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## THE REPORT

May 2004

## Tax News, Views and Clues

### Year-end Tax Planning

In the lead-up to 30 June 2004, taxpayers should take the time to focus on tax planning and what tax issues may affect them or their business. Important issues to consider include deferring income, maximising deductions, the consequences of family trust elections and effective CGT planning.

More specifically, taxpayers may want to consider the following:

#### Deferring Income

In relation to the derivation of income, note the following points:

- In line with the *Arthur Murray* principle, taxpayers may be able to defer recognition of income received before year-end for services not yet performed.
- Most taxpayers will not be assessable on interest, dividends or rent until it is received (unless otherwise paid or credited on their behalf). This creates an opportunity for deferral.

- Taxpayers whose businesses are taxed under the cash/receipts method (rather than the accruals method) will only be assessed when cash is received. Accordingly, these taxpayers are able to defer the assessability of income until the following year.
- Royalties and insurance proceeds are typically assessable on a cash basis.
- Work in progress of professional practices will not be assessable until there is at least an entitlement to bill.

#### Maximising Deductions

Here are some initiatives to accelerate deductions:

- Write off bad debts before year-end.
- Consider realising foreign exchange losses and deferring the realisation of gains.
- The outlay for deductible expenses may be brought forward.
- Ensure that bonus obligations are incurred before year-end.
- Value stock at a lower replacement price or market value, where appropriate.

- Consider scrapping stock and plant and equipment of nil value before year-end.
- Ensure that audit fees are incurred before year-end, based on Taxation Ruling IT 2625.
- Consider the appropriateness of the low-value pool for depreciation of plant and equipment.
- Ensure that superannuation contributions are paid by year-end.

#### Capital Gains Tax

Think about adopting the following strategies to minimise CGT:

- Utilise the CGT small business and retirement concessions.
- Consider the availability of rollover relief for certain disposals.
- Match gains and losses where possible to avoid carrying forward a capital loss.
- Defer a disposal to ensure the asset has been held for at least 12 months. This will potentially permit individuals and trusts to benefit from the 50% discount.

- Consider whether non-deductible costs may be included in an asset's cost base.
- Consider whether it is most beneficial to utilise the 50% discount, where available, or frozen indexation.
- Defer a disposal to the subsequent income year.
- Consider a wash sale of CGT shares in order to crystallise the capital losses.

### **Tax Consolidation**

- Consider whether any tax planning or restructuring may be appropriate in the lead-up to consolidation.
- Consider whether an election to form a consolidated group should be made for tax purposes.
- Analyse new allocable cost amount (ACA) cost-setting rules. Determine whether there would be a benefit in adopting ACA rather than retaining existing asset cost figures.
- Review the potential tax treatment of losses within company groups.
- If ACA is to be used or if there are losses, consider whether valuations should be obtained as part of the consolidation process.
- Various transitional concessions are available to groups that consolidate prior to 30 June 2004. Consolidating is a key issue for consideration.

### **International Tax**

- Try to match foreign source income of a particular class with related expenditure to avoid a quarantined foreign loss.

- Plan to utilise foreign tax credits against Australian tax on foreign income of the same class.
- Consider international related party transactions, whether arm's length prices have been charged and whether there are transfer-pricing issues to address.
- Identify and address other international tax issues such as permanent establishments and controlled foreign companies.

### **Trust Distributions**

- Make sure a trustee resolves to distribute the net income of the trust before 30 June, or by the end of August relying on ATO administrative concessions.
- Remember that year-end trust distributions and income injections may affect a trust's ability to recoup prior-year tax losses and bad debt deductions.

### **Family Trust Elections**

- Ensure optimum utilisation of franking credits and consider making a family trust election where a trust holds shares acquired post 31 December 1997.
- Consider whether a family trust election should be made because of losses or bad debts in trusts or companies owned by trusts.
- Make sure distributions are not made outside the family group to avoid crystallising family trust distributions tax.

### **Simplified Imputation**

- Ensure all dividends paid within a franking period have been franked to the same extent.
- Ensure a company paying a franked dividend has issued a

distribution statement in the 'approved form' and within the prescribed time frame. Otherwise, the recipient will be unable to claim the imputation credit as a tax offset.

- Is there any entitlement to a refund of *franking credits*?

### **Other Issues**

Other important matters include the following:

- Taxpayers should note that grouping concessions are no longer available. Specifically, tax loss transfers, capital gains tax rollovers and tax-free unfranked dividends between group companies do not apply after 30 June 2003 unless an election to consolidate for tax purposes is made.
- Consider the impact of the current private company loan rules and whether loans can be structured to comply with the provisions to avoid a deemed unfranked dividend and franking debit.
- Ensure that minimum prescribed repayments are made on private company loans as required.
- Consider whether debt forgiveness rules apply and, if so, whether grouping rules or other planning initiatives can mitigate the impact.
- Consider whether the non-commercial loss rules apply to prevent offsetting small business losses against other income.
- Consider the effective lives of depreciable assets.
- Do the alienation of personal services income rules apply? Is a personal services business determination required or can the rules be avoided through careful planning?

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