AUTOMOTIVE UPDATE

AUTOMOTIVE TAX PLANNING 2014

WITH THE END OF FINANCIAL YEAR JUST AROUND THE CORNER, BDO AUTOMOTIVE TAKE THIS OPPORTUNITY TO REMIND YOU ABOUT A NUMBER OF TAX MATTERS THAT MAY BE WORTH CONSIDERING BEFORE 30 JUNE.

Individual tax rates

Due to the increase in Medicare Levy from 1.5% to 2% and the introduction of the Temporary Budget Repair Levy of 2% for individuals earning over $180,000, the highest marginal tax rate applicable to individuals will increase from 46.5% to 49%.

The following are the tax rates for the 2015 financial year as proposed by the Government in the Federal Budget:

Taxable income ($)	Tax payable ($)
0 – 18,200	Nil
18,201 – 37,000	Nil + 19% of excess over 18,200
37,001 – 80,000	3,572 + 32.5% of excess over 37,000
80,001 – 180,000	17,547 + 37% of excess over 80,000
180,000	54,547 + 45% of excess over 180,000

These rates exclude Medicare Levy and the 2% Temporary Budget Repair Levy applicable to individuals earning over $180,000.

At present, it appears that the Temporary Budget Repair Levy is one of the few measures that will pass in the budget and hence consideration should be given as to what dividends or distributions you need to take in the upcoming 3 financial years to minimise your tax position.

Further, it should also be recognised that any sale of a business or capital gains tax asset will attract an additional 1% in tax payable in the 3 years commencing from 1 July 2014 as a result of the increase in the tax rate. Practically speaking, this could be viewed as a government commission on the sale of assets and should be factored in when considering any potential sale.

Change in company tax rate

The Government has announced that the company income tax rate will be reduced by 1.5% to 28.5% from 1 July 2015.

However, companies which have a taxable income in excess of $5 million will be liable to a 1.5% levy which will be contributed towards the paid parental scheme. This levy will commence on 1 July 2015.

The proposed parental leave levy will not give rise to franking credits. Accordingly, there may be advantages for some shareholders if a company with sufficient franking credits pays franked dividends before 1 July 2015.

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Trust distribution

Under the current tax law, a trust must have distributed its annual income to beneficiaries on or before 30 June each year. Any undistributed income will be taxed in the hands of the trustee at the highest marginal tax rate of 46.5%.

Effective the year ended 30 June 2012, the Australian Taxation Office withdrew the previous concession of allowing trust distributions to be made within two months after the end of the income year in order to avoid the trustee being taxed.

Accordingly, it is critical for a trustee to have considered the income of the trust and made a resolution to distribute the income to beneficiaries on or before 30 June each year to properly discharge the fiduciary duties of their trustee role.

Division 7A loan and unpaid present entitlement

If your group has any Division 7A loans and/or unpaid present entitlement (under a sub-trust arrangement or otherwise), the minimum repayment requirement will need to be satisfied each year.

Under the Division 7A rules, any loan owed by a shareholder, or an associate of a shareholder, to a private company may give rise to a deemed dividend, unless the loan is put on a commercial footing under a written loan agreement. These rules also apply to any loan owed by a shareholder, or an associate of a shareholder of a private company to which a trust has previously made a trust distribution that has remained unpaid as an unpaid beneficiary entitlement (UPE).

Further, the Commissioner of Taxation is also of the view that a UPE may be caught by the Division 7A rules unless it is converted to a compliant Division 7A loan or treated as a sub-trust.

Trading stock – demonstrator, used and parts

The tax legislation provides that closing trading stock can be valued at the end of every year using one of the following three methods:

- Cost
- Market selling value
- Replacement value.

Usually, the most tax effective outcome is that which provides the lowest value.

For used and demonstrator vehicles the most tax effective method is usually replacement value which is ascertained by way of an independent valuation using either a:

- 'Suitably qualified arms length' (TR93/209), 'truly independent' (IT2648) valuer
- Recognised industry guide, for example Red Book (not permitted for Demonstrators).

Care should be taken to ensure that the valuations meet the strict requirements of the tax legislation outlined above, as the deduction derived from this valuation normally represents the largest single tax adjustment.

Note that it is not necessary to 'book' the adjustment through the accounting records, and in fact we recommend that you don't. Your accountant can include the deduction for tax purposes only.

For parts and accessories the most tax effective method is again achieved through valuation at replacement value. Our view is that replacement value equates to cost, for parts less than 12 months old, and nil for parts with no movement greater than 12 months.

Remember to have your Parts Manager print the aged stock report on 30 June, normally in conjunction with the physical stocktake, as many DMS's cannot subsequently produce an accurate report to reflect the aged stock as at 30 June.

Bad debts

A tax deduction is available for a bad debt if:

- Reasonable action has been taken to seek recovery, and
- The debt is physically written off by year end.

Remember to claim back GST previously remitted in respect to that sale. Have you forgotten to claim back any GST on debts previously written off.

Defer sales/revenue

Industry practice is to bring forward the sale of vehicles to an earlier month, at least in an accounting sense, despite not having delivered the vehicle by the end of the month. Motivations include the manufacturer incentives for achieving targets and/or the Sales Managers' motivation to increase their bonus. Recognise that this practice also 'brings forward' the income tax, GST and LCT liabilities to the earlier year where it occurs in June.

Bring forward expenditure

Consider bringing forward certain tax deductible expenses before year end and access the available tax deductions.

Under the general deductibility rules, you are entitled to a tax deduction as soon as the expense has been incurred, regardless of when the physical payment is actually made. For example, a tax deduction would be available when you purchase workshop or office supplies before year end regardless of which period they are paid.

Notwithstanding the above, it should be noted that expenditure for services may not be immediately tax-deductible even where incurred. The rules governing prepayment for services are discussed below.

Prepayments

Generally, the tax deduction for a prepayment for service (as opposed to physical items such as workshop supplies) will need to be spread over the 'eligible service period' associated with the expenditure.

For instance, if a $12,000 insurance premium paid at the end of May and relating to the 12 months following will entitle you to a tax deduction of just $1,000 for that year. The remaining $11,000 will need to be claimed in the following year.

However, there are a few exceptions relevant to dealers which may give rise to an immediate deduction on the full prepayment amount:

i. The expenditure is less than $1,000 (GST exclusive)

ii. The expenditure is required by law (eg, Workcover)
iii. The expenditure is incurred under a contract of service (wages for example).

Accrued expenses

Identify all expenses to which you have definitively committed (ie, the expenses have been incurred) at year end, even though they may not have been physically paid for until later. These expenses may be tax deductible and you should consider recording them as 'accrued expenses' in the accounts so that they can be identified by your accountant. Some of the expenses that are commonly accrued include:

- Advertising
- Bank charges
- Commissions/bonuses
- Electricity
- Fringe Benefits Tax (FBT)
- Interest
- Payroll tax
- Rent
- Telephone
- Salaries and wages.

Building Depreciation

Engaging a quantity surveyor who prepares Capital Allowance (building depreciation) and Tax Depreciation Reports (plant and equipment depreciation) may significantly maximise the deductions available.

Of significance is that the quantity surveyor will seek to identify items of plant and equipment that can be separately depreciated at rates higher than 2.5 per cent.

The quantity surveyors reports can provide higher deductions regardless of whether the facilities are recently constructed, purchased or have been owned for some time.

Fixed assets and depreciation

Assets that have little or no resale value may be scrapped by year end. This will also enable you to claim their tax written down value as a tax deduction.

Depreciation is calculated with reference to the effective life of each asset for which the ATO provides guidance. It can be calculated using a number of methods as follows:

- Diminishing value – provides a greater deduction in the earlier years
- Prime cost – or straight line, provides an equal depreciation for each year.

Assets which cost less than $1,000 can be allocated to a low value pool and depreciated at 18.75 percent in the first year acquired and 37.50 percent for subsequent years.

Fringe Benefits Tax

The Fringe Benefits Tax (FBT) regime contains a number of exemptions for benefits that may be provided FBT exempt to employees while the cost of providing such benefits continues to be 100 percent tax deductible to the employer. These include:

- Mobile phones
- Personal digital assistant
- Protective clothing
- Briefcase
- Calculator
- Tools of trade
- Laptop computer
- An employee's subscription to a professional journal
- An employee's airport lounge membership
- An employee's membership for a corporate credit card.

To qualify for the FBT exempt treatment, the relevant item provided must be used by the employee primarily for work related purposes and only one of each item may be provided to each employee in a given FBT year. A full tax deduction is available for these benefits provided to employees subject to the qualifications above.

Should you vary the PAYG Instalments?

Your current instalments are based on the taxable income you achieved in the 2013 financial year. Compare your 2014 financial year result to that of the previous, consider the instalments you have made for the previous three quarters, any significant tax adjustments (for example the used and demonstrator valuations) and consider if it would be prudent to vary the June quarter instalment down.

Note that the ATO can potentially apply general interest charges where variations result in actual tax paid of less than 85 percent of actual tax payable.

Private health insurance

The private health insurance rebate is now means tested and your entitlement to the rebate is dependent upon the level of your taxable income as follows:

Tier	Income	Private health insurance rebate		
		Under 65	65 to 69	70 +
0	**Singles:** $0 - $88,000 **Families:** $0 - $176,000	30%	35%	40%
1	**Singles**: $88,001 - $102,000 **Families:** $176,001 - $204,000	20%	25%	30%
2	**Singles:** $102,001 - $136,000 **Families:**$204,001 - $272,000	10%	15%	20%
3	**Singles:**$136,001+ **Families:** $272,001+	0%	0%	0%

From 1 April 2014, the rebate percentages will be indexed annually by the lesser of the Consumer Price Index and the average increase in private health insurance premium charged by insurers. The rebate percentages from 1 April 2014 are indexed as follow (please note that the income thresholds may be reviewed from 1 July 2014):

Tier	Income	Private health insurance rebate		
		Under 65	65 to 69	70 +
0	**Singles:** $0 - $88,000 **Families:** $0 - $176,000	29.04%	33.88%	38.72%
1	**Singles:** $88,001 - $102,000 **Families**: $176,001 - $204,000	19.36%	24.20%	29.04%
2	**Singles:** $102,001 - $136,000 **Families:**$204,001 - $272,000	9.68%	14.52%	19.36%
3	**Singles:**$136,001+ **Families:** $272,001+	0%	0%	0%

Government superannuation co-contribution

The maximum co-contribution is currently $500 for a personal contribution of $1,000 made to a superannuation fund. If the personal contribution is less than $1,000, the maximum co-contribution will equal half of the personal contribution amount.

The full $500 will be available if an individual's assessable income plus reportable fringe benefit amount do not exceed $33,516 in the year ending 30 June 2014. If the amount exceeds $33,516, the co-contribution will be progressively reduced on a sliding scale to nil when the amount reaches $48,516.

Super guarantee changes

The rate for superannuation contributions by employers on behalf of their employees under the SGC for the year ended 30 June 2014 is 9.25%.

The rate will increase to 9.5% from 1 July 2014 and remain at 9.5% until 30 June 2018, then progressively increase over subsequent income tax years to 12%.

Tax deductions for the superannuation contributions will only be available in the 2014 tax year if the contribution is received by superannuation fund by 30 June 2014.

Superannuation

Superannuation contributions

Given the low tax environment under which complying superannuation funds operate, there are specific contribution limits that govern both the maximum and minimum amount of superannuation contributions that can be made to superannuation funds.

Maximum superannuation contributions

Concessional contributions
Making concessional contributions on behalf of employees (including directors) may be tax-effective, especially for those employees who are close to retirement age and are eligible to utilise the transition to retirement strategy.

Generally, an employee may reduce their individual tax liability by having some of their remuneration paid directly by their employer to their complying superannuation fund as a concessional contribution, which will attract a contribution tax at 15% in the hands of the superannuation fund, as opposed to tax at the employee's marginal tax rate.

However, from 1 July 2012, the contribution tax payable by a superannuation fund is increased to 30% for a member whose combined annual income (including reportable fringe benefits) and concessional contributions exceed $300,000.

Self-employed or substantially self-employed persons (ie persons who generally have less than 10% of their adjusted taxable income derived from employment) may also make concessional contributions for themselves, which may be claimed as a tax-deduction to offset the assessable income they derive as an individual.

The annual concessional contribution cap for the year ending 30 June 2014 is $25,000 per person. An increased cap of $35,000 applies to individuals who are 59 years old or over on 30 June 2013. From 1 July 2014, this $35,000 cap will become available to individuals who are 49 years old and over on 30 June 2014 and the general concessional contribution cap increases to $30,000 for those under 49 years of age.

Income year	General cap	Cap for those aged 49 years or over on 30 June 2013	Cap for those aged 59 years or over on 30 June 2013
2013-14	$25,000	$25,000	$35,000
2014-15	$30,000	$35,000	$35,000

The contribution cap applies to concessional contributions made on behalf of an individual from all sources. It is very important to ensure that the contribution cap is not breached as penalties may apply to any excess contribution made.

Importantly, to secure a tax deduction for the concessional contribution made for the year ending 30 June 2014, the contribution must be **physically received by the relevant complying superannuation fund on or before 30 June 2014.** Where the superannuation fund uses a clearing house facility, you should allow up to one week for the contribution to be processed and recorded as having been received by the superannuation fund.

Non-concessional contributions
Individuals may contribute up to $150,000 in non-concessional contributions for the year ending 30 June 2014. The 'bring-forward option' continues to be available, which allows individuals under 65 years old to make a lump sum contribution of $450,000 for a three-year period. Once the $450,000 has been made, no further non-concessional contributions can be made until that three-year period has expired.

From 1 July 2014, the non-concessional contribution cap will be increased to $180,000 per year or $540,000 over 3 years under the bring-forward option.

Individuals aged between 65 and 74 can make non-concessional contributions only if they pass the work test (ie the relevant individual must work for at least 40 hours during a consecutive 30 day period in a given income year). Individuals who are 75 years old or over cannot make non-concessional contributions to their superannuation fund.

Minimum superannuation contributions

Employers are required to provide a minimum level of superannuation guarantee support for each of their employees, subject to certain exemptions (eg part-time employees under 18 years old, employees earning wages of less than $450 per month).

The minimum rate of compulsory superannuation guarantee contributions for the year ending 30 June 2014 is 9.25% of the relevant employee's ordinary time earnings, which must be paid on a quarterly basis within 28 days after the end of the quarter. Otherwise, a non-deductible penalty known as the Superannuation Guarantee Charge will be imposed.

From 1 July 2014, the superannuation guarantee rate will be increased to 9.50%. Therefore, if you are an employer, it is important to ensure that your pay-roll system will calculate the correct superannuation guarantee contribution amount for employees from 1 July 2014.

However, the superannuation guarantee requirement is capped at the 'maximum contribution base' of $48,040 per quarter (or $192,160 per year) for the year ending 30 June 2014. If the relevant employee's ordinary time earnings exceed $48,040 in any given quarter in the year ending 30 June 2014, the employer is only obliged to pay the maximum superannuation guarantee contribution of $48,040 x 9.25% = $4,443.70 for that quarter.

Notwithstanding that the payment due date for superannuation guarantee contributions for the quarter ending 30 June 2014 is 28 July 2014, we still recommend that **the contributions be paid on or before 30 June 2014** to ensure that the relevant employer entity will secure a tax deduction for the contribution for the income year ending 30 June 2014.

From 1 July 2014, the maximum superannuation contribution base will increase to $49,430 per quarter.

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