CPA Australia's tax tips for year ended 30 June 2011

These year end tax tips are designed to provide employees, investors and businesses with a headline list of key issues that they should consider in preparing their income tax returns for the year ended 30 June 2011. The list is not exhaustive and you should always speak to a CPA registered tax agent about your specific circumstances.

Business

1. Reviewing salary sacrifice arrangements

Employers who have employees on salary sacrifice arrangements may wish to review packaging arrangements where employees have foregone gross salary to obtain a packaged car as proposed new fringe benefits tax (FBT) rules will apply to packaged cars acquired on or after 10 May 2011.

Essentially, a 20% flat FBT rate will apply to new packaged cars which will be phased-in over four years for cars that travel more than 25,000 kilometres annually. For those employees who use the vehicle for a significant amount of work-related travel the tax savings associated with packaging the car are likely to significantly decrease. Hence, they may wish to use log books and have their car fringe benefit taxed under the operating cost method in order to increase their tax savings. Alternatively, where such travel is predominantly private in nature employees travelling in excess of 25,000 kilometres may wish to review the tax efficiency of these arrangements in acquiring a new packaged car. The existing concessional FBT rates will continue to apply for packaged cars acquired before 10 May 2011.

Conversely, employees which travel less than 25,000 kilometres may now wish to consider packaging a new car as there are now potential tax savings available as the taxable value of their car fringe benefit has decreased following the introduction of the 20% flat FBT rate.

2. Streaming of trust capital gains and franked dividends

It is proposed that the ability of trustee to income split capital gains and franked distributions amongst family members will be subject to new complex rules from 1 July 2010.

Broadly, trustees of discretionary trusts may be able to differentially stream capital gains and franked dividends (and related franking credits) to beneficiaries for the year ended 30 June 2011 under proposed exposure draft legislation issued by the Assistant Treasurer on 13 April 2011.

Such gains and dividends can only be streamed to beneficiaries who are made 'specifically entitled' to such amounts as permitted by the trust deed, and where such amounts are separately recorded in the trust's financial accounts. Where no so specific entitlement exists the relevant capital gain or franked distribution will be assessed to presently entitled beneficiaries of the discretionary trust in proportion to their share of trust income thereby preventing any income splitting. As a corollary beneficiaries can no longer stream other categories of income (e.g. interest income, foreign source income) effective from 1 July 2010.

Taxpayers should consult their CPA registered tax agent regarding complying with these new rules.

3. Complying with Division 7A

The ATO is now highly vigilant in cracking down on businesses which use either the funds or assets of their private company for private purposes.

Any personal expenses paid by a private company in respect of a shareholder or associate (e.g. family member) of the company, or any funds withdrawn from the private company by that shareholder as a loan, may be potentially treated as a deemed dividend to the shareholder. Where such a payment or loan has not been repaid by the earlier of the actual date of lodgement or due date of lodgement of the private company's tax return for the year ended 30 June 2011, a deemed dividend can only typically be avoided if a complying loan agreement to repay the payment or loan is put in place.

Furthermore, a deemed dividend can also arise where a private company provides a company owned asset such as real estate, a car or a yacht for the private use of the shareholder or associate at either a free or discounted rate. This liability will be triggered from the time the asset is first privately used by that person, and covers all days during the year in which the asset is not available for use by the company.

The amount of the dividend is the market value of such use less any consideration paid. However, the deemed dividend will not arise if the annual value of the benefits received was less than $300, the private usage would otherwise have been allowable as a once-only deduction or where certain dwellings are provided for private use by the company.

You may wish to consult your CPA registered tax agent if you believe such a deemed dividend has arisen for the year ended 30 June 2011.

4. New rules for unpaid present entitlements and trusts

From a practical perspective any distribution by a trust to a private company beneficiary which remains unpaid may be regarded as a lump sum deemed dividend in the hands of the trustee of the trust which may create a range of adverse outcomes. Trustees and beneficiaries should consult their CPA registered tax agent on the full ramifications of these complex rules if applicable.

The ATO has issued Taxation Ruling TR2010/3 which sets out their view that an unpaid present entitlement (UPE) owed by a trust to a related private company beneficiary which arises on or after 16 December 2009 will be regarded as a deemed loan where the trustee and the company are controlled by the same family group. In these circumstances the associated trust may be taken to have derived a deemed dividend for the amount of the unpaid trust distribution if the requirements of the above ruling are satisfied.

For a UPE arising on or after 1 July 2010 the associated trust becomes presently entitled to the UPE in the year ended 30 June 2011 where that loan is regarded as the provision of financial accommodation or the making of an in-substance loan.

In these circumstances any deemed dividend can only be legitimately avoided if the UPE is paid out, or a complying loan agreement is entered into, or the funds are held on a sub-trust for the sole benefit of the private company beneficiary who receives an 'agreed return' on the UPE as well as ultimately a repayment of the principal funds representing the UPE. Broadly, such a sub-trust will arise where the funds representing the UPE are invested in specific assets where any related income or capital gains are held on trust for the private company, or where funds are repaid over a 7 or 10 year term with annual interest payable at stipulated rates.

5. Bad debts must be written off

Businesses can only obtain income tax deductions for bad debts where various conditions are met.

Essentially, the deduction will only be available where the debt is still in existence at the time it is written off. Thus, if the debt is forgiven or compromised before it is written off as bad in the accounts no deduction will be available. Moreover, the debt must be effectively irrecoverable and written off in the accounts as bad in the year in which the deduction is claimed. Furthermore, the amount representing the bad debt must have been previously brought to account as assessable income or lent in the ordinary course of carrying on a money-lending business.

Certain additional requirements must be met where the creditor is either a company or certain trusts.

6. Final year of temporary investment allowance

The ability of businesses to claim an extra deduction for the temporary investment allowance effectively ceases for the year ended 30 June 2011.

Where the taxpayer is a small business entity an additional 50 per cent investment allowance deduction is available if the entity has committed to invest in a new tangible assets between 13 December 2008 and 31 December 2009, and the asset is first used or installed ready for use by 31 December 2010. Thus, if such an entity acquires an eligible asset for $20,000 on 20 December 2009 which is first installed read for use on 30 December 2010 the entity will be entitled to an extra $10,000 deduction being 50 per cent the cost of the new asset in the entity's return for the year ended 30 June 2011.

7. Claiming the entrepreneur's tax offset

Broadly, a 25 per cent entrepreneur's tax offset is available for the year ended 30 June 2011 where an entity elects to enter the small business entity system and that entity's business income for the year does not exceed $50,000. The rebate reduces for every dollar on business income in excess of $50,000 and phases out completely where income exceeds $75,000.

In addition, the offset is now also means tested and will phase out at 20 cents for every $1 of income over specified thresholds of adjusted taxable income being $70,000 for single taxpayers and $120,000 for families. Broadly, adjusted taxable income is the total of taxable income, reportable fringe benefits total, reportable superannuation contributions and total net investment loss for the 2010/11 tax year.

It is currently proposed that the above offset will be abolished effective from 1 July 2012.

Source: CPA Australia
23 May 2011