Tolevsky PARTNERS

Spring Newsletter 2013

Contents

Spring is here!

With the election, a variety of football codes and winter finals all behind us, it is now time to enjoy the commencement of the Spring Carnival.

Spring is a time of clearing the mind and focussing on the 'last leg of the race' up to Christmas when we will once again start planning a New Year.

In preparing clients annual returns we are seeing a significant increase in clients wanting to discuss in more detail, a desire to plan better in the future with a strong focus on improving their financial health longevity, some may conclude this is because the sun is shining and the grass smells better this time of year, you be the judge.

In this quarterly newsletter, we have decided to focus on a few of these matters in greater detail; areas of personal finances that are often neglected by business owners who get caught up in the everyday running of the business, rather than thinking what the business can provide its owners, staff and families more personally.

The key areas of focus from a personal point of view is that we are encouraging all of our clients to review and understand their Superannuation assets, and to also review their debt. In addition we have identified several opportunities and wish to discuss some of the ATO and RTO issues we are observing that without careful thought, could leave some of you vulnerable.

If after reading the newsletter you would like us to review your Superannuation, introduce you to a broker to discuss independently which bank is best to provide you credit, or feel some of the issues we have raised might need elaborating on, do not hesitate to give us a call, we are after all here to help.

I hope that you enjoy the newsletter.

Pre-retirement Super Catch-up Strategies

Many people become concerned later in their working lives that their superannuation savings may not be enough to give them the retirement lifestyle they had hoped for. One of the biggest myths about Superannuation, from an accounting point of view, is that all the changes the government make to Super have made it too confusing or less attractive. As your accountant we wish to confirm that Superannuation is by far the most attractive form of saving for retirement, and if you ignore the benefits and do not explore the various options and types of funds that are available, you really are planning to fail by failing to plan.

In choosing the right Super fund for you, the following should be considered:

1. Do I want to invest all my money with one fund manager like an industry Super fund or do I want to have a choice of investment options?
2. Do I want to take an active personal approach to investment selection or do I need someone to provide me personal advice on the most appropriate selection of the most appropriate investments?
3. What level of risk am I prepared to accept to achieve the returns I seek?
4. Do I understand where my current super fund is invested, the fees charged and whether the fund is a top, middle or under-performer compared to other funds?

If you think you feel you may have left your Super run a little late, consider these catch-up strategies.

Salary Sacrifice into Super

Where your employer allows it, you should consider making additional contributions to your Super fund directly from your pre-tax salary. Depending on your current age, you can contribute up to $25,000 per year and only pay the Concessional rate of tax – up to just 15% compared to your marginal tax rate. However, because the Superannuation Guarantee contributions made by your employer on your behalf also count towards this limit, you need to make sure you don't exceed this limit as you may incur penalty tax.

Spouse Contributions

By contributing to a superannuation fund for your spouse, you can boost your joint retirement savings, maximise your retirement income and pay significantly less tax. If your spouse or partner is on a low income you may also be able to claim a generous tax rebate. Most importantly, splitting your super gives you a more tax-effective joint income in retirement.

Super Investment Strategy

If your Super is invested in cash or other conservative investments, you may be able to increase your investment returns with a higher proportion of growth investments, for example shares. A difference of just 2% pa can make a vast difference to the sum you have at retirement.

Shares Into Super

Where you have invested in your own shares, you may be able to move them into your Super fund. The primary benefit is the lower tax on investment earnings within the tax-effective super environment – a maximum of 15% instead of up to 46.5% outside super – which means your investment capital will grow much faster.

Save Sooner, Save More

There are of course other ways in which you can build up assets for your retirement, although Super is generally more tax-effective than most. Whichever way you save, don't put it off or you will reduce the benefits of compounding investment returns (interest earned upon reinvested interest).

Non-Concessional Contributions

If you are under 65 years of age you can make a NON tax deductible contribution of $150,000 for the year or up to $450,000 over a 3 year period. However, you need to be careful not to make excess contributions above these limits as the tax payable on the excess contribution is 46.5%.

If you would like to discuss strategies around making contributions to your Super fund, or would like us to introduce you to a Financial Planning expert to discuss fund options or pre-retirement catch-up strategies please give us a call.

We can also discuss whether a Self Managed Super Fund or accessing a wholesale administration service that gives you access to direct shares, property, managed funds, term deposits or international funds is suitable for you.

The main superannuation changes for the 2014 Financial Year include:

Concessional Contributions

The concessional contributions cap for those over the age of 60 has increased from 1st July 2013. For those aged over 60 the cap has increased from $25,000 to $35,000 per annum, with those turning 60 during the financial year having access to the $35,000 cap. It is anticipated that the cap will also rise to $35,000 from 1st July 2014 for those over 50. Those who are salary sacrificing should review their current arrangements to factor in this increase.

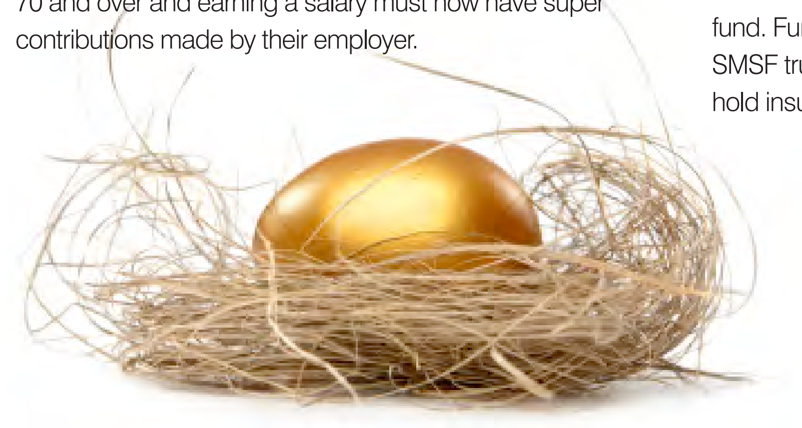
Those earning over $30,000 will pay an additional 15% tax on top of the 15% contributions tax for concessional contributions into super. This will apply to contributions from 1st July 2012, however the levy should not be payable until 1st July 2014 or later. While the 30% of the tax rate on the concessional contributions is lower than the 46.5% marginal tax rate for individuals earning $300,000, the tax saving from making additional contributions up to the concessional cap has been reduced.

Excess Contributions Tax

The harsh penalties for exceeding concessional (deductible) contribution limits have been reduced. Before 1st July 2013, excess contributions were hit with a penalty tax of 31.5% on top of the 15% contributions tax, effectively taxing the excess sum at 46.5%. Now excess contributions can be withdrawn from a superfund and the tax rate will be the personal marginal rate plus interest charge (for late payment of tax). However, the prohibitive tax of up to 93% on excess non-concessional contributions still applies.

Super Guarantee Increase

The superannuation guarantee rate has increased from 9% to 9.25% for most employees. In addition, the age cap for contributions has been removed, meaning those 70 and over and earning a salary must now have super contributions made by their employer.



Changes for SMSFs

SMSF Registered Auditors

From 1st July 2013, SMSF trustees must use an approved SMSF auditor registered with the Australian Securities & Investments Commission (ASIC) to audit their fund. This is an important change as many current auditors are not registered with ASIC.

Assets at Market Value

SMSF assets must now be re-valued at market value in the funds financial statements, starting for the year ending 30th June 2013. Previously, assessing market value for SMSF assets was only required when a pension started, or if the fund had invested in related party assets.

SMSF Supervisory Levy

The SMSF annual levy to the ATO has increased from $200 to $321. The new amount of $321 is made up of $191 levy for the 2013 Financial Year plus an advance payment of 50% of the levy for the 2014 Financial Year.

Separation of Assets

The government has introduced rules requiring SMSF trustees to keep SMSF assets separate from other assets held by trustees, members or their associates. This rule has always been embedded in the general SMSF rules, but the government has made specific requirement to make it easier for the ATO to impose penalties on trustees who breach this requirement.

Investment Strategy

While SMSFs have always been required to have an investment strategy, trustees must now review it regularly. The term regularly would mean at least annually, as well as when there is a change in trusteeship or membership of the fund. Furthermore, the new investment strategy rule requires SMSF trustees to consider whether the trust should also hold insurance policies for the members.

If you want to discuss your super options– we can help

Save Thousands and Be Mortgage Free Sooner

Most home owners would be pretty shocked to discover they will be nearly two-thirds into a 30 year home loan before they reach "tipping point", or the point at which the repayments are paying off more principal than interest.

With a few simple savings techniques and smart use of any additional lump sum payments received you can more quickly transition the average Australian's biggest debt into your largest asset.

Strategy 1 – Rounding up Mortgage Repayments

If you round up a monthly mortgage repayment of for example $2661 to $3000 (for a $400,000 loan at 7% over 30 years) this can bring your tipping point forward by 9 years, and enable you to pay off your loan in 22 years, and save around $182,000 interest.

Strategy 2 – Maintain Repayments at Higher Levels when Interest Rates Drop

Interest rates are currently falling, and consequently the minimum repayments required are falling too. However, if you maintain your repayments at the levels required before the interest rate cuts, you will reduce your interest and start paying off your principal sooner.

About two-thirds of Australian borrowers have maintained their higher repayment levels, despite recent interest rate cuts.

Strategy 3 – Change from Monthly to Fortnightly Repayments

Changing from monthly to fortnightly repayments, effectively adds another payment in each calendar year, increasing payments from 12 per year to 13 per year, and reducing both the interest and length of time to repay your loan.

Strategy 4 – Offset Accounts

Most lenders offer an offset account which is simply a savings account linked to the home loan account where the balance in the savings account is offset against the home loan. The savings above loan repayments reduce the loan amount, and the interest payable on the home loan, over the life of the loan.

This is particularly effective for higher tax-rate payers who would otherwise have to pay tax on interest earned in savings accounts.

Strategy 5 – Review the interest rate you are paying

A Broker can tell you which bank offers the best rate and product for your situation. A Broker by law must act on your best interests and it does make sense to get the best deal. If you don't know a broker, give us a call and we can refer you to one we know.

An example of the Big 4 banks current Fixed Rate offers can give you an indication of whether you do need a review. A broker generally deals with 20 plus banks and because of this often gets access to even more discounts and special offers the various banks make to attract new clients.

Implementing some or all of these strategies can help cut your massive interest bill and reduce your principal, reach that tipping point earlier and become mortgage free sooner.

THE CURRENT FIXED RATES FOR THE BIG 4 BANKS

	Lender	Interest Rate (per annum)	Comparison Rate (per annum)
1 Year Fixed	CBA	4.79%	5.71%
	NAB	4.79%	5.61%
	Westpac	4.99%	6.01%
	ANZ	4.79%	5.35%
3 Year Fixed	CBA	4.94%	5.65%
	NAB	4.99%	5.58%
	Westpac	5.19%	5.89%
	ANZ	4.99%	5.35%
5 Year Fixed	CBA	5.49%	5.81%
	NAB	5.55%	5.77%
	Westpac	5.69%	5.99%
	ANZ	5.69%	5.63%

NB: Rates taken as at the 1st of October 2013.

Managing the Risks of Your On-line Business Sooner

Doing business online has become a fundamental part of many business operations.

The opportunities of on-line business are undeniable and include access to new clients and markets, low-cost extension of business trading hours, more immediate payment, reduced inventories and reduced overheads. However, doing business on-line comes with its own risks – both to the business owner and to the customers.

E-commerce, and its associated digital data sharing and transfer increases exposure to those wishing to manipulate this data for their own benefit. These threats can implicitly damage the faith of customers and the reputation of on-line businesses. As on-line operations become more mainstream it will become increasingly critical to the success of businesses to demonstrate they operate in a secure data environment.

Some considerations for business owners are outlined here.

Ensure privacy laws are not breached.
It is important to understand exactly what information is being collected and held about customers, and to ensure this is only given to appropriate persons within the organisation to conduct business transactions.

Protect data from external threats.
Appropriate levels of network security are crucial in insuring that business and customer information is not subject to theft, alteration or damage.

Restrict access to information.
Ensure that only people who have legitimate reasons for using business information have access to it. It is also important to insure that individuals are not able to alter this information without a good reason, and that a review process is in place in relation to such changes.

Have a disaster plan.
Check that the organisation has appropriate backup, disaster recovery and business continuity plans in place. For organisations that operate online, information is their lifeblood. Without information it is almost impossible to operate. The testing and operation of recovery and continuity plans is critical.

Maintain integrity of data.
To reduce the risk of data error, maintain standardised processes for capturing and entering data, and undertake ongoing review of data sets for items that will corrupt their integrity.

The challenge for businesses operating successfully on-line is to balance the needs of getting business done, whilst ensuring protection of business information. Without this balance, surviving in the long term can be a difficult proposition.

Tax Strategies for Tough Times

Tough economic times mean that the main priority for most businesses is to maximise their after-tax cash position. There are tax strategies businesses can put in place to help make money, save money or to improve processes and systems which subsequently improve cash flow. This means identifying tax strategies which reduce the impact of the economic downturn, by applying available tax concessions and considering tax provisions seldom used during boom times.

Accruals versus provisions

Confusion continues to reign over determining the difference between a provision and an accrual. Whether or not they will be allowed as deductions will depend on whether:

- The business was 'definitely committed' to the expenditure.
- The liability was 'defeasible'
- The expenditure was properly referable to the tax year in question.
- The business returns assessable income under the accruals or cash basis.

Audit fees

Generally, a provision for audit fees for work yet to be undertaken is not tax deductible. However, the Tax Commission has indicated that, depending on the contract terms with the auditor, an accrual for audit fees may be deducible for tax purposes up front.

Blackhole expenses

Broadly, businesses may claim a tax deduction for capital expenditure that is not otherwise deductible and that relates to a business carried on for a taxable purpose. Such expenditure is known as 'blackhole expense'. The deduction is claimed over a period of five years on a straight line basis (i.e 20% per annum). Examples of blackhole expenses include establishing a business structure, converting or winding up an existing structure, equity raising costs and takeover defence costs.

Consolidation

To consolidate or not to consolidate, that is still the question for many businesses in the current economic environment. There are often sufficient commercial or tax reasons for a company group to consolidate; however; it is important for the key advantages and disadvantages to be carefully weighed up when considering whether to tax consolidate a corporate group.

Company tax losses

Generally speaking, businesses can only offset their carried forward income tax losses against future assessable income if they meet certain criteria. Basically these criteria require the business to meet either the 'Continuity of Ownership' test or the 'Same Business' test. Companies that don't pass the 'Continuity of Ownership' test may use the 'Same Business' test in order to carry forward previous year's tax losses. However, before doing so, a detailed 'Same Business' test analysis should be conducted to ensure the business qualifies. Assuming they remain legislated, new loss-carry back provisions could also be considered as this may potentially enable companies with a current year tax loss to go back prior years and claim back company taxes paid.

Director fees and bonuses

Businesses have often accrued director fees and employee bonuses on balance sheets at the financial year end. To qualify for a deduction for these accruals, business must 'definitely commit' to the payment before the end of their income year and formally document such decisions. For example, many boards do not finalise director fees or bonuses until after year end, therefore missing out on being able to claim the tax deduction, even though they always intended to approve their payment.

Fixed assets

It is worthwhile reviewing fixed asset registers and depreciation claims as there are often errors made, including incorrect recording of acquisition dates, use of incorrect depreciation or methods for acquisitions and calculation errors in relation to asset disposals. Business may find that they can save tax through such a review.

ATO Audit Priorities

There are two main areas of ATO focus that could affect a large number of taxpayers. One affects only companies, while the other targets trust structures that can be used either by businesses or by families.

Trusts

One of the key areas of interest for the ATO is trusts. According to the ATO, the taskforce responsible for targeting trusts aims to look at ‘high risk’ taxpayers. Activities highlighted as ‘high risk’ by the ATO include:

- Trusts or beneficiaries who have received substantial income that are not registered or have not lodged tax returns or activity statements.
- Trusts involved in offshore dealings involving secrecy jurisdictions.
- Agreements with no commercial basis that direct income entitlements to low tax beneficiaries.
- Tax outcomes that do not reflect economic substantial benefits from a trust while the tax liabilities corresponding to that benefit are attributed elsewhere.
- Mischaracterisation of revenue activities to achieve concessional capital gains tax treatment (eg. by using special purpose trusts to re-characterise mining or property development as discountable capital gains).
- Changing trust deeds or other constituent documents to achieve a tax planning benefit which can’t be credibly explained by other reasons.
- Transactions that have excessively complex features or sham characteristics, such as round-robin circulation of income between trusts.
- Making new trust arrangements that involve taxpayers and/or promoters who have connections to previous non-compliance.

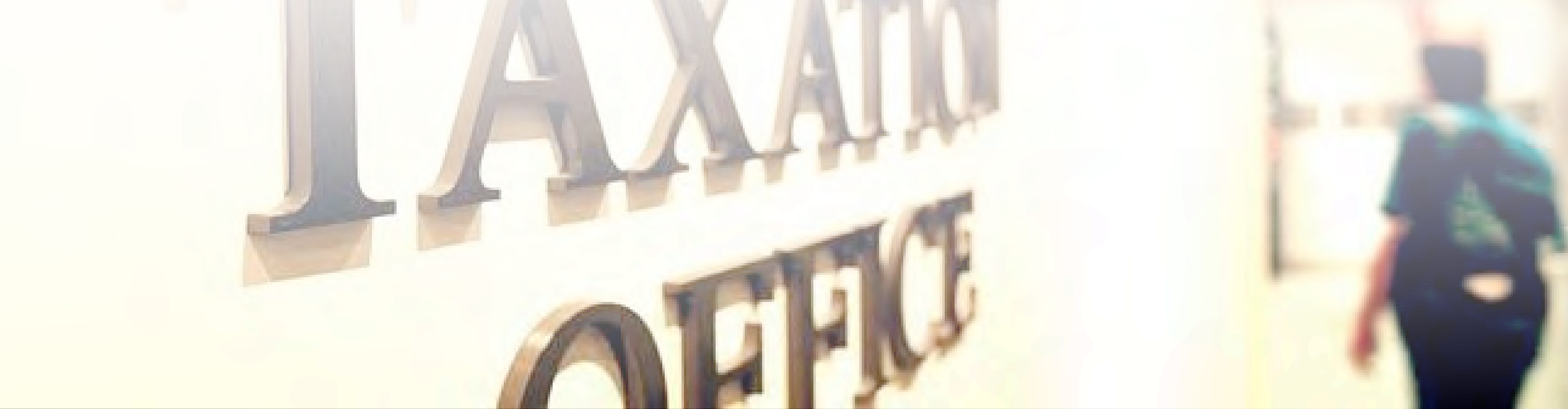
Companies

The government has introduced a law expanding carry-back losses, which allows corporate tax entities to carry back all or part of a tax loss.

The decision to bring in the law resulted from a recommendation by a working group set by the government to identify ways to better support business growth. A corporate tax entity in this context primarily refers to companies, but also includes corporate limited partnership, corporate unit trusts and public trading trusts. What this means is that a tax loss from the current income year can be carried back and used against an income tax liability for either of the years before the current year. This is a departure from existing rules that only allow losses to be carried forward and deducted from assessable income in future years.

If the loss carry-back conditions are satisfied, a corporate tax entity will get refundable tax offset for the loss or losses it chooses to carry back. Under the existing rules, a tax loss can be deducted from assessable income to reduce taxable income, whereas the new rules allow for a tax offset. A tax offset differs from a deduction in that it reduces tax rather than taxable income.

Business owners who believe that their company could take advantage of these rules should raise the question with their accountant or adviser. However, they should also be aware that the ATO will be keeping a very close eye on companies that use this strategy, to ensure they are correctly claiming losses.



Payroll Tax – Tips and Traps for the Unwary

Any business employing staff needs to consider payroll tax. Payroll tax can be very complex and consequently there is a high risk of running into problems.

Tips and Traps to be aware of include

Registration Thresholds

A business must register for payroll tax as soon as their 'taxable Australian Wages' exceed the registration threshold of the relevant state or territory.

Taxable Australian Wages

Once businesses reach a certain size they may become taxable in a number of states and territories even if there is only one or two staff employed in a particular jurisdiction. This can be a trap for business not familiar with legislative variations across the states and territories.

There has been an increase in audit activity in this area by state revenue offices in recent years, accompanied by an increase in the level of data matching and information sharing across all levels of government. The scope of 'wages' for payroll tax purposes is generally quite broad, covering such items as:

- Allowances, bonuses and commissions.
- Taxable fringe benefits (usually grossed up).
- Shares or options under an employee share scheme.
- Superannuation contributions.
- Termination payments.

Tax-free Threshold

Businesses that pay wages in more than one state or territory can apportion the relevant tax-free thresholds based on the proportion of wages in a particular state compared to the total of wages. The payroll tax rate is then applied to the difference between total wages for the state and the reduced threshold.

Related Businesses

The payroll tax grouping rules are broad, and this is another key area that is often not well understood. Businesses can generally be grouped in one of three ways:

- Related under the Corporations Act - one company is subsidiary of another or two companies are each subsidiaries of the same holding company.
- Commonly controlled businesses - two businesses controlled by the same person or set of persons, directly or indirectly.
- Employees used in another business - employees of one business are used to perform duties for another business.

In the second and third categories, the Tax Commissioner has discretion to exclude a business from being 'grouped' if it can be shown that the businesses are sufficiently independent. In particular the third category can be very subjective. Any situation where employees provide services for more than one business should be reviewed carefully to consider whether the business might be grouped. One of the key implications of the grouping rules is that only one tax-free threshold is available to the group as a whole. This may increase the total payroll tax liability significantly, especially where employees across the group operate in a number of states or territories.

Payments to Contractors

This is another common trap, as payments to contractors can be included in the scope of 'wages' for payroll tax purposes where a payment is made mainly for services (as opposed to supply goods with ancillary services), and none of the specific exemptions apply. As well as payments to individuals, these provisions extend to entities unless they engage two or more persons to carry out these services under the contract. This means a one man band company will usually be caught by the contractor rules, and payroll tax will apply in a similar way to an individual employee providing similar services.

Other exemptions that may apply include: services of a kind not ordinarily required for a total(not necessarily consecutive) or less than 180 days in a year (e.g seasonal fruit pickers); services provided by a contractor for a total (not necessarily consecutive) of less than 90 days a year, and services performed by a person who ordinarily provides such services to the public generally.