YEAR END TAX PLANNER

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 Superannuation Contributions Tax for High Income Earners

From 1 July 2012 the Government will increase the super contributions tax paid by funds in respect of contributions for individuals with income greater than $300,000. The contributions tax will increase from 15% to 30%. The definition of 'income' includes concessional super contributions.

The 30% rate will not apply to concessional contributions which exceed the concessional contributions cap and are therefore subject to 'excess contributions tax'.

Superannuation Contribution Caps

The cap for concessional contributions for the 2012/2013 income year in $25,000 for all individuals, irrespective of age. From 1 July 2013 the cap increases to $35,000 for individuals 60 years or over at 30 June 2014.

Deductible Personal Super Contributions

If an individual is making personal super contributions, the contribution will only be deductible if the individual's income from employment is not more than 10% of their total assessable income.

Caution needs to be exercised to ensure the individual's employment income does not exceed the 10% threshold.

In addition, individuals are required to notify the fund if they intend to claim a deduction for their personal contributions.

Payment Summaries – Salary Sacrifice

- Employers are required to report (on PAYG payment summaries) reportable super contributions
- These are contributions in excess of the amount required under the SGC (industrial award or law where the amount exceeds SGC amount) where employee influenced the additional contribution (salary sacrifice)
- Contributions out of post-tax salary are not included.

Super Guarantee and Contractors

Employers need to ensure they make super contributions for all eligible employees, including certain independent contractors.

Under SGC, employee includes individuals who are employees in the ordinary sense (PAYG) and independent contractors engaged under a contract primarily for the provision of labour.

Where you engage contractors, you should review the contracts to determine whether the individuals are treated as employees for SGC purposes.

Capital Gains Tax

CGT Discount for Non-Residents Abolished

Non-residents (other than companies) that hold taxable Australian property should consider getting a valuation of those assets as at 8 May 2012 to ensure they can obtain the CGT 50% discount on the value increase before 8 May 2012.

The 50% CGT discount for non-residents was removed on capital gains accrued after 8 May 2012 on taxable Australian property such as real estate.

However, non-residents are still entitled to the 50% discount on that part of the capital gains accrued prior to 8 May 2012 (after offsetting any capital losses) provided they obtain a market valuation of assets as at 8 May 2012.

Building and Construction Reporting

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

An annual report is required - the first report is 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 should review their companies' reporting mechanisms to ensure they are adequately informed of their companies' financial position. Directors are personally liable where their company fails to make PAYG Withholding and SGC payments by the respective due dates.

Carry Back of Company Losses

The loss carry back rules are proposed to come into effect for the 30 June 2013 year.

If a company made taxable profits in the 2012, but is in tax losses in 2013, you may be entitled to carry back up to $1 million of losses to the previous tax year (year ended 30 June 2012).

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

From 1 July 2013, losses may be carried back to the two previous income tax years.

At date of publication of this document, the loss carry back rules had not been enacted.

Loans from Private Companies – Division 7A

Private company directors are reminded to ensure their companies comply with Division 7A where they provide loans or other financial assistance to shareholders and associates or allow them to use company property:

- Ensure you have loan agreements for all loans
- Ensure minimum repayment amounts are paid
- These rules apply to shareholders and associates, which includes relatives of shareholders, trusts, companies and partnerships the shareholders or their associates are connected with
- The private use of company owned assets for less than market value consideration can be a deemed dividend under Division 7A
- Loans for income producing purposes can be caught as a deemed dividend under Division 7A (there is no 'otherwise deductible rule' for Division 7A).

Trusts

Unpaid Trust Distributions to Private Companies

Distributions made by trusts to private companies which remain unpaid at the end of the following year may be deemed to be a loan to the trust and become subject to Division 7A.

To avoid the unpaid distributions being treated as a deemed dividend under Division 7A, the trustee has three options.

For unpaid distributions that arose in the 30 June 2012 year, the three options are:

- Put the amount in a sub-trust for exclusive benefit of the company by the earlier of the lodgement date or due date for lodgement of the trust's 2012 tax return (usually 15 May 2013);
- Convert the amount to a Division 7A complying loan by the earlier of the lodgement date or the due date for lodgement for the 2013 company tax return; or
- Pay the amount to the company by the earlier of the lodgement date or due date for lodgement for the company's 2013 tax return.

For unpaid distributions that arose in the year ended 30 June 2011 or earlier, where the amount has been placed into a sub-trust, the return on the sub-trust investment must be paid to the private company by 30 June 2013.

In addition, where there are unpaid distributions to companies, and cash has been provided (through loans or payments) by the trust to shareholders of the private company (or their associates), these may also be subject to Division 7A.

Trust Distributions and Resolutions

Most trust deeds for discretionary trusts require trustees to make their distribution determination for the year ended 30 June on or before 30 June or sometime earlier, such as 28 June or 29 June. It is essential that trustees make determinations prior to 30 June (or earlier required date), (notwithstanding the requirements of the trust streaming rules discussed below).

The Tax Office stated they expect trustees to make determinations in accordance with their trust deeds, including making definitive determinations by the date as stated in the trust deed.

We suggest that written evidence of the 2012/13 trustee determination of income of the trust (preferably in the form of a trustee resolution) be prepared by 30 June 2013 (or whatever earlier date is required by the trust deed).

Trust Streaming

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

To stream franked dividends and capital gains, the trust 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.

Where beneficiaries are streamed franked dividends, this must be recorded by 30 June 2013. Where beneficiaries are streamed capital gains, this must be recorded by 31 August 2013.

The trustees' distribution resolution in favour of the specifically entitled beneficiary would generally be sufficient for this purpose.

However, where the definition of 'income' in the trust deed includes capital gains and franked dividends, the determination to stream these amounts must be done on or prior to making the determination to distribute the balance of the trust income (usually 30 June).

TFN Trust Reporting

Trustees of resident discretionary trusts, family trusts and other closely held trusts are reminded that since 1 July 2010, 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%). The beneficiary will be entitled to claim a credit on the tax when they lodge their income tax return.

The report of the beneficiaries' tax file numbers to the Tax Office must be made by no later than the end of the month after the end of the quarter in which the Trustee received the TFN. For example if the TFN was received by the trustee on 25 June 2013, the report to the Tax office would have to be by 31 July 2013.

The trustee only has to report each TFN once. You only have to report the TFN for new beneficiaries you have not previously reported to the Tax Office.

Affected beneficiaries include individuals, companies, partnerships and other trusts, except for non-residents and beneficiaries under a legal disability (such as minors).

Note that if the benificiaries tax file number was included in the trust distribution statement of the trust's 2010 tax return, the trustee has fulfiled the reporting requirements for those beneficiaries.

Ongoing Year End Issues

Small Business Entities

- Is taxpayer eligible to be Small Business Entity (aggregated turnover less than $2 million)
- Benefits of being a small business entity include:
  - Small business CGT concessions
  - Simplified depreciation rules including the following:
    - Immediate write off for assets < $6,500;
    - $5,000 immediate write off for motor vehicle purchases; and
    - 30% depreciation pooled rate for assets >$6,500.
  - Simplified trading stock regime
  - 100% deduction for certain prepaid expenses; an
  - Two year amendment period.

Timing of Income Derivation

- Consider whether the amount is income or capital
- What is the appropriate method of income recognition: cash or accruals
- Consider specific rules to determine when income derived
- Consider deferring income until after 30 June 2013
- Alternatively if you are in tax loss consider whether you accelerate income receipt prior to 30 June to recoup losses that may not be available in future years.

Income Received in Advance

- Income received in advance may not be derived (and taxed) until the services are provided
- Income received in advance must be credited to an unearned income account
- This rule will generally not apply if payment is not refundable if services are not provided
- Income received in advance must be released to profit when services are provided, or if services are not provided, when it is determined the services will not be provided and no refund is claimed by customer.

Timing of Expenses

- Expenses are generally deductible if incurred by 30 June 2013. This requires a presently existing liability
- Provisions are generally not deductible
- Some accruals are not deductible
- There are specific rules that determine when some deductions are incurred (in particular, see prepayment rules below)
- Interest paid after business ceases may be deductible.

Repairs

Incur repairs on or before 30 June 2013 to obtain the deduction in the 2012/2013 income year, but they must not be:

- Initial repairs;
- Substantial replacement of an asset; or
- Improving an asset.

Gifts

- Donate to deductible charities before 30 June 2013.
- Ensure the payment is to an endorsed deductible gift recipient (DGR)
- Donations are not deductible if a benefit is received by the Donor, unless the contribution was made at eligible fundraising event for a DGR and contribution is more than $150:
  - Deduction will be reduced by value of any benefits received at the event.
  - GST inclusive value of benefits received must not exceed lesser of 20% of contribution and $150.
- Consider establishing a Private Ancillary Fund to have more control over the use of gifted funds
- Gifts are not deductible where the taxpayer is in tax loss (unless it's an expense in gaining assessable income or incurred in carrying on business).

Bad Debts

- Review bad debts before 30 June 2013
- Physically write-off bad debts before year end
- Bad debts may not be deductible if there has been a change in ownership or control of a company or trust (unless company passes the same business test)
- Note the proposed change to treatment of related party bad debt deductions from 8 May 2012 (not legislated at date of publication)
- You may be able to claim back any GST paid in relation to the transaction that created the debt.

Trading Stock

- Consider an appropriate valuation method – you can choose cost, market selling value or replacement price
- Identify any obsolete stock – special valuation rule
- Scrap unwanted stock by 30 June 2013
- If taxpayer is a small business entity, stock valuation is not required if the difference between opening and estimated closing value of trading stock for the year is $5,000 or less.

Non-Commercial Losses

- Losses from businesses carried on by individuals (or partnerships which have individuals as partners) are quarantined and deductible only against income from that business, or a related business unless the tests below are met
- For individuals with adjusted taxable income less than $250,000, at least one of the tests must be met:
  - Assessable income from the business of $20,000 or more;
  - Profit from the business in three out of the past five years;
  - Real property of $500,000 or more, or other assets of $100,000 or more used in the business; or
  - The Commissioner exercises his discretion.
- For individuals with adjusted taxable income in excess of $250,000, the only test they can access is the Commissioner's discretion (they will have losses quarantined unless they can satisfy the Commissioner the business made a loss because of special circustances outside their control).

Home Office Expenses

- Home office expenses may be deductible where you carry on business or employment activities at home
- 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
- If carrying on business from home, deductibility of interest, rent etc may be determined by the space occupied by the home office, as well as extent the space is used for income producing purposes
- Converting the spare room is not sufficient to be classified as a home office

- Power, heating and depreciation can be claimed at a flat rate established by the Tax Office even if the room is not exclusively set aside for a home office
- If an office is provided by the employer, working from home as a convenient place to do part of the work will not be sufficient to claim home office expenses

Car Expenses

- If claiming actual expenses, check the log book is current and that log book details are correct
- Ensure year end odometer readings are taken
- Ensure all relevant receipts have been kept.

Prepayments

- If expenses are not subject to the prepayment rules, prepay deductible expenditure by 30 June 2013
- The prepayment rules spread a pro-rated deduction over more than one year, where the expenditure provides benefits after end of the current income year
- The prepayment rules do not apply to excluded expenditure, which includes:
  - Salary;
  - Amounts required to be paid by law or a court; and
  - Expenditure under $1,000

There are separate concessional rules for small business entities and individuals (not carrying on business) who prepay amounts:

  - Immediate deduction for expenditure incurred before 30 June 2013 if the service period does not exceed 12 months and ends in the 2014 income year (such as prepaid interest for rental property);
  - Other prepayments deductible over service period.

Tax Shelters – Prepaid Investments

- Prepaid investment expenses applies to all taxpayers
- There is an exception for interest expenditure on:
  - Real estate investments;
  - Shares in listed companies; and
  - Units in widely held unit trust (300 beneficiaries).
- Deductions for prepayments of managed investments are spread over the service period if:
  - Expenses of investment exceed the income of the investment for that year;
  - The taxpayer does not have day-to-day control over investment;
  - There is more than one investor in same capacity or manager manages similar arrangements.

Audit Fees

Audit accruals are not deductible in the accrual year unless the audit contract creates a presently existing liability before 30 June 2013.

Superannuation

Some of the following super fund issues require advice from a qualified financial adviser:

- If you are over 55 years of age, consider salary sacrificing superannuation contributions and use a transition to retirement pension while still working
- Employee superannuation guarantee contributions are required – 9% of the employee's gross wage by 28 July 2013 – quarterly contributions are now required
- Make superannuation contributions for your spouse to receive the superannuation contribution rebate
- Ensure at least the minimum pension payments have been made for those in pension phase
- Before making any contributions prior to year end, ensure you are aware of your contribution caps
- Make sure you take into account contributions already made and ensure contributions made for the year do not exceed the concessional and non-concessional contribution limits
- Review salary sacrifice arrangements, especially if you have more than one employer, to ensure you do not breach your concessional cap in total
- If you are withdrawing a pension, ensure your minimum amount has been withdrawn.

Director and Employee Entitlements

- Conduct shareholders' meetings before 30 June 2013 to approve directors' fees and bonuses to receive deductions for the 2012/13 year
- Ensure arrangements for employee bonuses based on 2012/2013 results are in place before 30 June 2013 to receive the deduction for the 2012/13 year
- Ensure 2013/14 employee salary packages that include fringe benefits and/or additional employer super contributions are in place before 30 June 2013.

Losses

- Check to ensure companies and trusts seeking to claim a deduction for current year or prior year losses satisfy the company loss and trust loss rules by 30 June.

Debt Forgiveness

- Where a debt is released prior to 30 June, ensure there are no adverse consequences from the application of the commercial debt forgiveness rules
- These rules operate where a debt is released and interest on the debt is deductible, or if the debt is interest free, interest would have been deductible if interest was charged
- The beneficiary of the release may forfeit tax losses, future deductible amounts and Capital Gains Tax (CGT) cost bases
- In certain circumstances, there may be advantages in deferring the forgiveness until the following tax year. Where you are considering releasing debts, you should consider the optimal timing of the release.

Year End Tax Effective Investments

- Ensure the promoter has obtained a product ruling and operated scheme in accordance with product ruling
- Consider whether investment is the subject of a Tax Office Taxpayer Alert
- Consider impact of the general anti-avoidance rules and integrity rules

- The Tax Office has stated schemes should be considered in the light of these warning signs:
  - Arrangement contrived or artificial
  - Limited or non-recourse funding;
  - Minimal cash outlay;
  - In-built exit strategies;
  - High management fees or promoters' commission;
  - Arrangement not economically viable without tax benefit;
  - The arrangement has not been independently assessed for economic viability; and
  - There are prepayments involved (these may not be fully deductible in current year).

Sale of Investments – CGT Issues

- Where CGT assets will be realised for a gain, consider delaying sale until after 30 June unless you have losses that may be lost because of the company or trust loss rules
- Caution is required if you crystallise capital losses to offset against capital gains just before 30 June 2013 as this may result in the loss being denied if the taxpayer does not lose effective control of the loss assets or they are replaced with substantially identical assets (wash sales)
- Timing of disposal under a contract for CGT purposes is generally the date of making the contract
- If assets held for less than 12 months and held by resident individuals, trusts or super funds, consider delaying sale until 12 months has passed to take advantage of CGT discount if eligible
- Recoup capital losses against indexed capital gains before discounted gains.

CGT Small Business Concessions

- The concessions are:
  - 15 year exemption,
  - active asset reduction,
  - retirement exemption, and
  - small business rollover.
- To qualify for the basic concessions, the taxpayer must be a small business entity and the assets satisfy the active asset test used in business
- To qualify for the 15 year exemption, the taxpayer must also be retiring or permanently incapacitated and assets must have been held for 15 years
- To qualify for retirement exemption, the taxpayer must be retiring or, if the taxpayer is less than 55, contribute proceeds to a super fund
- If the taxpayer is a trust or company, special rules determine if the entity can access the concessions
- If the taxpayer sells a company or trust which conducts a business, there are rules to determine whether the sale qualifies for the concessions
- Consider access to the concessions where an asset owned by one entity is used in a business by a related entity.

Depreciation

- Scrap all obsolete items by 30 June 2013
- Consider reassessing the effective life if the asset has excessive use
- Balancing adjustment on disposal – excess assessable or deficit deductible – rollover is available
- Consider delaying disposal of items for a profit until after 30 June and bringing forward disposal of items for a loss to before 1 July
- Cars acquired after 1 July 2002 have an eight year effective life
- Plant costing less than $1,000 – option to allocate assets to a low value pool:
  - Depreciated at diminishing rate value of 37.5%;
  - First year rate 18.7% diminishing value; and
  - New low value assets must go into low value pool.
- The replacement cost of items costing less than $100 each can be deducted in the conduct of a business where the items have a short life and may be subject to breakage or loss
- Small business entities (aggregated turnover less than $2 million) have a more concessional depreciation regime. See 'Small Business Entities'.

Depreciation for Computer Software

Software mainly used as a business tool rather than for sale (in-house software) is 25% if the expenditure incurred on or after 13 May 2008.

Immediate Deduction – Non-Business Assets

- Immediate deduction for items less than $300 (non-business taxpayers) for:
  - Income producing assets used predominantly for non-business, e.g. tools of trade or briefcase, or small items of furniture in rental property
  - Not part of set of assets costing more than $300
  - Not substantially identical to other assets which in total cost more than $300.

Private Company Loans

Loans made by private companies to their shareholders or associates will be subject to Division 7A unless the loan is repaid before earlier of the date of lodgement and due date for lodgement for company's tax return for the year, or the loan:

- Is under a written agreement and on commercial terms by lodgement day
- Has a minimum benchmark interest rate
- Has a term of no more than seven years, or 25 years for registered mortgages over real estate.

The minimum interest rate is prescribed by the Tax Office every year.

Other issues:

- In subsequent years, if minimum repayments are not made by end of year, the shortfall will be deemed to be a dividend.
- A Division 7A deemed dividend is unfranked
- Payments and debt forgiveness to a shareholder or associate can also be a deemed dividend
- The definition of associate is wide and can include relatives of shareholders, as well as partnerships in which associates are partners, and trusts in which associates are beneficiaries
- There is Commissioner's discretion for non-complying loans to not be treated as a deemed dividend or to be treated as a franked dividend if it resulted from an honest mistake or inadvertent omission
- Shareholder and associates payments, debt forgiveness and use of company assets can also be deemed dividends under Division 7A.

Loans from Trusts

- A loan from a trust will be a deemed dividend where:
  - The trust has made a distribution to a company;
  - The trustee has not paid the distribution to the company that is presently entitled to the distribution; and
  - Trust makes a loan to company's shareholder or associate
- The loan is deemed to have been made by the company
- Loans will not be deemed dividends if they are repaid or put on a commercial footing before the lodgement day for the trust tax return
- Payments and debt forgiveness from the trust may also be deemed dividends on this same basis.

Personal Services Income (PSI)

- If you or an entity you work for (personal services entity) receive income for the reward for personal efforts or skills (e.g. consultants), the PSI rules may limit the deductions you or the personal services entity (PSE) claim, and you may be taxed on the PSI received by the PSE
- The rules do not apply to a personal services business (PSB) if you or the PSE:
  - Pass the results test (engaged to produce a result); or
  - Do not receive more than 80% or more of PSI from one source and pass one of the PSB tests:
  - Unrelated clients test;
  - Employment test; or
  - Business premises test.
- Where more than 80% of the PSI is derived from a single client and you do not pass the results test, you may apply for Tax Office discretion to be classified as a PSB.

Year End Cut-Off

- If the accounts close before or after 30 June, a tax adjustment may be required unless the taxpayer has an approved substituted accounting period.

Ceasing Business or Assets Sold

- Consider paying a redundancy or long service leave to employees – must be arm's length if paid to associate
- Defer retirement payment beyond 30 June if employee will be on a lower marginal rate in the following year
- Consider whether small business concessions, rollovers, or super contributions will still be available
- Consider whether expenses incurred after a business ceases will still be deductible.

Project Costs/Business Related Costs

- Project costs can be pooled and deducted over the life of project using diminishing value –
- The costs include:
  - upgrade community infrastructure;
  - site preparation for depreciating asset;
  - feasibility studies; environmental assessment;
  - obtaining information associated with project.
- Mining and transport project capital expenditure not otherwise deductible may be amortised over project life
- Other costs not otherwise deductible, included in the CGT cost base of an asset, or included in the depreciable cost of an asset, may be deductible over five years – they must be directly related to a business that is, was or proposed to be carried on for taxable purposes
- Software development expenditure incurred on or after 13 May 2008 is deductible at 25% straight line.

Debt/Equity Rules

- Review all shares, loans and other financial instruments used to raise finance to determine whether they are debt or equity
- This may include traditional non-debt or equity interests (contracts with remuneration contingent on profit are considered financing arrangements)
- Closely associated debt and equity transactions may be combined and treated as a whole as debt or equity
- Year end actions to consider for debt/equity rules:
  - Consider whether payments on instruments are deductible debt deductions (interest) or non-deductible dividends.
  - A non-share capital account needs to be established if instruments other than membership interests (shares) issued by the company, which are treated as equity.
  - At call loans made 1 July 2005 to a company from a connected entity may be equity. Companies with a turnover of less than $20 million are exempted from this rule.

Thin Capitalisation

- Consider whether thin capitalisation rules apply to reduce deductions for interest and debt deductions if the taxpayer:
  - has a foreign investment;
  - has a foreign owner; or
  - is a non-resident investor.
- Thin capitalisation applies to all debt deductions, not just related foreign party debt deductions (includes unrelated Australian or foreign debt)
- If the entity's debt exceeds maximum allowable debt, proportionate amount of entity's debt deductions disallowed
- Consider whether the de minimus rules apply:
  - Interest amounts less than $250,000; or
  - Foreign assets constitute 10% or less of the taxpayer's combined total assets (applies to outward investors that are not also inward investors).

Year end steps to meet thin capitalisation at 30 June:

- Review all entities to ascertain whether they are caught by the definitions of inward or outward investing entity
- Calculate value of assets, liabilities and equity to determine maximum debt levels
- Valuation must comply with relevant accounting standards
- Identify and value assets. If possible consider revaluing upwards, to maximise the asset base;
- Identify and value liabilities with a view to revaluing them downwards
- Review hybrid debt/equity instruments to determine whether they are debt or equity
- Obtain reasonable valuation from a professional valuer as Commissioner can substitute values if assets are overvalued or liabilities undervalued.

In addition, the thin capitalisation provisions are to be amended from 1 July 2014. They key changes are an increase in the di minimus rule to $2,000,000 (which may result in taxpayers who are currently subject to thin cap falling outside the provisions in future), and a reduction in the allowable gearing level from 3:1 to 1.5:1 (which may result in a greater disallowance of debt deductions).

Affected taxpayers should review their thin cap position over the next few months to ensure they are not adversely impacted by the proposed changes.

Imputation

- Companies paying less than 100% franked dividends, benchmark franking percentage rules apply
- The franking percentage chosen for the first frankable dividend paid in a franking period establishes the benchmark percentage
- The franking period is usually the income year for private companies and six months for public companies
- All frankable dividends paid during the franking period must be franked in accordance with the benchmark percentage
- Companies should determine whether a franking account is in deficit and whether they are liable for Franking Deficit Tax (FDT) and the reduction of the franking offset
- Where the franking deficit exceeds 10% of the franking credits for the company in the year, the company's entitlement to a tax offset for FDT is reduced by 30%
- If shares are not held at risk for at least 45 full days the franking offset may not be available (except for individuals whose franking offset is less than $5,000)
- Consider whether the beneficiaries of trusts receiving dividends have a vested and indefeasible interest to the corpus on which the dividends were paid – if not, the 45 day rule may not be satisfied unless a family trust election is made or the Commissioner exercises his discretion.

Consolidated Groups

- If the taxpayer is a company with 100% owned subsidiary companies, partnerships or trusts, consider making a consolidation election
- Company groups have to consolidate to be able to:
  - Transfer losses between members;
  - Pay unfranked dividends between members without paying income tax; and
  - Rollover assets between members without paying CGT or income tax.

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