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Morrows
Business & Tax
Client Publication

Standard
Tax Planning Memorandum
June 2019

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Your financial future,
tailored your way

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1. Year End Tax Planning Options

1.1 Small Business Entity

Special rules operate for small businesses which may offer you some advantages. To be classified as a small business entity, the turnover of your business entity and other businesses connected to you, must be less than $10m in any of the below circumstances:

1. For the previous financial year
2. Projected income as at the start of the financial year
3. Actual turnover for the financial year

The benefits of being taxed as a small business entity are summarised below:

- Depreciation Benefits
  Businesses entering into the small business tax system are eligible for accelerated depreciation deductions including:
  - Full deduction for capital expenditure up to the following thresholds at the point in time when the asset is first used or installed ready for use:
    - $30,000, from 7.30pm (AEDT) on 2 April 2019 until 30 June 2020
    - $25,000, from 29 January 2019 until before 7.30pm (AEDT) on 2 April 2019
    - $20,000, before 29 January 2019
  - Depreciation pooling of assets claiming 15% in the year of acquisition and 30% in subsequent years
  - The instant asset write-off now also includes businesses with a turnover from $10 million to less than $50 million. These businesses can claim a deduction of up to $30,000 for the business portion of each asset (new or second hand), purchased and first used or installed ready for use from 7.30pm (AEDT) on 2 April 2019 until 30 June 2020.
- Tax Concessions
  Small business taxpayers will be eligible for income tax concessions depending on their given circumstances:
  - Companies: Small business operating through a company will have a lower tax rate of 27.5%
  - Individuals: Unincorporated businesses or individuals getting distributions from trusts operating small businesses will be able to access an 8% discount, capped at $1,000, on their taxes

- Stock valuation:

  Small business taxpayers enjoy a simplified trading stock regime, whereby you do not have to account for changes in the value of trading stock, or do stocktakes at the end of the income year, provided the stock value does not increase or decrease by more than $5,000
- Small Business capital gains tax concessions on the sale of eligible small business assets
- Deduction for prepaid expenditure of up to 12 months
- New business start-up advisory fees are immediately deductible from 1 July 2015, instead of claiming as blackhole expenditure over a 5-year period.

1.2 Employee Superannuation Guarantee Payments

Superannuation contributions for employees for the June quarter can be paid prior to 30 June 2019.

Superannuation contributions are tax deductible when the complying superannuation fund has received the funds, not when you have an obligation to pay like other expenses when accounting for on an accruals basis.

To make sure that external (not necessarily applicable to Self-Managed Super Funds) super funds receive your payments before the 30 June end of financial year deadline, your payments must be received by the Small Business Superannuation Clearing House (SBSCH) no later than close of business 21 June 2019. Please note that due to some system maintenance scheduled between 11:30pm Friday 21 June 2019 and 7am Monday 24 June 2019 the SBSCH will be unavailable during that time.

When preparing final wage payments for the year, the superannuation entitlements can also be calculated at this time to the end of the year and as such make payment of these prior to 21 June 2019 to be able to claim the deduction this financial year.

You should ensure however that any ‘early payment’ of SGC (or salary sacrificed amounts) do not create ‘excess contributions’ issues for employees.

The superannuation guarantee charge for the 2018-19 financial year is 9.50% for all employees.

1.3 Government Co-contribution (Employee)

In order to be eligible for the government co-contributions you must make a non-concessional or member contribution to superannuation before 30 June 2019 of up to $1,000.

To be eligible for the full co-contribution your assessable income, including reportable fringe benefits, must be under $37,697. The co-contribution phases out when your assessable income is $37,697 or over and is no longer available once your assessable income reaches $52,697.

The maximum co-contribution you can receive is $500 for a contribution of $1,000 for the 2019 financial year.

In addition, it is also possible to have up to $500 worth of contributions tax paid on contributions by your super fund, refunded in the event that your adjusted taxable income is less than $37,000.

1.4 Government Co-contribution (Self-Employed)

A taxpayer operating a business personally or through a partnership is potentially eligible for a co-contribution. To be eligible for the co-contribution at least 10% of your income must be received from a business operation as a sole trader or partner in a partnership.

In order to receive the government co-contribution for the year you must make a non-concessional or member contribution to superannuation before 30 June 2019.

To be eligible for the full co-contribution your assessable income, including reportable fringe benefits, must be under $37,697. The co-contribution phases out when your assessable income is $37,697 or over and is no longer available once your assessable income reaches $52,697.

The maximum co-contribution you can receive is $500 for a contribution of $1,000 for the 2019 financial year.

In addition, it is also possible to have up to $500 worth of contributions tax paid, on contributions by your super fund, refunded in the event that your adjusted taxable income is less than $37,000.

1.5 Wages to Children

If your children work in the business, they should be paid accordingly. To record their wages, you should document:

- Number of hours worked
- Hourly rate of pay
- Description of tasks performed
- Dates worked

If they reach the necessary levels, PAYG Withholding Tax will need to be remitted and PAYG Payment Summaries issued. Children are generally taxed at ordinary adult individual tax rates on 'personal exertion' income.

1.6 Carried Forward Losses

If prior year carried forward losses exist, they may be available to offset and reduce current year profits.

1.7 Medicare Levy

The Medicare Levy remains at 2% for all individuals/families over the low-income thresholds.

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1.8 Other Planning Options and Issues to Review

- Distributions to companies – new ATO approach to post-16 December 2009 loans:
    - Interest needs to be accrued on all unpaid trust entitlements to avoid adverse tax consequences. Be mindful of the impact of tax return lodgment due dates on the calculation of the interest and the date of interest payments
- Ensure minimum Division 7A requirements are met:
    - Written facility agreement
    - Minimum interest and principal repayments
    - Separation of loans
- Maximising benefits under the FBT system. The ATO has abolished Fringe Benefit Tax (FBT) on all portable electronic devices that are primarily used for work. This FBT exemption is limited to two items per employee per FBT year
- All businesses who are obligated to pay superannuation guarantee for their employees, have been required since 1 July 2015 to be making super contributions electronically under the SuperStream standard
- Remunerating directors of companies / trust beneficiaries by a distribution rather than a wage and the savings on payroll tax and WorkCover as well as potential personal superannuation deductions
- Utilising tax free thresholds where company / trust is in a loss situation by paying a wage that will still be tax free to the directors / beneficiaries. The maximum tax-free threshold for individuals is $20,542. Note superannuation contributions need to be made and a WorkCover policy in place
- Employee bonuses incurred during the 2018/19 financial year are deductible even when paid after 30 June 2019 provided there is documentation in place to support the bonus. You must be committed to paying the bonus – there must be an obligation.

  Prior to 30 June, you need to document how the bonus is to be calculated, to whom and authorised by a director's minute

  Similar rules apply to Directors fees
- Wages that have been incurred prior to 30 June. For example, in a situation where staff are paid fortnightly and the fortnight covers one week of the 2018/19 financial year and one week of 2019/20 financial year, then half of the fortnightly payment would be deductible during the 2018/19 financial year
- Write off Bad Debts and document
- The Payroll Tax threshold will increase to $650,000 on 1 July 2019. The Payroll Tax rate remains at 4.85%. Where your payroll expense relates to 85% or more of regionally classified employees the Payroll Tax rate is 2.425%.

- When making donations, ensure they are in the name of the individual or entity that will receive the best benefit in relation to the deduction. That is, not an entity that is in a loss position or an individual with minimal income
- When an asset is being disposed of, the CGT event occurs at the date of contract
- When purchasing taxable Australian real property or an indirect Australian real property interest that provides company title interests with a market value of $750,000 or more, you as the purchaser must withhold 12.5% of the purchase price and remit to the ATO unless the vendor can provide you with a clearance certificate
- When selling taxable Australian real property or an indirect Australian real property interest that provides company title interests with a market value of $750,000 or more, you as the vendor must obtain a clearance certificate and provide it to the purchaser at or before settlement in order to avoid the purchaser remitting 12.5% withholding tax to the ATO on your behalf incorrectly
- When preparing BAS's, you need to ensure the ABN's you have been provided from your suppliers are correct. That is the name of the business matches that of the ABN, the ABN is still registered etc.
- From 1 July 2019, you can only claim deductions for payments you make to your workers where you have complied with the pay as you go withholding and reporting obligations for that payment
- The government has extended the Single Touch Payroll Reporting (STPR) provisions to cover businesses that employ less than twenty employees. These employers are required to start complying with STPR from 1 July 2019. STPR is a new system for electronic reporting salaries and wages, PAYG withholding and superannuation information directly to the ATO. If you require any assistance with the setting up of Single Touch Payroll, please contact us.
- **Primary production issues**
    - Farm Management Deposits (FMDs): Tax issues on withdrawal (possible that superannuation contributions to offset these issues). Maintaining FMDs (i.e. continuing as a primary producer). Making deposits that cannot exceed Primary Production (PP) income, maximum per person is $800,000 and must be held with one bank
    - Water facility investments will get an immediate deduction and a three-year depreciation allowance for all capital expenditure on fodder storage assets regardless of date – that is, you can obtain a deduction for one third of the cost, even if incurred part way through the year
    - Capital expenditure on landcare costs including fencing, are fully deductible
    - Stock up on diesel, fertiliser & feed
    - Land Tax Exemption for Primary Production land available
    - Obtain BMT Depreciation Schedule to claim any depreciation deductions available on existing buildings, plant and equipment
    - Averaging: Under most circumstances, it is advantageous for minor beneficiaries to be in averaging from age 14 as income for these purposes is averaged over 5 years, the fifth year being

when the minor beneficiary turns 18. This should be achieved by distributing the income from the trust to the minor beneficiary. You just need to ensure that in year 2 the PP distribution is more than year 1. This can create huge tax savings in the year they turn 18. Consider removal from averaging, especially when over 60 and income is mainly tax-free superannuation benefits. This results in no complementary tax being payable. Election cannot be revoked so once you opt out of the system you cannot elect to opt back in

- Ensuring the appropriate beneficiaries of a primary production trust are nominated as beneficiaries for taxation and FMD purposes where the trust is expected to not have a distributable income for the 2019 financial year.

2. Superannuation Issues

Morrows Private Wealth can provide advice under its licence (AFSL) on superannuation matters. Some general tax rules are as follows:

2.1 Superannuation Contributions

Superannuation contributions are an excellent way to build up assets in a tax effective manner as contributions can be fully tax deductible to an employer for contributions made on behalf of an employee. Self-employed contributions are also fully deductible, and you no longer need to ensure that less than 10% of your income relates to salary and wages.

Superannuation also has the advantage of being a tax preferred environment, as earnings are generally taxed at 15% and capital gains at 10%. When the members of the superannuation fund ultimately commence withdrawing pensions after age 60, there is no tax payable on the earnings of the fund subject to each member balance being below the $1.6 million cap.

Please note that if the individual has adjusted taxable income of $250,000 or more (inclusive of concessional superannuation contributions), the contributions are potentially subject to tax in the superannuation fund at a rate of 30%.

The current concessional contribution limit is $25,000 from all sources.

Where an individual has excess concessional contributions for a financial year:

- An amount equal to the excess concessional contributions is included in the individual's assessable income for the corresponding income year and is taxed at marginal tax rates, and
- The individual is entitled to a tax offset for that income year equal to 15% of the excess concessional contribution

The offset reduces the individual's tax liability to account for the tax that has been paid on the contributions by the superannuation fund in respect of the excess concessional contributions.

An excess concessional contributions charge is also payable by individuals whom exceed the contributions cap. The charge, currently circa 4.94% per annum is calculated based on the amount of the individual's income tax liability in the year the excess contribution is made. The annual rate is applied from the period between the date the excess contribution is attributable until the due date of the excess concessional contributions tax.

2.1.1 Eligibility to Contribute

Under 65

There have been significant changes to the eligibility of people to contribute to superannuation in recent years. For those under 65 years of age there are no restrictions regarding your eligibility to contribute, other than the contribution limits.

65 to 74

Between the ages of 65 and 74 it is necessary to have passed a work test in order to make contributions to superannuation. The work test requires an individual to have worked a minimum of 40 hours in a consecutive 30-day period during a financial year. For the purposes of this test working includes employment and working in your own business.

75 and over

Individuals aged 75 years of age and over are not able to make any contributions to superannuation.

From 1 July 2019 the federal government has introduced a one-year exemption from the work test for those aged over 65 with a super balance of under $300,000. Work-test exempt contributions will be subject to the $100,000 non-concessional (after-tax) cap.

2.1.2 Deductible Contributions

Other than direct payments, it is also possible for deductible contributions to be made by in-specie transfers of assets to a superannuation fund. Previously, any such transfer may have been subject to fringe benefits tax. As such it may be possible to transfer listed shares or property to a superannuation fund and receive a tax deduction on transfer. It should be noted that the capital gains tax and stamp duty consequences of any such in-specie transfer should be reviewed before a transfer is made.

Please note, where you are looking to make a superannuation contribution as part of your remuneration this can have implications on your WorkCover policy. As such to ensure you are not penalised you should review your estimated remuneration for WorkCover prior to 30 June enabling you to incorporate your final superannuation contribution into your remuneration estimate. Leaving it until the annual reconciliation may result in penalties being issued.

2.1.3 Undeducted Contributions

It is also possible to contribute to superannuation without claiming a tax deduction for the contributions. The key advantage of making these contributions is that the income on the amounts within superannuation are taxed at a reduced tax rate compared to that of individual tax rates.

The non-concessional contribution limit is $100,000 per annum.

It is possible to utilise the two future year's limits and make a non-concessional contribution of up to $300,000 in one year. To be eligible to access the future year's limits you must be under 65 at 1 July and cannot make any further non-concessional contributions for the next two financial years.

Care needs to be taken to ensure the $300,000 limit is not exceeded, inclusive of any other contributions made to other superannuation funds during the year.

An excess contributions tax of 47% will be incurred for every dollar contributed over the non-concessional contributions cap.

2.2 Transition to Retirement / Salary Sacrifice

It is possible to start withdrawing your superannuation benefits as an income stream without actually retiring. This can be done to supplement your income during a low-income year or as part of a salary sacrificing arrangement.

The only conditions on the establishment of this type of income stream is that you have reached your preservation age of 57 and the income stream not be paid out as a lump sum before retirement, or on attaining age 65.

The potential advantages of establishing this type of pension are:

- A tax rebate of 15% is available for personal pension income
- Once you turn 60 the pension payments are not taxable on withdrawal
- Your current salary can be sacrificed as a superannuation contribution to maintain your current after tax income.

2.3 Minimum and Maximum Pension Payments

If you are currently drawing pensions from your Superannuation Fund, you are required to ensure minimum pension payments are made before 30 June 2019.

If you are receiving a transition to retirement income stream, you are also limited by a maximum withdrawal amount which cannot be exceeded for the financial year.

The payment of the minimum pension is crucial to ensure that the superannuation fund is eligible for the tax exemption on earnings and capital gains. Where the minimum annual pension has not been paid for the financial year, the fund income is taxable as if there is no pension. As such, it is vital that minimum pension payments are made from the superannuation fund bank account before 30 June 2019.

2.4 Tax Offset for Spouse Contributions

You could claim the 18% tax offset of up to $540, which is equivalent to $3,000 in contributions made to your spouse's eligible super fund. You can claim the maximum tax offset of $540 if:

- you contribute to the eligible super fund of your spouse, whether married or de-facto, and
- your spouse's income is $37,000 or less.

The tax offset amount will gradually reduce for income above this amount and completely phases out when your spouse's income reaches $40,000.

You will not be entitled to the tax offset when your spouse receiving the contribution:

- exceeds their non-concessional contributions cap for the relevant year, or
- has a total superannuation balance equal to or exceeding the general transfer balance cap ($1.6 million for 2018–19) immediately before the start of the financial year in which the contribution was made.

3. Structuring Issues

3.1 Superannuation Borrowings

Superannuation funds are able to borrow to fund the purchase of investments in limited circumstances. Where certain conditions are met, a superannuation fund is able to borrow to purchase any asset that it is otherwise able to purchase outright.

The most common assets purchased under these arrangements are commercial and residential property.

Holding an asset in superannuation has many benefits when compared to other asset holding structures, including:

- Income tax rate of 15%

- Capital gains tax rate of 10%
- Repayments on the loan can be achieved tax effectively via deductible superannuation contributions
- Superannuation provides a higher level of asset protection than other structures
- Increases retirement benefits.

The establishment of a borrowing within a self-managed superannuation fund can provide long term taxation benefits as well as increasing your retirement savings.

Should you be interested in looking into a potential investment Morrows Private Wealth can provide detailed advice in relation to the advantages and disadvantages of a superannuation borrowing arrangement.

There are some significant issues to be concerned about if you are contemplating this strategy. Fund illiquidity is one of those. As noted, you need advice – see Morrows Private Wealth.

3.2 Negative Gearing

Negative gearing may be a good way to increase wealth by:

- Allowing a tax deduction now when you need it
- Delaying tax on the capital growth of the investment until it is sold in the future.

When considering this type of investment, you need to compare the initial losses against potential capital growth and future cashflow.

We are able to review any potential investments with you to determine your after-tax position with the investment and the optimum ownership structure of the purchase.

4. Conclusion

Please note the above measures and examples are for illustrative purposes only. They vary substantially depending on your specific circumstances during the last part of the financial year and these circumstances must be considered for you to obtain the maximum benefit.

It is also vitally important that any measures adopted are done in accordance with available cashflow.

If you have any questions in relation to this document or your 2019 tax planning, please contact your Business and Tax relationship person on the tax matters and our Superannuation/Morrows Private Wealth specialists on superannuation matters.