
HOLDEN & BOLSTER

Biznews

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Be Prosperous

Repercussions from September 11 have been causing people to focus on preparing for possible death rather than long term planning for their lives. You need to ensure that your insurance policies and wills are up-to-date and that you can locate the policy numbers. This is part of building sound long term financial plans that will bring you prosperity.

The 14 May Budget reflects this outlook as measures announced for superannuation are intended to encourage individuals to provide for their own retirement by making greater contributions to superannuation. So build and be prosperous.

laws in the second half of the year that will aim to ensure greater independence of auditors. The proposals already being discussed would prevent auditors and their close relatives from becoming directors of companies that they also audit.

Pressure is growing for Government to introduce policy for mandatory auditor rotation on the grounds of ensuring actual independence. The link between auditor tenure and associated Director-Auditor relationship has been criticised for impairing this independence. The collapses over the last 12 months of One.Tel, HIH Insurance, Harris Scarfe, Ansett and the NSW Grains Board demonstrate that Auditors must not only *be* truly independent, they must be *seen* to be so.

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Auditors under the microscope

There has been ongoing media debate questioning the integrity of the accounting profession and, in particular, the value and independence of auditors. Ian Campbell, Parliamentary Secretary to the Treasurer, says the Howard Government will introduce new



Ray Beath,
Managing Partner



Around the Tax Traps

First Child Tax Refund – Baby Bonus

The Government has introduced legislation to establish a **First Child Tax Refund**, or Baby Bonus.

The Baby Bonus will provide a tax break of up to \$2,500 a year, each year for a maximum of five years. Mothers who have a child on or after 1 July 2001 are eligible to receive the bonus/tax refund. To ensure that mothers on low incomes, including those who were not in the workforce also benefit from the measure, a minimum annual payment of \$500 will be available for those with taxable incomes of \$25,000 or less in the year that they make their claim.

Where the mother returns to work and the father stays at home, the Baby Bonus can be transferred to the father. Parents returning to work on a part-time basis will still be able to receive the Baby Bonus, with a reduction according to the income they earn.

For example, if a parent returns to work and earns one-third of the income they earned before they had the child, the Baby Bonus will be reduced by one-third.

It will also be available:

- ◆ To parents who adopt a child under 5 years of age on or after 1 July 2001; and
- ◆ For the first child born on or after 1 July 2001 for families which already have children.

Budplan investors lose out

Tax Commissioner, Michael Carmody, has welcomed the Federal Court decision on the Budplan scheme. "Today's decision confirms arrangements typically employed in mass marketed tax schemes in an attempt to artificially create tax deductions do not succeed," Mr Carmody said. "Following today's decision, we will be shortly writing to all mass marketed scheme investors with full details of the settlement offer I announced on 14 February 2002. Under the terms of the settlement offer, most people will pay no penalties or interest; they will be able to claim their actual cash outlays as deductions; and they will get two years of interest free payments.

Ref: ATO Media Release – Nat 02/18

Own use of trading stock by a Partnership

The ATO has released GST Determination GSTD 2002/1: are there GST consequences when a partner in a partnership takes goods held as trading stock for private or domestic use?

This determination confirms that, as a partner is an associate of the partnership, GST consequences will arise when a partner takes goods held as trading stock for the domestic or private use of the partner in his or her individual capacity. The goods will be taxed at market value.

Taxpayer alert: Promoters offering early access to super

The Tax Office has warned superannuation contributors to beware of promoters offering early access to superannuation entitlements to pay for homes, cars, boats and to pay off loans.

Tax Commissioner Michael Carmody said the Tax Office had become aware of promoters offering to arrange early access to superannuation in ways the Tax Office believes breaks the law. "People are being lured into these arrangements through weekend classified ads and the internet," Mr Carmody said. Under one of the arrangements, contributors are asked to agree to roll their super funds into a self-managed fund. The money is invested offshore and most of it is loaned back to the contributor, who pays substantial application and management fees.

Contributors repay interest only until they reach retirement age when the loan must be repaid in full. People face losing their retirement nest-egg if these arrangements collapse. They may also be penalised if they have been found to have contravened the law.

*Partner **David Odewahn** assists in team Tax Training as well as his Business Guidance and Audit roles.*



Direct Debit

The use of direct debits as a way of paying for goods and services has increased significantly in Australia over the last few years.

It's a good way for businesses to achieve more efficient cash flows into their business too. Almost 10% of payments are now made by direct debit. Over the last 3 years the daily average number of direct debit payments has doubled (from 600,000 to 1.2 million) and the number of merchants offering direct debits has more than doubled (from 3,000 to 7,000).
(Source: ASIC)

Small business closes – but interest on the loan is still deductible

The taxpayer carried on business in partnership with her husband from 1967 until his death on 30 December 1992.

On 30 May 1990, they borrowed \$70,000 from the ANZ Bank for the business. The bank also provided them with a \$20,000 overdraft. The loan and the overdraft were secured against the family home. The term of the loan was nominally for ten years but was repayable at any time. The business ceased during the year ended 30 June 1993. At that time the loan balance outstanding was about \$80,000. After her husband's death the taxpayer continued to make loan repayments and claimed deductions for the interest expenses. On 22 May 1996 she borrowed \$74,000 from RAMS to repay the ANZ loan. The taxpayer refinanced the loan because she was able to obtain a lower rate of interest. The taxpayer paid interest to RAMS and claimed deductions.

Decision

The judges stated that the refinancing in May 1996 did not break the nexus between the interest expense and the business. "It is well established that when an original borrowing is refinanced, the new financing takes on the same character as the original. The character of the loan is not changed. All that happened in the present case was that the identity of the borrower changed and the rate of interest was lower. The taxpayer was financially unable to repay the ANZ loan without taking out another, and this she did in order to obtain a more favourable rate of interest. In all respects the new borrowing was referable to the same "occasion" as its predecessor."

ATO gets tough on GST payments

From 1 July 2002, the Tax Office will begin to automatically apply Failure to Lodge ('FTL') penalties for activity statements, annual GST returns and other documents that are lodged after the due date.

For small business this FTL is \$110 for every 28 days that returns are lodged late with a maximum of \$550. For medium and large businesses it is \$220 and \$550 plus the GIC, the general interest charge.

Brian Willett is one of the Partners providing Clients with Business Guidance.



Solicitor's mortgage schemes in high default

ASIC has investigated and reported the problems with unregulated solicitors' mortgage schemes citing default rates of up to 80 per cent. The report claims that the schemes have been high-risk using "incorrect, inappropriate or exaggerated property valuations" and inadequate disclosure to clients. The schemes were popular in rural areas where traditional sources of funds were inadequate and their regulation was tightened in 1999 under the Managed Investments Act. By July 2001 there were some 6,000 run-out loans totalling \$1.3 billion with a 50% default rate and ASIC is forcing the schemes' operators to wind them up to minimise investment loss. ASIC have also brought criminal proceedings against some operators.

Following on from the results, ASIC plans to introduce several protective measures including to ascertain truly independent valuations to underpin the mortgage security values. The plans will also impose more specific disclosure and reporting requirements, more specific lender conduct in regard to borrowers' credit assessment and improved default and loan management policies.

- ◆ Always seek independent advice from your accountant or financial planner before negotiating any finance arrangements.

Why people don't reach their Goals

Stephanie Burns, Australia's leading adult educator has taught literally thousands of individuals a variety of intellectual and physical skills over the last 22 years.

Her research findings illustrate that individuals (and those supporting others in goal achievement - e.g.. teachers, coaches, managers) need to understand that non achievements of goals is a problem of motivation -the factors that affect ability, or willingness, to initiate and sustain action toward a chosen goal.

One of the most interesting findings in my recent study is the difference between those who achieve goals and those who regularly abandon them. What was surprising was that those who succeed in achieving their goals have similar experiences to those who do not succeed. While attempting to achieve their goals - they both experience frustration, boredom, difficulty, discomfort and so on. What is different is their response to these feelings. The successful goal achievers perceive negative experiences as part of the process - they do not carry expectations of this process being easy or necessarily fun. When the going gets tough, successful achievers keep taking action. Those who abandon goals make decisions to alleviate or avoid the negative feelings. This results in diminishing action, which leads ultimately to the abandonment of the goal. Interestingly, alleviating negative emotions and unpleasant feelings is normal - as humans we are biologically predisposed to doing

this. However, this action is problematic for goal achievement.

Emotions and feelings have a direct effect on decision-making - especially decisions related to action. Simply put, what you will do, or not do depends heavily on how you imagine you will feel while engaged in the activity. My research has shown that goal oriented activities; sitting down to study, improving physical performance, or writing a business plan are not emotionally neutral events. Instead, they stimulate a whole range of emotional responses. When it comes to determining the causes for success and/or failure in adults, emotions and feelings must be considered salient factors.

Those who are able to manage their emotions while pursuant of their goal succeed.

It's that Tax Minimisation time again

At this time of year, Clients can become more focused on reducing their tax bills rather than considering their long-term position of maximizing their wealth.

This has become a seasonal sport in our country, as tax is such an emotional issue. However rational thought is needed behind tax minimization, that is, the deduction is only received due to the associated expenses being more than the income received. This is not a dollar for dollar benefit.

It's about investment objectives and your overall plan. For example, the underlying

investment for which you are claiming the deduction, must be competitive and contributing a suitable return, otherwise you're losing ground.

Part IVA in the Tax Legislation is about anti-avoidance measures. As we have cautioned in previous newsletters, if an investment looks "too good to be true", then it probably is, so be careful of agricultural style investments and those promising huge tax relief and always seek advice with regard to your overall position.

The ATO watches for schemes that are tax driven and penalize investors as well as promoters. Two recent cases are the controlling shareholder scheme for superannuation contributions and the tax deductibility of interest on capital protected loans. While there may be a legal argument to legitimize the tax advantage, the ATO ruled that they were invalid.

Talk to us about the legitimate ways of reducing tax bills that can include; salary packaging of cars, salary sacrifice to super or personal deduction where eligible, ownership options to maximise the ability to split income, pre-payment of expenses where the 13 month rule still applies, utilizing capital losses to minimise capital gains and using tax-friendly instruments such as shares that pay franked dividends and using insurance bonds and superannuation to maximise growth rather than income.

Alex Koutzoumis is the Partner responsible for Investment planning and wealth generation.

