FINANCIAL YEAR END 2015

Short Term Policies Offer Some Opportunities

As investors and business owners we are stuck, for the moment, with politically driven short-term fiscal policies. In terms of planning for financial year end there are a few ways to beneficially navigate through the mire. This report covers some key areas of focus relevant to you.

Cloud Computing Has Come Of Age

Whilst tax reform is bogged down, the same can't be said about cloud technology and its beneficial disruption of most industries including our own. Cloud computing / Software as a Service (SAAS) has come of age and the convenience and efficiencies on offer should not be ignored. There are a range of very cost effective solutions available for small business as well as investment portfolio accounting and reporting. We are helping our clients with solutions tailored to their needs. This revolution extends to other generic and industry specific applications which integrate with each other much more readily than desktop solutions of the past.

FOFA Changes Cause Discrimination Against Small Investors

The regulation of financial advice has undergone major changes following the fallout from the GFC on some perhaps not so innocent investors being "serviced" by self-interested and often inexperienced advisors. The new rules have created a subclass of "Retail Investors" that carry with them an enormous compliance burden for the industry. At the same time the cost of this compliance can no longer be hidden within product commissions. The end result is that many advisory firms are focusing on "Wholesale" clients whose assets are certified > $2.5m or income > $250k and who are excluded from Corporations Law protections. Some brokers such as UBS are getting out altogether. For the retail investor it has become more difficult to get cost effective investment advice. The initial choice of advisor is important as the industry has become far less tolerant of tyre kickers.

We hope you find some value in our thoughts and reminders for the approaching financial year end.

TOP 20 YEAR END TAX REMINDERS

Here are our top 20 things to check off in the final days of June.

1. Ensure SMSF Minimum Income Stream Payments Have Been Made to Members

SMSFs paying income streams/pensions to members must ensure minimum required payments have been made by 30th June in order to preserve tax exemption.

Comment: *SMSF pension clients were advised of 2015 pension levels on completion of 2014 tax returns.*

2. Maximise Concessional & Non-Concessional Super Contributions and Avoid Breaching Contribution Caps

Annual contribution caps apply to both concessional and non-concessional superannuation contributions. This makes it all the more important not to miss opportunities to contribute where applicable. Taxation benefits of super are still excellent even allowing for any additional Div.293 tax of up to 15% on high income earners ("income" > $300k). It is the ability to contribute which continues to be restricted. Seek our advice about contributions as there are various requirements for eligibility and deductibility. Contributions must be received by the superannuation fund by 30th June. 2014/2015 contribution caps are as follows:

2015 Contribution Caps	People aged 49 and over on 30 June 2014	People aged 48 and under on 30 June 2014 (general cap)
Concessional	$35,000	$30,000
Non Concessional	$180,000	$180,000
Non-Concessional Maximum 3 Year Bring-Forward (Age < 65)	$540,000	$540,000

TIP: The rules regarding contributions are complicated. It is always best to check with us.

Comment: *Superannuation tax breaks for high income earners and high net worth retirees continue to be a potential Treasury target despite assurances from Tony Abbott. The Labor policy is to add 15% tax onto fund earnings above $75k per member and reduce the income threshold for Div.293 additional 15% contributions tax from $300k to $250k. There is a growing weight of opinion that once a member's balance reached a magic threshold (this ranges from $1.5m - $2.5m in today's dollars) further contributions should be restricted and/or the excess over that amount taxed at a higher rate. At this stage we do not believe these proposals should influence your use of existing concessions, particularly the closer you are to retirement.*

3. Determine If You Qualify As A Small Business Entity (SBE)

SBE's have been the focus of attention recently. If the 2015 Budget measures are passed, this distinction will become more important. SBE Tax lurks:

SBE CONCESSION	*COMMENT*
✓ **Depreciation – Asset write off up to $20k.**	*New from 12/05/15! See below for more on this.*
✓ **Reduced 28.5% income tax rate for SBE companies.**	*New from 2015/2016 – Announced in May Federal Budget. Not passed into law at present.*
✓ **Tax discount up to $1,000 per individual for SBEs that aren't companies.**	*New from 2015/2016 – Again, announced in May Federal Budget but not as yet passed into law. This is unlikely to have been properly thought out. It will be interesting to see the detail in relation to trusts.*
✓ **Trading Stock Concession – No need for stocktake if movement < $5000 in a year based on a reasonable estimate.**	*Most businesses prefer to measure their stock though for some businesses it is a relief, for example, in hospitality.*
✓ **Depreciation – Asset pooling for assets > $20k (ex GST): 15% write off in first year followed by 30% pa on reducing value.**	*This is a fairly rapid write down of assets resulting in deferral of tax. You can buy on the last day of June and still claim a 15% write off.*
✓ **Prepaid Expenses up to 12 months in advance are deductible for SBEs.**	*Non-SBE business taxpayers can only claim very limited categories of prepayments.*
✓ **Two year ATO amendment period – The ATO can only go back two years to amend unless there is fraud or evasion.**	*The usual period is four years. SBEs enjoy a shorter amendment period in line with most individuals.*
✓ **CGT Small Business Concessions – Div.152 allows very generous CGT reductions to SBEs when active business assets are sold.**	*Qualifying as an SBE is one of the pathways into these very generous concessions. The SBE route avoids the $6m net asset means test.*
✓ **GST Cash Basis Accounting – A qualifying SBE may elect to use Cash Basis GST reporting.**	*This can assist GST cash flow for businesses that carry significant net debtors (debtors minus creditors).*

SBE CONCESSION	*COMMENT*
✓ **Option to pay pre-determined fixed quarterly GST instalments with a year-end annual balance up.**	*This concession is sometimes used for businesses that do not carry out a full GST reconciliation quarterly.*

Here's How You Qualify as an SBE:

- You or your relevant entity must carry on a business in the current year
- Your "Aggregated Turnover" is less than $2,000,000:
  - For the previous financial year; or
  - For the current financial year (estimated) provided you satisfied the test in one of the two previous years; or
  - For the current financial year (actual).

Comment: *In most things tax there is always a hard bit. Here it is – "Aggregated Turnover" your annual turnover plus the annual turnover of any business you are connected with or that is your affiliate. In other words the aggregation will bring in another business which is an **"affiliate"** or **"connected"**. These terms have complicated definitions (328-125 ; 328-130) though will mainly bring in businesses in the same family group or with the same owners. If businesses are aggregated transactions between them are not counted in Turnover.*

4. Accelerated Depreciation On Assets Costing Up To $20,000 (Ex GST) for Qualifying SBEs

These write offs, assuming passed into law, offer a compelling tax deferral opportunity which could work well in light of the proposed SBE tax rate reduction / discount from 01/07/15.

Thanks Tony and Joe. Exactly how do I "have a go" with this?	
Who Qualifies?	SBE entities only – see above
When from?	Assets purchased and installed after 12/05/15. Note the law is tabled but not passed as at 14/06/15 – the uncertainty is not ideal!
What assets can I buy?	Assets used in a business including vehicles, furniture, equipment, software. Building improvements including fixtures are not included.
Does it matter if there is some private use of the asset?	No
Does the $20k include GST?	If registered for GST – No. If not registered for GST – Yes
Do I have to aggregate separate assets that form a set?	No
If I spend up to $20k upgrading a qualifying asset I already own does that qualify?	Yes
If I have an existing asset pool and the value falls below $20k can I write that off?	Yes
If I previously elected out of SBE depreciation can that prevent a claim?	No

Comment: *As a tax policy this is certainly not what it's cracked up to be and definitely not the saviour of the economy though a handy earner for JB Hi-Fi. Nevertheless it will fit in well for some businesses with minor capital expenditure to make.*

5. Review Capital Gains & Losses and Consider Timing

If there has been a disposal of an asset (including the takeover of a listed company investment) during the year, steps may be possible now to dramatically reduce the tax impact with techniques such as making deductible superannuation contributions (where eligible), realising other capital losses, or taking advantage of roll-overs. Generally capital gains are triggered on signing or entering a contract. For contracts close to year end the advantage of deferring the gain for a year and allowing more time to deal with the tax consequences is often compelling enough to delay signing.

6. Bring Forward Expenditure

For some taxpayers and businesses bringing forward expenditure prior to 30th June assists by deferring tax for a year. The proposed tax rate reduction / discount for SBEs applies from 01/07/15. It is possible that deferring income also has the benefit of exposing you to a lower tax rate. Possible types of expenditure to bring forward include:

a) **Donations** – Many donations are tax deductible including certain political donations by individuals up to $1,500 pa. You can check deductibility of various organisations here: http://www.abn.business.gov.au/DgrListing.aspx
Tip: *Always obtain a receipt made out to the highest income earner.*

b) **Small Business Expenditure on Plant & Equipment** – The SBE Write Offs mentioned already are essentially a tax deferral, bringing forward depreciation claims.

c) **Repairs** – Incur the expense for repairs prior to 30th June. It is important to consider the distinction between legitimate repairs and initial repairs or improvements to the form or function of the article being repaired.

d) **Medical Expenses** – Medical expenses are generally not tax deductible, though qualifying expenses may be eligible for a rebate (which is now means tested and is being phased out with 2014/2015 being the last year for claims). Generally, the offset will only be available in 2014/2015 year for those taxpayers who received the offset in the immediately preceding year. *Note, medical expenses relating to disability aids, attendant care or aged care are eligible for the offset in 2014/2015 even where you did not receive a medical expenses offset in 2013/2014, and will continue to be eligible for the offset up to 2018/2019*. Entitlement thresholds are as follows:

Family status	Adjusted Taxable Income	What can I claim?
Single	$88,000 or less	20% of net medical expenses over $2,162
	above $88,000	10% of net medical expenses over $5,100
Family	$176,000 or less	20% of net medical expenses over $2,162
	above $176,000	10% of net medical expenses over $5,100

Comment: *Some taxpayers may be able to stay in contention for this by accelerating expenditure into the current year.*

7. Prepaid Expenses

Prepaying up to 12 months of an expense prior to 30th June can assist by deferring tax for up to a year in the following circumstances:

a) Any deductible expenditure <$1,000 (ex GST)

b) Any deductible payment required by a court or government - e.g. registrations.

c) Any payment under a contract for service - e.g. wages.

d) **Qualifying Small Business Entities** - SBEs have no limit on prepayment claims within the 12 month requirement. Popular claims would be rent, interest, insurance, subscriptions, registrations, service contracts, lease payments etc.

e) **Individuals Incurring Non-Business Expenses** - This includes things like interest on rental properties and investment portfolios. ***Important – prepaid interest and other expenses are not an allowable deduction for non-business entities.*** For example a rental property in a trust will not benefit from an interest prepayment.

8. Superannuation Issues

a) Pay Employees' Superannuation Before 30th June

Many businesses pay their compulsory employee superannuation on a monthly or quarterly cycle whereby the payment is not determined and paid until after period end. Superannuation is not deductible unless received by the fund on or before 30th June. If possible to do so within your pay system, look to making your June contribution before 30th June.

b) Notify Intention to Claim Personal Super Contributions

Where you are eligible and intend to claim superannuation paid personally as a tax deduction it is important to formally notify the fund the extent you wish to claim a deduction. This is often overlooked and causes problems. Your fund is required to confirm they have received a valid notice from you. Please retain the notice with your tax records. Most funds have their own form but the standard ATO one is here: https://www.ato.gov.au/Forms/Notice-of-intent-to-claim-or-vary-a-deduction-for-personal-super-contributions/

c) Qualify For The Government Superannuation Co-Contribution

Where you, or your children, are employed or are a sole trader with total assessable income and reportable fringe benefits < $49,488, for every $1 of personal non-concessional superannuation contributions made by 30th June, the government will pay a co-contribution of up to $0.50 (up to a maximum of co-contribution of $500) into your superannuation fund. For more details see: https://www.ato.gov.au/Individuals/Super/In-detail/Contributions/Super-co-contribution/

Tip: *As the co-contribution rate begins to phase out at incomes > $34,488, as income approaches $49,488 it may not be worth it. Important – some funds will not process contributions without having a tax file number.*

9. Formalise Business Bad Debts

Bad debts are deductible only when formally recognised by entry in the accounting records or documented decision. Formalising bad debts prior to 30th June will bring the deduction into the current year.

10. Write Off Old Assets

Lurking in most tax depreciation schedules are assets that have been or should be physically disposed of. Be sure to notify us of any such items in order to reduce tax and tidy up your records. Note this does not apply to SBEs using the general pool provisions though those businesses can now write off their pool if it drops below $20k.

11. Choose Optimal Business Trading Stock Valuation Method

It is legally possible to manipulate a business's tax outcome by choosing among alternative allowable stock valuation methods. It is open to value any item of stock (including share trading stock) for tax purposes, by any of the following methods:

a) Cost;
b) Market Selling Value;
c) Replacement Value;
d) SBEs can use the previous year stock take value in certain circumstances; or
e) A lower value than the above for reasons including obsolescence.

For SBE simplified trading stock rules see:
https://www.ato.gov.au/Business/Small-business-entity-concessions/In-detail/Income-tax/Simplified-trading-stock-rules/

For guidance on valuation of trading stock subject to obsolescence see Taxation Ruling TR 93/23:
http://law.ato.gov.au/atolaw/view.htm?docid=TXR/TR9323/NAT/ATO/00001

Comment: *The ATO have a Taxpayer Alert TA 2009/12 out to warn investors against "arbitrarily re-characterising" certain parcels of investment shares as trading shares so as to create income losses rather than capital losses on sale or trigger losses on unsold parcels using the trading stock valuation options. Ideally investment v trading shares should be held under different HINs under the same entity.*

12. Franked Dividend Distributions

Depending on circumstances of a company and its shareholders, the overall incidence of tax can be reduced by careful timing (and streaming if possible) of franked dividends particularly when marginal tax rates of shareholders are below the company tax rate which is currently 30%.

13. Trust Distributions

Distributions must be determined by trustees prior to 30th June. Each year we assist by sending draft minutes to clients. Added complexity due to the on-going reform of trust tax law and administrative hurdles imposed by the ATO means that special attention must be paid to these minutes. It is important to inform us about out of the ordinary income, capital gains or other transactions.

14. Trustees Must Nominate New Beneficiaries

Where a trustee wants to distribute to a new individual or entity for a year they must now report the beneficiary Tax File Number (TFN) to the ATO within a strict time frame or failing that withhold tax at 46.5% (also within a strict time frame).

Tip: *Children under 18 are exempt from these rules however as soon as they turn 18 it is a good idea to ensure they have a TFN and ensure it is reported. Note that the easiest way for children to obtain a TFN is through school as proof of ID is not required.*

15. Director's Fees and Staff Bonuses

Deductibility of these entitlements can be triggered through payment, or by documenting intention to attribute the expense to the current year. Where the payee is a related party and would not be taxable until a later year, deductibility in the current year must be part of normal governance rather than by special tax arrangement. Note a Taxpayer Alert from the ATO warns against exploiting this: TA 2011/4 - Deductibility of unpaid directors fees (As at 2 June 2011)

16. Remember to Initiate Tax Paperwork

End of financial year is an important opportunity to generate tax reports and paperwork such as internet banking, trading stock reports, stockbroker reports and medical expense summaries from Medicare, private health funds and chemists.

Tip: *Chancellors operate a predominately paperless office. Annual workings for all clients are 100% paperless. We encourage you to submit information in electronic form.*

17. Obtain Tax Depreciation Reports for Newly Acquired Rental Properties

Properties constructed on or after 18/07/85 qualify for depreciation allowances based on construction costs. Because of the difficulty in obtaining this information there is a whole industry within the quantity surveying profession dedicated to production of depreciation reports based on estimated costs. These are apparently acceptable to the ATO, and cost around $800 for houses and units, which is miniscule compared to the tax benefits normally generated.

Tip: *If you are interested BMT have some useful on-line and mobile device calculators to help you estimate available claims:* **http://www.bmtqs.com.au/tax-depreciation-calculator**

18. Avoid Medicare Levy Surcharge by taking out Private Hospital Cover

For those taxpayers without private hospital cover, with adjusted taxable incomes above $90,000 for individuals and $180,000 for couples or families, the Medicare Levy Surcharge will apply. This will be an additional 1% -1.5% tax, depending on your level of income. It applies in any period the individual does not have private health insurance with private patient hospital cover.

Tip: *This can be a real trap if you have an abnormally high year through a capital gain for example. If you don't have cover now it may be too late to do anything about the surcharge for 2015.*

19. Consider the benefits of new online bookkeeping technologies

With the start of a new financial year comes the opportunity to implement a more efficient bookkeeping solution. Cloud accounting and automatic data feeds is causing a revolution for small business, investment entities and self-managed superannuation funds. If you act quickly before year end you can set up data feeds ready for the New Year.

20. Consider Taking Out Tax Audit Insurance

The ATO are gradually becoming more sophisticated and organised in terms of selecting audit targets. They use benchmarking and statistical analysis of tax return data along with data matching with information fed to them from financial institutions and other government agencies. These cover all manner of transactions including shares and property. We have highlighted some areas of known ATO activity in the sections below. These include:

- Small business benchmarking and cash economy
- Work related expenses
- Categorisation of employee v contractor
- Reporting in the building and construction industry
- Data matching interest and dividends
- Employee obligations such as PAYG withholding and superannuation guarantee
- Use of Trusts
- Rental Property Expenses
- Wealthy individuals using complex business structures
- Capital Gains non-disclosure and under-reporting

Responding to ATO audit activity and questionnaires is costly in terms of professional time regardless of the outcome. In order to assist clients in reducing the uncertainly of unexpected fees we offer audit insurance cover through **Audit Shield** of up to $10,000 (or $20,000 for business between $1m and $10m) at relatively low cost. As the policies run annually to 31st July we will shortly be sending out renewals/information to those clients we feel could benefit from the service. If you do not receive information from us by mid-July and would like to obtain further information please contact us.

Please contact us to discuss or clarify any of these points. During our contact with you and in attending to annual compliance work we will normally come across issues such as these and provide valuable feedback in our issues report prepared when finalising that work.

SUPERSTREAM

What is Super Stream?
SuperStream is a government reform aimed at improving the efficiency of the superannuation system by enforcing a standard electronic format for data between employer and fund.

Under SuperStream, employers must make super contributions on behalf of their employees by submitting data and payments electronically in a consistent and simplified manner. Superannuation funds including SMSFs must register to be able to receive this information.

EMPLOYERS:
When do you have to start using SuperStream?
If you have 20 or more employees SuperStream starts from 1 July 2014. From that date, employers will start implementing SuperStream and you have until 30 June 2015 to meet the SuperStream requirements when sending superannuation contributions on behalf of your employees.

If you have 19 or fewer employees SuperStream starts from 1 July 2015. You have until 30 June 2016 to meet the SuperStream requirements when sending superannuation contributions on behalf of your employees.

What are you options for meeting SuperStream?
Employers have options for meeting SuperStream – either using software that conforms to SuperStream; or using a service provider who can meet SuperStream on your behalf. We recommend you start investigating your options now. These options may include:

- Upgrading you payroll software
- Using an outsourced payroll function or other service provider
- Using a commercial clearing house or free Small Business Superannuation Clearing House (19 or fewer employees) – link below:
  https://www.ato.gov.au/Business/Super-for-employers/In-detail/Small-Business-Superannuation-Clearing-House/Using-the-small-business-superannuation-clearing-house/

Your default fund may also have its own electronic channel that can be used during the transitional period up to 30 June 2016. The fund can provide you with details about how to comply with the SuperStream using their preferred facilities.

Do you need to collect additional information to make contributions using SuperStream?
Yes. To support contributions being made using the SuperStream standard employers will need to collect the following information:

- Unique superannuation identifier (USI) for APRA regulated funds
- ABN for SMSF Funds
- Bank account details
- Electronic service address

SELF MANAGED SUPER FUNDS (SMSF'S):
There are a range of options for meeting your SuperStream obligations. Each option involves providing your employer with:

- your SMSF's Australian business number (ABN)
- your SMSF's bank BSB and account number for receipt of contribution payments
- an electronic service address for receipt of a contribution data message.

You need to provide these details to your employer so they can meet their super obligations and to make super contributions electronically into your SMSF.

We note SMSF's that receive related-party super contributions do not need to comply with the super stream measures.

All SMSF's that needed to be registered with an electronic service address have been and this was mailed to relevant trustees in May 2014. Should you require a copy of the correspondence, please contact Allison Durant.

Comment: *It is not easy to see what this system will look like. Hopefully there are real benefits and this is not just a transfer of administration from the ATO to business.*

TAX HOT SPOTS

Following is some coverage of areas that appear to be under the ATO microscope at the moment:

HOTSPOT	COMMENT
Dividend Access Shares: To ATO had previously released Taxpayer Alert 2012/4 to register their concern about schemes where a company issues dividend access shares (class shares) with the view to channelling existing profits to a lower tax environment. The ATO released Tax Determination TD 2014/1 stating that Part IVA may apply to such arrangements. More recently the ATO have been sending detailed questionnaires to companies with multiple share classes.	*Care has always been required here particularly when tax advantages are likely. The main concern of the ATO seems to be Dividend Access Shares established after the profits are earned. It is always a good idea to consider the share structure carefully at the outset as opposed to a late change.*
Non Resident Tax Status of Individuals: The ATO are increasingly on the lookout to overturn claims of tax non-residency by Australians working offshore. In one case involving one of our clients the ATO took an aggressive assess first and ask questions later approach only to later reverse their decision.	*Due to the increasing international mobility of labour and the obvious tax benefits of excluding offshore income from the Australian Tax System there have been a large number of cases coming through on this issue. Many of the cases have been decided against the taxpayer based on the fact that a normality of living had not been established in at the new destination, there were substantial continuing personal or financial ties with Australia, or there was conflicting evidence such as the way immigration cards were completed. It is important to carefully analyse your circumstances before declaring yourself a non-resident for Australian tax purposes.*

HOTSPOT	COMMENT
Employee vs. Contractor: There has been a lot of activity from the ATO here and recent published decisions show horrendous consequences where "contractors" have been held to be employees. At stake are penalties for failure to deduct PAYG tax and pay super. In many cases the penalties can amount to more than the amounts you would have paid. Super paid after the event (SGC) is not deductible. Assessments arising from an audit could easily bring a business down. There are plenty of resources out there to help assess your position such as: https://www.ato.gov.au/Business/Employee-or-contractor/	*Many businesses still are sloppy with this. Here are some tips:* *1. Individuals trading under ABNs are the biggest risk area. Beware that labour only contracts attract compulsory super contributions.* *2. Having an ABN and documenting as a contractor does not alter the reality of an employment relationship.* *3. Contracting with a company, trust or partnership is always a safer bet.* *4. Most audits result from dob-ins. There are now web pages facilitating these dob-ins.*
Trusts Taskforce: An announcement was made in the 2013 Budget that the ATO will receive extra funding to target misuse of trusts. In May the ATO set up their webpage to elaborate. The website lists some particular areas of focus, most of which are suitably vague. The emphasis appears to be on more artificial practices. It is difficult to know if this will impact mainstream use of trusts.	*Hard core tax avoidance using trusts was a target for ATO compliance funding in the 2013 Labor Federal Budget. This relates to high level tax avoidance and not ordinary family, investment and business arrangements. The dedicated ATO Trusts Taskforce Web Page has not been updated since August 2013. As with trust tax reform the focus on trust compliance seems to have waned.*
S100A Trust Reimbursement Agreements: The ATO appear to be dusting off an old anti-avoidance provision with relevance to trusts. Section 100A of ITAA 1936 is an anti-avoidance provision that applies where a beneficiary is presently entitled to a share of trust income, and that present entitlement arose out of a "reimbursement agreement". That is basically where a distribution is declared (but not physically paid) to one party for tax purposes and another party benefits from it in some way. Agreements, arrangements or understandings entered into in the course of "ordinary family or commercial dealing" are specifically excluded from the definition of "agreement" in s 100A(13)	*It is no secret that the ATO do not like trusts. The tax reform of trusts has been in the pipeline for five years and looks to be stuck there. Many trusts declare distributions and apply those funds for other purposes such as loans to other family members or working capital. The ATO have have decided to have a niggle and have in July 2014 set out some of their views on the boundaries of "ordinary family or commercial dealing" in a dedicated web page: Trust taxation – reimbursement agreement. The ATO examples imply that unpaid entitlements lent to another family member or entity must be lent on commercial terms. This is at odds with the way many trusts are run and may warrant reviewing the treatment of unpaid entitlements.*

HOTSPOT	COMMENT
Partnerships of Trusts: With relaxation of rules of various professional bodies over the years one of the operating structures of choice has become a partnership of discretionary trusts. These are increasingly being used by professional firms such as accountants, lawyers and other professions with leverage created by employed professional staff. This structure is very effective on a number of fronts. The ATO however have concerns particularly that the underlying partners are transferring goodwill to these structures without addressing CGT and deflating their wages to achieve high levels of income splitting.	*Where appropriate, careful use of this structure is definitely still warranted. The ATO have merely tried to slow the aggressive use of this structure by professional firms such as accountants and solicitors who have reduced the wages of the 'directors' in order to boost income splitting through their trusts. The Tax alert is here. TA 2013/3 - Purported alienation of income through discretionary trust partners (As at 22 November 2013) The ATO have followed this up with some curious guidelines as to acceptable levels of income splitting – "Assessing the risk: allocation of profits within professional firms" It is important to note that the income splitting is only available to firms with sufficient professional staff leverage.*
Anti-Avoidance Part IVA Widened Retrospectively: The ATO have been losing quite a few cases brought using the Part IVA general anti-avoidance provisions over recent years. Changes **retrospective to 19/11/2012** have been introduced. These strengthen the provisions expending the notion of what a 'tax benefit' is and when it is considered as the dominant purpose of a transaction.	*Part IVA is drawn widely enough to cause much uncertainty. It is always advisable to have sturdy family or business reasons for entering any transactions. Anything arranged purely for tax reasons (other than intended tax concessions) could fall foul.*
Businesses Operating Outside of ATO Benchmarks: The ATO collect and maintain benchmark profitability and expense ratios for a variety of business types. Where a tax return is submitted with data outside of the ATO 'acceptable ranges' it is now fairly routine for audit activity to be triggered.	*Details of the benchmarks used for various industries are available at: https://www.ato.gov.au/Business/Small-business-benchmarks/In-detail/*

ATO AUDIT TARGETS

The Hunt For Dodgy Deductions

The following list contains key areas the ATO have advised they will scrutinise more closely in relation to the 2014/2015 year:

- **Work-related Expenses**: Travel expense for overnight travel; motor vehicle expense for traveling between home and work; work-related use of computers and similar devices (eg iPads).
- **Rental properties**: Claiming deductions for purchase related costs; claiming deductions for properties not genuinely available for rent or rented for part of the year; claiming deductions before the property is available for rent; husbands and wives inappropriately splitting income and expenses for jointly owned properties; and interest deductions claimed on private portion of loans.
- **Cash Economy**: The building and construction industry, and restaurant, café and takeaway industry.
- Employers misclassifying employees as contracting arrangements to avoid employment overheads.

Comment: *We urge our clients whose affairs may be subject to ATO examination to ensure that their compliance is in place and evidenced. Please contact us if you are unsure or require assistance.*

Cash Businesses

In addition, we note that the audit power of the ATO has been increased with the recent confirmation of the legality of the **"asset betterment" and "industry benchmarking"** methods of audit. "Asset betterment" allows the ATO to calculate from a taxpayer's net asset value an expected taxable income level, the onus is then on the taxpayer to explain how they reached their level of assets if their declared income is inconsistent with the ATO's estimate. This audit power is in line with a broader legislative push to attack unexplained wealth. For the most part this power has only be used in cases of extreme variation between the taxpayer and ATO level of taxable incomes.

The second audit power, "industry benchmarking" is much more wide reaching in scope, it essentially allows the ATO to rely on industry benchmark metrics to form the basis of an ATO estimate of a taxpayers actual level of income. For example, the ATO may rely on statistics such as cost of goods sold to sale ratios to estimate what they believe the taxpayer's actual turnover is, and then assess their tax liability based on this estimate.

Comment: *Where relevant, we compare our client's business metrics to ATO benchmarks and will contact you with our concerns if the figures are not within the ATO's industry ranges.*

SIX OF THE BEST TAX SHELTERS

In this day and age there is no such thing really as tax planning for tax planning sake except for some deliberate concessions such as superannuation. Anti-avoidance provisions are drawn so wide that anything done with a significant tax purpose is at risk. The six of the best structures below are more to do with structuring your family and business affairs in a smart way that can attract incidental tax benefits that occur mainly due to inequities and inefficiencies in the tax system which are hardly the fault of taxpayers.

1. Division 152 Small Business CGT Concessions

Capital Gains Tax on active business assets such as business real estate and goodwill can be eliminated or substantially reduced with these concessions. In addition they can lead to an additional lifetime non-concessional superannuation cap of up to $1.355m (2014/2015) per person. For all but the most straightforward cases the rules are complex and there are many hoops to jump through.

2. Superannuation

Superannuation and an investment structure takes a lot of beating in terms of tax efficiency. Despite getting much attention in the press it is unlikely that the tax effectiveness will be lost, particularly for member balances seen as reasonable.

3. Testamentary Trusts

High net worth individuals and families all need to consider incorporating testamentary discretionary trusts (TDTs) into their wills. Not only can they assist in protecting family wealth and maintain it within bloodlines, but also the tax impact of assets bequeathed can be spread around and penalty tax rates do not apply to minors in receipt of TDT income.

4. Discretionary Trusts

Discretionary trusts are the legal structure hated by the ATO and anyone that is not involved with one. Over recent years authorities have overreached in terms of compliance requirements for trusts and watered down their asset protection qualities by attempting to look through them. There have been promises to review the outdated tax law that applies to them but that process always ends up on the back burner. There is an increased compliance burden for trusts these days however in the right circumstances they are a very flexible and tax effective structure.

5. Bucket Companies

The term "bucket company" is accounting slang for a company that receives distributions of trust income and is accordingly taxed on these distributions at the rate of 30%. Use of companies in this way is institutionalised within the tax/accounting world and readily acknowledged by the ATO. The tax effect of distributing to a bucket company is a deferral of tax that might otherwise be borne at a higher rate in individuals hands. The days of bucket companies never seeing a cent of the distributions allocated to them are over courtesy of Division 7A. In reality the money has to find its way into the company otherwise it becomes unmanageable, however in many circumstances this creates a very useful family "bank", investment or succession structure, which unlike a trust is not limited to 80 years of life.

6. Partnerships of Discretionary Trusts

In the right situation such as some businesses, professional practices, and property ventures there is a lot to be said for this structure. It tends to provide the ultimate flexibility, access to Small Business CGT Concessions where available, help minimise Payroll Tax and can spread the base of land for Land Tax. The downside is that entry and exit of participants lacks the convenience and simplicity offered by a company structure.

LESSONS OF A CLOUD SCEPTIC

A Year Is An Eternity In Cloud Space

The rate of development and take up of cloud technology in our industry is phenomenal. There are two products that started as ground up cloud offerings and have virtually taken over the market in a very short space of time. These are Xero and Class Super. Not only do these products offer amazing functionality and efficiency, each have established a community facilitating interaction between users, suppliers such as accountants and SMSF administrators, and complementary data and software providers. This is very powerful and guarantees dominance in the market place.

Xero

Xero is not universally appropriate for every business or entity. Chancellors still cover the offerings of the other market players such as MYOB and Reckon and recommend solutions based on what is best in the circumstances. We are a silver partner with Xero. That gives us subscription discounts which we pass on in full to clients. All of our accounting staff are Xero accredited. Each year we give due consideration to a client's situation and recommend a change where we think it would be of benefit overall.

Class Super

The rate of progress of Class has surprised us. A few years ago we reviewed it as an administration platform for our Self-Managed Superannuation funds and decided that it lacked flexibility. We recently revisited that and after road testing it on a Chancellor fund we have begun transferring all the funds we administer onto Class from BGL. Class will provide us with cost efficiencies along with the ability for clients to log into their own fund and be able to monitor investments and fund performance real time. This is because Class gets daily data feeds from banks, brokers, market data and other financial institutions. Class receives transactional security based Capital Gains Tax information and can do time consuming CGT calculations and analysis automatically. We look forward to the change to Class. Given we have commenced implementation of this in June please assist us in this endeavour by quickly returning paperwork to initiate data feeds.

Class Investment Reporter

This product is also very exciting. It provides all the investment accounting and reporting benefits of Class Super to non-superannuation investment entities with general ledger included. Again we are very keen to kick this off immediately for appropriate clients and look forward to your assistance to get it up and running.

KEY TAX RATES

Attached to this newsletter is a table of tax rates and information that you may find useful and/or interesting. It outlines a selection of key rates for the last financial year (2013/2014), the current financial year (2014/2015), and the proposed rates for coming financial year (2015/2016).

KEY RATES

KEY RATES	2013-14		2014-15		2015-16 (Current proposals)	
Personal Income Tax Rates (Residents)	Threshold	Rate	Threshold	Rate	Threshold	Rate
1st rate	$18,201	19.00%	$18,201	19.00%	$18,201	19.00%
2nd rate	$37,001	32.50%	$37,001	32.50%	$37,001	32.50%
3rd rate	$80,001	37.00%	$80,001	37.00%	$80,001	37.00%
4th rate (* includes temporary budget repair levy until 1/7/17)	$180,001	45.00%	$180,001	47%*	$180,001	47.00%*
Medicare Levy (ex surcharge)		1.50%		2.00%		2.00%
Resident Minor Tax Rates	Threshold	Rate	Threshold	Rate	Threshold	Rate
1st rate	$417	66.00%	$417	66.00%	$417	66.00%
2nd rate	$1,308	45% on entire amount	$1,308	45% on entire amount	$1,308	45% on entire amount
3rd rate (* includes temporary budget repair levy until 1/7/17)	$180,001	45% on entire amount	$180,001	45% on entire amount + 2% budget levy* on excess over $180k	$180,001	45% on entire amount + 2% budget levy* on excess over $180k
Medicare Levy (ex surcharge)		1.50%		2.00%		2.00%
Non-Resident Tax Rates (Non-Minor)	Threshold	Rate	Threshold	Rate	Threshold	Rate
1st rate	$0	32.50%	$0	32.50%	$0	32.50%
2nd rate	$80,000	37.00%	$80,000	37.00%	$80,000	37.00%
3rd rate (* includes temporary budget repair levy until 1/7/17)	$180,001	45.00%	$180,001	47.00%*	$180,001	47.00%*
Medicare Levy		0.00%		0.00%		0.00%
Company Tax Rate						
All Companies	30%		30%		small business enity 28.5% - other 30%	
Super Fund Tax Rates						
Concessional Contributions	15%		15%		15%	
Div 293 Contributions (addition tax applies where "income" over $300k)	15%		15%		15%	
Income (accumulation phase)	15%		15%		15%	
Exempt Income (pension phase)	0%		0%		0%	
Superannuation Contribution Thresholds						
Concessional - under aged 50 (***60 in 2014)	$25,000 ***		$30,000		$30,000	
Concessional - over aged 50 (***60 in 2014)	$35,000 ***		$35,000		$35,000	
Non-Concessional	$150,000		$180,000		$180,000	
Draw Down Limits						
55 -64	4%		4%		4%	
65 -74	5%		5%		5%	
75 -79	6%		6%		6%	
80 -84	7%		7%		7%	
85 -89	9%		9%		9%	
90 -94	11%		11%		11%	
95+	14%		14%		14%	
Assets Test Thresholds	20/3/13		20/03/14		Current 20/3/15 - 31/12/16	
Homeowners	**Single**	**Couple (combined)**	**Single**	**Couple (combined)**	**Single**	**Couple (combined)**
Full pension (assets at or below)	$192,500	$273,000	$196,750	$279,000	$202,000	$286,500
No pension (assets at or above)	$731,500	$1,086,000	$758,750	$1,126,500	$775,500	$1,151,500
Non-Homeowners						
Full pension (assets at or below)	$332,000	$412,500	$339,250	$421,500	$348,500	$433,000
No pension (assets at or above)	$871,000	$1,225,500	$901,250	$1,269,000	$922,000	$1,298,000
ATO Statistics	2011		2012		2013	
Number of Trusts	729,620		753,730		780,105	
Number of Self Managed Superannuation Funds	391,165		424,360		448,225	