Due Diligence
Action Checklist

April 2004

Tax

1. Review a detailed group structure diagram and provide a summary of share ownership. In particular, review for any ownership by trusts.
2. Review tax returns for last four years and supporting work papers, including detailed reconciliations of profit (loss) per the financial statements and taxable income (loss).
3. Review copies of company franking accounts for each of those years, including details of dividends paid and the extent of franking.
4. Review copies of both accounting and tax fixed-asset registers and related fixed-asset reconciliation schedules for those years.
5. Review a schedule of any carried forward revenue and capital gains tax losses of the company and details of losses used during the last five years and ascertain whether there were any losses transferred in or out.
6. Review copies of FBT returns for the last four years and supporting workpapers.
7. Review copies of any correspondence with the ATO for the past four years including (but not limited to):
   - all private ruling requests, requests for the expression of the Commissioner's opinion and objections lodged, and all responses received;
   - requests for an amended assessment; and
   - requests for information from the ATO, whether as part of a formal audit or otherwise and all responses provided. Otherwise, confirm that the company has no knowledge of any intended audit activity.
8. Review any consolidated group that the company is a member of for tax purposes. Review details of any tax sharing agreements entered into.
9. Review position papers supporting any tax positions adopted by the company in the past four years.
10. Review details of any significant transfers of employee leave entitlements to or from the company in the past four years.
11. Obtain details of any direct or indirect interests held in foreign entities.
12. Obtain details of any foreign, permanent establishments of the company including any offices, employees, substantial equipment or projects in foreign countries.
13. Obtain details of all interest, royalty and dividends paid to non-residents and withheld and\or remitted in the past four years.
14. Obtain details of any insurance premiums paid to non-resident insurers in the past four years.
15. Obtain details of all income derived from foreign sources and of foreign taxes paid in the past four years.
16. Determine whether there is any ownership of the company by non-residents and the interests held by the company in offshore entities.
17. Assess the company's interest expense over the past four years and any interest deductions disallowed under the thin capitalisation rules (if applicable).

18. Determine whether there have been any capital gains tax rollovers to or from the company since 1985. Obtain details of the assets involved, their cost base and potential market value at the time of transfer.

19. Determine whether there have been any asset rollovers for depreciation purposes involving the company.

20. Obtain details of any changes in share ownership of the company since incorporation. Describe significant or abnormal changes in indirect ownership through interposed group companies.

21. Review loans made to shareholders or associates (other than to another company) in the past five years.

22. Determine whether the company acquired any of its assets before 19 September 1985.

23. Determine whether there have been any significant asset acquisitions, disposals or restructures involving the company in the past four years. If so, obtain details of these restructures.

24. Review the nature of foreign currency transactions undertaken by the company and its policy concerning the tax and accounting treatment of foreign currency movements.

25. Review any intra-group asset transfers during the past four years.

26. Determine whether any debts owed by or to the company have been forgiven in the past four years and, if so, what tax adjustments or capital loss claims resulted.

27. Determine whether the company received dividends from shares held for less than 45 days, or from shares where there is diminished risk of ownership.

28. Determine whether all appropriate returns have been lodged and whether all appropriate accruals have been made in respect of applicable taxes, including but not limited to:

    _ income tax
    _ FBT;
    _ GST;
    _ payroll tax;
    _ PAYG;
    _ superannuation guarantee charge;
    _ stamp duty;
    _ customs duty; and
    _ franking additional tax, franking deficit tax; and
    _ deficit deferral tax

29. Determine whether there have there been any transactions with international related parties in the past four years. Consider transfer pricing issues.

30. Assess whether any transactions may not have been undertaken on arm's length (market value) terms between related parties, covering both domestic and international transactions.

31. Obtain proofs of future tax benefit and/or deferred tax liability balances, and:

    _ review for reasonableness;
    _ ensure appropriate tax rates have been applied; and
    _ assess whether the future income tax benefit should be carried forward.

32. Determine whether there are or have been:

    _ any significant items in dispute with the ATO (i.e. outstanding ruling requests, ATO audit issues, objections to assessments, appeals);
    _ any 'exposures' relating to inter-company pricing or allocation of expenses between related entities;
    _ any aggressive tax positions taken in tax returns and whether they are adequately provided for in the relevant balance sheets; and
    _ any liabilities for tax penalties.

33. Review any private rulings or advice upon which the company is relying.

34. Summarise the taxation implications for the purchaser and the company (the entities and shareholders) that will arise from the proposed transaction, including, but not limited to:

    _ entitlement to carry forward tax losses;
    _ CGT and cost base issues; and
    _ stamp duty and other taxes payable.

GST (Indirect Tax)

35. Review GST Returns for all periods from 1 July 2000, including summary sheets, schedules and other documents used in the preparation of BAS returns.

36. Obtain and review a copy of the running balance account from the ATO.

37. Review for appropriateness copies of any recipient-created tax invoice agreements, sample copies of invoices and adjustment notes issued by the company.
38. Review copies of any material agency agreements, franchise agreements, lease agreements, loyalty payment and rights agreements.
39. Review copies of any assessments or requests for payment received from the ATO.
40. Assess whether the structure is part of a group, partnership or joint venture.
41. If a member of a group, determine whether there are any other members of the group with outstanding income tax, GST or other liabilities which could be offset against the running balance account.
42. Determine whether all BASs have been lodged for the period since 1 July 2000 and payments made in respect of both GST and PAYG.
43. Determine whether payroll tax returns have been lodged and payroll tax paid in each jurisdiction.
44. Consider whether the entity is appropriately grouped/not grouped for payroll tax purposes.
45. Assess whether the amount of salary and wages shown in the accounts approximates that which has been declared for payroll tax.
46. Review to ensure that independent contractors have been properly treated for tax purposes.
47. Determine whether there are any outstanding assessments or refund claims.

WorkCover

48. Review copies of WorkCover premium notices for the past year.
49. Review WorkCover correspondence to determine whether there are any documents advising of WorkCover premium rates or industry classifications, outstanding claims and/or claims history.
50. Determine whether WorkCover premiums and payments are up to date.
51. Assess whether there are any outstanding obligations, assessments or challenges currently undertaken in relation to WorkCover.

Superannuation

52. Review copies of all superannuation guarantee payments for the most recent financial year.
53. Determine whether all superannuation guarantee payments have been made.