.

When distributing income and capital, consider which entities will best be able to utilise the different types of income to lower the overall marginal tax rate of the group (eg individuals – discounted capital gains; companies or low income individuals – fully franked dividends).

Foreign Transactions

Do you own > 10% of the shares or units in a foreign company or trust? If so have you considered whether the Controlled Foreign Company or Foreign Investment Fund rules will have application and attribute income to you?

If you have foreign transactions have you correctly recorded any foreign exchange gains or losses under the Forex realisation rules?

Have you withheld and remitted non-resident withholding tax on payments of dividends, interest or royalties to non residents?

SMALL BUSINESS RULES

Small Business Entities (Aggregated turnover of < \$2 Million) can access concessional rules which make calculating tax simpler. In addition to the small business CGT rules (below), small business entities can choose simpler depreciation and trading stock rules, can deduct prepaid expenses immediately and have simpler GST and FBT rules.

INDIVIDUALS

In addition to the above planning ideas, further ideas may be available for individuals with business or non business income. As noted above, the tax bands will change for the 2009/10 year onwards leading to overall lower tax rates. This suggests that deferring income

to the 2010 year may reduce tax. The rates are listed below:

Personal Resident Tax Rates 2008/9

2009 year	
Taxable Income \$	Tax Payable \$
0 - 6,000	nil
6,001 - 34,000	nil + 15% excess over 6,000
34,001 - 80,000	4,200 + 30% excess over 30,000
80,001 - 180,000	18,000 + 40% excess over 80,000
180,001 +	58,000 + 45% excess over 180,000

Personal Resident Tax Rates 2009/10

2010 year	
Taxable Income \$	Tax Payable \$
0 - 6,000	nil
6,001 - 35,000	nil + 15% excess over 6,000
35,001 - 80,000	4,350 + 30% excess over 35,000
80,001 - 180,000	17,850 + 38% excess over 80,000
180,001 +	55,850 + 45% excess over 180,000

In addition, the low income rebate will be increased to \$1,350 in the 2009/10 year (currently \$1,200).

Capital Gains Tax (CGT)

Have the assets sold been held for more than 12 months? If so the general 50% CGT discount may apply?

Do you qualify for the small business CGT concessions? They are available for small business entities and business taxpayers with net assets of <\$6M. If available, the taxpayer may be able to access:

- 15 year exemption
- 50% active asset discount
- Retirement exemption
- Active asset roll-over

If you have realised capital gains during the year, consider crystallising assets that have underlying capital losses before 30 June.

Non-Commercial Losses

Losses of a business carried on by an individual or partnership may be required to be quarantined until future years against income



of that or a similar / related business. The exceptions are:

- If there is assessable income from the business of >\$20,000
- Profit in 3 out of the last 5 years
- Real property of \$500,000 or more is used in the business;
- Other assets of \$100,000 or more are used in the business;
- Commissioner's discretion is exercised in relation to that business.

Individual taxpayers with business losses should consider how these rules will apply to them.

Salary Packaging

Now is the ideal time to review your salary packaging. With personal tax rates being reduced, salary packaging may not be as effective for people with salaries below \$180,000. However, tax savings can still be achieved with certain exempt and concessional taxed benefits.

Capital Protected Borrowings (CPB)

CPBs are arrangements that protect an investors 'capital' against the fall in market value of a security against which they have borrowed. Usually the capital protection involves a higher interest rate on the loan. A portion of the interest on loans that facilitate a CPB may not be deductible (to the extent of any capital protection premium). Where the interest on the CPB loan exceeds the interest on the Reserve Bank of Australia's indicator rate for home loans (personal loan rates for CPBs taken out before 13 May 2008), the additional interest may not be deductible.

Tax Products

Prior to investing, ensure that any 'tax effective' investments have been granted a Product Ruling which sets out the tax treatment of the income and expenses in relation to the investment as the ATO are continuing to scrutinise these investments. Always seek

professional advice from an AFS license holder before investing in any financial products.

General Anti-Avoidance Provisions

We note that the tax legislation contains specific anti-avoidance provisions which target schemes entered into with the dominant purpose of tax avoidance.

Accordingly, it is essential that you consider your specific circumstances before proceeding with any tax planning ideas to ensure these rules do not apply.

While legally minimising tax should always be a consideration, it should not be the main driver in any transaction.

Tax Planning Generally

Tax and general business planning should not be an end of year consideration, but should be conducted and revised throughout the year as your circumstances change. Consider how large transactions will affect your PAYG instalments and year end tax bill and start budgeting for the additional tax immediately. Remember to include a realistic estimate of tax when preparing budgets and forecasts, so that there is no shock at the end of the year.

These tax planning ideas are of general nature only and have been provided to assist taxpayers with some general ideas in relation to their tax affairs.

Taxpayers should consider their own circumstances and seek professional advice and assistance in relation to tax planning. We strongly recommend that you contact your Hanrick Curran advisor, or Hanrick Curran's Taxation Partner, Jamie Towers on 07 3229 6966 with any questions in this regard.

1 April 2009