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Year End Planning Key Issues

With the end of financial year fast approaching, now is a good time to think about opportunities and risks that should be addressed before **30th June 2017.**

To help you with this, we have included some of the key issues that clients should be thinking about pre year end. If you would like to discuss any of these, or other things that are on your radar, don't hesitate to contact your local Williams Hall Chadwick team.

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Major items for consideration are outlined below, and a more detailed list attached at the end of this newsletter.

Item	Details	Why now?
Pre year end expenditure	Consider whether any expenditure should be brought forward prior to 30th June.	• General year end planning • For those businesses with <$25m turnover, your tax rate will drop to 27.5% for the 2018, meaning deductions will be available at the 30% rate up to 30th June 2017 and 27.5% thereafter. For those with turnover of less than $10m you should already be on 27.5% and for those with turnover under $50m, your turn will arise in the 2019 tax year.
Pre year end invoicing	Even if you don't have the cash flow for pre-year end expenditure, have all your suppliers invoiced you so that you can accrue and deduct for services already supplied?	• General year end planning • For those businesses with <$25m turnover, your tax rate will drop to 27.5% for the 2018, meaning deductions will be available at the 30% rate up to 30th June 2017 and 27.5% thereafter. For those with turnover of less than $10m you should already be on 27.5% and for those with turnover under $50m, your turn will arise in the 2019 tax year.
Employee Bonus Plans	Did you know that deductions are **NOT** available for accrued bonuses unless all steps have been taken prior to year-end for employees to legally qualify for payment of the bonus by year end.	• If your bonus plan is based on financial results for the year ended 30th June and you have already met those targets, if board approval or other processes are required to create the legal liability to pay the bonus, consider whether these should occur before 30th June to make sure your bonus accrual is deductible in the 2017 year.

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Tax residency	The ATO has changed its views on when a company is tax resident in Australia. They have tightened their view on when central management and control is in Australia, meaning that if your company was incorporated outside Australia and board meetings are held outside Australia, but business is conducted here, the company may still be tax resident in Australia and have payment and filing obligations.	• If your company's AGM or other management activities are coming up pre year end, talk to us about what is required to ensure that the tax residency of your company is where you think it is.
Pre Year End Board initiatives	Have you considered all of the resolutions that the board should be making pre year end. These can include solvency declarations and reporting decisions and in the case of trustee companies, determining distributable income and which beneficiaries should receive distributions.	• Good housekeeping with contemporaneous documentation. • Some of these are required by ASIC pre year end to prevent audited accounts being required.
Pre Year End Trustee initiatives	Have you considered all of the resolutions that your trust's trustee should be making pre year end. These can include determining distributable income and which beneficiaries should receive distributions. If you are intending to distribute to a corporate beneficiary, has that legal entity been established yet?	• The ATO has withdrawn its administrative concession allowing trustees to determine distributable income and distributions to beneficiaries in the 2 months after year end. Based on most trust deeds, this means decisions need to be made pre year end. • We are seeing some trust deeds that don't allow for distributions to corporate beneficiaries or other unnominated beneficiaries. These should be reviewed and updated pre year end. • If corporate beneficiaries are not established before year end, they are unable to be nominated as beneficiaries.

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Pay franked dividends if benefits of franking reduced	Franking credits will be limited to the tax rate payable by entity making payment	• Franking credits attached to dividents may reduce to 27.5% from 30% notwithstand tax paid to give rise to credit was at 30%
Small business entity asset acquisitions < $20,000	Immediate deduction for small business entities that acquire assets prior to year end if asset is less than $20,000	• Small Business Entities with turnover of less than $10M can obtain immediate deduction of asset acquired before 30th June 2017

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Superannuation related matters BEFORE 30th June 2017		
Concessional Contributions	Maximise your contributions for FY2017	• This is the last chance to put in concessional contributions before they reduce to only $25,000 next year. Down from $30,000 and $35,000 for the under 50 year olds ad over 50 years old respectively.
Non Concessional Contributions	Maximise your Non Concessional Contributions	• This is the last chance to put in $180,000 or $540,000 utilising the bring forward strategy. Next year this reduces to $100,000 and $300,000 respectively, provided your member balance is below $1.6M.
Superannuation Pension Account	Maximise your Pension balance for FY2017	• The FY2017 is the last year that you will not have a limit on the tax free pension assets. By now you should have consolidated whatever you can into the pension environment to take advantage of the tax free earnings for this financial year.
Superannuation Pension Drawings	Draw at least the minimum pension	• By now you will know the minimum pension you need to draw. Make sure you include any new pension started this year. • Ensure that at least the minimum drawing has been made well before 30th June 2017.

Balancing member balances	Try to achieve a balance between member benefits, particularly if you can target $1.6M each	• With new restrictions of $1.6M on a Transfer Balance Cap and the Non Concessional Contributions if your total superannuation asset is over $1,600,000 it may be beneficial to 'balance' the member benefits. This could be achieved by withdrawing from one account and depositing back into the other member account. This all needs to be completed before 30th June 2017.
Death Benefit Pensions	If you are receiving a superannuation reversionary pension following a recent death	• You need to seek advice in regard to how this is to be treated after 1st July 2017. • This is **URGENT** and may require changes to your SMSF Trust Deed.
Trust Deed and Estate Planning	Schedule a review of your Trust Deed and Binding Death Benefit Nominations	• There will most likely be benefits in a Reversionary pension compared to a non-Lapsing nominations for those you intend to leave your superannuation member benefits. • This should be addressed with your professional adviser as soon as possible.

Plan for the Superannuation changes coming - 1st July 2107		
New Super rules from 1st July 2017	Have you caught up on what these are and how they may impact your financial decisions?	• There may be something you can do prior to 30th June 2017 to minimise the impact of these changes on your account.
Transfer Balance Cap	This is a new concept that needs to be understood for the future	• The Transfer Balance Cap is a new 'thing' introduced by the government to restrict the amount of money you can have in a tax free environment. It is a complex piece of legislation. Superannuation owners are well advised to learn about this new restriction.
Limit to making Non Concessional Contributions	No Non Concessional Contributions for members who have a combined superannuation balance of $1,600,000 or more	• From 1st July 2017 if you have more than $1,600,000 in your combined superannuation assets you will not be able to contribute any more Non Concessional Contributions.
Limited Recourse Borrowing Arrangement (LRBA) trap	Connected to the limit of a combined member balance the borrowing in a SMSF will be counted to the member balance	• If your SMSF has a Limited Recourse Borrowing Arrangement the circumstances will need to be reviewed before 30th June as this may impact on your ability to contribute to Superannuation after 1st July 2017.

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Individuals

- **Maximising allowable deductions**

  Bringing forward deductions before 30th June 2017 will reduce your assessable income for this financial year and may include:

  » Work related expenses;

  » Professional memberships;

  » Donations to deductible gift recipients;

  » Income protection insurance.

- **Investments**

  » Rental property income and expenses – ensure all payments are made before year-end and that you retain records of all income and expenses relating to the property during the 2017 income year.

  » If you have the available cash, consider prepaying interest for the 2018 income year on your rental property (or interest in relation to loans used to acquire other income-producing assets);

  » Investment property depreciation – if you own a rental property and have not already done so, please arrange for a quantity surveyor to prepare a Property Depreciation Report to:

  - allow you to claim the maximum amount of depreciation and building write-off deductions available (particularly under the diminishing value method, where deductions are higher up-front then taper off over time compared to the prime cost method which provides for an equal deduction over the effective life of the relevant asset); and

  - allow you to claim the cost of obtaining the Property Depreciation Report itself.

- **Defer Investment Income & Capital Gains**

  » Capital gains are determined on the date the relevant contract is entered into. If you are considering selling shares, business or property you may wish to bring forward or delay signing the contract until the new financial year, depending on whether you are seeking to crystallise a loss before year end or delay a capital gain.

  » The ATO has a Public Ruling relating to "wash sales". The Ruling considers that the ATO can apply Part IVA anti-avoidance provisions to cancel offsets and apply penalties.

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- **Superannuation**
  - » Salary sacrificing into superannuation for the year ended 30 June 2017 – the concessional tax deductible superannuation threshold remains at $30,000 for individuals less than 50 years and for individuals aged 50 or over (on 30 June 2015) the threshold is $35,000. Take advantage of these increased rates to save on tax and boost your retirement savings.
  - » From 1 July 2017, the concessional contributions cap will reduce to $25,000 per annum for everyone regardless of age. You should consider taking advantage of the current higher concessional cap of $30,000 (under age 50) and $35,000 (age 50 and over) in the 2015-16 and 2016-17 financial years.
- **Individuals in business**
  - » Income and deductions that are incurred before 30 June 2017 will be included in this income year.
  - » Are you able to claim a personal superannuation deduction? Have you received less than 10% of your income from an employer that provides superannuation support? You may be eligible to claim a deduction for a personal superannuation deduction. You must notify the trustee of your fund in writing of your intention to claim a deduction. Please discuss this with your Hall Chadwick adviser.
  - » If you use a motor vehicle for work-related purposes, it is important to monitor your work-related kms travelled and have your logbook up-to-date to ensure you can claim the highest deduction available. Note that the 12% of the cost of the car and one-third of actual expenses method of claiming motor vehicles deductions no longer apply.
  - » Accelerated depreciation - Small Business Entities with aggregated turnover of less than $10 million could purchase assets up to the value of $20,000 and claim an instant tax deduction for them. This measure has been extended to 30 June 2018, after which the threshold reverts from $20,000 to $1,000. There are some additional requirements for this incentive. Please discuss this with your Hall Chadwick adviser.
- **Superannuation – personal deductions**
  - » We recommend you check that the total of your personal contributions (in respect of which you intend to claim a tax deduction) and any employer contributions during the income year do not exceed $30,000 for individuals under 50 years of age on 30 June 2015 or $35,000 for all other individuals. Concessional contributions above these caps are assessed to the individual at the marginal tax rate, and also incur an interest charge from the ATO.

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Company / Trust / Partnerships

- **Defer income**
  - » Where practical for Small Business Entities and depending on whether it returns on a cash or accruals basis, you may wish to consider deferring the issue of invoices and/or the receipt of cash until after 30 June 2017. Please note that the ATO will generally require you to pay tax on income that you have either received or become entitled to due to the completion of work. The reduction to the company tax rate to 27.5%, and increase in the turnover threshold to which the rate applies, the deferral of income may be useful if you are able to defer the derivation of income.
  - » From 1 July 2016, small business companies will have the maximum franking credit rate attached to franked dividends reduced to 27.5%, the same as the rate of tax they pay on income.
- **Maximise your deductions**
  - » Review inventory and assets schedules for obsolete items and items that may be scrapped. Pay professional fees or other employment or business related deductions prior to 30 June 2017.
- **Private Company ("Division 7A") Loans**
  - » Business owners who have borrowed funds from their company in previous income years and put the loan under a complying loan agreement must ensure that the appropriate minimum payments of principal and interest repayments (ATO Benchmark interest rate for 2016-17 – 5.4%) are paid by 30 June 2017. Note, if business owners borrowed funds from the company during 2017, then they must ensure that it is either repaid in full or put under a complying loan agreement by the relevant date (that is, generally the due date for the lodgement of the relevant company's tax return for 2017).
  - » Where a Division 7A loan has been made, considering entering into a Division 7A qualifying loan agreement that will be able to cover all future Division 7A loans to shareholders or their associates.
- **Prepayments**
  - » Generally, businesses must deduct expenses of $1,000 or more over the relevant period to which they relate. However, if the entity is a small business entity (generally, aggregated turnover <$10m), they may prepay up to 12 months' worth of expenses and claim the full amount in the current year.
  - » Taxpayers that are not in business may also prepay up to 12 months' of deductible expenses, including interest on investment loans, insurances and work related subscriptions.

- **Year End Stock Take / Work in Progress**
  - » If applicable, you need to prepare a detailed Stock Take and/or Work in Progress listing as at 30 June 2017. Review your listing and write-off any obsolete or worthless stock items.
  - » If taxpayer is a small business entity, stock valuation is not required if the difference between opening and estimated closing value of trading stock for the year is $5,000 or less.
- **Write-off Bad Debts**
  - » Review your Trade Debtors listing and write off all Bad Debts before 30 June 2017. Prepare a minute of a Directors' meeting, listing each Bad Debt, as evidence that these amounts were actually written off prior to year-end.
  - » Bad debts may not be deductible if there has been a change in ownership or control of a company or trust (unless company passes the same business test).
- **Employee Superannuation Payments**
  - » The current superannuation guarantee charge rate is 9.5% of an employee's ordinary time earnings.
  - » To claim a tax deduction in the 2017 financial year, you need to ensure that your employee superannuation payments have cleared your business bank account by 30 June 2017.
  - » For any last minute superannuation payments, we recommend that you arrange for a bank cheque made payable to your employee super fund prior to 30 June 2017.
- **GST/ PAYG Instalments and PAYG withholding**
  - » Please ensure all your business activity statements are up to date. If you need any assistance, please contact your Hall Chadwick adviser.
- **Dividends**
  - » You may like to pay dividends on or before 30 June 2017 in order to ensure that the dividend income is derived by the relevant shareholders during the 2017 income year (particularly where shareholders, or beneficiaries of a family trust that is a shareholder of a company have losses or are otherwise on low tax rates so as to minimise the overall tax payable). Note, however, the Commissioner's views in relation to 'reimbursement agreements', that is, where trustees make a tax distribution to a low rate beneficiary as part of an arrangement whereby the actual benefit is received by a higher rate beneficiary. In these circumstances, the Commissioner may seek to assess the trustee at the top marginal tax rate.
  - » Changes to the company tax rates now means that franking credits attached to franked dividends are limited to the corporate tax rate applicable to the entity paying the dividend. This means that entities that now have access to the 27.5% tax rate will only be able to frank dividends at the franking rate of 27.5%, irrespective of whether the tax rate applicable to the profits generating the franking credit was at the 30% rate.

- **Trustee resolutions**
  - » Ensure that the Trustee Resolutions are prepared and signed **before** 30 June 2017 for all Discretionary ("Family") Trusts. Most trust deeds (and the tax law) generally require such discretion to be exercised by 30 June each year and in the absence of such exercise, either:
    - default beneficiaries under the trust will be assessable in relevant proportions (and this may not be tax effective); or
    - in the absence of default beneficiaries, the trustee will be assessed at the top marginal tax rate.
- **Trust to trust distributions**
  - » Trusts are generally subject to carry forward loss rules, including the 'income injection' test. However, if trusts are within a 'family group', trust income from one trust may be 'injected' into a loss trust so as to soak up the losses and reduce assessable income – have you made appropriate Family Trust Elections and/or Interposed Entity Elections?
  - » Trust deeds should be regularly reviewed to confirm how it interacts with the various tax requirements, some of which are mentioned above.

Superannuation funds

- Superannuation Contribution Caps for the 2016 financial year:

Type of Super contribution	Contribution Cap
Concessional (deductible)	• $30,000 for individuals aged less than 50 years • $35,000 for individuals over 50 years;
Non-concessional (non-deductible)	$180,000 (or $540,000 if the 3 year bring forward rule applies) only available for contributions made before 30 June 2017, after which new rules and lower thresholds apply

- If you are 55 years of age or over, you can commence a transition to retirement pension. Transition to retirement means that you are able to contribute to your fund and withdraw a maximum pension amount of 10% of your member balance at the beginning of the income year (or when you commence the pension).

- If you have started a pension, you need to make sure you meet the minimum annual pension requirement (4% of the balance at the start of the income year for individuals under 65 years of age, 5% for individuals aged from 65-74 , 6% for individuals aged from 75-79 and 7% for individuals aged 80-84);
- The tax exempt status of income from assets supporting transition to retirement (TTR) income streams will be removed from 1 July 2017. Earnings to support the TTR income stream will be taxed at 15%.
- If you make a personal super contribution using the capital proceeds received from the sale of certain small business assets, you could consider whether to apply the small business capital gains tax cap election. For the 2017 income year, the lifetime CGT cap is $1.415 million. These contributions are excluded from being counted towards the non-concessional contributions cap.
- Division 293:
  - Individuals with adjusted taxable income over $300,000 will have additional tax of 15% charged on the taxable super contributions above this threshold. Division 293 tax is payable on the excess over the threshold ($300,000) or on the taxable super contributions whichever is less.
  - From 1 July 2017, an additional 15% contributions tax payable by high income earners with income exceeding $300,000 will apply to those with income exceeding $250,000.
  - Adjusted taxable income is ordinary taxable income plus reportable fringe benefits, total net investment losses (added back) and reportable super contributions.
- In order to claim a tax deduction in the 2017 financial year, the superannuation fund must receive the contribution by 30 June 2017.

Thinking Further Ahead

- In conjunction with your year-end planning, it is also important to consider where you and/or your business are and where you would like to be going forward. Whether you are:
  - planning to expand your business; or
  - planning to purchase an investment property, a share portfolio; or
  - planning for your retirement (whether it be establishing an SMSF, structuring property investments/developments in an SMSF); or
  - reviewing the adequacy of your current insurance coverage (income protection, life insurance, TPD insurance);
  - thinking about business succession;
  - thinking about estate planning.

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Given the complexity of some of the issues mentioned above and some other issues which may apply to your business it is important that you obtain expert tax advice in relation to your particular circumstances. If you would like to make an appointment for further discussion, please feel free to contact your Williams Hall Chadwick adviser.

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