



JUNE 2015 CLIENT NEWSLETTER

Welcome...to The Enterprise Sanctuary's June 2015 newsletter. Financial year end is fast approaching so today we will discuss the number of key changes you need to be aware of this tax time, along with tax issues for trusts centered around planning for year-end trust distributions.

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KEY CHANGES YOU NEED TO BE AWARE OF THIS TAX TIME

Key changes this year include the temporary budget repair levy, the Medicare levy increase, the net medical expenses tax offset phase-out and small business concessions.

Temporary budget repair levy

As part of the 2014–15 federal Budget the government introduced a temporary budget repair levy.

From 1 July 2014, individual taxpayers with a taxable income of more than \$180,000 per year have had additional tax withheld by their employer. The levy is payable at a rate of two per cent of each dollar of a taxpayer's taxable income over \$180,000. If the levy applies to you, it will appear on your 2015 notice of assessment.

Medicare levy increase

From 1 July 2014, the government increased the Medicare levy rate from 1.5% to 2% of taxable income for the 2014–15 income year and later income years to help fund DisabilityCare Australia.

Net medical expenses tax offset phase-out

The net medical expense tax offset (NMETO) is being phased out.

To be eligible to claim the NMETO in their 2015 tax return, taxpayers must have received an amount of the tax offset in **both** their 2013 and 2014 notices of assessment. If they did, they can claim for all types of eligible medical expenses.

If taxpayers did not receive an amount greater than zero for this offset on **both** their 2013 and 2014 notices of assessment they can only claim net medical expenses that relate to disability aids, attendant care or aged care.

Small business concessions

The law changed with effect from 1 January 2014 to:

- reduce the instant asset write-off threshold from \$6,500 to \$1,000; and
- remove the special depreciation rules for motor vehicles.

In the 2015 federal Budget, the government announced its intention to increase the instant asset write-off threshold to \$20,000 for assets acquired and installed ready for use from 7.30pm (AEST) 12 May 2015.

Please contact us at The Enterprise Sanctuary if you would like to talk about this topic in more detail.

TAX ISSUES FOR TRUSTS CENTERING AROUND PLANNING FOR YEAR-END TRUST DISTRIBUTIONS

A recent ATO publication highlights the importance of planning for year-end trust distributions. If, for instance, the trustee makes a resolution after 30 June, no beneficiary was presently entitled to the trust's income by 30 June and there was no default clause in the trust deed, then the trustee will be assessed on the trust's taxable income at the highest marginal tax rate, plus the Medicare Levy.

The ATO's Resolutions Checklist assists trustees to comply with their obligations.

RESOLUTIONS CHECKLIST

The Resolutions Checklist divides tasks up in to two lists:

- tasks to be completed before 30 June
- tasks to be completed after 30 June.

The Resolutions Checklist is extracted below.

BEFORE 30 JUNE

- Do you have a complete copy of your trust deed? Trustees must have a complete copy of the trust deed (including amendments) and the trustee resolution must be consistent with the terms of the trust.
- When do you have to make resolutions? Generally, the trustee must have made the trustee resolution by the end of an income year (30 June).
- Is there a standard format for a resolution? There is no standard format as there are a wide variety of trust deeds with different requirements for trustee resolutions.
- Does a resolution have to be in writing? A trustee resolution does not have to be in writing, it will depend on the trust deed, however a written record will provide better evidence of the resolution.
- How are the beneficiary entitlements defined? Ensure that the intended beneficiaries are within the class of persons who can benefit from an appointment of trust income or of trust capital (if a capital gain that is not income is to be streamed).

- Is the wording of the resolution clear? Check that the wording of the resolution is unambiguous and robust enough to deal with all eventualities.
- Are conditions on the entitlements fully effective by 30 June? ATO takes the view that a resolution would not be effective if it states that entitlements of beneficiaries would change in the event of a future adjustment by the Commissioner of Taxation.
- How should the trustee calculate the income of the trust? If the deed equates the trust's income with its net (or taxable) income, the trustee should note the Commissioner's view set out in Draft Taxation Ruling TR 2012/D1 that income cannot generally include notional amounts such as franking credits.
- Is the trustee streaming capital gains or franked distributions? Check that the terms of the deed do not prevent streaming capital gains or franked distributions and that the relevant legislative requirements have been complied with.
- Is the trustee seeking to stream other types of income? Tax attributes of other types of income besides capital gains and franked distributions cannot be separately streamed to different beneficiaries in the way that capital gains and franked distributions may be streamed.

AFTER 30 JUNE

- Will records created after 30 June be accepted as evidence of the making of the resolution by that date? Yes. If a resolution is validly made by 30 June, the ATO will accept records created after 30 June as evidence of the making of a resolution by that date.
- Does the trustee have to prepare the trust accounts by 30 June to make beneficiaries presently entitled to trust income? No. The trustee resolution does not need to specify an actual dollar amount for the resolution to be effective in making a beneficiary presently entitled, unless the trust deed specifically requires it.
- What happens if the trustee makes a resolution after 30 June? If no beneficiary (including a default beneficiary) was presently entitled to trust income as at 30 June, the trustee will be assessed on the trust's taxable income at the highest marginal tax rate, plus the Medicare levy.

Please contact us at The Enterprise Sanctuary if you would like to talk about this topic in more detail.

Important: Clients should not act solely on the basis of the material contained in Client newsletter. Items herein are general comments only and do not constitute or convey advice. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Client newsletter is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.