NEWSFLASH BOOKLET
2014/15 FINANCIAL YEAR END TAX STRATEGIES

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Please note this booklet is updated in May each year. Until the budget is released our strategies for the year are not certain. This booklet is provided to give you some guidelines in planning but please check again in June before you commit.

Introduction

If your tax bracket is going to be higher next year it may be a mistake to draw tax deductions into this year. On the other end of the income scale, many parents, who are entitled to part B from Centrelink this year who will not be entitled to it next year because their child is over 6 years of age may as well draw deductions into this year to make sure they get the maximum they can. Centrelink recipients should consider that increasing investment losses will not help because these are added back. There is still a little uncertainty as to next year's tax rates even just a month before they are due to apply. Here is the current situation:

Personal Income Tax Rates –

2014-2015 – Pay No Tax if Under $20,582		**2015-2016** – Pay No Tax If Under $20,979**	
Up to $18,200	Zero Tax	Up to $19,400	Zero Tax
$18,201 to $37,000	19%	$19,401 to $37,000	19%
$37,001 to $80,000	32.5%*	$37,001 to $80,000	33%**
$80,001 to $180,000	37%	$80,001 to $180,000	37%
Over $180,000	47%	Over $180,000	47%

*Can be as much as 34% while low income tax offset shading out
** Uncertainty still exists as to just how much the low income tax offset will be these figures are as the law currently stands but there is a bill still in the House of Reps intending to change this back to the rates for the 2014-2015 year.
Note amounts do not include Medicare Levy – generally 2%
At this stage it is intended that the 2016-2017 tax rates be the same as the 2015-2016 rates.
For Foreign Residents their tax rate starts from the first dollar at the tax rate for income under $80,000. Once it exceeds $80,000 the rate is the same as it is for residents, including the 2% Deficit Levy once they reach $80,000 but no Medicare Levy

The 2% deficit levy imposed on individuals' taxable income in excess of $180,000 pa will finish on 30th June, 2017 if you can delay income that long, but note it is only 2% on the amount over $180,000.

The important thing to remember with bringing forward deductions, is that you lose them for the following year so then you will have to bring more forward just to bring yourself into your normal tax position. You will have to bring similar deductions forward every year or have a year you miss out on the deductions and pay more tax. You become locked in, the benefit will only really affect the first year. Accordingly, bringing forward deductions such as paying interest in advance is best saved for an unusually high income year.

Generally the best tax planning is to keep your tax rate around the same bracket each year and of course, make sure that is the minimum possible on average. One of the most effective tax planning strategies is to level out your income over each year and each member of your financially dependent family over 18. It does not particularly matter that the amount of income is the same each year and the same for each family member all that matters is that the tax bracket is the same.

Other laws that are based on the maximum tax rate also take the 2% deficit levy into account. With the FBT rate it will not consider whether the person receiving the benefit is on $180,000 or $20,000 this rate will increase to 49% regardless so it is even more important than ever to make sure you cancel out the FBT by making employee contributions even if you have to give the employee a pay rise to cover it.

Before You Rush Out And Buy Plant and Equipment

If you are looking for certainty on the new immediate tax deduction for any plant and equipment purchased after 12th May 2015 that cost less than $20,000, we can't give it to you because there is no legislation yet, nor is there likely to be any legislation before 30th June, 2015. So all we can do is rely on statements made in the budget, correct some misinformation that is going around and list the things you should consider.

If it is the attraction of the immediate tax deduction that is the driving force behind your purchase it may be wise to delay until next financial year for the following reasons:

This concession has bi partisan support so you would expect it to get through parliament. The catch here is the current government is inclined to mix together on the same bill, popular reforms with unpopular reforms.

The Senate doesn't take kindly to this and is generally not intimidated into passing the bill just because the public want or need to good stuff.

If your low value pool is below $20,000 and the legislation passes you are entitled to write off any remaining balance. This may already be enough tax deductions for the year, check with your Accountant, you don't want to drag yourself down into a low tax bracket this year and waste part of your claim when delaying the purchase a month would see you claim it next year when you are in a higher tax bracket. Consider that this immediate write off is only dragging future deductions into this financial year. Despite what the politicians have been spruiking the amount the government (through an effective tax refund) is contributing towards the purchase has not changed you are just going to get it sooner. Further there is a risk that getting it sooner, all in one year, means that you will actually get less of an effective tax refund for it because the tax deduction will push you down into a lower tax bracket. On the other hand if this year is a particularly good year and the future is not likely to be as good then this concession can benefit you. Basically, the higher your income in the year that you spend the money, the higher your tax bracket so the more the ATO will contribute towards the purchase.

It is unlikely that this concession will apply to equipment you lease so make sure you use another method of finance.

There has been talk in the press about people going out and getting an ABN and buying plant and equipment thinking they will be able to offset it against their wages income. The politicians have been using words like established long term business to discourage this, though these are not the sorts of words that can be put into legislation. What we do already have in legislation is division 35, the non commercial loss rules that prevent you from claiming business losses against your wages income. Here is a link to our booklet on the topic http://www.bantacs.com.au/booklets/Division_35_Offsetting_Business_Losses_Booklet.pdf at the very least you have to be able to show that if your business had run the full year it would have had income of more than $20,000.

Now here is a little trap. You may have a small business capital gain and are considering buying a replacement asset so you can roll the gain into that. The small business rollover concession effectively allows you to ignore a capital gain until the replacement asset is sold. Under these circumstances it is better to declare the capital gain, not roll it over. Then buy the replacement asset and offset it against the capital gain. Cancelling it out once and for all rather than having it raise its ugly head again when you sell the replacement asset. In short if the replacement asset is less than $20,000 it is better not to utilise the CGT replacement asset rollover concession.

If you are still interested in this concession here are the basic rules. It started on budget night and finishes on 30th June 2017. It covers plant and equipment purchased by small businesses with a turnover of less than $2 mil. The details are not clear but if it is like other small business concessions the turnover amount will be measured on the previous financial year. Most property investors will not qualify as a small business.

The only items of plant and equipment that are excluded are software developed in house and horticultural plants. Cars are included; if they cost under $20,000 they can be fully claimed as an immediate tax deduction. There appears to be no combining of similar assets so you could buy a whole fleet of cars.

Timing Strategies

Bringing Forward Expenses

Bearing in mind the reasons why you may not want to do this, that were covered in the introduction, here are some ways that deductions can be pulled into this year from next year.

Payments in advance:

You can only pay a maximum of 12 months in advance. In the case of interest payments check if the bank will let you do this and that they do take it as an interest payment not just let it reduce the loan balance.

If you have recently purchased a property consider organising your quantity surveyors report before the end of the year so that you get a tax deduction for the cost in your 2015 tax return.

If you pay rates, insurance or body corporate fees in advance think carefully about the no more than 12 months in advance rule. For example if your body corporate fees are already paid up to 31st December then you can go and pay another 12 months worth, you need to just pay 6 months extra.

If your turnover is more than $2mil you will not be able to claim payments in advance.

Repairs and maintenance:

You need to make sure you at least incurred the expense before the end of this financial year. This means organising for the work to be done even if you have not paid for it yet. This is particularly important if your

tenants have moved out and you do not intend re letting the property. If you don't "incur" the repairs now you will not be entitled to a tax deduction next year because the property has not earned any rental income in that year.

So just what is classed as a repair? Initial repairs are not deductible. If the house needed painting when you bought it then painting it would be an improvement. On the other hand if during the time of your ownership the paint starts to peel and you repaint, these expenses would be a deduction.

A repair can become an improvement, which is not deductible, if it does not restore things to their original state i.e. replacing a metal roof with tiles. But a change is not always an improvement. The ATO says the cost of removing carpets and polishing the existing floorboards is a deductible repair yet underpinning due to subsidence is considered to be an improvement.

Tree removal is claimable if the trees have become diseased or infested during the time of ownership. Removal is also claimable if the tree is causing damage such as roots interfering with pipes and the damage was not present when you purchased the property. If a tree is removed because it may cause damage in the future or you are fed up with the leaf litter that has always happened since you bought the property, then you are making an improvement which is not tax deductible, it will only be useful in your CGT calculation.

Take care to perform repairs only when the premises are tenanted or in a period where the property will be tenanted before and after with no private use in the middle. It is better not to make repairs in a financial year during which you may not receive any rental income. If a property is used only as a rental property during the whole year then a repair would be fully deductible even though some of the damage may have been done in previous years when the property was used for private purposes.

Don't replace something in its entirety. For example replace a worn fence a bit at a time over a few years rather than all at once. Replacing all the cupboards in a kitchen so they match rather than just the damaged one will mean that none of the expenditure is deductible on the other hand replacing a vanity can be deductible as a repair if the pipes from the old vanity are used.

Buying plant and equipment:

As these items are usually depreciated over many years buying them towards the end of the financial year could mean you only qualify for one month's depreciation which would be a very small fraction of what you have spent. But if you are a small business then you can write off immediately anything costing less than $20,000.

For rental properties and work related expenses items costing $300 or less can be written off immediately. Like items must be added together when applying the $300 test so it may be better to buy one set of curtains this year and wait until July before you buy the next set. Items costing under $1,000 will qualify for depreciation of 18.75% in the first year, regardless of when you purchase them. Both these thresholds are per owner so a $1,900 hot water system for a property owned by 2 people would qualify as under $1,000, likewise if a range hood cost $500 yet there are two owners of the property then it can be written off immediately. Of course it is only the business use portion of an asset that can be written off.

Businesses with a turnover exceeding $2 million can only put items costing less than $1,000 into a low value pool, which are then depreciated at 18.75% in the first year the 37.5% diminishing rate.

Manipulating Income

If you place money on term deposit and the interest is not payable until the next financial year there is no requirement to accrual interest earned in this financial year.

Be careful, some tenants for their own tax planning strategy may want to pay rent in advance. Unless you can apply the Arthur Murray principle and claim that there is a risk that you may have to refund that income, then you are stuck with declaring it as income in the year received.

Superannuation

Superannuation Concessions for Low Income Earners

If you income is under $34,488 The government will make a co contribution of up to $500 into your superannuation fund if you contribute $1,000 out of your after tax pay that you don't claim a tax deduction for. Neither yours nor the government's contributions are taxed going into the superannuation fund. The $500 is reduced by 3.333 cents for every dollar that the taxpayer's total income exceeds $34,488 so people with a total income of $49,488 will not qualify for any co contribution.

Total income for co contribution purposes is your assessable income plus reportable fringe benefits and reportable superannuation contributions (ie those salary sacrificed). Assessable income is your taxable income

before deductions. This means if you own a rental property with someone else then only the profit after deductions is included in your assessable income but if you solely own it in your own name then none of the deductions are taken into account and all the rental income is included in your assessable income. In the case of self employed their assessable income is not reduced by any superannuation contributions for which they claim a tax deduction. Sole traders are allowed to reduce their assessable income by business deductions. In the case of partnership or trust income it is only your share and the net amount (income less deductions) that is included as assessable income, regardless of whether it is business or passive income.

You need to be less than 75 years of age at the 30th June, the work test applies between 65 and 75 (40 hours in 30 days). Further, you need to receive at least 10 per cent of your income from being employed including self employed. When doing this calculation sole traders can ignore business expenses which will make it quite easy to pass the test. Note trust income, even if from a business is still considered passive so you may need to consider having the trust pay you a wage.

The following table provides some examples of how total income is counted for co-contributions and the 10% test.

Income source	Total income	Eligible income for the 10% test
Salary or wages, including employment income through a company or trust	Yes	Yes, where you are treated as an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*
Director fees as a company director	Yes	Yes, where you are treated as an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*
Business income as a sole trader	Yes	Yes
Other income from individually held assets (including interest, rent and dividends)	Yes	No
Business partnership distribution	Yes	Yes
Non-business partnership distribution	Yes	No
Distribution from a trust	Yes	No

Timing of Superannuation Contributions

Employers have until the 28th July to make the superannuation contributions they are obligated to pay for the June period, under the superannuation guarantee. But if the contribution is made after the 30th June, 2015 the employer will not be entitled to a tax deduction for it until the 2015/2016 financial year even though the liability fell in the 2014/2015 financial year.

If you are contributing salary sacrificed contributions or have employees who are close to their cap you should also take a careful look at their particular circumstances. The amount contributed for the purposes of the cap is also based on the date it is received by the fund, providing the fund allocates the amount immediately to the members account. If an employer delays making the contributions relating to the June quarter until after 30th June it could result in the employees missing out on maximising their cap this year and possibly exceeding their cap next year.

On the other hand if last year you made the June contribution in July but this year you are making it in June your employees will have 5 quarters' worth of contributions in the 2014/2015 financial year. So before you do this make sure you will not be pushing anyone over their cap.

In Peaker 2012 AATA 140, the employer posted the contribution on 28th June but it was not recorded as income of the fund until 5th July. This meant that the employee exceeded his cap for the following year. The AAT upheld the ATO's assessment of excess contributions tax as there were no special circumstances which would allow the amount to be allocated to another year.

On the other hand in ID 2012/16 The ATO accept that a member of a SMSF who only qualifies for a $25,000 cap can claim a tax deduction of $50,000 by making two $25,000 contributions in the same financial year. In this case the last contribution was received by the SMSF on 28th June and the SMSF trustee (the member in another hat) put it into an unallocated account until the 4th July so it counted towards the following years cap yet the tax deduction was allowed on the basis of the time the SMSF received the income. Take care to read the ruling in detail before implementing this strategy, for example the governing rules of the fund must allow contributions to be placed in an unallocated account and there must only be one member's contribution in that account.

Due to data matching the ATO will always be informed should your cap be exceeded.

Employees when negotiating their salary package should consider including a clause requiring their employer to physically make the superannuation contribution in the month that it is sacrificed.

The limits or caps on deductible (concessional) superannuation contributions are:

Under 50 years of age	$30,000
50 to 59	$35,000
60 or more	$35,000

Spouse Contribution

The other low income concession is for taxpayers on any income level who have a low income spouse. If the low income spouse has assessable income plus reportable FBT and reportable superannuation contributions of less than $10,800 their spouse can make a superannuation contribution for them of up to $3,000 and receive a tax offset of 18%. A tax offset reduces the amount of tax the higher income spouse has to pay. It can mean that you will receive a refund of any tax you may have paid during the year because the offset is used to pay the tax instead but if the higher income spouse's income is so low that they do not have any tax liability then the offset is wasted. So this arrangement is only beneficial when the spouse making the contribution has a taxable income above $18,200. As the superannuation contribution for a low income spouse is not actually claimed as a tax deduction it is not taxed in the hands of the superannuation fund. If the low income spouse's assessable income plus reportable fringe benefits and reportable super contributions is more than $10,800 but less than $13,800 the higher income spouse will still qualify for some tax offset the shade out rate is 18%.

The work test applies between 65 and 74. Once the spouse reaches 75 no spouse contributions can be made. There is a nice little trick if the low income spouse is between 55 and 65 and retired. The contribution can be made and then withdrawn, tax free, a few days later yet the high income spouse will still qualify for the tax offset.

In all cases above make sure the money is actually in the superannuation fund before 30th June, 2015.

Donations

Before you make a donation make sure the charity is tax deductible. This can be done very simply by going to http://www.abn.business.gov.au/ putting in the charity's name and checking it has "deductible gift recipient status"

While I have your attention, can I interest you in making a tax deductible gift to The Tabitha Foundation Australia which builds houses and wells for the poor in Cambodia. This is a project supported by Margaret Lomas where 100% of the money received goes directly into the project. Margaret and her group will all be paying their own expenses and also contributing to the materials as well. To find out more please go to http://www.tabitha.org.au/cms/the-property-people-house-builders--oct-2013

Capital Gains

If you have a capital gain analyse your share portfolio for a capital loss that you intend to realise soon. Better it be realised this financial year then next as it can only be offset against your capital gain if it is realised in this year.

Tax Minimisation Products

This refers to investments specifically designed to reduce your tax. Firstly these products generally shift the tax to their pockets as they carefully arrange the investment so it is only marginally better then the tax saving and then only if the forecasts are correct. Secondly do not enter into these arrangements unless you have a product ruling from the ATO and make sure the arrangement is in accordance with that ruling.

Danger Zones

This section is not so much about how to plan for the best tax outcome at year end. It is more a warning about the simple slip ups that can completely stuff it for you.

1) Make sure you do a minute for your Discretionary Trust profit Distribution before 30th June. Note children under 18 are only allowed to earn $416, in passive income a year before being subject to tax at the top marginal rate. If you intend distributing some of the trust profits into a bucket company make sure you consult your accountant first.

2) If your Discretionary Trust has received franking credits make sure it makes a profit so the franking credits can be distributed. The profit must exist before including the franking credits as income.
3) Make sure any super contributions have been deposited into the fund's bank account before 30th June
4) If you personally contributed to superannuation in 2013/2014 make sure you have notified your fund if any of that contribution has been claimed as a tax deduction, before 30th June, 2015 even if you have still not lodged your tax return
5) Take your car speedo reading at 30th June, just in case.
6) If you are in your own business but operating through a trust or company and pay yourself a wage, before the year end you should consider checking whether the business is profitable after it has paid your wages. If your wages push the business into a loss, at best it will be carried forward for next year but you will be stuck with extra taxable income in your tax return. If there is any risk of this happening it may be better for you to stop paying yourself a wage for the rest of the year. If the business does make a profit you can still pay it to yourself as a profit distribution.

Start Diaries Before the End of The Year

For a diary to apply to the 2014/2015 financial year it must be started before 30th June, 2015.

Phone - A detailed phone account statement analysing each phone call will substitute for a diary on a mobile phone and for the STD and mobile calls on the home phone but unless your local calls from home are itemised you will have to keep a diary for them. Just divide a piece of paper into two, one side for business and the other side for private. Tick the relevant column when you make a local call. Do this for 1 month to work out the ratio of business to private calls and apply this percentage to the local calls on your phone statement. Phone rental is apportioned on the total dollar value of the business calls as a percentage of all calls. The ATO is getting very pedantic about diaries as it recently was successful in persuading a court to disallow a taxpayer any claim for mobile phone calls because the taxpayer did not have a diary yet the taxpayer used the phone 95% for business.

Electricity - You can claim electricity based on the number of hours you have used a room solely for work related purposes. The rate is 34 cents an hour which also covers the other costs associated with the room such as furniture and carpet wear. You will need to keep a diary for a month to substantiate this claim.

Cars - You can use the kilometre rate if you only want to claim 5,000 kms per car you own. The 5,000 kilometres is per car per owner so if you rotate cars with your spouse and you both use your car for work purposes you can claim up to 10,000kms each. The 2014/15 kilometre rates are; up to 1.6 litre 65 cents a kilometre, between 1.601 and 2.6 litres 76 cents and over 2.6 litre 77 cents.

You may be able to claim for your car if you transport bulky equipment to and from work, if there is no secure storage at work. A claim is also allowable for travel to an abnormal workplace if you have a normal workplace. Also consider travel during the day after you have reached work i.e. banking or travel to another job. In order to be able to make these claims you must have a detailed reasonable estimate of the kilometers travelled and which car you used. This is simply a diary of the trips you did and the kilometres travelled. If the distance is the same every day record the days travelled. A one month diary is ok if this is reflective of the rest of the year but don't forget those one off trips at other times during the year.

If you are going to travel considerably further than 5,000km per car consider keeping a log book for 3 months that is started before 30th June. Also keep receipts for all expenses all year and take the speedo reading each 30th June. More details on the record keeping requirements are in our Claiming A Motor Vehicle Booklet.

Non Commercial Losses (Div 35)

Division 35 prevents business losses being claimed against other income unless certain conditions are met but there is opportunity in the detail with some of these conditions, for example:

a) If the loss is primary production and your total gross assessable non primary production income is less than $40,000 the loss may be offset against your other income. This concession also applies to a professional arts business. Note the $40,000 does not include capital gains. If the other income is from a partnership, it is only your share of the net profit of the partnership that is added to your assessable income if the partners are natural persons. This makes forming a partnership a very attractive option even if APSI requires you to return the net

profit as 100% yours because if you were a sole trader your assessable income would be the total sales of the business before deductions.
b) Losses can also be offset against other income if the assessable income from the business activity is at least $20,000. The assessable income is sales plus the increase in stock i.e. closing stock less opening stock. Therefore if you purchase more trading stock you will increase the closing stock and therefore increase the assessable income. Note the trading stock has to be on hand for it to be included in closing stock. So you cannot just order it and bring it into account as a creditor. Buying and selling will also increase assessable income so there are plenty of ideas to work with here. There is also a concession for the first year of trading. If a "reasonable estimate" would conclude that had you been trading for the full year you would have made $20,000 worth of sales plus closing stock (no opening stock in first year) then you are considered to have turned over the $20,000. This also applies to the last year of trading but in that year there will be opening stock.

Note none of these exceptions will help you if your taxable income exceeds $250,000

Wash Sales

TR 2008/1 is the relevant ruling on when the ATO will apply Part IVA (scheme with the dominant purpose of a tax benefit) to a share transaction that creates a capital loss in a year that loss would be very handy in offsetting a capital gain. Not a problem unless you somehow retain the benefit of the shares. So effectively all you have done is triggered a capital loss but still hold the shares in the hope of making a future capital gain.
A key quote from the ruling:
“The term wash sale does not have any precise meaning. In commerce the term wash sale is used to describe the sale and purchase of the same, or substantially the same, asset within a short period of time of each other. The sale and purchase cancel each other out with the result that there is effectively no change in the economic exposure of the owner to the asset. More generally, the expression wash sale is used to describe arrangements where a disposition of an asset occurs without an intention of ceasing to hold an economic exposure to the asset.”
Examples in the ruling are:

(a) The taxpayer disposes of, or deals with, the asset and at the same time, or within a short period after, acquires the same or substantially the same asset,
(b) Shortly prior to, or at the time of disposing of, or dealing with, the asset the taxpayer acquires the same, or substantially the same, asset;
(c) Shortly prior to, at the time of, or shortly after disposing of or dealing with the asset the taxpayer enters into an arrangement to acquire the same, or substantially the same, as asset at a future point in time at a price that is substantially the same as the sale proceeds received on disposal of the original asset and acquires that asset under the arrangement
(d) Shortly prior to, at the time of, or shortly after disposing of, or dealing with, the asset the taxpayer enters into derivatives or financial instruments that substantially provide continued exposure to the risks and opportunities of the asset, as if the taxpayer had continued to hold the asset,
(e) Shortly prior to, at the time of, or shortly after disposing of , or dealing with, the asset the taxpayer enters into arrangements under which the taxpayer is entitled to, relative to the taxpayer’s prior interest, the future income produced by the asset and/or any capital appreciation in the asset, or to a reimbursement for any future income produced by, or capital appreciation in the asset,
(f) The taxpayer disposes of or deals with the asset to a company which the taxpayer is a member of, or to a trustee of a trust the taxpayer is a beneficiary or an object of, and the taxpayer controls or influences the company or trustee, or is the trustee or appointor,
(g) The taxpayer disposes of or deals with the asset to a company which the taxpayer controls or has influence over but is not a member of, or to a trustee of a trust which the taxpayer controls or has influence over or is the trustee, or appointor or, but is not a beneficiary or an object of. The financial benefits of the asset are not distributed to the members or beneficiaries/objects but rather the company or trustee disposes of the asset to the taxpayer or enters into arrangements to provide the financial benefits of the asset to the taxpayer,
(h) The taxpayer disposes of the asset or otherwise deals with the asset in circumstances where there is a significant overlap in the individuals who had direct or indirect interest in the asset before and after the disposal or dealing. For example, the asset is transferred from one wholly owned company to another, or between two trusts with the same trustee and class of beneficiaries or objects, or

(i) The taxpayer disposes of the asset to family members and an arrangement or understanding exists between the parties to the effect that the asset will be reacquired by the taxpayer, the future income produced by the asset and or any capital appreciation in the asset will be provide to the taxpayer or applied for the benefit of the taxpayer or there is otherwise no change in how the financial benefits produced by the asset are utilised by the taxpayer when compared to what occurred prior to the disposal.

In paragraph 6 it states “Where a taxpayer disposes of shares in one company, and purchases shares in a competitor company that carries on a similar business, the shares in the two companies do not constitute substantially the same assets”. So at least you can still stay in the same industry and recognise a capital loss. The ruling also targets sales to associates, so selling the shares to your spouse or selling your shares and your spouse buying the same may be caught

Of course you do not have to worry if the sale does not result in a loss. I have particular trouble with this attitude because the taxpayer is making a simple choice and Part IVA is not supposed to interfere with taxpayers simply choosing a course of action that is readily open to them. The ATO uses its usually elusive naughty thoughts argument. The scheme is supposed to be, thinking about, maybe even discussing future purchase prices with a broker, selling the shares to trigger the capital loss, with thoughts of buying them back. This sounds like, to borrow a concept from Hart’s case, how can any rational person not consider this benefit?

ACT Stamp Duty - A Big Tax Deduction before End June?

Properties in the ACT are subject to a 99 year lease. This means that the stamp duty you pay on purchasing the property qualifies as a tax deduction because it is a lease expense.

If you buy a rental property in the ACT before the 30th June you would qualify to deduct, this year, all the stamp duty paid on the sale providing you intend to use it as a rental property all the time you own it. Once again it is all about proving your thoughts. It is your intention for the property; over the whole time you will own it, which will determine how much of the stamp duty is tax deductible. If later you do change your mind that is ok, you do not have to pay back the deduction but best have a change of circumstances or the ATO will claim it had always been your intention not to use it 100% as a rental property. If you do apportion the stamp duty and not claim a percentage of the stamp duty costs for the time that you don’t expect the property to be earning rental income then the amount you don’t claim can be included in the cost base when you sell.

References 25-20 ITAA 1997, PBRs 1012017306675 and 22429. Note this is not a recommendation to buy property in the ACT.

Medical Expenses Tax Offset

Before you go digging up all your medical expenses for the 2014/2015 financial year consider whether you have any chance of a claim. If you did not qualify for the medical expenses tax offset in 2013/2014 then you are only entitled to claim for the cost of providing care or disability aids. This year the threshold is $2,218 for low income earners and $5,233 for high income earners. For a full article on all the other requirements to qualify refer Newflash 289 http://www.bantacs.com.au/newsflash/Newsflash_289_1st-July-2014.pdf

Don’t even bother keeping receipts for medical expenses (other than disability aids and carers) in the 2015/16 and future financial years as they will no longer qualify for the offset.

2016 Budget Highlights

The following is the detail and real life application on the items in the 2016 budget that are relevant to most of our readers:

Businesses

Accelerated Depreciation – After causing a lot of grief confusion and amended tax returns by retrospectively removing the Gillard government’s $6,500 immediate write off less than a year ago, the Abbott government has now introduced a $20,000 immediate write off threshold.

It started on budget night and finishes on 30th June 2017. It covers plant and equipment purchased by small businesses with a turnover of less than $2 mil. The details are not clear but if it is like other small business concessions the turnover amount will be measured on the previous financial year. Most property investors will not qualify as a small business.

The only items of plant and equipment that are excluded are software developed in house and horticultural plants. Cars are included; if they cost under $20,000 they can be fully claimed as an immediate tax deduction. There is no combining of similar assets so you could buy a whole fleet of cars.

If your low value pool is under $20,000 then you can write the whole lot off in your 2015 tax return. This is a bonus to tax deductions this year but without the corresponding stimulus of purchasing equipment.

Reduced Tax Rate For Business Income – Again this only applies to business with a turnover of less than $2mil and related businesses will have their turnover added together so no point in setting up another entity. The reduced tax rate will apply to the financial year beginning on 1st July 2015.

If the business entity is a company its tax rate will be reduce to 28.5%. The catch here is when the profits are taken out of the company and the shareholders are taxed on them they will still have to pay their marginal tax rate. Now the budget statement did say that dividends can still be franked at 30% not the 28.5% rate of tax actually paid by the company. But dividends can only be franked up to the balance of tax credits (credit for company tax paid) sitting in the franking account so when this runs out unfranked dividends will need to be paid. The bottom line is that the tax concession only exists while the profits are retained in the company, whereas unincorporated entities get to keep their tax reduction when the profits go to the owners.

If an individual receives income from a business because it is in their own name, they are a partner in a partnership or the beneficiary of a trust then they get a 5% reduction in the tax rate they have to pay on this income. It is paid as a tax offset; so not refundable if there is no taxable income to offset against it and the maximum offset they can receive is $1,000 per year. Note all the businesses that the individual is associated with are added together for the $2mil business income test.

Companies are still worse of than other forms of business entities but either way not worth changing entities.

More CGT Rollover Relief for Small Business – Until now it has been expensive to start up a business because you needed to set it up in the entity that would be the best for when it is successful. Of course the majority of businesses are not successful, so for many people these costs were a waste of money. But if not set up that way from the start there would be CGT payable to change the business to another entity unless that entity was a company. It is unlikely that any small business would want to change to a company because companies are not entitled to the 50% CGT discount.

The budget introduces a rollover relief that treats the new entity as if it had always owned the business for CGT purposes. But you need to make sure you do this before your turnover exceeds $2mil. There are other costs and problems associated with changing business entities so it may be better to get it right from the start. This concession does not come into effect until 1st July, 2016.

Immediate Write Off For Business Setup Costs – The costs associated with advice and legal entities when starting up a business will now be deductible in the year they are incurred instead of being amortised over 5 years. This applies to costs incurred after 30th June, 2015.

Paid Parental Leave – So much for improving the lot of new Mums this is going to have exactly the opposite effect. If you are a business providing parental leave to your employees it is now too costly to do so. The government proposes to not allow employees whose employer provides them with some paid parental leave to claim the parenting payment available from the government. The government pays the minimum wage with no superannuation; most employers pay more than this. The catch is the employer is out of pocket by the full paid leave amount and it has meant their employee has missed out on the government payment so the employee is only marginally better off while the business they work for bears the brunt of the full amount. Meanwhile their competitor who does not pay parental leave has a considerable reduction in costs with their employees only being marginally worse off.

Business pay parental leave to retain staff but it is probably going to now cost them effectively twice as much as any other benefit. Say for example an employer instead offered a salary package of an extra $1,000 per year to keep their employees. The employee would (subject to income tax) receive the full benefit of that $1,000. If instead the employer offers $1,000 (also subject to income tax) in paid parental leave the employee will lose maybe $500 they would have received from the government so the employee only feels $500 worth of love but it has cost the employer $1,000.

In short if a business wants to give their employees an incentive to stay they should do it any other way than paid parental leave. It now makes good business sense to drop all these schemes and let the government cover

it. Paid parental leave has just become the least efficient way to retain staff, the government has just created a huge penalty to providing this benefit and sent employer supported parental leave back to the dark ages.

Property

Reverse Charge of GST – Previously in Newsflash we have written about the proposal to make the buyer pay the GST on a sale where the going concern or farm land concessions are used. That idea has now been abandoned by the government.

Individuals

Zone Tax Offset – It is intended to ensure that people who do not have a residence in a zone do not qualify for the zone tax offset. If they work in one zone and have a residence in the other they will only be entitled to claim for the zone where their home is located. There is very little detail at the moment so not sure if they have considered people that spend all their time in a zone but do not qualify as having a residence in that zone. Travellers for example or workers that do not fly in fly out but live in workers accommodation on a permanent basis. This is intended to take affect from 1st July, 2015.

Personal Income Tax Rates –

2014-2015 – Pay No Tax if Under $20,582		**2015-2016** – Pay No Tax If Under $20,979**	
Up to $18,200	Zero Tax	Up to $19,400	Zero Tax
$18,201 to $37,000	19%	$19,401 to $37,000	19%
$37,001 to $80,000	32.5%*	$37,001 to $80,000	33%**
$80,001 to $180,000	37%	$80,001 to $180,000	37%
Over $180,000	47%	Over $180,000	47%

*Can be as much as 34% while low income tax offset shading out

** Uncertainty still exists as to just how much the low income tax offset will be; these figures are as the law currently stands but there is a bill still in the House of Reps intending to change this back to the rates for the 2014-2015 year.

Note amounts do not include Medicare Levy – generally 2%

At this stage it is intended that the 2016-2017 tax rates be the same as the 2015-2016 rates.

For Foreign Residents their tax rate starts from the first dollar at the tax rate for $37,001 to $80,000. Once it exceeds $80,000 the rate is the same as it is for residents, including the 2% Deficit Levy but no Medicare Levy

Motor Vehicle Claims – its called modernisation apparently when the government removes two of the ways you can claim your vehicle and reduces the rate of claim for the kilometre method by 10%.

To claim a motor vehicle you can use the log book method or the kilometre method. The latter is restricted to only 5,000 kilometres per vehicle but you claim 66 cents per kilometre and you are only required to keep a detailed reasonable estimate of the kilometres travelled. This will begin from 1st July, 2015

Temporary Workers From Overseas - We have a year to work this out, it will not come into effect until 1st July, 2016. There is nothing available yet on just what types of visas will be effected. Certainly the classic backpacker whose visa normally requires them to move from employer to employer on a regular basis will be caught. The taxes they will have deducted from their pay will more than double.

What is not so clear is how the 457 and 444 visa holders will be affected. These people come from other countries to work for several years with the one employer. There is tax concessions specifically intended to make Australia attractive to them. For example temporary residents are taxed on their wages at normal resident tax rates yet Australia does not attempt to tax their overseas income or capital gains.

A lot is at stake, we will keep you posted through Newsflash as soon as more information on what visas are affected becomes available.

Ask BAN TACS

For $69.95 at Ask BAN TACS, www.bantacs.com.au/ask-bantacs.php, you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. We will include ATO references to support our conclusion.

Winning Property Tax Strategies – The Book

Once again a brilliant combination of Noel Whittaker's easy reading style with Julia Hartman's mind numbing attention to detail. Lots and lots of new stuff plus updated basics for the first time reader so it is much bigger, 300 pages but still the same price. New chapters including young investors, SMSFs, renovators, granny flats, investment and budgeting strategies, fires and floods, mass marketing spruikers, commercial properties, subdividing and development. You can also purchase it online by going to www.bantacs.com.au/book_winning-property-tax-strategies.php The cost is still a low low $29.95 plus $5.95 postage – tax deductible of course!

Disclaimer – Please seek profession advice on your particular circumstances before acting on the above information as it is only general in nature so may not be correct for your circumstances.

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