

YEAR END TAX PLANNING

Defer Income & Accelerate Deductions

- Consider the timing of income and expenditure by legitimately deferring receipt of income and bringing forward tax-deductible expenditure.

It may be possible to defer income by considering the timing of contracts, or when sales are actually made. Capital gains can also be deferred until the new financial year or capital losses can be crystallised prior to 30 June to offset against existing capital gains (see capital gains tax section below).

- Tax deductible expenditure can be brought forward (for example, expenditure on major repairs and maintenance that are not initial repairs, the replacement of an asset or improvement of an asset).
- Review fixed assets purchased during the year and ensure the correct effective life for depreciation is being used for depreciation claimed.
- Consider any fixed assets that should be scrapped before year end.

Capital Gains Tax

- Consider the 12 month rule when disposing of investments (assets must be owned for at least 12 months to gain access to the 50% capital gains tax discount concessions for individuals).
- If capital gains have been made during the year, you may consider selling investments to realise any capital losses, which will offset the capital gains.
- Beware of 'wash sale' arrangements when disposing and reacquiring capital gains tax assets. The Australian Taxation Office (ATO) has issued a taxation ruling on the application of Part IVA of the Income Tax Assessment Act 1936 (anti avoidance legislation) to 'wash sale' arrangements.
- 'Wash sale' arrangements occur when a taxpayer sells and purchases the same or substantially the same asset within a short period of the time of each other to apply a capital loss against a capital gain derived or expected to be derived. The ATO has warned that certain arrangements such as these are schemes to reduce income tax and may impose significant penalties. The ATO is currently releasing taxpayer alerts with respect to this matter.
- Shares must be owned for a minimum of 45 days (90 days for preference shares) for entitlement to franking credits (for large investors with \$5,000 or more in credits). Therefore, take this into consideration when deciding to balance capital losses against gains.

Bad Debts

- To claim for bad debts, the debt must be bad and declared written off prior to year end.
- The entity claiming the bad debts must satisfy the continuity of ownership test or the same business test.
- The debt must have previously been brought to account as income.

Prepayments

- Consider prepaying business or investment related expenses (note that some limitations may apply i.e. service period exceeding 12 months).
- The following types of payments are excluded from the prepayment rules and are deductible in the year incurred:
 - Prepaid expenditure less than \$1,000;
 - Prepayments required by an order of court of law; or
 - Expenditure for salary or wages.

You should ensure that when prepaying your interest that the financial institution charges the interest to the loan account rather than simply reducing the loan balance.

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WWR HAS MOVED OFFICES

After enjoying 10 years at our offices at Level 18, 201 Elizabeth Street, we have moved to our new offices at Level 16, 130 Pitt Street Sydney.

Come visit us!



GMN International is an international affiliation of independent accounting and consultancy firms located in major commercial centres around the world. Cameron Johnstone is currently the International Chairman of GMN International. For further information please visit www.gmni.com.



**Chartered
Accountants**

YEAR END HOT TIPS!

- Review debtors and write off bad debts;
- Conduct a stocktake;
- Review and scrap obsolete or damaged stock; Print stock valuation reports;
- Ensure super contributions are physically paid by 30 June;
- Review your asset register to identify any low cost and/or low value items that may be pooled to access accelerated rates of depreciation;
- Record odometer readings;
- If between the age of 65 and 74 and are considering making super contributions, ensure you have satisfied the work test.

GET YOUR TAX INFORMATION IN EARLY!

In order to avoid delays in processing your income tax return, please ensure that you forward your information to our office as soon as possible after 30 June 2010.

BEWARE OF YEAR END TAX SCHEMES

Be cautious in respect of year-end investments being marketed with "tax benefits". Even where the "tax benefits" are the subject of an Australian Taxation Office Product Ruling, the value of the underlying proposal needs to be sound.

The background of the promoters is also relevant to determine the degree of likelihood that they will comply with relevant tax rulings. Exercise caution.

HAVE YOU CONSIDERED A D-I-Y SUPER FUND

If you propose to set one up before 30 June 2010, why not consider a deductible contribution to a no exit/no entry fee ADF (Approved Deposit Fund offered by most banks). You can set up your D-I-Y fund after 30 June 2010 and save yourself one years accounting and audit fees!

FAMILY TAX BENEFIT (FTB)

If you are making a claim for FTB, this must be done through the Family Assistance Office and not through the ATO, as part of your income tax return.

Trading Stock

- Trading stock at year end can be valued at the lower of cost, market value or replacement value (a high \$A at year end can assist importers to value stock at lower than actual cost).
- Consider any old, obsolete or damaged stock that should be scrapped prior to 30 June or written down to market value.
- Conduct a stocktake on 30 June 2010.

Business Records

- Ensure your accounting software package allows you to print reports after year-end. If this is not possible, ensure all reports are printed on 30 June 2010.
- Ensure records for capital gains tax and expense substantiation are kept.

Private Company Loans to Shareholders or Their Associates and certain Trust Loans – Division 7A

- In order to avoid ATO penalties, ensure that these loans are documented or repaid by the earlier of the due date of the return or the date the return is actually lodged. For existing loans ensure the minimum requirements have been met.
- If the minimum requirements for these loans are not met, they may be deemed to be unfranked dividends.

Discretionary Trust Distribution

- Child beneficiaries who turn 18 years of age before 30 June 2010 can receive distributions without penalty rates applying (although they may have a reduced tax free threshold and HELP debt implications).
- Children under 18 years of age can receive \$3,000 tax free, provided they have no other income.

Farm Management Deposits (FMD)

- FMD scheme allows primary producers with limited amount of non-primary production income (less than \$65,000) to claim deductions for FMD's made before 30 June 2010.
- When the FMD is withdrawn the amount is included in assessable income in the repayment year (note eligibility criteria applies).

Motor Vehicle Claims

- If the log book method is used to claim motor vehicle deductions, ensure that you retain a current log book (for 5 years).
- Record closing odometer readings at 30 June 2010.
- Ensure all necessary documentation is maintained to support your claims.

Superannuation Planning – Employers and Employees

- Pay superannuation contributions at a rate of 9% of each eligible employee's earnings base for eligible employees to a complying superannuation fund.
- Ordinary time earnings should be used for the calculation of the 9% superannuation contribution.
- 'Ordinary time earnings' is generally an employee's earnings for their ordinary hours of work.
- Employers must make the superannuation contributions on or prior to 28th day of each month after the end of the quarter.
- Most employees are able to direct employer contributions to a complying superannuation fund of their choice.

- Businesses are required to offer their current and new employees a Superannuation Fund Choice and must provide their new employees with a 'Standard Choice Form' (available from www.superchoice.gov.au) within 28 days of the commencement of their employment.
- If employees do not make a choice, employers must make contributions to a fund identified as a 'default' fund.

Superannuation Planning - Others

- In order to obtain an income tax deduction for superannuation contributions paid, the superannuation contribution must be received by the nominated superannuation fund on or prior to 30 June 2010.
- Concessional (deductible) superannuation contribution limits of \$25,000 apply for all taxpayers. Transitional rules apply for individuals aged 50 and over with a limit of \$50,000 for the years ended 2009/10, 2010/11 and 2011/12.
- The limit for non concessional (undeducted) is \$150,000 for the 2009-10 financial year.
- Individuals who make superannuation contributions who are aged between 65 and 74 are subject to the work test (the work test requires these taxpayers to be gainfully employed least 40 hours in a period of not more than thirty consecutive days during the financial year of making the contribution).
- Be wary of the 10% rule (substantially self employed rule) which applies to taxpayers who make personal contributions and earn amounts from employment.
- The definition of income for determining if a taxpayer has breached the 10% rule includes reportable fringe benefits and reportable superannuation contributions.
- Reportable superannuation contributions includes the following:
 - personal deductible superannuation contributions made by a taxpayer;
 - contributions that an employee has salary sacrificed into their superannuation fund (over the compulsory 9% contribution to be made by employers);
 - contributions made where a taxpayer has influenced the amount or rate of super contributed by an employer.
- If you are still working and have reached preservation age, you may be eligible to commence non commutable transition to retirement income stream.
- If you are eligible, consider receiving a pension from your superannuation fund. Income amounts that are derived by a superannuation fund from assets used to pay a pension are exempt from income tax.
- Consider the tax offset entitlement for contributions made in respect of a spouse.
- Ensure that all minimum and maximum (if applicable) pension payments are made prior to 30 June 2010.

Super Co-Contribution

If your gross income for the year ended 30 June 2010 is less than \$61,920 you may be eligible to have personal superannuation contributions matched by the Government.

- The annual maximum superannuation co-contribution that is currently being matched is \$1,000 if your gross income is less than \$31,920.
- The superannuation co-contribution system ceases to apply when your gross income is greater than \$61,920.
- Certain requirements must be met to be eligible to participate in the superannuation co-contribution system.
- The co-contribution system is available for the self-employed if 10% or more of their total income is earned from carrying on a business or eligible employment activities or both.
- As a result of the 2010 Federal Budget, the government announced that it will permanently set the matching rate for co-contributions at 100% and the maximum co-contribution that will be payable will be \$1,000.

IMPORTANT DETAILS FOR COMPANIES

The Australian Securities and Investment Commission (ASIC) requires changes to company details be notified to them within 28 days of the date of change.

These notifiable changes include:

- Changes to company's registered office and/or principle place of business;
- Changes to office holders name and/ or address;
- Changes to shareholders name and/or addresses; and
- Changes to share structure i.e. transfers, allotments and capital reductions.
- Late notification penalties will be assessed by ASIC. These can range between \$65 to \$270 for each late notification.
- Small foreign controlled companies have a requirement to be audited each year and lodge financial statements with ASIC unless a resolution is made by the directors to not have the company audited and ASIC is notified no more than three months prior to the commencement of the relevant financial year.
- Therefore, if you are a director of a small foreign controlled company and do not wish to have your company's 30 June 2011 financial statements audited or be required to lodge the financial statements with ASIC, you need to attend to the necessary resolution and lodgement of the ASIC form with ASIC prior to 30 June 2010.
- The lodgement of the ASIC form is not required to be lodged each year provided a form was lodged with ASIC for the prior financial year.
- If your company becomes a small foreign controlled company during a financial year you have three months from that date to attend to the necessary resolution and lodgement of the ASIC form with ASIC.

PRIVATE COMPANIES – UNPAID PRESENT ENTITLEMENTS

- The ATO has issued a ruling regarding private companies who are beneficiaries of a trust and are entitled to a distribution from the trust, however the amount of the distribution is not physically paid to the private company (i.e. unpaid present entitlements)
- This ruling is titled TR 2010/3: Income Tax: Division 7A loans: Trust Entitlements.
- If you currently have a trust structure in place where a private company beneficiary is entitled to a distribution from the trust and the trust has not physically paid the distribution owing to the company, this may be caught under Division 7A of the income tax legislation.
- If this affects you, please contact our office.

TRUST ISSUES: COMMISSIONER OF TAXATION V BAMFORD

The decision in Bamford's case by the Full Federal Court, address two issues relating to trusts. These are discussed below.

- The first issue relates to the distribution of trust income. When making distributions of income from a trust, the "proportionate approach" is the most appropriate way to deal with these distributions.
- This means that whatever share of the trust income is received by a beneficiary as a present entitlement the beneficiary will also have included in their income tax return, the assessable income in the same proportionate share as the present entitlement received.
- The second issue relates to the "net income of the trust estate".
- The general outcome here is that the definition of the "net income of the trust" is determined by the contents of the relevant trust deed.
- Trust deeds will be required to be reviewed to determine the consequences (if any) that may impact taxpayers who currently have trust structures as a result of the decision of this case.

Substantiation

- Retain receipts and other like documentation in order to substantiate your claims for work related expenses.
- Note that expenses can only be claimed in the year in which they are incurred.

Business Premises / Home Office Expenses

- A proportion of expenses (e.g. rent and non home insurance) can be claimed as a deduction if carrying on a business from home and the area is separate and distinguished from private living areas. Claiming interest, home insurance and rates could have capital gains tax implications.
- A deduction for home office expenses is allowed for depreciation on office furniture and equipment, electricity and gas for the actual expense incurred or at a rate of 26c per hour. Diary records for a 4 week period that establishes a pattern of use for the entire year must be maintained annually and retained for a period of five years after the latter of the lodgement or lodgement due date of the income tax return.

Non Commercial Losses

- Losses from business activities are, in some cases, not allowed to be offset against other income (such as salary and wages).
- Taxpayers who have adjusted taxable income of greater than \$250,000 will have losses quarantined to the particular business activity under the non-commercial loss rules. Therefore there is a possibility that losses will never be utilised if the business does not make a profit. Relief may be granted in certain circumstances.
- For taxpayers with adjusted taxable income of \$250,000 or less, the losses can be offset if one of the following are met:
 - Assessable income from the business is \$20,000 or more;
 - The business produces a tax profit for 3 out of 5 years;
 - The business uses real property with a value of \$500,000 or more;
 - The business uses other assets to the value of at least \$100,000;
 - The business is a primary production or professional arts business and your assessable income not related to the activity is less than \$40,000; and
 - Under discretion by the Commissioner of Taxation.

Small Business Entity Concessions

The Small Business Entities have access to a wide range of concessions. An entity is considered to be a small business entity if:

- It carries on a business for all or part of the income year; and
- It satisfies the \$2 million aggregated turnover test.

The concessions that are available to small business entities include, but are not limited to the following:

- Some small business capital gains tax concessions
- Some concessions relating to GST
- Special rules for prepaid expenses
- FBT car parking exemption
- Immediate asset write-offs (<\$5,000) & Simplified depreciation rules
- Simplified trading stock rules
- PAYG instalments based on GDP-adjusted notional tax

Small business entities with an aggregated turnover of less than \$75,000 may also be eligible for the entrepreneurs' tax offset.

Employee Share Schemes

- Income tax legislation applies to the acquisition of a share or a right to acquire a share under an employee share scheme.
- If you propose to enter into an employee share scheme, we recommend you contact our office to seek advice regarding the tax consequences.

Capital Expenditure Write Off

Certain capital expenditure (usually non deductible) may be written off over a 5 year period. This expenditure includes cost in establishing a business, business restructuring, defending against a takeover and the costs of ceasing a business.

Other Tax Matters

50% Child Care Tax Rebate

- Eligible families will be able to claim a tax offset of 50% of out-of-pocket child care expenses for the 2010 financial year.
- The rebate is calculated at 50% of these expenses up to a maximum of \$7,778 per child per year (subject to annual indexation increases).
- In order to be eligible to claim the tax offset certain criteria will apply.
- The rebate is claimed through the Family Assistance Office and not through a taxpayer's income tax return.

Mature Age Worker Tax Offset

- A tax offset is available for mature aged workers aged 55 years and over who participate in the workforce.
- Eligibility is based on age and your net income from working.

Private Health Insurance Rebate

- An incentive is available to individuals for the cost of private health insurance, either as a tax offset, through reduced health insurance premiums or by receipt of a cash or cheque rebate from Medicare.
- To be eligible for the offset, certain conditions apply.
- For singles who earn more than \$75,000 for the year, or for a member of a couple with combined income of greater than \$150,000, that do not have the adequate private patient hospital cover for themselves and their dependants, an additional 1% Medicare Levy Surcharge may apply (this is in addition to the normal 1.5% Medicare Levy).
- Two bills are currently before parliament, which if passed, will amend the rules relating to the private health insurance rebate and Medicare Levy Surcharge.
- If the bills are passed the following will apply from 1 July 2010:

	<i>Current surcharge thresholds</i>	<i>Proposed Tier 1</i>	<i>Proposed Tier 2</i>	<i>Proposed Tier 3</i>
Singles	>\$75,000	\$75,001-\$90,000	\$90,001-\$120,000	>\$120,001
Couples/families*	>\$150,000	\$150,001-\$180,000	\$180,001-\$240,000	>\$240,001
Medicare Levy Surcharge	1%	1%	1.25%	1.50%
Private Health Insurance Rebate				
< 65 yrs	30%	20%	10%	nil
65-69 yrs	35%	25%	25%	nil
>70 yrs	40%	30%	30%	nil

*For families with dependent children, thresholds are increased.

Medical expenses Tax Offset

A 20% tax offset is allowed for net medical expenses incurred greater than \$1,500 after deducting reimbursements paid (or payable by) a government, public authority, society or association.

Education Tax Refund

Eligible families and independent students are entitled receive the Education Tax Refund (ETR) to meet the cost of primary and secondary school education.

In order to be eligible, families and independent students must meet certain conditions.

TRUSTEE(S) MUST DECIDE

- Trustees of discretionary Trusts must exercise their discretions to apply net income derived by the trust toward specified beneficiaries in accordance with the trust deed prior to the end of the income year.
- This discretion should be made in writing.

REPORTABLE SUPERANNUATION CONTRIBUTIONS

- For the 2009–10 income year and all future years, reportable super contributions will affect the income tests for some tax offsets, deductions, concessions, the Medicare levy surcharge, and certain government benefits and obligations.
- Reportable superannuation contributions will now appear on a taxpayer's PAYG Payment Summary and be included in a taxpayers income tax return.

BE WARY OF REDRAW FACILITIES

- With banks and financial institutions promoting lines of credit and redraw facilities, a taxpayer can unwittingly deny themselves a tax deduction for interest payments on these facilities.
- Where a taxpayer "parks" surplus funds against a loan (and the loan was used to acquire an income producing asset) and later redraws against the facility for non income producing purposes, the ATO view is that the borrowings were repaid and new borrowings taken out (i.e. the redraw). This can result in the amount of deductible interest being substantially reduced.
- "Offset" accounts are much safer.

DO WE HAVE YOUR CORRECT CONTACT DETAILS?

To assist our office in ensuring that correspondence is received by you in a timely manner, please ensure that changes to your contact details, including residential and postal addresses, phone, fax and email details are notified to our office as soon as possible after the changes have occurred.

OUR SERVICES

Income Tax Services

- Income Tax Return Preparation
- Tax Planning and Advice
- Tax Audit Support
- Land Tax
- Superannuation
- Fringe Benefits
- Foreign Jurisdictions
- GST

Audit Services

Many entities incorporated or not, are required by various statutes to appoint auditors to report on annual financial statements. In addition, entities which are not required by law to appoint auditors are often required to prepare audited financial statements to retain finance facilities from bankers or other lending institutions. We can provide audit services to our clients where required.

Accounting Services

- Preparation of financial and management accounts
- Bookkeeping and company secretarial services
- Accounting systems and technology

Business and Advisory Services

- Profitability and costing services
- Business plans and cash forecasts
- Start up feasibility studies
- Finance applications
- Acquisition - due diligence

Specialist Services

- Litigation support services
- Business valuations and appraisals
- Remuneration planning
- Mediation and dispute resolution

Disclaimer

This is not a letter of advice. The points raised in this newsletter are general comments. We recommend that if advice is required that you contact our office. No responsibility is accepted for any person or entity acting upon the contents of this newsletter.

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Salary Sacrifice Arrangements

Tax benefits can be obtained by employees by making salary sacrifice arrangements.

1. Tax Saving on Fringe Benefits Tax (FBT) exempt and deductible items

- Employees are able to obtain tax savings by salary sacrificing the purchase of certain FBT exempt items including electronic diaries, mobile phones used primarily for use in the employee's employment, calculators, briefcases, tools of trade, computer software used in the employee's employment and notebook, laptop or portable computer (does not apply to any other computer). The purchase or reimbursement of each item is limited to one per year per employee provided it is primarily for use in the employee's employment.
- Savings obtained by salary sacrificing the cost of FBT exempt items include:
 - By purchasing the item from gross wages this will effectively save income tax on the wages used to purchase the item.
 - GST is avoided on the purchase price as (assuming the employer is GST registered) the employer is able to claim a GST input tax credit for any GST incurred (therefore, the salary sacrifice amount need only be for the GST exclusive price of the item).
 - Employers are not disadvantaged as there is no FBT cost and the cost of the benefit is normally income tax deductible.
- Benefits can also be obtained if employees salary package items that are otherwise deductible to an employee.
 - The advantage here is the employer can claim an input tax credit on the benefit and no FBT is payable. If the employee incurred the expenditure GST would have been payable by the employee (examples of these types of expenditure include subscriptions, conference costs, etc).

2. Tax Saving on Superannuation Contributions

- If before-tax salary is sacrificed into superannuation, employee's benefit as this income is taxed at 15% in the superannuation fund instead of at marginal rates of tax.
- Limits regarding amounts that can be contributed into superannuation funds without incurring excess contributions tax do apply (refer to "Superannuation Planning – Others" section above).

2010 Income Year Tax Rates

Taxable Income	Tax Payable
Up to \$6,000	Nil
\$6,001 to \$35,000	15% of excess over \$6,000
\$35,001 to \$80,000	\$4,350 + 30% of excess over \$35,000
\$80,001 to \$180,000	\$17,850 + 38% of excess over \$80,000
\$180,001 +	\$55,850 + 45% of excess over \$180,000

2011 Income Year Tax Rates

Taxable Income	Tax Payable
Up to \$6,000	Nil
\$6,001 to \$37,000	15% of excess over \$6,000
\$37,001 to \$80,000	\$4,650 + 30% of excess over \$37,000
\$80,001 to \$180,000	\$17,550 + 37% of excess over \$80,000
\$180,001 +	\$54,550 + 45% of excess over \$180,000