END OF YEAR UPDATE

The end of year guide for you and your business

MID-YEAR TAX PLANNING

'Interesting times'

One thing is certain - when it comes to planning for taxation, the more things change, the more they stay the same. Steps taken by the Government to simplify taxation in one area invariably leads to complications in another. The new carbon tax is a perfect example.

We all look forward to a year which is simpler from a 'taxation and superannuation planning' point of view, but the signs show that it is not going to happen in 2012. Business owners need to be more vigilant than ever, especially directors, with the new laws relating to taxation liabilities if passed this year.

Combine this with business owner expectations for next year, which suggest reduced sales and profitability, and we are all in for an interesting and challenging year.

Like all challenges, they are best managed in pieces. Now is the time to break down the challenges of the New Year and take them head on, one piece at a time.

Timing is crucial: getting the timing of a transaction or investment right can minimise your tax obligations. Correct timing can also affect the cash flow impact of your tax payments. Sending us your accounting and personal records in good time means we can discuss planning opportunities and help you manage cash flow by giving you early warning of any tax payments due.

Even though we are only reaching the half-way point in the finanacial year, it is a good time to stop, catch a breath and review the last six months and set goals for the next.

Set time aside to plan and discuss your thoughts on business and personal finances with your accountant, financial planner and family. Step back from all the little things of everyday life to look at what you want to achieve.

Talk to us now for advice on making the most of the opportunities available to you and your business this year.

Merry Christmas

We would like to take this opportunity to wish all our clients and their families a very happy Christmas.

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Duty of care at Christmas time

It is that time of year again, the holiday period is just around the corner and the excitement of the work Christmas party is setting in. Ideas are being tossed around about locations and caterers and the Christmas spirit seems to be flowing through the office.

End-of-year celebrations are an excellent way for employers and staff to reflect on their achievements of the year and to develop their relationships with one another. However, it is also important for employers to consider the potential hazards which may arise and their legal obligations that stand when holding a work function.

An employer may be held liable for any injury which occurs at an event, as well as injuries of employees travelling to and from the venue.

Employers can also face the risk for any form of sexual or emotional harassment an employee becomes subject to. Areas such as drug and alcohol use, conduct, confidentiality and breach of company policies or procedures need to be given special caution.

All employees attending the party should be reminded of their responsibilities and expected standard of behaviour before the event. They should be informed that normal disciplinary procedures will apply for any form of misconduct that takes place. For serious matters formal action should be taken in the days following and not simply left to deal with in the New Year.

Employers should visit the Christmas party's venue prior to the event and carry out a risk assessment to ensure that occupational health and safety requirements are met. This should be done bearing in mind that attendees may be under the influence of alcohol. Even small hazards like a wobbly chair could be potentially dangerous and worth eliminating.

Alcohol should be served responsibly and by qualified personnel, as required by the responsible service of alcohol regulations. It is a good idea for employers to organise safe travel arrangements for their employees, such a handing out cab charges or hiring a mini bus. This will ensure that drink driving-related incidents are avoided and employees can enjoy their night and return home safely.

If employees choose to continue partying and the after party is not arranged by your company, ensure this is made clear. Start and finish times should be clearly set out prior to the event. Employers should also be aware that actions such as placing a tab behind a bar at an after party, could give rise to liability for behaviour into the early hours of the morning.

Bonus or cash? What's the difference?

With Christmas fast approaching, now is the time for employers to consider their end-of-year plans. When looking at Christmas gifts, it is important to think about tax and in particular Fringe Benefits Tax (FBT). Many employers are caught out by the FBT impact of Christmas.

Employers that decide to give employees a cash gift this Christmas will need to treat it the same as an ordinary salary or wage. Tax should be withheld from the payment and the amount displayed on the employee's annual payment summary.

Alternatively, employers may provide a non-cash gift. Such a benefit would not be taxed to the employee like cash, provided it is a minor benefit. The minor benefit exemption allows an exemption from FBT for benefits of 'less than $300', that are given to employees (and their family/associates) on the basis that they are infrequent and irregular.

Significantly, a gift of 'less than $300.00' means just that. A $300 gift to an employee will be subject to FBT - a $299 gift is not.

The Australian Tax Office accepts that different benefits provided at around the same time are not added together when applying this threshold. This means that a Christmas party and gift may be exempt from FBT, even if given at the same time, as long as the cost of each benefit is less than $300.

An example of a Christmas gift that would be exempt from FBT could be a gift voucher to a large department store. Importantly, the voucher needs to be less than $300 in value and must also be infrequent and irregular. Things can become a little more complicated if the voucher or gift card is for entertainment, such as cinemas, sporting events, or restaurants.

It is a good idea to check FBT consequences before making any purchases or gifting commitments to avoid facing the New Year with a liability that was not intended.

New regulations for SMSF investments

From 1 July 2011, the ATO implemented new legislative standards on collectables and personal use assets purchased by self-managed super funds (SMSFs). The objective was to ensure that any investments made by a fund for retirement purposes are used for that purpose and are not, in fact, current day benefits.

Items which can be considered 'collectables and personal use assets' may include such items as:

- Artwork
- Antiques and artefacts
- Jewellery
- Motor or recreational vehicles
- Alcohol
- Memorabilia
- Postage stamps
- Books or manuscripts
- Club memberships
- Coins and banknotes

The new standards, which apply to the acquisition, disposal, storage and maintenance of these items, state the following:

- The item must not be leased to a related party (another member of the fund);
- It must not be stored in the private residence of a related party;
- If transferred to another party, the item must be independently valued;
- It must not be used by another party;
- The storage of the item must be recorded and kept for a minimum of 10 years;
- Insurance for the item must be in the fund's name.

Anyone that holds collectable or personal use assets under their SMSF has until 1 July 2016 to comply with new regulations or to dispose of the item.

Prepare for the New Year

As many business owners would agree, now until the start of the New Year is an incredibly busy time. For retailers, 50% of their sales may come from this period. Other service businesses can be equally overwhelmed. For others, the year end can be one of the slowest times of the year. Clients might be away, employees aren't around to finish projects and the phones don't ring. That makes this a perfect time to take care of some end-of-year tasks.

- Start working on your 2012 marketing plan. Review your best sources of leads and make a list of the people to contact. Include some key referral sources and compose emails to send in the first week back. You will want to be ready to increase your business as soon as customers have finished with their holidays.
- Create a contact database. Go through your piles of business cards and address books to find any old customers you may have dealt with. Purchase some software to organise your contacts and enter all your contacts in an up-to-date database for the New Year. Remember, the best source of a future customer is a past customer.
- Clean out your office. Clear off your desk and archive important documents and file away your tax receipts.
- Go shopping. With all of the Christmas deals around, the end-of-year a great time to make business purchases. Get that new computer you have wanted, update aging office equipment, upgrade software programs, stock up on office supplies and replace those broken desks that are falling apart.
- Do some mid-year tax planning. Call your accountant and discuss ways to reduce your tax liability. This year may be a particularly challenging one, so you will probably need professional help more than ever.
- Look for new networking opportunities. Check your local newspaper for businesses and community organisations, search for upcoming events to attend and make reservations for January. You will want to have a calendar full of potential business-building activities ready for the New Year.
- Redecorate your office. You may decide to paint the office during the slow holiday season or even just re-arrange furniture and clean off the conference room table buried under stacks of old mail. Working in a pleasant, inviting environment helps keep both you and your employees motivated and makes each day more enjoyable.
- Make a donation. As business owners, we make many contributions to our communities and nation; we create jobs and invent new products and services. But we also need to remember those who are less fortunate, especially in these challenging economic times. Check out the charities of your choice and make a donation.

Finally, enjoy time with family and friends and have a happy and healthy holiday season!

FBT on office Christmas Party

In the lead up to the end-of-year, employers should be thinking about the tax deductibility and fringe benefit tax implication of office Christmas parties. Many employers are caught out by failing to adequately understand the FBT impact of Christmas.

Here are some things employers need to be aware of when planning a Christmas party for their employees. Christmas party costs are exempt from FBT provided that they:

- Are provided on a working day
- Are provided on your business premises
- Are for current employees only, not family members or partners of employees

If a spouse or associate of a current employee attends, these costs are not FBT exempt unless these costs satisfy what is known as the minor benefits exemption.

Many employers prefer to host Christmas parties off business premises. These will also be subject to FBT unless they satisfy the minor benefits exemption.

The minor benefits exemption has a $300 threshold per employee, which applies to each benefit provided. Benefits may include a gift given to each employee, provided that the cost for the party is less than $300 per employee.

A tax deduction for costs associated with the provision of Christmas parties for employees is allowable only to the extent that the cost is subject to FBT. If the cost is deemed to be FBT exempt, you cannot claim a tax deduction.

The application of the minor benefits exemption also implies that the costs associated with the party and the provision of gifts to employees is 'infrequent and irregular'. This means that these kinds of benefits cannot be afforded to employees on a regular basis in order to be FBT exempt. Entertainment costs for clients are not subject to FBT and are therefore not tax deductible.

If this seems like a hassel for times of celebration, employers can choose to account for FBT. The 50/50 split method operates where 50% of all costs associated with entertainment, meals etc for employees, associates of employees, clients and suppliers are subject to FBT and this 50% is therefore tax deductible.

New rules for director liabilities

The increasing number of companies going into liquidation and administration has triggered a proposal by the Government to increase the liability of directors for failing to meet their obligations as employers.

Whilst the laws were designed to help crack down on phoenix activity, an area the ATO has been targeting over the past couple of years, any business with unpaid tax and superannuation liabilities will face the same consequences.

The proposed changes aim to lift the corporate veil that has been used by some directors to escape from personal liability where companies fail to meet their obligations. The laws, which were announced earlier this year and are currently outlined in a draft exposure bill, would make directors personally liable for debts outstanding more than three months.

Implications for directors

The proposed changes to legislation will mean that directors will be personally liable for unpaid PAYG withholding taxes, in addition to unpaid superannuation. The legislation provides for amounts outstanding to be withheld from the directors own salary, increasing their own tax liability. The personal assets of directors may also be placed at risk.

Directors will also be liable where superannuation and PAYG amounts have not been declared or lodged. Failing to report these amounts, or even reporting them late, does not eliminate liability. The ATO will allow three months from the due date to report and pay the required amounts. After this, the directors will automatically become liable.

Even if the company is placed into liquidation or administration, directors will be required to pay all outstanding amounts.

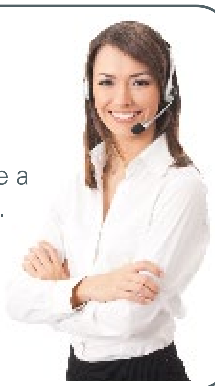
One of the advantages of the change is that the Government will no longer have to give directors twenty one days of notice in relation to outstanding debts. This removes the prospect of directors being alerted and then liquidating their businesses.

Actions required by directors

Directors need to ensure that Business Activity Statements, Taxation Returns and Superannuation Contributions are reported and paid on time.

It is likely the proposed changes will become law by the end of 2011.

We Are Here To Help



Make good use of us! This guide is merely a starting point, designed to help you identify areas that might have a significant impact on your tax planning.

Please keep us informed of your plans and consult us early for help in taking advantage of tax-saving opportunities and tax efficient investments.