

CLIENT ALERT

May 2005

Tax News, Views and Clues

Year-end Tax Planning

As another income year comes to a close on 30 June 2005, it is important that taxpayers take the time to focus on tax planning and the tax issues that affect their business.

Some of the key tax issues to consider are outlined below.

Deferring Income

When considering the deferral of income, note the following points:

- As directed by 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 they are received (unless otherwise paid or credited on the taxpayer's behalf). Therefore, such income may be deferred.
- In general, assessability of income may be deferred until the following year. For example, where taxpayers who record income on a cash/receipts basis bill clients on 30 June, assessable income will not arise until after year-end.

Conversely, taxpayers on an accruals method may choose to perform services after year-end.

- Royalties and insurance proceeds are typically assessable on a cash basis.
- The work in progress (WIP) of professional practices will not be assessable until there is at least an entitlement to bill.

Maximising Deductions

Some initiatives to consider to accelerate deductions are:

- Review debtors and write off bad debts before year-end.
- Realise foreign exchange losses and defer the realisation of gains.
- Bring forward the outlay for deductible expenses.
- Value stock at the lower of replacement value or market value, where appropriate.
- Scrap stock, plant or equipment of nil value before year-end, where possible.
- Ensure that audit fees are incurred before year-end, based on Taxation Ruling IT 2625.

- Use a low value pool, where appropriate, for depreciation of plant and equipment.
- Ensure that all superannuation contributions are paid by year-end.

Capital Gains Tax

Some strategies to minimise CGT include:

- utilising the CGT small business and retirement concessions;
- considering the availability of rollover relief for disposals to related parties;
- matching gains and losses, where possible, to avoid carrying forward a capital loss;
- deferring a disposal to ensure that the asset has been held for at least 12 months. This will potentially allow individuals and trusts to benefit from the 50% CGT discount;
- considering whether non-deductible costs may be included in an asset's cost base;

- considering whether it is most beneficial to utilise the 50% discount, where available, or frozen indexation; and
- deferring a disposal to the subsequent income year.

Tax Consolidation

- Consider whether an election to form a consolidated group should be made for tax purposes.
- If an allocable cost amount is to be used, or if there are losses, consider whether valuations should be obtained as part of the consolidation process.
- Review the potential tax treatment of losses within company groups.

Trust Distributions

- Make sure a trustee resolves to distribute the net income of the trust before 30 June 2005, or by 31 August 2005 if 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

- Consider whether a family trust election should be made because of losses or bad debts in trusts.
- Ensure optimum utilisation of franking credits and consider making a family trust election where a trust holds shares acquired after 31 December 1997.

- Make sure no distributions are made outside the family group to avoid any potential liability for family trust distributions tax.
- Where a company is owned by discretionary trusts, there may be a need for family trust elections at the trust level if the company has losses. Elections may also be required for use of franking credits as noted above.

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. Otherwise, the recipient will be unable to claim the imputation credit as a tax offset.
- Is there any entitlement to a refund of excess franking credits?

Other Issues

Other important matters include the following:

- Consider the effective lives of depreciable assets.
- Where individuals incur losses from business activities, the non-commercial loss rules should be considered because, under those rules, such losses may not be eligible for offset against other assessable income during the year.
- Consider whether any debts have been forgiven, as certain tax attributes such as carry-forward tax losses and depreciation on plant may be reduced, or a capital gain could arise.

- Where a private company provides loans to shareholders, a careful review of the loan arrangement must be undertaken, as certain rules may deem the loan to be an unfranked dividend.
- Ensure that any minimum prescribed repayments are made on private company loans.
- Where an individual applies personal efforts and skill in performing services to third parties through an interposed entity (e.g. a company), the personal services income (PSI) rules may deem the individual to be assessable on the income generated. Careful consideration should be given to such arrangements to avoid the application of the PSI rules.

International

- 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.
- Try to match foreign source income of a particular class with related expenditure, to avoid a quarantined foreign loss.
- Identify and address other international tax issues such as permanent establishments and controlled foreign companies.

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