YEAR-END TAX BULLETIN

2018 TAX HIGHLIGHTS

FEDERAL BUDGET ANNOUNCEMENTS

The key announcements from the 2018 Federal Budget that may have an impact for year-end tax planning include:

New Tax Rates for Individuals

The Government announced an intention to provide tax cuts for selected individuals from 1 July 2018. These cuts will be provided in two forms:

- Increase in the threshold between the 32.5% and 37% rates from $87,000 to $90,000
- A new Low and Middle Income Tax Offset providing a benefit of up to $200 for individuals earning under $37,000 and up to $530 for individuals earning between $48,000 and $90,000. The offset reduces by 1.5 cents for every dollar in excess of $90,000 (finally cancelling out at $125,333).

Instant asset write off

The Government announced an intention to extend the $20,000 instant asset write off for an additional 12 months, ending on 30 June 2019.

The scheme was initially legislated to end on 30 June 2018.

The instant asset write off is available to small business entities that are carrying on a business and have an aggregated turnover less than $10 million.

Research and Development

The Government announced major changes to the concessional treatment for taxpayers engaged in eligible research and development activities.

These changes are expected to take effect from 1 July 2018.

The changes are extensive and complex. Where you are involved with an entity that is engaging in eligible research and development activities, you should consult with your BDO adviser to assess the potential impact of these changes on your ability to access the relevant tax concessions.

Significant global entities

Where an entity is designated as a significant global entity, they are subject to a number of disclosure, compliance and transfer pricing requirements.

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The Government announced an intention to amend the definition of significant global entity. At present, the definition only applies to multinational groups with an annual global income of at least $1 billion where the group is headed by a public or private company that is required to produce consolidated financial statements.

The proposed new definition will extend to members of large global groups that are controlled by private entities including private companies, trusts and partnerships, and investment entities.

The proposed new definition will apply from 1 July 2018.

Note of caution

These are the main proposals from the May 2018 Federal Budget that are scheduled to apply from 1 July 2018. However, none of these amendments have been legislated at the time of printing. Please consult your BDO adviser to confirm the progress of any relevant legislation.

You should also note that many of the proposals from the May 2017 Federal Budget have not been legislated at the time of printing. Again, you should consult with BDO to confirm the progress of that legislation.

KEY CHANGES FOR 2018

GST and new residential property

From 1 July 2018, purchasers of new residential premises and certain residential land may be required to remit the GST payable on the sale of the premises or land directly to the Tax Office, rather than paying the GST to the vendor of the premises/land.

Vacancy tax

Non-resident (foreign) owners of residential property acquired after 9 May 2017 will be required to pay a vacancy tax where the property is not occupied or available for occupation (by rental) for half of the relevant year. The year is measured as 12 months from the acquisition date of the property.

All foreign owners of residential properties acquired after 9 May 2017 are required to lodge a vacancy tax return with the Tax Office, irrespective of whether the property is vacant or not. The first returns will be due for lodgement within the next 12 months.

Main residence CGT exemption

Legislation has been introduced into Parliament to deny the main residence CGT exemption where the taxpayer selling the property is a non-resident at the time of the sale. These changes take effect from 9 May 2017, although transitional provisions will extend the exemption until 30 June 2019 for properties held on 9 May 2017.

Small Business CGT change

From 1 July 2017, changes to the small business CGT concessions (not yet legislated) will restrict access to the concessions where the assets being sold are shares in a company or an interest in a trust. Any disposal of these interests after 1 July 2017 should take these amendments into consideration.

Single touch payroll

From 1 July 2018, most employers will be required to report their PAYG withholding and SGC information to the Tax Office using Single Touch Payroll. Most software packages accommodate the Tax Office's requirements and employers should familiarise themselves with the new requirements.

SUPERANNUATION

There are no superannuation amendments scheduled to take effect from 1 July 2018. However, you should ensure you have not breached any of the excess contributions caps for the year ended 30 June 2018.

Tax Planning Tip

Make super contributions up to contributions caps before 1 July 2018.

As always, you should consult a qualified financial adviser for specialist advice on superannuation.

INDIVIDUALS TAX RATES

As noted above, the proposed tax cuts to take effect from 1 July 2018 may make it attractive for smaller taxpayers to defer deriving income until after 1 July 2018 in the event they may be able to take advantage of the small tax cuts. Caution should be exercised as the derivation rules may prevent the income from being deferred. Also, the tax cuts have not been legislated, so you may not be able to rely on their immediate availability.

SMALL BUSINESS

Small Business Company Tax Rate

From 1 July 2016, the income tax rate applicable to companies carrying on a business will reduce to 27.5%. The reduction will progressively apply to companies based on their aggregated turnover in the years in question.

To clarify which companies are carrying on a business for the purpose of these provisions, the Tax Office has released a draft ruling (TR 2017/D7).

The 27.5% tax rate will apply to companies as follows:

Year Ended 30 June	Turnover
2017	$10 million
2018	$25 million
2019	$50 million

The Government has introduced legislation to limit the availability of the lower company tax rate to companies that satisfy the passive income test (derive no more than 80% of their income from passive sources, as defined in the legislation). This legislation has not yet passed Parliament, however it is intended to apply from 1 July 2017.

Tax Planning Tip

Affected companies may want to delay the derivation of income until after 30 June to obtain a lower tax rate on income or bring forward the incurring of deductible expenses to gain advantage of the higher tax benefit before 1 July (subject to prepayment rules and general anti avoidance rules).

Trapped Franking credits

From a franking perspective, a company's maximum franking rate is determined according to its corporate franking tax rate. For 30 June 2018, a company will have a 27.5% corporate franking tax rate where its turnover for 30 June 2017 is less than $25 million and it satisfies the passive income test based on its 30 June 2017 income (subject to the legislation being enacted).

If the company pays a franked dividend based on profits of a previous year where the company's tax rate was higher than current year, there may be trapped franking credits e.g. previous year rate 30% and current year rate 27.5% then 2.5% franking credits trapped in company.

Tax Planning Tip

Companies need to consider which franking rate they are subject to in the 30 June 2018 year, and which rate they will be subject to next year. Where the company may move from a 30% franking company in 2018 to a 27.5% franking company in 30 June 2019, there may be advantages in paying franked dividends prior to 30 June 2018 (subject to the position of the shareholders). You should consult your BDO adviser in relation to this issue.

SUPER GUARANTEE

The rate for superannuation contributions by employers on behalf of their employees under the SGC for the year ended 30 June 2018 is 9.5%.

Employers must make superannuation guarantee contributions for their employees on a quarterly basis within 28 days after the end of each quarter (September, December, March and June).

Tax Planning Tip

Tax deductions for the superannuation contributions will only be available in the 2018 tax year if the contribution is received by the superannuation fund by 30 June 2018.

TAXABLE PAYMENTS REPORTING SYSTEM

Businesses in building and construction are required to record payments to contractors and report these payments to the Tax Office.

The annual report due to be lodged by 21 July 2018.

In the May 2017 Budget, the Government announced they intended to extend the scheme to cover payments to contractors in the cleaning and courier industries. At the time of writing, these amendments have not been legislated.

DIRECTOR PENALTIES

Company directors need to pay attention to companies' PAYG and SGC liabilities as there are strict penalties for directors of companies that fail to make outstanding PAYG and SGC payments.

LOANS FROM PRIVATE COMPANIES - DIVISION 7A

Shareholders of private companies and their associates may be assessed on a deemed dividend if the company provides them with loans, payments, loan forgiveness or private use of company assets, unless the requirements of Division 7A are satisfied.

Make sure all Division 7A loans made in the 30 June 2017 tax year have been either repaid or put under a complying Division 7A loan agreement by the lodgement date of the company's 2017 tax return.

Make sure the minimum repayment amounts have been made by 30 June 2018 for complying Division 7A loans made in the 2017 and previous years.

Tax Planning Tip

To ensure all future Division 7A loans are covered by a qualifying loan agreement, consider entering into a Division 7A complying facility loan agreement that will be able to cover all future loans to shareholders and/or their associates.

TRUSTS

Unpaid Trust Distributions

Trust distributions to an associated private company for the 2017 tax year, which remain unpaid at end of the 2018 tax year may be a Division 7A loan unless they are paid out to the company or converted to a complying Division 7A loan by the lodgement date of the company's 2018 tax return, or held in sub-trust for the company by the lodgement date of the trust's 2017 tax return (usually 15 May 2018).

If the unpaid distribution for the 2016/17 tax year has been converted to a sub trust, ensure the trustee has paid to the company the income under the sub trust before 30 June 2018.

The Government announced in the May 2018 Budget that it intended to amend Division 7A to treat UPEs as loans, and require the repayment of interest and principal.

This amendment is scheduled to take effect from 1 July 2019, as part of a major overhaul of Division 7A. Whilst the detail of the amendments has not been released at the time of writing, taxpayers should be aware of the proposed changes and be prepared that they may have to restructure their Division 7A loans and UPEs prior to 30 June 2018.

Reimbursement agreements

Trustees are also reminded of the application of Section 100A of the 1936 Act, especially where a trust has made a distribution of income to a private company.

Where the Tax Office determines that Section 100A applies to an arrangement, the net income that would otherwise have been distributed by the trustee is instead assessed to the trustee at the highest marginal rate.

Section 100A will not apply to ordinary commercial or family dealings.

In a recent publication, the Tax Office considered the following arrangement, referred to as the washing machine, would attract Section 100A:

- The trustee owns all the shares in a private company
- The company is also a beneficiary of the trust and undertakes no activity but derives a small amount of bank interest on its own account
- The directors of the private company and the trustee company are the same individuals or related individuals
- The trustee resolves to make the company presently entitled to some or all of the trust income in year 1 and distributes that to the company prior to the lodgement of the trust's tax return in year two
- The company includes the distribution in its assessable income for year one
- Division 7A does not apply to the arrangement because the company's entitlement is paid before the lodgement of the income tax return
- The company pays a fully franked dividend in year two to the trustee. This forms part of the trust's income in year two
- The trustee makes the company presently entitled to all of some of the trust income at the end of year two
- The arrangement is repeated.

The reimbursement agreement results in the distribution benefitting a party other than the beneficiary (it instead benefits the trustee). The reimbursement agreement provides for the payment of income from the trustee to the company on the understanding (implied from the repetition in each income year and their common control) that the company would pay a dividend to the trustee of a corresponding amount (less the tax paid).

The agreement is designed to achieve a reduction in tax that would otherwise be payable had the trustee simply accumulated the income.

This agreement is not an ordinary commercial dealing because the ownership structure and, particularly, the perpetual circulation of funds, serve no commercial purpose.

There are hybrids of this scheme which involve money flowing from the company via interposed entities, ultimately ending up back in the trust. These have also been identified by the Tax Office as possibly giving rise to a Section 100A determination.

TRUST DISTRIBUTIONS AND RESOLUTIONS

Most discretionary trust deeds require distribution determinations for 30 June year end be made before 30 June, or earlier. Trustees must make these determinations prior to 30 June or the date in the deed if earlier than 30 June.

TRUST STREAMING

Under the streaming provisions, trustees can stream franked dividends and capital gains to specific beneficiaries, rather than distributing these amounts as part of the general distribution to beneficiaries.

The deed must not prevent the trustee from streaming these amounts to specific beneficiaries. In addition, the beneficiaries who are to receive these amounts must be specifically entitled to them, and the trustee must record the streamed distributions in the accounts or records of the trust, by 30 June 2018 for franked dividends or by 31 August 2018 for capital gains (although the trust deed will usually require the trustee's distribution determination to be made by 30 June 2018).

Tax Planning Tip

You and/or your tax adviser should regularly review your trust's deed to ensure you and/or your tax adviser understands how it interacts with the various tax requirements, some of which are mentioned above.

TFN TRUST REPORTING

Trustees of resident discretionary trusts, family trusts and other closely held trusts are reminded they are required to report new beneficiaries' tax file number (TFN) and certain personal information to the Tax Office. For 30 June 2018 the TFN report of new beneficiaries must generally be made to the Tax Office by 21 July 2018.

If the beneficiary has not provided their TFN to the trustee, the trustee will have to withhold tax from the trust distribution where the beneficiary becomes presently entitled to trust income or is paid an amount of trust income.

Tax Planning Tip

To ensure you don't miss the reporting of beneficiaries TFN's we suggest you report to the ATO the TFN's of all likely beneficiaries of the trust now, even though they may not be receiving a distribution until a future year.

ONGOING YEAR END ISSUES

SMALL BUSINESS ENTITIES

- The small business turnover threshold has increased from $2 million to $10 million. Benefits include simplified depreciation and trading stock rules
- Thresholds for the small business CGT concessions remains at $2 million turnover or $6 million net asset test.

TIMING OF INCOME DERIVATION

- Determine whether you should use cash or accruals tax accounting
- Consider deferring receipt until after 30 June 2018
- Alternatively, if you are in a tax loss, consider accelerating the receipt of income prior to 30 June 2018.

INCOME RECEIVED IN ADVANCE

- Income received in advance is not taxed until services are provided as long as income credited to unearned income account, and released to profit when the services are provided.

TIMING OF EXPENSES

- Expenses are deductible if incurred by 30 June 2018
- Provisions are generally not deductible
- Some accruals are not deductible
- Some prepayments are not deductible until future years
- Interest paid after business ceases may continue to be deductible.

REPAIRS

- Deduct repairs and maintenance incurred before 30 June 2018, unless they relate to initial repairs, substantial replacement or improving an asset.

GIFTS

- Donate to deductible charities before 30 June 2018 - check recipient endorsed deductible gift recipient
- Gifts not deductible if some benefit is received by donor except when given at an "eligible fundraising event" (special conditions apply).

BAD DEBTS

- Review all debts before 30 June 2018
- Write-off bad debts before year end to get deduction in that year (provision for doubtful debts not deductible).

TRADING STOCK

- Valuation - choose cost, market value or replacement
- Identify any obsolete stock – special valuation rule
- Scrap unwanted stock by 30 June
- Small business entity taxpayers do not undertake a stock valuation if the difference between opening and closing value is less than $5,000.

PREPAYMENTS/ADVANCED EXPENDITURE

- Prepay deductible expenditure by 30 June 2018
- Prepayment rules operate to spread deduction over more than one year.
- Prepayment rules do not apply to salary, amounts required to be paid by law or a court, or expenditure under $1,000
- Small business entity taxpayers and non-business individuals are allowed prepayments in year incurred if the benefit does not extend beyond 12 months.

DIRECTOR AND EMPLOYEE ENTITLEMENTS

- Conduct shareholders' meeting before 30 June 2018 to approve directors' fees to obtain deductions for 2018
- Ensure arrangements for employee bonuses based on 2017/2018 results are in place before 30 June 2018 to get deductions for the 2018 year.

SALE OF INVESTMENTS AND BUSINESSES

- Where CGT assets can be realised for a gain, delay sale until after 30 June, unless you have losses that may be lost because of company/trust loss rules
- Crystallise capital losses to offset gains, however, losses may be disallowed in the event of wash sale where loss asset or similar asset reacquired or continues to be controlled by the taxpayer
- If CGT assets held for less than 12 months by individuals, trusts or super funds that are eligible for the CGT discount, consider delaying sale until 12 months has passed
- For small business entities with CGT assets less than $6 million or annual turnover less than $2 million, consider small business CGT concessions and restructure rollover relief
- If assets sold via an earn-out arrangement apply the look through approach that applies from 24 April 2015.

CEASING BUSINESS OR BUSINESS SOLD

- Consider consequences of payments for employee entitlements, transfer of employee entitlements to a new employer and redundancy payments
- Consider if small business concessions, rollovers, or super contributions are available
- Consider whether expenses incurred after business ceases may still be deductible.

BUSINESS RELATED COSTS / PROJECT COSTS

- Project costs are deductible over the life of the project
- Other business related costs not otherwise deductible, not included in a CGT cost base nor capital allowance cost, may be deductible over five years
- It is essential the costs relate to a business that is, was, or will be carried on for a taxable purpose.

DEPRECIATION

- Scrap obsolete items by 30 June 2018 to claim undepreciated cost
- Increase depreciation by reassessing effective life of assets if asset's effective life is less than ATO estimates of effective life
- For items that cost less than $1,000 consider a low value pool, with diminishing value rate of 37.5%
- For small businesses (less than $10m turnover), asset purchases less than $20,000 made prior to 1 July 2019 may be immediately deducted.
- Other small business assets may be placed in the small business depreciation pool and depreciated at 15% in the first year and 30% in subsequent years
- If not a small business, some depreciable items of less than $100 may be immediately deductible, see PSLA 2003/8 ($300 if not in business).

IMPUTATION

- If shares not held at risk for at least 45 full days, franking offset may not be available (except individuals whose franking offset less than $5,000)
- Trusts beneficiaries lose franking offset unless beneficiaries have vested and indefeasible interest in the shares held at risk for at least 45 days or family trust election made and trustee held shares at risk for at least 45 days
- Where company pays more than one dividend in franking period, ensure all dividends franked under benchmark rate (franking percentage of first dividend).

YEAR END TAX EFFECTIVE INVESTMENTS

- Has promoter obtained product ruling
- Ensure promoter operated the scheme in accordance with product ruling
- Check if the investment is the subject of a Taxpayer Alert
- Consider Part IVA and other integrity measures
- Warning signs include contrived or artificial arrangement, limited or non-recourse funding; low cash outlay; in-built exit strategy; prepayments; arrangement not economically viable without tax benefit; arrangement not independently assessed for viability.

HOME OFFICE EXPENSES

- Portion of interest, rent and insurance are not deductible unless you are carrying on business from home and the area is separate and distinguished from private living areas
- Converting spare room not sufficient
- Power, heating and depreciation can be claimed at a flat rate established by ATO even if room is not exclusively set aside for a home office
- If an office is provided by the employer, working from home as a convenient place to do part of the work may not be sufficient to claim home office expenses.

MORE INFORMATION

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