CARDELL
CHARTERED ACCOUNTANTS

ISSUE 16
MAY
2014

newsletter

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preparing to engage workers

If you are planning to hire new workers, there are a few things to consider and organise in order to meet your tax and super obligations. One thing you must do is make sure your workers are legal – they must be Australian citizens, permanent residents or non-citizens with Australian visas that allow them to work.

Employee or contractor?

Determine whether your workers are employees or contractors. It is important you know the difference between the two because your tax and super obligations will vary depending on whether your worker is an employee or contractor.

Pay as you go (PAYG) withholding

When you pay employees or contractors, you may need to withhold tax from their pay and send these amounts to the ATO regularly. You will need to withhold tax from:

- Employees
- Contractors who have a voluntary agreement with you
- Contractors who do not provide you with an ABN.

Super

You need to pay superannuation for both your employees and for any contractors you are paying primarily for their labour. A default super fund needs to be established and you should also have a knowledge of super choice arrangements.

Fringe benefits tax (FBT)

When you provide fringe benefits to your employees or to their associates, such as allowing an employee to use a work car for private purposes, you may have to pay FBT. When you provide benefits to contractors you will generally not attract FBT, however when benefits are provided by an associate of yours or a third party under an arrangement with you, you may have to pay FBT.

Expenses you can claim

With the exception of FBT, expenses you incur as a result of engaging workers are eligible tax deductions.

Setting up a workplace giving program

You may consider setting up a workplace giving program to allow your employees to regularly donate to their preferred charities.

Beware of "cash in hand"

Remember that an employee paid "cash in hand" will need to complete a tax return too. If they advise the ATO that you paid them and did not meet your employer obligations the ATO will pursue you. Some of our clients have been subjected to an audit in this regard.

There are many issues to consider when engaging an employee. For more information about your tax and super responsibilities as an employer, please speak to us □

small business assist

The Australian Taxation Office's 'Small Business Assist' tool provides answers to small business tax and super questions. Being an online resource, the tool can be accessed by small business owners at any time. It delivers tailored and accurate information sourced from a range of websites.

It includes information such as:

- Registering for an Australian business number
- Understanding and registering for GST
- Employer obligations
- Lodging activity statements.

Small Business Assist can be accessed from a range of devices and features links to relevant webinars as well as blogs and forms.

Visit the ATO website at www.ato.gov.au to start using the Small Business Assist tool □

common tax questions answered

In the words of the late Kerry Packer: "I am not evading tax in any way, shape or form. Now of course I am minimising my tax and if anybody in this country doesn't minimise their tax they want their heads read because as a government I can tell you you're not spending it that well that we should be donating extra."

While many people think they understand the existing tax regulations, myths and misconceptions still abound. In this article, we aim to address some of the more common tax questions:

Question 1:

"If I put a work sticker on my car, can I deduct 100% of my car expenses?"

Answer:

Simply – no. Deductions are based on four different methods. The methods are:

- Cents per kilometre (limited to 5,000 business kms per year)
- 12% of original value (this can be used if you travelled more than 5,000 business kms per year)
- One-third of actual expenses (this can be used if you travelled more than 5,000 business kms per year)
- Logbook method (this requires a logbook to be kept over a continuous 12 week period; the logbook can last for five years as long as it still represents continued similar use of the car).

Whether the car is heavily branded with work logos or not, the deduction only applies to kilometres travelled for business. Travel from home to work or work to home are not deductible. Attending meetings, running business errands and the like are deductible.

For those individuals who do use their car extensively for work in terms of kilometres travelled, log books or some form of records are essential. For those who do not use their car extensively, speak with us to determine which deduction method to apply.

Question 2:

"I'm looking at buying a car, should I lease, hire purchase or Chattel mortgage?"

Answer:

A lot of time can be spent analysing the benefits of each purchase option however it usually comes down to personal preference. Chattel mortgage and hire purchase (for tax) are treated similarly. Some agreements that say "lease" are actually hire purchase upon reading the detail.

Before committing to any such agreement, have us look over the document, or better, still call us before you get the finance.

Here is a brief matrix of the two:

	Lease	Hire Purchase or Chattel Mortgage
Ownership	Not you	You
Tax deductibility	The full lease payment	Interest component of the repayments and depreciation of the car
GST	1/11th of the lease payments times business use	Business use of the GST on the purchase price
Complexity of accounting	Simple	Not as simple

In the current environment, getting finance can be a struggle however it is the preferred option over paying cash. For most small business owners, taking the simplest option is preferred which, in this case, would be the lease option.

Question 3:

"I'm looking to start a business, what structure should I have?"

Answer:

Many factors need to be considered when deciding what structure to adopt - income tax, capital gains tax, GST and stamp duty, to name a few. Making the wrong decision can become a costly mistake.

While this article cannot cover all the areas of tax structuring, there are some important points to consider as a starting point:

- In today's litigious environment there are not many businesses that suit a sole trader structure for the long term. Being a sole trader includes basically a personal ABN and, in some instances, a business name. While many may start as a sole trader, this structure needs to be reconsidered once the business is established and generating an ongoing income.
- Family Trusts allow children of any age, to receive tax free income. The amount of income children under the age of 18 can receive is limited, but it all helps keep to the money in your pocket.
- Having a company somewhere in the structure (usually as the trustee of a trust) provides asset protection – an important feature protecting your personal assets from creditors.
- Forming a company is not necessarily a great business or investment structure. CGT, tax treatment, complexity of accounting and stamp duty all have some real traps for companies.
- For businesses or investments with two or more individuals or families, partnerships should be considered. Unit trusts are also effective, as are hybrid trusts. It is worth getting us to explore these options.

Getting your tax structuring right provides huge tax benefits (both in terms of capital gains tax and income tax), asset protection and can even improve your chances of getting bank finance. It is important to review this regularly as your business or circumstances may change.

Talk to us to determine what will work best for you and your business □

taking over an existing business

Taking over an existing business, whether it is buying an established business or taking over the family business requires careful analysis and planning.

When buying a business, some aspects to consider include:

- Why is the business being sold? What is the vendor's history with the business?
- Are there any sales patterns or trends? What is the business' customer base? Who are its current suppliers?
- What are the fixed and variable costs for the business? Are there any staff costs?
- Is the business profitable? How does the business's previous financial records look? Has it consistently run a surplus?
- What assets does the business have? Does it have any intellectual property or leasing arrangements?
- Does the business have any outstanding debts? What refunds and warranties still exist for the business?
- Have you reviewed the purchase agreement carefully?
- What kinds of tax will apply? Consider GST, Capital Gains Tax, and stamp duty implications.
- What are the legal agreements on leases? What is the business structure?
- What has and hasn't worked for the previous owner?
- What about finance and how to meet the cost of finance?

While a prospective business owner must carefully consider the factors listed above prior to purchasing an existing business, taking over a family business requires consideration of a different set of factors. They include:

- work-life balance - business creeping into family life
- different expectations and work ethics between generations
- rivalries - family members who don't work well together or are too competitive
- older generations not willing to let go and handover control, or younger generations not wanting to join the family business
- deciding the future direction of the business
- choosing the right person to take over the business
- managing disagreements between family members.

The benefits of such a takeover can be significant. Those that take over a family business often have a longer term view of success and plan for returns over a longer period. They typically have an increased responsibility for those who control and manage the business potentially leading to stronger customer focus, community reputation and special care for employees.

One of the biggest challenges of owning a family business is balancing the relationship between work and family.

Regardless of which option you choose – buying an existing business or taking over a family business, discuss the plan with us to ensure you are making a well informed decision □

gst on buying and selling second-hand goods

Businesses involved in the buying and selling of second-hand goods (second-hand goods traders) need to note the Australian Taxation Office has issued GST 2013/2 determination on the acquisition of second-hand goods for the purpose of sale in the ordinary course of business.

This ruling sets out the guidance of what business activities constitute buying and selling goods.

Generally those businesses that are carrying on business are entitled to notional input tax credits even though there is actually no input tax credits attached to the goods purchased from non GST registered individuals.

If you are in business, are GST registered and sell goods to a second-hand dealer you must supply an invoice for the goods/material you sell. The sale needs to be included in your BAS and GST remitted to the ATO.

We know that the ATO audits second-hand dealers to see who they purchased from, and then the ATO follows that trail.

If you have interest in this area please speak to us. □

prompt payment protocol

Late trade payments are more and more commonplace in business.

In 2013 the government took submissions from businesses of all sizes to develop a new protocol to tackle the issue.

The 'Prompt payment protocol' aims to address delays in trade payments between businesses, particularly late payments to small businesses. Payment delays are typically passed down the supply chain and are often borne by small businesses, which may in turn withhold payments to their staff, suppliers, financiers or the ATO.

The discussion paper outlined various steps that should underpin business-to-business accounting systems. Some of the proposed principles are to pay on time, to communicate clearly, to encourage good business relationship and adopt a complaints resolution process.

The government is yet to announce whether the new initiative will be implemented across the country □

coalition tax changes

The new Coalition Government has announced they intend to repeal or change a number of tax measures proposed by the previous Government. A number of these will affect small businesses.

Minerals resource rent tax

The Government intends to repeal the minerals resources rent tax (MRRT) law with effect from 1 July, 2014. An exposure draft was released on 24 October, 2013. The Bill discontinues or changes some of the measures that were funded by the tax.

Company Loss Carry Back

The Government plans to repeal the loss carry back rules from 1 July, 2014. As a result, the only year that these rules will apply is for the financial year ended 30 June, 2013. Thereafter, companies will once again only be able to claim their losses as a deduction against future profits.

Reduction in the small business instant asset write-off threshold

From 1 January, 2014 the immediate deduction for depreciating assets for small business entities (SBE) will reduce from $6,500 to $1,000. The assets must have been used or installed ready for use prior to 1 January, 2014 to comply with the $6,500 immediate deduction write-off.

Repeal of accelerated depreciation for motor vehicles

The $5,000 immediate deduction for motor vehicles will also be repealed from 1 January, 2014. SBEs had until 31 December, 2013 to take advantage of this deduction.

Re-phasing the Superannuation Guarantee (SG) percentage increase

The SG percentage was to increase from 9.25% to 9.5% starting 1 July, 2014 gradually increasing to 12% by 1 July, 2019. The government has announced they will pause the SG at 9.25% and increase it to 9.5% from 1 July, 2016.

Repeal of the low income superannuation contribution (LISC)

From 1 July, 2013 individuals earning up to $37,000 a year will no longer receive a refund for contributions tax paid on concessional contributions.

Repeal of the income support bonus

The income support bonus paid twice annually to eligible social security recipients will be repealed. This will be repealed from the date of amendment.

Repeal of the school kids bonus

The school kids bonus will be repealed. This will be repealed from the date of amendment.

Other changes

Dozens of other taxes and policies have been announced but not legislated. Some of those already announced are as follows:

- **Cap on self-education expenses**

  The government announced on 6 November, 2013 that they will not proceed with the $2,000 cap on self-education expenses announced in the last budget.

- **Fringe Benefit Tax (FBT) changes Motor Vehicles**

  The FBT changes removing the statutory percentage formula for motor vehicles will not proceed.

- **Superannuation pensions**

  The tax changes to superannuation pension earnings above $100,000 a year will not become law.

Please note that these are proposed changes that are subject to being passed in the Senate.

To discuss how these changes may affect your small business, please contact us □

visit us at www.cardell.com.au

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