SHOMAR & ASSOCIATES

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Inside this issue:

Its nearly time for the Easter Bunny!

Can you believe it? Easter is almost here! It seems that each time we put together our newsletter we are thinking about issues outside of "accounting issues". Previously we had thoughts for those affected in the QLD and Victorian floods, New Zealand Earthquakes, and now the Japanese disaster is at the forefront of all our thoughts .

Once again what we have seen on TV is simply horrendous, and some of the personal tragedy is just gut wrenching. I feel utterly inadequate in anything I could write on this, and just hope that when we go to write the next quarterly newsletter we have brighter local and international news at the forefront of all our thoughts.

It seems amazing that we now have less than 3 months to go for clients 2011 tax planning.

This quarter's newsletter is looking at a range of issues that may prompt you in to reviewing tax, and personal planning issues prior to 30th June.

Tax Return Deadlines

The deadline of 16 May 2011 for tax return lodgements is fast approaching. If you have not already provided us with your information or made an appointment to see us, please do so soon to ensure we have time to complete your work before the lodgement deadline.

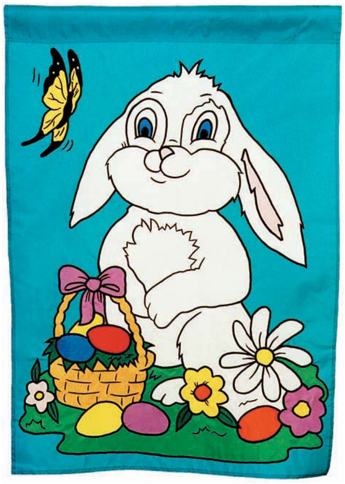
Can We Help?

Prior to making time to see us have a think about how we can be of greatest assistance to you.

Take a look at the Financial Health Check on page 2 with respect to:

- Tax Planning
- Finance Comparison
- Asset Protection
- Business Planning

If we can be of assistance make a time with our office so we can address your tax return and any personal or business planning issues you may wish our input on.



Did you know it is the year of the Rabbit?

Financial Health Check

Every once in a while it pays to have a good look at the basics in respect to our financial position. While everyone's personal goals and financial objectives are different, the following questions cover simple issues commonly encountered.

If you can answer the following questions confidently, you are well on the way to financial independence. If you are not happy with your answers to the questions (if relevant to you), perhaps we can assist you by pointing you in the right direction with professional help.

Budgeting

- Am I finding it difficult to save?
- Do I have too many bills to pay?
- Will I be able to pay for my next holiday?
- Should I be putting something aside for the kids'education?
- Do I have access to funds if I need them?

Mortgages, Loans and Credit Cards

- How long will it take me to pay off my mortgage?
- Am I paying too much interest?
- Am I paying too much in fees?
- Do I have too many loans?
- Do I have a competitive interest rate?

Investments

- Am I saving tax-effectively?
- Do I have a savings plan?
- Am I happy with my financial position?
- Am I am happy with my investment performance?
- Do I understand the risks of my investments?

Taxation

- Am I paying too much tax?

Superannuation

- Is my superannuation performing well?
- Am I getting value for the fees I pay?
- Do I have too many superannuation funds?
- Do I know what happens to my superannuation when I die?
- Do I know if my beneficiaries may be subject to tax on life insurances held through my superannuation?

Risk Planning

- Is my family adequately provided for if I were to die or become permanently disabled?
- Will we be able to meet our expenses and maintain our lifestyle if I had an injury or illness that stopped me from working?
- If one of our children suffered a disability and I had to take extensive time off work, how would I cope financially?
- Have I appointed an Enduring Power of Attorney to deal with my financial affairs if I can no longer do it myself?
- Have I appointed an Enduring Guardian to deal with my medical and lifestyle decisions if I can no longer do it myself?

Estate Planning

- Do I know what will happen to my assets when I die?
- Have I made a Will?
- Has the Will been correctly signed and witnessed?
- Have I married, separated or divorced since the Will was made?
- Does the Will correctly reflect my wishes?
- Have I told somebody where my Will is located?
- Have I disposed of assets that are specifically mentioned in the Will?
- Who will receive my insurance proceeds?
- Have I provided my executor with flexibility in dealing with estate taxation issues?

Retirement

- How much money will I retire on?
- How long will my retirement savings last?
- Can I afford to maintain my lifestyle in retirement?
- Could I qualify for Centrelink benefits?
- Should I be saving more for my retirement?
- Have I decided where I will live when I retire?

Aged Care Accommodation Planning

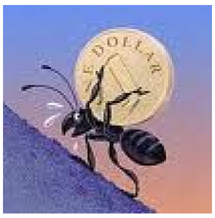
- Do I, or my elderly parents, need ongoing care?
- What level of care is needed, and who will provide that care?
- Will the care be provided at home, or will a place be required in a hostel or nursing home?
- Do I understand the costs, and how to minimize them?
- How will I pay for care for myself, or for my parents?

Business Asset Protection

- Do I understand how my assets are at risk?
- Am I comfortable with the measures I have taken to safeguard my assets?

Business Succession Planning

- What will happen to my business if I can't work?
- When I retire, who will take over my business?
- If I own the business jointly with others, is there a partnership or shareholders agreement in place?
- Does the partnership or shareholders agreement provide an agreed buyout process including how the business is to be valued?
- How will I afford to buy out a partner if required, or how will they pay for my share if I want to leave the business?



Opportunity Knocks

Sometimes it pays to act quickly when opportunity knocks.

You never know when the opportunity will cease to exist or if the rules will change to reduce the benefits available.

Some of the opportunities that have a limited timeframe or have been identified as being subject to further review and potential change include:

1.Superannuation Contribution Caps

Concessional Contributions are contributions where a tax deduction is claimed by an employer or a self-employed person.

In July 2012, the Superannuation Concessional Contribution Caps for people aged 50 or over will be reduced from $50,000 to $25,000.

The Government has announced that the $50,000 limit will continue to apply if your superannuation balance is less than $500,000, but after 10 months they still have not outlined the rules that will apply.

The reduction in the concessional contributions cap may impact on many people aged 50 or over who are:

- salary sacrificing into superannuation;
- employing a Transition to Retirement strategy;
- maximizing contributions to support SMSF borrowing;
- Self-employed

You should (where possible and if suited to your situation) continue to use the maximum $50,000 contribution limit while it exists.

If you are salary packaging into superannuation, you need to ensure you closely monitor the timing of payments into your superannuation fund. The superannuation contribution limits are applied at the time the contribution is received by the fund, **not** at the time it is withheld from your wages.

If a payment is withheld by your employer in June and does not reach your superannuation fund until July, it will be counted against the next year's contributions cap. This may result in your cap ($25,000 if under 50 years of age or $50,000 if 50 or older) being exceeded in the following year.

It is the responsibility of the employee, not the employer, to ensure their contribution limits are not exceeded. A tax rate of 46.5% will apply to the excess contribution in most cases, but the tax rate can be as high as 93% of the excess contribution amount in some circumstances.

2. Borrowing by Self Managed Super Funds (SMSFs)

In September 2007 changes were made to the superannuation laws, enabling superannuation funds to borrow to acquire assets.

These laws were significantly modified in July 2010, placing extra restrictions on the type of assets that can be acquired.

An extensive review of the superannuation system (the Cooper Review) was completed in 2010. The Government has accepted the recommendation of the Cooper Review that the ability of SMSFs to borrow be subject to further review by June 2012.

If you are interested in borrowing to acquire property inside an SMSF, talk to us for specialist advice.

3. Costs slashed in transferring property to SMSFs

The following opportunity is not known to have a time limit, nor have we heard any talk of the concessions being removed.

A relatively new opportunity that may be of interest to small business owners and farmers is the new NSW stamp duty concessions that apply when a property is transferred into a superannuation fund solely to provide retirement benefits for the current property owner(s).

Under the superannuation laws residential property cannot be acquired from a member of the fund (very limited exceptions apply), so the stamp duty concession will generally only be available for business property.

Stamp duty was generally the highest cost of transferring a property into superannuation prior to the July 2010 changes, and often was the major factor in deciding not to change the ownership despite the many other positive benefits.

4. Ensure that your FBT is correct

Each year the Australian Taxation Office (ATO) highlights areas where it will focus its compliance (audit) attention.

During the 2009/2010 FBT year the ATO FBT compliance program raised over $185 million from small to medium enterprises (those with a turnover of $2M to $250M), and a staggering $474 million from micro enterprises (those with a turnover of less than $2M).

There is no surprise that they will be again including FBT as a focus of their 2010/2011 compliance program, and have been granted additional funding to increase their resources in this area.

The FBT year ends on 31 March. If you are salary packaging a car don't forget to record your odometer reading as at 31 March, as your employer may need it for FBT calculations.

GST Compliance

ATO Targeting GST Compliance

The ATO received specific funding in the 2010 Budget to look closely at GST compliance, and will be implementing a dedicated program over the next four years to deal with some specific compliance issues.

They will focus on:

- The timely lodgment of activity statements;
- Verifying GST refund claims;
- Identifying and dealing with those that deliberately avoid GST; and
- Addressing aging GST debts and those who deliberately use debt as a way of avoiding their tax obligations.

They are continuing to expand their ability to identify non-lodgers and detect businesses that overclaim entitlements, deliberately under-report or omit income and use cash transactions to hide income.

They will do this by:

- Using a mix of pre due date SMS and letter reminders around lodgement time;
- Contacting taxpayers that have one or two activity statements overdue;
- Increasing their focus on taxpayers that have multiple activity statement obligations outstanding—this includes telephony based lodgment enforcement, default assessment and in some cases, prosecution action;
- Matching sales and high value transactions to activity statements and using information on asset transactions (for example in the property industry) from state revenue offices, land titles offices and share registries;
- Verifying refunds by phoning or visiting businesses and contacting third parties to substantiate claims;
- Taking firm action with those businesses that don't work with the ATO or meet agreed debt arrangements;
- Comparing businesses to small business benchmarks for their industry to select businesses for audit—businesses that do not report within their range may not be recording or paying tax on all their transactions, especially cash transactions;
- Using benchmarks to calculate default assessments where a business provides insufficient or unreliable information or has not met their lodgment requirements; and
- Using new risk filters and risk models to detect incorrect or fraudulent refund claims on activity statement credits.

For those “choosing to disregard the law and work outside the tax system”, the ATO warns there will be serious consequences including interest, penalties and potential prosecution.

They state that the result of their efforts will be better controls to protect the GST system and an increased capability to detect GST fraud.

In 2009/10, 1,133 individuals or entities (companies, company directors, trustees and partners) were successfully prosecuted for a total of 1,827 breaches of the law for activity statements, mainly for non-lodgment and failure to provide information offences.

Verifying GST refund claims and GST evasion

The ATO will also audit, and where appropriate prosecute or refer to the Director of Public Prosecutions (DPP), taxpayers who:

- Deliberately do not register for GST when they need to;
- Intentionally do not report, or consistently under-report their tax obligations;
- Collude with others to evade or avoid tax obligations;
- Intentionally do not pay their tax obligations;
- Try to obtain a refund to which they are not entitled; or
- Persistently and repeatedly exploit bankruptcy.

Proposed GST Reforms

The Assistant Treasurer has released a number of pieces of draft legislation to make further reforms to the GST rules as part of the Government’s efforts to “simplify and streamline Australia’s tax system”, including:

- Allowing taxpayers to self assess indirect taxes such as the GST and wine equalisation tax (WET)
- More principle-based and simple GST grouping rules that also allow GST grouping of non-operating holding entities.

The above two measures are to apply from 1 July 2011.

Preparing a business for sale

With an increasing number of small business owners reaching retirement age and looking to sell their business, owners should ensure they properly deal with tax considerations or they may end up with a great deal less than they expected.

For example, one tax concession that business owners expect to be able to claim is the small business capital gains tax (CGT) concessions.

However, it is an area that the ATO is paying close attention to at the moment, so its important to take care to ensure that all of its requirements are met; otherwise owners could receive a significant tax bill at the end of the sale.

There are six main questions that business owners should ask themselves to determine the CGT implications on the sale of businesses.

1. Is it the company, or the business's assets, being sold?

Selling the shares in a company, rather than the company selling its business assets, allows shareholders to claim the 50% CGT discount.

Selling shares can also help maximise the benefits of the small business CGT concessions, and possibly even result in the sale of a business being tax-free.

2. Does the business qualify for CGT concessions?

To qualify for the concessions, the business must have either net assets of less than $6 million or combined turnover of less than $2 million (after grouping related entities and individuals).

Generally, individual shareholders in a business must own at least 20% of the company. In addition, the assets sold must be used in a business (the 'active assets' test).

3. Have the grouping rules been applied correctly?

The starting point for grouping is always the individual or entity making the capital gain. Commonly controlled entities (where 40% ownership indicates control) must be included, although the rules for testing control of trusts are fairly complex.

Spouses are not automatically grouped, but can be in certain cases. Some assets are excluded from the $6 million net asset limit, notably the family home and any balances held in super funds.

4. If shares, how are they being sold?

There are some common traps when selling shares.

For instance, discretionary dividend share classes usually make the 20% ownership requirement ineligible, although in some cases this can be managed with careful planning, preferably well ahead of any potential sale.

For more complex structures, business owners need to trace through to the individuals who ultimately control the various companies and other entities.

5. Are the business premises being sold separately?

The small business CGT concessions can be used separately for each sale and sometimes this can help maximise the sale proceeds.

Alternatively, it may be necessary because each is owned by different group entities.

A common strategy is to keep the premises for a certain period and rent them to the new business owners, although there are time limits.

6. What will the money be used for?

For those aged under 55, the small business CGT concessions can usually be maximised by putting some of the sale proceeds into a super fund, but business owners should carefully consider whether this suits their own circumstances.

It may also be helpful to reinvest some of the proceeds into a replacement business or business structure, but there are strict rules on how to do this. It becomes much easier, if you reach 55 before or around the time of the business sale, to just to take the money and run!