Benjamin King Money CHARTERED ACCOUNTANTS

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Tax Planning

Simply put, tax planning is the arrangement of a taxpayer's affairs so as to comply with tax laws at the lowest possible cost which involves objectively assessing and actively managing tax risk.

Common tax planning techniques are deferring the derivation of assessable income and bringing forward allowable deductions.

Deferring Income

- Income received in advance of services to be provided will generally not be assessable until the services are provided.
- Taxpayers who provide professional services may consider, in consultation with their clients, rendering accounts after 30 June to defer the income.
- Consider whether the requirements to be classified as a small business entity (SBE) are satisfied. A SBE can access various tax concessions such as the simpler depreciation rules and the simpler trading stock rules.
- Individuals operating personal services businesses should ensure that they satisfy the relevant test to be excluded from the Personal Services Income regime. Alternatively, a determination to be excluded can be sought from the Commissioner.

Maximising Deductions

Business taxpayers

- Debtors should be reviewed prior to 30 June to identify and to write off any bad debts.
- Capital assets costing $100 (GST inclusive) or less are eligible for an immediate deduction.
- Review the asset register to identify any low-cost and/or low-value assets that may be pooled to access an accelerated rate of depreciation.
- Business-related capital expenditure may be deductible, including establishment of business premises, research into likely markets or profitability of a business and due diligence reports.
- Write off any depreciating assets which are no longer being held for use because a deduction may be available.
- Employees' superannuation contributions should be paid before 30 June to obtain a deduction and to avoid the Superannuation Guarantee Charge.
- Review trading stock for obsolete stock for which a deduction is available.
- A one-off bonus deduction for eligible tangible depreciating assets purchase between 13 December 2008 and 31 December 2009 may be available. (This measure has not received enactment.)

Non-business taxpayers

- Investors should consider prepaying interest on margin loans to obtain a deduction.
- Outgoings incurred for managed investment schemes may be deductible following a Full Federal Court decision.
- Assets costing $300 or less may qualify for an immediate deduction subject to certain conditions.
- A deduction for personal superannuation contribution is available where the 10% rule is satisfied.

Level 3 689 Burke Road Camberwell 3124 Victoria
PO Box 1163 Camberwell 3124 Victoria
T 03 9804 0411 **F** 03 9804 0422 **www.bkmoney.com.au** ACN 119 346 575
Directors: Paul R Money Terry T Stramotas Cheree F Woolcock
Consultants: Ian D King Eric M Krause **Associate:** Tim M Kelleher

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Capital Gains Tax

- Consider deferring the disposal of an asset to the 2009/10 income year to take advantage of the changes to the individual tax rates.
- Consider deferring the disposal of shortly-held assets to access the CGT discount, where available.
- Consider crystallising any unrealised capital losses in the income year if a significant capital gain is anticipated. Individual taxpayers can consider contributing some or all of the gain to her or his superannuation fund because a deduction may be available for personal superannuation contributions.
- Consider whether a rollover relief is available to defer any capital gains.
- Consider the availability of the small business CGT concessions which can disregard, reduce or defer a capital gain arising from the disposal of an asset which has been used by an entity in the course of carrying on its business.

Companies

- The franking percentage for distributions to shareholders should be the same for each franking period to avoid a franking deficit tax.
- A private company has four months after the end of the income year to provide its shareholders with a distribution statement for dividends paid.
- Loans, payments and debt forgiveness by private companies to their shareholders and associates may give rise to unfranked dividends assessable to the shareholders and associates. As such, loans or payments should be repaid by the earlier of the due date for lodgement of the company's return for the year or the actual lodgement date. Alternatively, appropriate loan agreements should be in place.

Trusts

- A minor (ie aged under 18) can receive up to $2,667 in non-taxable distribution for the 2008/09 income year.
- Avoid retaining income in the trust because the income may be taxed at 46.5%.
- If a company is owned by a discretionary trust, consider whether a family trust election (FTE) is needed to ensure any losses or bad debts incurred by the company will be deductible.
- If shares are owned by a discretionary trust, consider the necessity for the trustee to make a FTE to ensure any franking credits attached to the dividends will not be 'wasted'.
- If a FTE has been previously made, avoid distributing outside the family group to avoid the family trust distributions tax.
- If a trust has an unpaid present entitlement to a corporate beneficiary, the unpaid entitlement should be paid by the earlier of the due date for lodgement of the trust's return for the year or the actual lodgement date.

Superannuation Strategies

- Are-contribution strategy may produce tax benefits for taxpayers under age 60.
- Low-income earners (including self-employed persons) should consider making a personal superannuation contribution to qualify for the government superannuation co-contribution payment.
- Consider splitting contributions between spouses to effectively transfer concessional contributions to the older spouse who will reach age 60 first.
- A tax offset may be available to taxpayers who made eligible contributions to a superannuation fund on behalf of their low-income or non-working spouse.
- Taxpayers who have reached their preservation age should consider the benefits of a transitional to retirement pension.
- The government has introduced a measure allowing pensioners the option to draw half of the year's minimum required pension amount.

Developments since 1 July 2008

Taxpayers should note recent tax law changes, which include:

- the Education Tax Refund – eligible families can claim a tax refund for qualifying expenses incurred on their children's education, subject to a maximum limit;
- the Medicare levy surcharge thresholds for individuals and families have increased; and
- the Fuel Tax Credits Scheme has been expanded thereby most business taxpayers can claim credits for fuel used in their businesses.