YEAR END TAX BULLETIN

2013 TAX HIGHLIGHTS

Individuals

Resident tax rates

There is no change to the individual resident tax rates for 30 June 2013 or 30 June 2014. However, the increase in the Medicare levy by 0.5% will take effect from 1 July 2014.

Non Resident tax rates

There is no change in the individual non resident tax rates for 30 June 2013 or 30 June 2014.

Medical expenses offset

The medical expenses offset is to be phased out progressively over the next few years. For individuals who incur medical expenses as carers, the rebate phases out by 1 July 2019.

For all other taxpayers, the medical expenses offset will only be available in the year ending 30 June 2014 where the individual claimed the offset in the year ending 30 June 2013. The entitlement to an offset in the year ending 30 June 2015 is dependent upon making a claim in the year ending 30 June 2014 year.

Individuals should ensure they can claim the offset in the current year to secure the rights to future offset claims.

Self education expenses

From 1 July 2014, the deduction for self education expenses incurred by individuals will be limited to $2,000 (unless the costs are paid by their employer and not salary sacrificed). Affected individuals should ensure they maximise their claims in the current year and in next year's tax returns.

Higher Contributions Tax for High Income Earners

From 1 July 2012, tax paid by super funds on contributions by individuals with more than $300,000 income increased from 15% to 30%. The 30% rate will not apply to concessional contributions in excess of concessional cap subject to excess contributions tax.

Superannuation Contribution Caps

For 2012/2013 the concessional contributions cap is $25,000 for all individuals.

Capital Gains Tax

CGT Discount for Non-Residents Abolished

Non-resident individuals holding taxable Australian property should obtain asset valuations as at 8 May 2012 to ensure they access 50% CGT discount on pre 8 May 2012 increase in value of their assets.

50% discount for non-residents was removed on capital gains accrued after 8 May 2012 on taxable Australian property.

Building and Construction Reporting

From 1 July 2012, businesses in building and construction are required to record payments to contractors and report these payments to the Tax Office.

The first annual report due to be lodged by 21 July 2013.

Companies

Thin capitalisation

The thin capitalisation provisions will be amended from 1 July 2014. The effect of the changes is to essentially reduce the value of allowable debt (and thereby reduce the allowable debt deductions).

As the proposal is to take effect from 1 July 2014, affected taxpayers should monitor their debt levels during the next 12 months to ensure they are not adversely impacted by the changes.

Monthly PAYG instalments

From 1 January 2014, companies with turnover in excess of $1 billion will be required to make their PAYG instalments on a monthly basis.

This will extend to companies with a turnover in excess of $100 million from 1 January 2015. The amendments will progressively then apply to other companies and other entities, including trusts and individuals with turnover of $20 million or more.

Taxpayers who are immediately impacted by the changes will need to consider the cash flow implications of having to pay their instalments much earlier.

Director Penalties

Company directors need to pay attention to companies' PAYG withholding and SGC liabilities as there are stricter penalties for directors of companies that fail to make outstanding PAYG withholding and SGC payments.

Carry Back of Company Losses

The loss carry back rules are proposed to come into effect for 30 June 2013 year. If a company paid tax in 2012 but has tax losses in 2013, you may be able to carry back up to $1 million of losses to the year ended 30 June 2012.

The amount of loss carried back is limited to lowest of amount of the loss, tax paid in 30 June 2012, or franking account balance at 30 June 2013, all capped at $1 million. Only revenue losses can be carried back.

Loans from Private Companies - Division 7A

Shareholders of private companies and associates may be assessed on a deemed dividend if the company provides them with loans, payments, loan forgiveness or private use of company assets, unless the requirements of Division 7A are satisfied.

Trusts

Unpaid Trust Distributions

Trust distributions to private companies which are unpaid at end of following year may be a Division 7A loan unless held in sub-trust for the company or converted to a Division 7A complying loan. The company must receive all income from the sub-trust.

Trust Distributions and Resolutions

Most discretionary trust deeds require distribution determinations for 30 June year end be made on or before 30 June, or maybe earlier such as 28 June or 29 June. Trustees must make determinations prior to 30 June or the date in the deed.

Trust Streaming

Under the streaming provisions, trustees can stream franked dividends and capital gains to specific beneficiaries, rather than distributing these amounts as part of the general distribution to beneficiaries.

The deed must not prevent the trustee from streaming these amounts to specific beneficiaries. In addition, the beneficiaries who are to receive these amounts must be specifically entitled to them, and the trustee must record the streamed distributions in the accounts or records of the trust, by 30 June 2013 for franked dividends and by 31 August 2013 for capital gains.

TFN Trust Reporting

Trustees of resident discretionary trusts, family trusts and other closely held trusts are reminded they are required to report the beneficiaries' tax file number (TFN) and certain personal information to the Tax Office.

If the beneficiary does not provide their TFN, by the time of the distribution the trustee will have to withhold tax from the distribution (at 46.5%).

Ongoing Year End Issues

Small Business Entities

- The taxpayer is eligible to be a small business entity if annual turnover is less than $2 million (aggregated with associated entities)
- Benefits include small business CGT concessions, 30% depreciation pool, immediate, deduction for <$6,500 assets, motor vehicle $5,000 write off and trading stock concessions.

Timing of Income Derivation

- Determine whether you should use cash or accruals tax accounting
- Consider deferring receipt until after 30 June 2013
- Alternatively if you are in a tax loss, consider accelerating the receipt of income prior to 30 June 2013.

Income Received in Advance

- Income received in advance is not taxed until services are provided as long as income credited to unearned income account, and released to profit when the services are provided.

Timing of Expenses

- Expenses are deductible if incurred by 30 June 2013
- Provisions are generally not deductible
- Some accruals are not deductible
- Some prepayments are not deductible
- Interest paid after business ceases may continue to be deductible.

Repairs

- Deduct repairs and maintenance incurred before 30 June 2013, unless relate to initial repairs, substantial replacement or improving an asset.

Gifts

- Donate to deductible charities before 30 June 2013 – check recipient endorsed deductible gift recipient
- Gifts not deductible if benefit is received by donor except when given at an 'eligible fundraising event' (special conditions apply)
- Non-deductible if taxpayer in tax loss position.

Bad Debts

- Review all debts before 30 June 2013
- Physically write-off bad debts before year end
- New rules apply to intercompany debt
- Note proposed change to related party bad debt deductions from 8 May 2012
- Consider claiming GST paid on transaction that created the debt.

Trading Stock

- Valuation - choose cost, market value or replacement
- Identify any obsolete stock – special valuation rule
- Scrap unwanted stock by 30 June
- Small business entity taxpayers do not undertake a stock valuation if the difference between opening and closing value is less than $5,000.

Prepayments/Advanced Expenditure

- Prepay deductible expenditure by 30 June 2013
- Prepayment rules operate to spread deduction over more than one year
- Prepayment rule does not apply to salary, amounts required to be paid by law or a court, or expenditure under $1,000
- Small business entity taxpayers and non-business individuals are allowed prepayments if the benefit does not extend beyond 12 months.

Director and Employee Entitlements

- Conduct shareholders' meeting before 30 June 2013 to approve directors' fees to obtain deductions for 2013
- Ensure arrangements for employee bonuses based on 2012/2013 results are in place before 30 June 2013 to get deductions for the 2013 year.

Sale of Investments

- Where CGT assets can be realised for a gain, delay sale until after 30 June, unless you have losses that may be lost because of company/trust loss rules
- Crystallise capital losses to offset gains – losses may be disallowed in the event of wash sale where loss asset or similar asset reacquired or continues to be controlled by the taxpayer
- If assets held for less than 12 months, consider delaying sale until 12 months to take advantage of CGT discount
- For small business entities with CGT assets less than $6 million or annual turnover less than $2 million, consider small business concessions.

Ceasing Business or Business Sold

- Consider consequences of payments for employee entitlements, transfer of employee entitlements to a new employer and redundancy payments
- Consider if small business concessions, rollovers, or super contributions are available
- Consider whether expenses incurred after business ceases may still be deductible.

Business Related Costs / Project Costs

- Project costs are deductible over the life of the project
- Other business related costs that are not otherwise deductible or included in a CGT or capital allowance cost base, are deductible over five years
- It is essential the costs relate to a business that is, was, or will be carried on for a taxable purpose.

Depreciation

- Scrap obsolete items by 30 June 2013
- Increase depreciation by reassessing effective life of assets if use exceeds ATO estimates of effective life
- For items that cost less than $1,000 consider a low value pool, with diminishing value rate of 37.5%
- Replacement of some items of less than $100 ($300 if not in business) may be immediately deductible
- Small business entities can immediately write off assets < $6,500 and $5,000 deduction for motor vehicle purchases.

Imputation

- If shares not held at risk for at least 45 full days, franking offset may not be available (except individuals whose franking offset less than $5,000)
- Non-fixed trusts lose franking offset unless beneficiaries have vested and indefeasible interest or family trust election made
- Where more than one dividend paid in franking period, ensure all dividends franked under benchmark rate (franking percentage of first dividend).

Year End Tax Effective Investments

- Has promoter obtained product ruling
- Ensure promoter operated the scheme in accordance with product ruling
- Check if the investment is the subject of a Taxpayer Alert
- Consider Part IVA and other integrity measures
- Warning signs include contrived or artificial arrangement; limited or non-recourse funding; low cash outlay; in-built exit strategy; prepayments; arrangement not economically viable without tax benefit; arrangement not independently assessed for viability.

Home Office Expenses

- Portion of interest, rent and insurance are not deductible unless you are carrying on business from home and the area is separate and distinguished from private living areas
- Converting spare room not sufficient
- Power, heating and depreciation can be claimed at a flat rate established by ATO even if room is not exclusively set aside for a home office.

MORE INFORMATION

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