SuperShot

PKF

Chartered Accountants
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June 2012

2012 Year-end tax planning

The end of the financial year is fast approaching and now is the time to review your current and future superannuation strategies. This newsletter outlines opportunities leading up to 30 June as well has changes that apply from 1 July 2012 for your consideration.

Maximise your deductible contributions

Concessional contributions

The concessional (pre-tax) contribution caps for the year end 30 June 2012 are:

Concessional contribution caps	
< 50 years of age	$25,000
50 + years of age	$50,000

The above limits apply to contributions from all sources including:

- 9% superannuation guarantee;
- salary sacrifice contributions;
- super guarantee paid on bonuses; and
- life insurance premiums paid by an employer.

The cap is per person meaning that the limit applies across all employers and all superannuation funds.

Deductions for personal concessional contributions

Individuals who are self-employed or substantially retired may be eligible for a tax deduction in respect of personal contributions. In addition, individuals must also pass the 10% test, which requires that less than 10% of their total income be connected to employment. Since 1 July 2009, this includes salary, reportable fringe benefits and reportable superannuation benefits. If you fail the 10% rule the contribution will count towards the non-concessional contribution cap.

Precautions for 2013 contribution planning

Following the 2012 budget, legislation is now being introduced to tax concessional contributions at 30% instead of 15% if an individual's taxable income exceeds $300,000.

From 1 July 2012 the concessional contributions cap will be reduced to $25,000 for all individuals irrespective of whether they are over 50 or not.

Maximise your personal contributions

Non-concessional contribution planning

The non-concessional (post-tax) contributions cap for the year-end 30 June 2012 is $150,000. Individuals under the age of 65 may contribute up to $450,000 by bringing forward up to two years worth of contributions. The bring forward rule is triggered during the year in which you first exceed the $150,000 cap. (Take care not to exceed this cap, see below).

Government co-contribution

Non-concessional contributions of up to $1,000 will be matched by the Government with a co-contribution of up to $1,000 for people earning less than $61,920. The maximum payment of $1,000 is received when your income is less than $31,920. The co-contribution phases out once your income exceeds $61,920. To be eligible for the Government co-contribution you must be employed or self-employed.

Spouse contributions

A tax offset of up to $540 is available where a spouse contribution of up to $3,000 is made. In order to receive the full offset, a $3,000 non-concessional contribution must be made on behalf of a spouse. The spouse's taxable income must be less than $10,800. No offset is available when the spouse's taxable income is over $13,800. The $3,000 counts towards the non-concessional limit of the receiving spouse.

Excess contributions

If you exceed the contribution caps, you will be liable to pay excess contributions tax, which is calculated as follows:

Contribution type	Excess contributions tax
Concessional	31.5% in addition to the 15% paid by the fund Can be paid by the fund
Non-concessional	46.50% Must be paid by the fund

Warning: excess concessional contributions will count towards the non-concessional contributions cap!

Therefore, if you have exceeded the concessional cap and have made the maximum amount of non-concessional contributions this can result in the amount being taxed at 93%.

Concessional contribution planning opportunity via reserving

The Australian Tax Office recently released ID 2012/16, which confirms that a contribution will only be counted against the contributions cap when allocated to the member and also that fund has 28 days to allocate contributions to member accounts. Therefore, it is possible for an individual to make their $25,000 '2013 year' contribution between 2 June 2012 and 30 June 2012, and have it allocated to a reserve in the SMSF. This means the contribution will be deductible in the 2012 year, but it will not count towards the 2012 contribution caps.

For example, if a person receives a concessional contribution of $25,000 in August and an additional $25,000 on 15 June 2012 the fund can allocate the additional $25,000 received in June to a reserve. The contribution must then be allocated to a member within 28 days. Where this allocation takes place in July 2012 the later contribution will count as the 2013 contribution. Accordingly, the individual cannot make any additional concessional contribution in the 2013 year without triggering the excess contribution tax measures.

Caution must be taken if this strategy is utilised to ensure reserving is allowed under the fund's trust deed and that all the necessary documentation is in place. We recommend you discuss this strategy with your PKF representative prior to taking any action.

Minimum pension drawdown

Individuals drawing a pension from a superannuation fund must ensure their minimum pension amount has been withdrawn prior to 30 June 2012. Where a pension is commenced part way through the financial year, the minimum payment amount is pro-rated. There is no minimum drawdown requirement for pensions commenced after 1 June 2012.

Failure to withdraw the minimum pension requirement prior to 30 June 2012 will result in a loss of the pension exemption and earnings will be taxed at 15%.

The minimum pension requirements for the 2012 financial year have been reduced by 25% and are as follows:

Minimum pension requirements	
Age	2012
< 65	3%
65-74	3.75%
75-79	4.5%
80-84	5.25%
85-89	6.75%
90-94	8.25%
95 +	10.5%

Please contact your PKF representative if you need to confirm your minimum or maximum pension requirements.

Commence a transition to retirement income stream

For those people who have obtained preservation age and are still working it may be beneficial to commence a Transition to Retirement Income Stream (TRIS). There are many taxation benefits associated with the commencement of a TRIS as below.

- All ordinary income earned by the SMSF in relation to assets held to provide income stream benefits will be exempt from tax.
- Pension payments will be tax free, provided you are aged over 60.
- Personal tax savings are received when wages/salary income is salary sacrificed into the SMSF, provided your marginal tax rate exceeds 15%.

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Last chance to transfer shares as a contribution (referred to as in-specie contributions)

From 1 July 2012, all off-market transfer of shares between a member and a SMSF must be done 'on-market'. This means that the shares must be sold in the market. The proceeds are then contributed to the fund and the fund acquires the shares in the market. This is opposed to simply preparing an off-market transfer form and forwarding the completed form to the appropriate share registry.

Related unit trusts with unpaid present entitlements

If a superannuation fund is entitled to a trust distribution from a related unit trust, but the amount is not paid to the fund prior to 30 June 2012, then it will be considered an in-house asset if the value represents 5% or more of the market value of the superannuation fund's assets.

Please review your related unit trust profits to ensure that at least 95% has been paid in cash prior to 30 June 2012.

Transfer business real property

A common SMSF strategy is to transfer business real property held personally into a SMSF. Some of the benefits are listed below.

- Rental income taxed at 15%.
- Rental income received will be tax free while the fund is in pension phase.
- 1/3 Capital Gains Tax (CGT) discount if the property is sold after 12 months of ownership.
- If the property is sold when a fund is in pension phase then the CGT will be disregarded.
- Nominal stamp duty due to recent changes may result from the transfer of Business Real Property (BRP) from a member to a SMSF, depending on your circumstances.

Please contact your PKF representative if you hold personal BRP and would like to consider if this is an appropriate strategy for you or your business.

Estate planning opportunities

Reversionary pension elections

Where a member is planning to commence a pension or is currently receiving a pension, a reversionary pension election should be considered. Upon the death of the member, if a reversionary pension is in place the pension will automatically revert to the nominee as an income stream. Therefore, the SMSF retains its pension/tax free status and no assets are required to be sold to support the payout of the member's balance. It should be noted that only a dependent can be elected as a reversionary beneficiary.

Death benefit nominations

Alternatively, if a member does not have a dependant to nominate a reversionary pension to, the member can direct their superannuation benefits on death through a death benefit nomination. This is an important consideration as your superannuation does not automatically form part of your will.

Should you wish to discuss any of the above in more detail please contact your PKF superannuation representative.

Kim O'Brien | +61 2 8536 7775 | kim.obrien@pkf.com.au |
Level 10, 1 Margaret Street | Sydney | NSW | 2000

Brian Sully | +61 7 3226 3514 | brian.sully@pkf.com.au |
Level 6, 10 Eagle Street | Brisbane | QLD 4000

Tony Simmons | +61 8 7421 1400 | tony.simmons@pkf.com.au |
Level 2, 139 Frome Street Adelaide | SA | 5000

Tony Maclean | +61 8 9426 8999 | tony.maclean@pkf.com.au |
Level 4, 35 Havelock Street | West Perth | WA | 6005

Mike Sheehy | +61 7 5553 1000 | mike.sheehy@pkf.com.au |
Level 5, RSL Centre | 9 Beach Rd | Surfers Paradise | QLD | 4217