mckinley plowman + associates = CPA ACCOUNTANTS

Year-end tax planning - General and 2015/2016 Budget measures

Speak to us to ensure you don't miss out on possible opportunities

The "rule of thumb" of tax planning is to use temporary differences to defer the amount of tax you should pay in one income tax year to the next income tax year by either deferring income or bringing forward expenses (subject to cash flow requirements).

Furthermore, when determining which expenses may be deductible for tax purposes in the 2015 income tax year, it is important to note that expenses that are capital in nature (such as improvements that are mistakenly called repairs) would be non-deductible. For such expenses it is necessary to determine whether the cost should be included in the cost base of the item, depreciated or possibly deducted over 5 years (i.e. "blackhole" expenditure).

Defer the derivation of income (if cashflow permits)

Don't raise an invoice for WIP before 30 June.
Defer receipt of interest to after 30 June

For businesses that are taxed on an accruals basis (i.e. when an invoice is raised), businesses can delay raising invoices for services rendered until after 30 June and therefore delay deriving assessable income until after the 2015 income tax year.

An example of this could be to delay raising some invoices for *accrued income* such as Work in Progress (WIP). Also note that service *income received in advance* (e.g. where amounts are received before 30 June but services are only provided after 30 June) may only be assessable income in the 2016 income tax year.

If income is derived on the cash basis (e.g. interest, royalties, rent and dividends), where possible, defer the receipt of the payment until after 30 June 2015 (e.g. set term deposits to mature after 30 June rather than before 30 June).

Budget implications

Such strategies of deferring the derivation of income to the 2016 income year would be particularly useful for small business entities[1] (i.e. broadly businesses with an aggregated turnover of less than $2 million a year) that will receive the following proposed[2] tax cuts from 1 July 2015:

- **a 1.5% tax rate cut for such small businesses operating through companies; and**
- **a 5% discount of the tax payable by unincorporated small business entities (capped at $1,000 per individual per year and delivered as a tax credit in the individual's tax return[3]).**

Bring forward your tax deductible expenses

Prepay your tax deductible expenses

To qualify for deductions in the 2015 income tax year, taxpayers may bring forward up-coming expenses (i.e. incur the expenses before 30 June 2015) or prepay expenses up to 12 months ahead (i.e. pay tax deductible expenses relating to the 2016 income year before 30 June 2015). This should only be done provided your cash flow permits this.

Examples of business expenses that can be prepaid:

- Short term consumables such as office supplies and stationery
- Unpaid workers' compensation insurance premium instalments
- Superannuation guarantee payments (only due in July)

Also note that bonuses and directors' fees that are confirmed and committed to by 30 June (as evidenced in the minutes), may be deductible in 2015, even if these fees are only paid after 30 June.

Examples of expenses for individuals that can be prepaid

- Investment property expenses such as insurance, rates, repairs and maintenance and strata fees
- Subscriptions to professional journals and memberships to professional associations
- Interest on investment loans (e.g. for share portfolios and investment properties)
- Income protection insurance
- Business travel expenses (e.g. airfares & accommodation) even if the trip will only take place in the 2016 income tax year

Budget implications

However, if the 2015/2016 Budget measure regarding the immediate deductibility of business start-up costs from 1 July 2015 becomes law[4], people thinking of starting a business would be better off waiting to incur such start-up costs until the 2016 income tax year (as business start-up costs are currently only deductible over 5 years).

Also, since small business entities will potentially[5] also have the benefit of a $20,000 instant asset write-off for every business asset bought and used or installed ready for use in the business between 12 May 2015 (i.e. the current 2015 income tax year) and 30 June 2017, if cash flow permits, such small business entities that make such eligible purchases before year-end will thereby reduce their taxable income for the 2015 income tax year.

Year-end tax planning - Business

Manage your private company loans

Beware of private company loans and unpaid trust distributions

Businesses operating through private companies often treat such private companies as their own piggy bank where the owners (who are also the shareholders) make drawings from the company to either provide funding for other business interests or private lifestyle.

If you document such a cash advance with a complying loan agreement and make the required minimum repayment of the benchmark interest and principal by 30 June, such drawings will not give rise to a Division 7A deemed dividend.

Care must also be taken when a private company makes a loan, payment or forgives a debt of a shareholder (or the shareholder's associate) or if a trust made a distribution to a private company but has not yet paid it.

Such unpaid present entitlements (UPEs) made after 16 December 2009 by a trust to a company may be treated as either a loan by the company to the trust (if nothing is done) or remain a UPE (if put on sub-trust).

This is a very complicated area of tax law (and will not be discussed in more detail here), so please speak to your McKinley Plowman adviser if you are faced with any of these issues.

Review your trust deeds and make trust resolutions by 30 June

Make trust distribution resolutions by 30 June (or an earlier date if the trust deed stipulates an earlier date)

Trustees must make valid distribution resolutions before 30 June (or an earlier date if specified in the trust deed) to distribute trust income to eligible beneficiaries. If trustees fail to make valid distribution resolutions before 30 June, the trustee can potentially be assessed on all the undistributed income at the top marginal tax rate (i.e. 49%).

To ensure that you make valid trustee distribution resolutions, it is important to read your trust deed (and comply with what the trust deed stipulates).

For example, if the trust deed defines trust income to be equal to taxable net income, but your trustee resolves to distribute only accounting income to beneficiaries, this resolution may not be an effective distribution of trust income (in part or whole) – and may result in a trustee assessment at 49%.

Also, since the exact amounts will not be known by 30 June, trust distribution resolutions should be made distributing different percentages to beneficiaries (adding up to 100%) or distributing specified dollar amounts to certain beneficiaries – and the balance to a default beneficiary.

That way, you may be able to ensure that all the amount of trust income – regardless of how it is defined – will be distributed – and hence avoid a trustee assessment at the highest marginal tax rate.

Claim small business CGT concessions

Claiming small business CGT concessions can be tricky

Broadly, if you are selling your business and you have an aggregated turnover of less than $2 million or the value of your net assets is $6 million or less, you may qualify for the small business CGT concessions.

Examples of the concessions are:

- 15 year exemption (no tax payable)
- 50% active asset reduction (another 50% CGT discount)
- Retirement exemption (up to $500,000 tax free)
- Active asset roll-over (minimum 2 years' deferral)

You may apply all the concessions you are entitled to, and may potentially reduce the capital gain to nil.

Speak to your McKinley Plowman adviser so that we can assist you in determining whether you may be eligible for these concessions.

Review your bad debts & obsolete plant and machinery

It is important to review your bad debts, determine the likelihood of ever receiving payment of these debts, attempt to recover the debts (keep documentation to evidence that the debt is considered to be non-recoverable), and then write off the debts that you believe will not be paid before 30 June.

This is because you may only qualify for a deduction in the 2015 income tax year if you physically write off your bad debts before 30 June (and they were originally included in your assessable income). Ensure that you have not forgiven these bad debts as forgiven debts may not be written off.

This same methodology applies when it comes to scrapping obsolete plant and machinery. In such a case you should review your asset register, identify, scrap (i.e. physically dispose of) and claim a deduction for assets that can no longer be sold or are no longer useful.

Value trading stock at the lower of cost, market value or replacement value

Revalue trading stock at 30 June

The valuation of trading stock at year end may impact the amount to be included in assessable income for the 2015 income tax year.

Since a lower closing value for trading stock may generally result in a lower taxable income, value the amount of trading stock on hand as at 30 June as the lower of cost, market value or replacement value.

Pay superannuation contributions before 30 June

Find out how long your superannuation payment processing time is

To claim a tax deduction for superannuation contributions in the 2015 income tax year, the superannuation fund must physically receive the contribution by 30 June 2015.

It is therefore necessary that you find out exactly how long a payment of superannuation takes to process – for example if you are paying the superannuation contributions one day before 30 June, but the payment is only received 2 days later (i.e. after 30 June), there will be no tax deduction in the 2015 income tax year. We note that 30 June 2015 falls on a Tuesday this year.

Please note that if the employer is utilising the ATO small business clearing house, the super guarantee contributions are counted as being paid on the date the clearing house accepts them (provided the fund does not reject the payments). Also, be careful if the retail superannuation fund closes off their acceptance of contributions early as it may be prior to 30 June (and if you missed this deadline, you won’t be able to make contributions in time).

Ensure that SuperStream does not catch you out!

Make changes to your payroll to be ready for the SuperStream changes

The ability for employers to meet their compulsory superannuation guarantee obligations by manually paying contributions at least quarterly to the superannuation funds of their employees, is gradually being phased out with the introduction of SuperStream.

Pursuant to SuperStream, employers must meet certain obligations with regards to the electronic payment of superannuation contributions and the provision of contribution data to complying superannuation funds.

Broadly:

- If you have 20 or more employees, you have until 30 June 2015 to be fully compliant with SuperStream;
- If you have less than 20 employees, you will need to begin using SuperStream from 1 July 2015 and have until 30 June 2016 to be fully compliant with SuperStream.

If you haven't done so already, please come and talk to us to ensure you are ready for the impending SuperStream system.

Year-end tax planning - Individuals

Review salary-packaging arrangements

Review any salary packaging arrangements (e.g. motor vehicles) to ensure that they were entered into before the services have been performed and would therefore still be effective.

Manage your exposure to capital gains tax

CGT event happens when contracts are exchanged

If possible, delay the exchange of contracts to sell an appreciating capital asset until after 30 June 2015. That way, the capital gain will only be assessable in the 2016 income tax year.

If you have already made a capital gain this year, it may be a good idea to crystallise capital losses (e.g. by selling shares that have declined in value) to offset this capital gain.

However, when adopting this strategy, ensure that you are not engaging in “wash sales” (where you sell shares shortly before 30 June solely to realise the capital loss and then buying the shares back shortly after 30 June).

Also, if you have realised a capital gain in this year, ensure that you have applied the 50% CGT discount to the gross gain if you have held the assets for at least 12 months before the happening of the CGT event (e.g. sale of the asset).

Deduct work-related expenses

Substantiate claims where necessary

You may claim up to $300 of work-related expenses without producing a receipt.

If you are doing work from home, you may be able to deduct a pro rata portion of water and electricity costs as well as depreciation for office equipment provided you keep a diary of the hours worked at home to substantiate your claim.

An individual may claim the amount[6] that was actually incurred on **self-education expenses** as a tax deduction, provided the expenses were incurred to maintain or improve the individual’s skill or knowledge necessary to perform the individual’s current job (as opposed to securing a new job).

An example of such a deductible expense would be an accountant attending an accounting seminar, conference or workshop to stay up to date with the latest accounting developments.

Make donations

To qualify for a deduction to a charity, ensure the deductions you made (valued at $2 or more) were to charities that are Deductible Gift Recipients (DGRs).

Use negative gearing

Which spouse has the higher marginal tax rate?

An investment property is negatively geared if the rental income generated is not enough to offset the costs of financing and maintaining the property.

In such a case, the loss on your investment property can be offset against your other income to reduce your total amount of taxable income.

Since individuals on higher tax rates will qualify for higher marginal deductions compared to individuals on lower tax rates, a possible strategy (provided CGT consequences and other circumstances have been considered as well)with married couples is to have the negatively geared property in the name of the spouse who earns the highest income.

Conversely, investment properties that are positively geared (i.e. when rental income is more than the costs associated with the investment property) may be held in the name of the spouse with the lower taxable income. This also applies for interest-bearing deposits such as term deposits.

Year-end tax compliance

Keep all relevant documents & make appropriate elections by the necessary time

Taxpayers must keep all relevant documents to show that they have incurred the expense that they are claiming a tax deduction for (usually for 5 years). If a taxpayer needs to make an election to have a specific concession apply (e.g. small business CGT concessions, family trust elections), ensure such an election is made by the relevant time.

Also note that generally only the taxpayer incurring the expense (and deriving the income) may claim the tax deduction.

Report your payments made to contractors in the building & construction industry

Businesses in the building & construction industry must report the total payments they make to contractors on a taxable payments annual report by 28 August 2015.

Report your TFNs to the ATO

Although this is not strictly a 30 June issue, while we are talking about trust resolutions that must be made before 30 June, remember that:

- Beneficiaries must quote their TFNs to trustees before a trust makes a distribution to them for the first time
- The trustee must report details of all new TFNs quoted to the ATO by 31 July 2015

This bit of compliance can be incorporated into your 2015 end of year tax planning work.

Some rates & proposed changes to keep an eye on

The following rates & proposed changes may be relevant when you are considering your 2015 year end planning.

Measure *Not yet law at time of writing	**Explanation**	**When does it apply?**
Individuals		
Medicare levy unchanged at 2%		2015 onwards
Temporary Budget repair levy unchanged at 2%	Extra 2% on individual's taxable income in excess of $180,000 a year	1 July 2014 to 30 June 2017 for levy and 1 April 2015 to 31 March 2017 for FBT rate increase to 49% as well
Superannuation		
Superannuation guarantee unchanged at 9.5%		2015 & 2016 income years
Superannuation concessional contributions cap unchanged	Aged < 49 (on last day of previous financial year) = $30,000Aged 49 years or older (on last day of previous financial year)= $35,000	2015 & 2016 income years
Superannuation non-concessional contributions cap unchanged	$180,000 • Bring forward $540,000	2015 & 2016 income years
Excess superannuation concessional[7] & non-concessional[8] contributions	Excess can be withdrawn from super:	2015 & 2016 income years
Businesses		
Cut in company tax rate by 1.5% for incorporated small business entities*	Down to 28.5%	From 1 July 2015
5% discount of tax payable by unincorporated small business entities*	Capped at $1,000 per individual per year	From 1 July 2015
Small business entity $20,000 instant asset write-off*		Business assets purchased & used or installed ready for use between 12 May 2015 and 30

		June 2017
Small business entity immediate deduction for start-up costs*	Start-up costs incurred before 30 June 2015 is deductible over 5 years	From 1 July 2015
Reduced R&D offsets*	Reduce refundable offset to 43.5% (was 45%)Reduce non-refundable offset to 38.5% (was 40%)	From 1 July 2014
Small business entity automatic CGT rollover if change business structure*	Will make business restructuring easier	From 1 July 2016
Small business FBT exemption for > 1 portable electronic device*		From 1 April 2016
Netflix tax*	Offshore suppliers of digital products & services subject to GST	From 1 July 2017
Changes of Part IVA to catch multinationals*	Multinationals with global revenue ≥ $1 billion	From 1 January 2016
Harsher penalties on multinationals for tax avoidance*	Multinationals with global revenue ≥ $1 billion	From 1 July 2015
Exploration development incentive (measures became law on 19 March 2015)	Small mineral exploration companies to provide exploration credits / refundable tax offsets to their Australian resident shareholders for new mineral exploration activities	1 July 2015 to 30 June 2017 (e.g. claim exploration credits in 2016 income tax year in respect of exploration expenditure incurred by the company in the 2015 income tax year)

Are you using the most efficient structure to run your business?

Are you effectively tracking all your business expenses?

Tax is complicated and is a constantly changing. It is therefore quite possible that strategies you used in the past have become outdated and may not work for you anymore. When doing year end tax planning, it is also useful to assess whether your current business structure (e.g. company, trust, partnership, sole trader) is still appropriate for your current situation.

We hope that this article helped you to identify some extra ideas for tax time to assist you in running your business more smoothly.

Please speak to your McKinley Plowman adviser if you would like to discuss any of the strategies mentioned above or would like us to perform a financial health check on your business.

After all, why would you not want to make sure you get all the tax deductions you legally deserve?

[1] According to s328-110 of the ITAA 1997, a business will be a small business entity if it carries on a business in the current year and was either carrying on a business in the previous year where its aggregated turnover was less than $2 million or its aggregated turnover for the current year is likely to be less than $2 million.

[2] At the time of writing (i.e. 9 June 2015), this proposed Budget measure is not yet law.

[3] At the time of writing (i.e. 9 June 2015), it is not yet certain precisely how this cap will work – for example, will each individual beneficiary of a small discretionary trust that carries on a business be entitled to the $1,000 discount or would the $1,000 discount only be available for 1 beneficiary.

[4] At the time of writing (i.e. 9 June 2015), this proposed budget measures has not become law yet.

[5] At the time of writing (i.e. 9 June 2015), this proposed budget measures has not become law yet.

[6] The Government did not proceed with the previous Government's proposal to limit this cap to $2,000 from 1 July 2014 (Assistant Treasurer, Restoring integrity in the Australian tax system, 6 November 2013).

[7] Excess concessional contributions are now included in your assessable income and taxed at marginal rate less the 15% tax offset. You may elect to withdraw up to 85% from the fund and the amount withdrawn will not count towards your non-concessional contributions cap.

[8] For non-concessional contributions any excess can be withdrawn along with any associated earnings. The earnings would then be taxed at your marginal rate.