BWR Accountants & Advisers
June 2011 Newsletter

Time Is Running Out

Applications for the Natural Disaster Relief and Recovery Grant for primary producers and/ or small businesses effected as a result of the March 2011 floods close on 30 September 2011 (extended from 30 June 2011), you can obtain information regarding this grant by contacting our office or the NSW Rural Assistance office on 1800 678 593.

Pay Less Legally: Super Things to do and know before 30/6/11

Many people think that the only way to significantly reduce your tax involves off shore bank accounts or risky investments. But there is another option and it's approved by our government – in fact it's encouraged and we all know something about it – Superannuation.

Most people are aware of many of the rules around superannuation with compulsory savings for retirement however there is more to superannuation than just a retirement savings plan. Many of the benefits derived within the superannuation environment are driven by the generous tax concessions offered on both putting money into superannuation and then the earnings on the funds retained within superannuation.

Who can make contributions?

If you are aged between 18 and 75 years you are eligible to make superannuation contributions, however if you are over 65 years of age, you are required to meet the 'work test' before being eligible to make contributions (either concessional or non – concessional). To meet the 'work test' people aged over 65 years must have worked a minimum 40 hours in a 30 day consecutive period, per year.

If you are over 75 years of age contributions are restricted to mandated employer contributions only, you cannot make personal contributions

In order to obtain the maximum benefit from your super contributions you need to be aware of the caps and ensure that you do not over contribute and incur excess contributions tax. The contributions caps for 2010/2011 and 2011/2012 are as follows:

Concessional Contributions

The concessional (deductible) contributions, including salary sacrifice contributions, superannuation guarantee contributions and self employed deductible contributions, that can be made by employers and members are:

Less than 50 years of age	$25,000
50 Years or more of age	$50,000

For individuals aged over 50 years, a transitional cap is in place for the 2011 and 2012 financial years. After this the concessional cap will reduce to $ 25,000 per member per annum. It was announced in the May 2011 budget that from 1 July 2012 the Government will set the higher concessional superannuation contributions cap for eligible individuals aged 50 and over with total superannuation balances of less than $500,000 to $25,000 ***above*** *the general concessional cap. That is, back up to $50,000, but we are yet to see the legislation for this concession.*

10% Rule: *A taxpayers personal contributions are deductible only if less than 10% of the sum of the taxpayer's assessable income, reportable fringe benefits and reportable employer superannuation contributions are attributable to the taxpayer's activities as an employee.*

Non-Concessional Contributions

Non-concessional contributions are contributions made from after-tax monies and therefore are not taxable when received by the superannuation fund. Individuals under 65 can make non-concessional contributions of up to $150,000 per year, or can take advantage of the three year bring forward rule (for persons aged under 65) which enables a total of $450,000 to be contributed over three years, notwithstanding that the contribution in one or more years may exceed the annual cap. For people between 65 and 75, they must first meet the work test, making them eligible to contribute up to $150,000.

Government Super co-contribution

The maximum superannuation co-contribution will remain at $1,000 for people with incomes of up to $31,920 (with the amount available phasing down for incomes up to $61,920), until at least 30 June 2013.

Minimum payment amounts for account based pensions

In previous years (2009 to 2011), due to the Global Financial Crisis (GFC) the Government halved the minimum pension payment amounts. From 1 July 2011, the Government will start phasing down the minimum pension drawdown relief back to pre-GFC levels.

Minimum payment amounts for account based, allocated and market linked (term allocated) pensions will be reduced by 25% for 2011/2012 and will return to normal in 2012/2013.

Your Self Managed Superannuation Fund (SMSF) and borrowing

Knowing what assets your Self Managed Superannuation Fund (SMSF) can own is an important part of being a fund trustee. You should also know what assets your fund can acquire from you or related parties. New rules recently introduced may give more scope for your SMSF to borrow funds to acquire these assets but there are unique rules and guidelines that need to be adhered to.

As the trustees of your SMSF, you need to ensure that all assets held in the fund are consistent with the fund's investment strategy. That is, as trustee you need to consider issues such as risk and return, diversification of the fund's assets, liquidity within the fund, and of course, the ability of the fund to discharge liabilities.

Here are the common questions we are often asked about borrowing in a SMSF:

Can I move my existing rental properties into my SMSF?

If these are residential properties then in most cases the answer is no. Your SMSF cannot acquire property from a 'related party' unless the property is used in a business (called business real property). A related party includes you, your relatives, and in some cases your business associates. It can also include entities that are controlled by these people.

Can I own my business premises through my SMSF?

Assuming that the purchase of a commercial property makes sense for the fund, there is nothing to prevent the fund from purchasing a commercial property. The fund could even acquire the existing business real property from a member or related party at market value. Your SMSF could then lease the property back to your business so long as the lease is on commercial terms. This could be a great way to boost your retirement savings as the rental income is taxed at a maximum of 15%.

Can my SMSF borrow money to buy property?

Since September 2007, SMSFs have been able to borrow to acquire assets. It's important to recognise that there are strict rules surrounding this, you should always seek professional advice.

Your SMSF can only borrow to acquire assets that it would otherwise be allowed to acquire – so in some cases your SMSF could borrow to acquire the member's business premises. Be careful though as the SMSF cannot use the borrowings to improve the property (no extensions or renovations), so what you buy is what you're stuck with until your SMSF has paid off the loan or the Fund has other cash assets to pay for the renovations.

Can my SMSF own property overseas?

As long as holding or purchasing the property is in line with the fund's investment strategy, there is nothing in the superannuation rules to prevent your SMSF owning property overseas. But again, beware of some of the traps.

In some cases it might be prudent for a company or trust to own the property and for your SMSF to own shares in the company or units in the trust. This may protect the fund from being sued by a tenant. However, there are restrictions on the company/trust under the superannuation rules. For example, the company or trust could not borrow or lend money, or place a charge over any of the assets, and the company or trust may not be able to hold an overseas bank account.

You need to weigh up the benefits of using an 'interposed' company or trust to hold the asset with the restrictions that can be imposed. In all cases, you should make sure that you have adequate insurances in place both over the asset and also inside the SMSF.

Did you know?

There were 425,300 Self Managed Superannuation Funds in Australia at 30 June 2010 with 29,405 new funds created in the 2009/2010 financial year. Of those, 25% had a total asset value below $200,000, and 49% had a total asset value between $200,000 and $1m. Just over 30% of all new funds in the same time period were set up by 45 to 54 year olds. As at December 2010, SMSFs owned assets worth a total of $420,612 billion – 31% in listed shares.

SMSF and investments in collectibles and personal use assets

The Government has released draft regulations setting out the rules for SMSFs and their investment in collectibles and personal use assets. Collectible and personal use assets include artwork (within the meaning of the Income Tax Assessment Act 1997 (ITAA97)); jewellery; antiques; artifacts; coins or medallions; postage stamps or first day covers; rare folios, manuscripts or books; memorabilia; wine; cars; recreational boats.

The proposed Regulations insert a new regulation after regulation 13.18 which specifies the rules that apply to SMSF investment in collectibles and personal use assets including what circumstances would constitute a breach of the Trustee's obligations and the documentation required to maintain these assets within a SMSF. Please contact our office if you require any further information regarding this issue.

Farm Management Deposits

Farm Management Deposits (FMD) provide an important risk management tool to help farmers deal with uneven income, common in agriculture because of natural disasters, climate and market changes. FMD's complement other risk management strategies available to primary producers such as developing fodder and water reserves, financial planning and diversifying their production systems.

This scheme allows primary producers to claim a deduction for farm management deposits made in the year they were deposited. It allows Primary Producers to manage their exposure to seasonal fluctuations by shifting before-tax income to years when it is most needed. When you withdraw a farm management deposit, the withdrawn amount (of the deduction previously allowed) is included in your assessable income in the year of withdrawal.

Who is eligible?

To be eligible you must be **carrying on a primary production business** at the time you make a deposit, and the scheme is restricted to individuals. If you cease a primary production business the FMD is immediately included in your taxable income.

Making deposits

If you are eligible to make a farm management deposit you need to make sure that deposits are:

- at least $1,000, and
- no more than $400,000 in total at any one time.

You can only make deposits with one FMD provider who is an authorised deposit-taking institution (ADI). A deposit can be held in accounts of any term (including at-call accounts). To qualify for the tax deduction, the deposit must remain in the account for 12 months from the date of deposit (except in certain circumstances) and must come from primary production income.

Claiming deductions

Deposits are deductible in the income year they were made. You cannot claim a deduction for deposits if your taxable non-primary production income (leasing a farm is not primary production income) for the financial year exceeds

Compulsory reporting of contractor payments in building industry

The Government has released a discussion paper for public consultation on the introduction of a reporting regime for payments made to contractors in the building and construction industry (BCI). The controversial proposed regime will require businesses to annually report payments made to contractors in the BCI.

The consultation paper points out that contractors in the BCI are the least compliant out of six major industry groups. Across the compliance review, 10% of all tax invoices could not be matched to a payee due to non quotation or invalid quotation of an ABN. Of the approximately 11,500 matched entities in the initial analysis, 34% were contractors in the BCI. 31% of those contractors matched to ATO records had not lodged a tax return, with a further 20% having lodged but omitting all or part of their income.

The measure will utilise the 'transaction reporting by purchasers' component of (Division 405 in Schedule 1 to the TAA 1953) and will require any business paying contractors in the BCI for their services (not for goods) to report the contractor's payment and ABN annually to the ATO. The definition of what falls within the BCI is currently quite broad and is a question raised in the consultation paper.

The Government has flagged that the BCI is the first of several industries considered with the commercial cleaning industry next in line.

Knowing when to change your business structure

For successful businesses, simple business structures often do not work. They leave you risk exposed, are ineffective for tax purposes, and are not efficient for succession or sale. In the early stages of business life the philosophy often is; keep it simple and low cost. This may mean trading as a sole trader, in partnership, or through a simple company structure. Where the business stays small this can be entirely appropriate and may serve you well for the lifetime of the business.

However, if your expectations are greater than this, or if you can see that your business is likely to grow in a significant way, then you will need to change your structure at some stage. Successful fast growth businesses typically operate through a mix of company and trust structures. These structures are not for show. They create separation, tax efficiency, help to risk manage your business interests and allow for orderly transfer at the appropriate time.

The challenge is; when is the right time to put in place a more efficient structure? The answer is the earlier the better. Change comes with a cost. You can be exposed to capital gains tax and stamp duty, and this can be expensive and a distraction from the main focus of your business growth. If you have a very clear vision for your business and it is going to grow to a significant size then there is a lot of merit in putting the basic structure in place at the beginning. Equally, if your plan is to maintain a micro-business, keep it simple and don't be seduced by advice that over complicates what you need. Your structure should be appropriate and consistent with your expectations for the business – be they large or small.

If you have a clear vision at the beginning then the question of how to get your structure right can be an easier question to answer. For many business operators though, the reality is that you are not sure. You may start off small and the business booms with growth exceeding your expectations. Or, you may have hopes for something significant, but also know that it might not work. So, if you're in this situation, what are the signs that it is time to make the change?

The first should be when you can identify that there is significant value building in your business. This might be reflected by the assets held in the business or the development of goodwill or intellectual property. The existence of these assets means that you should be considering risk protection and ways to protect against the unexpected. You also need to make sure your assets are adequately insured, and make sure your public liability is up to date. Ideally, significant capital assets of the business should be separated from the operating structure.

The second sign is where you can see a material increase in your tax exposure. As your business grows, so too should your profits and your earnings from the business. And, in some cases profits and cash will not mirror each other. Typically cash lags profits, so you might be dealing with the tax on profits that are not readily available to you. Apart from the fact that you don't want to pay any more tax than necessary, the right structure can help to manage tax impacts and the timing differences between profits and cash.

Finally, if you are expecting to sell your business or to introduce other partners or shareholders, then the right structure can make a huge difference. To maximise your access to tax concessions and in particular the CGT small business concessions, you need to have your structure right in advance of any changes.

There are some ways to manage the tax costs associated with a change in structure. The first thing to do is to identify the structure that is right for your business. From there, quantify the cost of any change and the best way to put it into effect. However, most importantly, plan in advance as it is very difficult to do after the event.

Requirements for end of financial year

Software

Before rolling over your accounting software for the new financial year, make sure you:
· Make a full copy of your current file.
· Prepare your financial year end accounts. This way, any problems can be rectified and you have a 'clean slate' for the 2011/2012 year. Once rolled over, the software cannot be amended.
· Do not perform a Payroll Year End function until you are sure that your payment summaries are correct and reconcile to the amount you have paid in your ledger as well as printing them. *Always perform a payroll back-up before you roll over the year.*

PAYG payment summaries

You need to provide all of your staff with their PAYG Payment Summary on or before **14 July 2011**. This includes any staff that left your employment during the 2010/2011 financial year.

As per last year there is a field included for 'reportable employer super contributions'. If you make salary sacrifice or extra super contributions to a super fund for your employee, you will need to report those contributions on your employee's payment summary. Reportable Fringe Benefits must also be included on the summary. The 9% Superannuation Guarantee is **NOT** included and should not be shown on the PAYG Payment Summary.

If we prepare your Payment Summaries for you, please email us the information as soon as possible. The annual PAYG Payment Summary Statement for the year ending 30 June 2011 needs to be lodged with the ATO on or before 14 August 2011. However, if we are preparing your Payment Summary for you and you only employ family members in your business (closely held employees) you may be eligible for an extension.

Overview of May 2011 Budget Changes

There were a number of changes announced in the federal budget in May 2011 which included the temporary flood and cyclone reconstruction levy, changes to Fringe Benefits Tax (FBT), phasing out of the dependent spouse tax offset and removing the ability for minors to access the low income tax offset on unearned income in order to restrict income splitting, superannuation – excess contributions tax changes, just to name a few.

Flood and cyclone reconstruction levy

The temporary flood and cyclone reconstruction levy is set to apply to taxpayers in the 2011/2012 financial year only and will see taxpayers who earn between $50,000 to $100,000 paying an extra 0.5% levy and those earning over $100,000 paying an extra 1%. There are exemptions from the levy for those people who have received or qualified to receive Australian government disaster recovery payments.

Fringe Benefits Tax (FBT)

The only change to FBT is how car fringe benefits are calculated, impacting those who salary sacrifice or have an employer provided vehicle. For those who use the statutory formula method to calculate their FBT liability a single rate of 20% will apply regardless of the distance travelled and will be phased in over the next four years. This change will benefit those who travel less than 15,000 kilometers per year and decrease the tax concession provided for those who travel more than 25,000 kilometers per year.

Dependent spouse offset phased out

The dependent spouse offset will be phased out from 1 July 2011 for those with a dependent spouse aged 40 years or younger.

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We take pride in our service and have a team of highly trained individuals to ensure you receive the high level of service that you expect.

Our team would like to take this opportunity to thank you for choosing our firm to take care of your business and we are looking forward to your continued support.

Low income tax offset

From 1 July 2011, the Government will increase the proportion of the low income tax offset (LITO) that is derived through workers' week-to-week pay packets from 50% to 70%. This change means instead of being compensated after they put in their tax return at the end of the year, lower income earners are taxed less during the year. The remaining 30% of their LITO will still be paid as a lump sum on assessment of income tax returns.

Someone with annual income of $30,000 will get an extra $300 during the year in their regular pay. A individual's total LITO entitlement for any one tax year will remain unchanged.

Accelerated deduction for motor vehicles

From 1 July 2012 the entrepreneur's tax offset has been replaced with a $5,000 immediate deduction for small business that purchase a work related motor vehicle.

Superannuation – excess contributions tax changes

Reforms in the superannuation area were announced in relation to the excess contributions tax to provide some relief commencing from 1 July 2011 onward. Individuals who breached the concessional contributions cap up to $10,000 can request the excess contribution be refunded, however this will only apply to first time breaches of the concessional caps. The refunded excess contribution will be accessed as part of the taxpayer's taxable income and taxed at their marginal rate.

Proposed Superannuation Guarantee Charge (SGC) Percentage

The government has announced changes that, **if agreed by parliament** , will gradually increase the superannuation guarantee rate from 9% to 12%. The SGC rate will be increased with initial increments of 0.25% on 1 July 2013 and on 1 July 2014. Further increments of 0.5% will apply annually up to 2019-20, when the SGC Rate reaches 12%.

What's changing on 1 July

Increase in medical expenses tax offset claim threshold: The threshold above which the 20% net medical expenses tax offset can be claimed will be increase from $1,500 to $2,000.

National minimum wage increase: The national minimum wage will increase to $589.30 per week or $15.51 per hour, following the Fair Work Australia Annual Wage Review on 3 June 2011. The hourly Rate has been calculated on the basis of a 38 hour week for a full-time employee, as required by s.62 of the Fair Work Act. This constitutes an increase of $19.40 per week or 51 cents per hour.

Income Tax Rates

Individuals

Taxable income $ 2011	Rate %	Taxable income $ 2012	Rate %
0 – 6000	0	0 – 6000	0
6,001 - **37,000**	15	6,001 - **37,000**	15
37,001 - 80,000	30	**37,001** - 50,000	30
		50,001 - 80,000	**30.5**
80,001 - 180,000	37	80,001 - 100,000	37.5
		100,001 - 180,000	**38**
180,001 +	45	180,001 +	46

The changes to the 2012 individuals income tax rates are as a result of the introduction of the Flood Reconstruction Levy.

Companies

As confirmed in May 2011 the company tax rate will reduce from 30% to 29% for small businesses from 1 July 2012.