

R J C E V A N S — & Co —



Accountants • Tax Agents • Auditors



NEWSLETTER • JUNE 2011

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Editorial

Hello and welcome to the June issue of the RJC Evans & Co newsletter.

The Federal Government has recently presented its proposed budget for the next 12 months. Some of these announcements are reported in this newsletter. One can't help but notice just how interrelated budgets and business and/or personal income tax matters have become. It demonstrates that an understanding of tax continues to be essential in making business and investment decisions. Anyone involved in business needs to be aware of Government regulation and Government programs. Being well informed can make a real difference to an outcome. Each quarter we produce our newsletter to provide you with an update of tax changes with the main purpose being to keep you informed when making financial decisions. Information needs to be applied in such a way that it maximises your progress. "Success belongs to those who act upon what they learn."

This end of financial year newsletter contains strategies to employ prior to the 30 June to enhance your 2011 income tax outcomes. These are often considered pertinent at this time. However, perhaps consideration should be given to employing these on a more regular basis throughout the year.

Common tax planning techniques that can be deployed are deferring the derivation of assessable income and applying techniques to bring forward deductions. It is important to realise that consideration must be given to the general and any relevant specific anti-avoidance measures contained in the tax law.

Spending simply for the sake of an income tax deduction is generally a poor quality decision. Make sure that the spending has real value for your business and that the tax benefit is simply a flow on effect.

Consider cash-flow - you don't wish to cause a cash-flow problem to your business for funds which are outlaid prior to June. Double check whether you can fund any proposed expenditure. If you look like running out of funds talk to your bank – sooner rather than later.

Consider your tax position for the next year as well. Are there any recent tax changes which make a decision more beneficial for one financial year over another?

Remember that while you were spending a dollar to obtain a tax deduction the value of the tax deduction is only a portion of the dollar spent – your marginal income tax rate. This should always be considered.

The need to consider tax planning strategies generally means that the year has been successful for a business. Congratulations to those clients who have weathered the Global Financial Crisis storm and are likely to report good financial outcomes for 2011. These haven't occurred by chance. They are the result of making informed decisions. Over a period of time. There are very few overnight successes. As we all know the only time success comes before work is in the dictionary.

"You can't fatten a pig on market day."

Andrew Evans



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Tax Planning

Simply put, tax planning is the arrangement of a taxpayer's affairs so as to comply with the tax law at the lowest possible cost, and involves subjectively assessing and actively managing tax risk. Common tax planning techniques are deferring the derivation of assessable income and applying techniques to bring forward deductions.

30th June Brief Checklist

A summary of the crucial end of year issues:

- Superannuation Contributions – bank into accounts by the 30th June to obtain tax deduction.
- Farm management deposits – funds deposited by the 30th of June to obtain tax deferral.
- Stocktake – count and record stock on hand 30th of June.
- Wages – issue PAYG Summaries and forward to ATO
- WorkCover – remember to include directors' superannuation and bonuses in gross remuneration.
- WorkCover – complete reconciliations to be lodged on time to avoid any penalties.
- Motor Vehicles – record odometer readings of vehicles with a private use component.

Deferring Income

- Income received in advance of services to be provided would generally not be assessable until the services are provided
- Taxpayers who provide professional services may consider, in consultation with their clients, rendering accounts after 30 June to defer the income.

Maximising Deductions

Business Taxpayers

- Debtors should be reviewed prior to 30 June to identify and to write off any bad debts.
- Review the asset register to identify any low-cost and / or low-value assets that may be pooled to access an accelerated rate of depreciation.
- Write off any depreciating assets which are no longer being held for use because a deduction may be available.
- Review trading stock for obsolete stock for which a deduction is available.
- Employees' superannuation contributions should be paid before 30 June to obtain a deduction and to avoid the Superannuation Guarantee Change.

Non-business Taxpayers

- Assets costing \$300.00 or less may qualify for an immediate deduction, subject to certain conditions.
- A deduction for a personal superannuation contribution is available where the 10% rule is satisfied.
- A recent High Court decision held a taxpayer deriving Youth Allowance was allowed a deduction for various self-education expenses.

Other Strategies

- Consider deferring the disposal of shortly-held assets to access the CGT discount, where available.
- Low-income earners (including self-employed persons) should consider making a personal superannuation contribution to qualify for the Government Superannuation Co-contribution Payment.
- For the 2010/2011 income year, pensioners have the option to draw half of the year's minimum required pension amount.
- The reduction in the concessional contributions cap to \$25,000.00 (\$50,000.00 for those aged 50 – 75) since the 1st of July 2009 means that more individuals are now at risk of inadvertently breaching their annual contribution cap. A review of various arrangements involving superannuation (e.g. salary sacrifice) would be prudent.
- A tax offset may be available to taxpayers who make eligible contributions to a superannuation fund on behalf of their low-income or non-working spouse.
- Consider splitting superannuation contributions between spouses to affectively transfer concessional contributions to the oldest spouse who will reach age 60 first.
- Consider crystallising any unrealised capital losses in the income year if a significant capital gain is anticipated.

Flood Levy

The flood Levy will apply for one year from 1 July 2011, and will be withheld from your normal pay each pay period (like your income tax currently is). Those who earn below \$50,000.00 and who have received a Commonwealth Disaster Recovery Payment in 2010/2011 will be exempt from the levy.

2011 / 2012 Taxable Income of individual	Rate of Levy
Under \$50,000.00	0%
\$50,000.00 - \$100,000.00	0.5% of taxable income in excess of \$50,000.00
100,000.00 and over	0.5% of taxable income in excess of \$50,000.00; and 1.0% of taxable income in excess of \$100,000.00

Individuals are exempt from the levy if they were affected by natural disaster during 2010-11 and received an Australian Government Disaster Recovery Payment.

Centrelink Payment if you are going Overseas

Centrelink provides most payments for up to 13 weeks to people who go outside Australia temporarily, although some payments are more restricted than this. People receiving payments must notify Centrelink within 14 days of deciding to leave the country. Most payments from Centrelink (except for certain pensions) can then be paid for temporary absences outside Australia. People must remain qualified for payments while overseas (that is, continue to meet the normal qualification rules for the payment, their permanent home is still in Australia, and they are only going overseas temporarily, e.g. for a holiday or a visit).

Company Directors Personally Liable for Unpaid Employee Superannuation

Directors of small and medium businesses should be aware that the Federal Government has delivered increased powers to the Australian Taxation Office in the latest budget.

The powers are provided under the existing Director Penalty Notice regime, whereby the Australian Taxation Office can issue to directors of a company a notice in respect of unpaid PAYG Withholding Tax. The notice requires the director to pay the debt, or place the company into voluntary liquidation within 21 days of the notice. Failure to take any action will result in the director being held personally liable for the company's debts detailed in the notice.

The Australian Taxation Office can now:

- Hold directors personally liable for unpaid superannuation contributions.
- Issue proceedings against directors for debts that remain unpaid after 3 months of the due date without giving 21 days notice and;
- prevent directors and associates of directors from obtaining credits for amounts withheld from their salaries in their individual income tax returns where the company has failed to pay PAYGW and superannuation liabilities.

Company Directors, who ignore the warnings and do not remit PAYG and superannuation when due, will be placing their personal assets at risk.

These changes take effect from 1 July 2011.

Education Tax Refund

Eligible families can claim up to 50% for eligible education expenses each year up to:

- \$750.00 for each child undertaking primary studies (i.e. a maximum of \$375.00); and
- \$1,500.00 for each child undertaking secondary studies (i.e. a maximum of \$750.00).

Families who receive Family Tax Benefit (FTB part A), with one or more children undertaking primary or secondary studies and satisfying the schooling requirement, are eligible for the refund.

The list of eligible education expenses includes the following:

- Computers
- Computer-related equipment
- Computer software
- Home internet connection
- School textbooks and stationary; and
- Proscribed tools of trade.

The refund is claimed through the tax system on lodgement of an income tax return. If you are eligible then now is a good time to start collating your receipts.

Co-contribution Rules for 2009/2010

There has been discussion concerning the co-contribution for this year and whether it is still available. The co-contribution is still available to anyone who makes a non-concessional (after-tax) contribution to their Super Fund, and who earns less than \$61,920.00 a year.

Changes to the co-contribution rules, effective from July 2009, means that those considering taking advantage of the Co-contribution Scheme for the 2009/2010 year, need to be aware of the eligibility criteria to ensure their entitlements.

You receive a Tax-free Super Contribution from the Federal Government when you make a non-concessional contribution. If you earn \$31,920.00 or less (for the 2010/2011 year), the Federal Government will pay \$1.00 for every dollar you contribute to your Super Fund in after-tax dollars, up to a maximum of \$1,000.00 a year. For example, if you make a \$1,000.00 non-concessional contribution, your Super Fund Account receives a \$1,000.00 tax-free contribution from the Government. If you make a \$400.00 contribution, the Government pays \$400.00 into your Superannuation Fund.

If you earn more than \$31,920.00, your co-contribution entitlement reduces by 3.33 cents for every dollar you earn over \$31,920.00, until it cuts out at \$61,920.00 (for the 2010/2011 year).

The co-contributions scheme is subject to three main tests. These are the co-contribution work test, the income test and the age test.

Co-contribution Work Test

For individuals to be eligible for the co-contribution scheme, you must earn 10% or more of your income from eligible employment, or 10% or more of your income from carrying on a business, or a combination of both. Please note that if you are 65 or over you must satisfy the usual work test in order to be able to make a contribution into your Superannuation Fund.

Co-contribution Income Test

An income test must also be satisfied in order to qualify for the Government's tax-free co-contribution. Income from employment or self-employment needs to be less than \$61,920.00 for this year.

Please note that the co-contribution "total income" threshold is assessable income, plus the value of any fringe benefits that you may have as part of your salary package, such as a car, plus any salary sacrificed superannuation contributions.

Co-contribution Age Test

You must be under 71 at the end of the financial year in which you make your after-tax contribution to be eligible for a co-contribution.

Walking

Remember legendary Olympian, Herb Elliott? Herb a former World Record holder, and a 1960 gold medallist in the 1,500 metres is now the advocate of walking. "I have run for 40 years but what astounds me today is the miracle of walking." "I have always believed that I had to run to be healthy. Now I have discovered that walking is much better exercise and does you none of the long-term damage that running can do."

Herb is the person behind the Global Corporate Challenge, the largest corporate health initiative on the planet. It began in 2004 to encourage teams of workers to unite for a daily walk of 10,000 steps each over 16 weeks from May to September. Herb expects about 300,000 to join this year in more than 65 countries.

Our managing partner, Stephen Evans, has been spotted walking early in the morning since last November. Perhaps he is setting the pace for an entry in this year's event!

P.S. Herb's winning time in 1960 would have qualified him for a place in the final at 7 later Olympics. That's 28 years later! His winning time in 1960 was 3:41:50.

Self-Managed Super Funds Investments and Collectable and Personal Use Assets

On the 24 April 2011 legislation was introduced into Parliament that will allow Self-Managed Super Funds (SMSFs) to continue to invest in collectables and personal use assets provided that they meet legislative standards. The proposed amendments will ensure investments in collectables and personal use assets by SMSFs do not give rise to personal benefit for SMSF trustees, but are held for the sole purpose of providing retirement benefits. SMSF trustees must comply with any rules set by the regulations in relation to investments in collectables and personal use assets, in addition to the rules such as in-house asset rules that apply to some or all other assets.

This measure, if passed by Parliament will apply to all new investments from 1 July 2011. All existing holdings of collectables and personal use assets will have until 1 July 2016 to comply with the new standards.

Paid Parental Leave Scheme

The Federal Government's Paid Parental Leave Scheme commenced on 1 January 2011. Under the Scheme, eligible employees with a child born or adopted on or after 1 January 2011 can take 18 weeks of paid parental leave at the national minimum wage (currently \$570 per week).

Please note that from 1 July 2011, employers must provide Government-funded parental leave pay through their usual pay cycle to eligible employees who have been with their business for at least 12 months.

More information can be found at: www.australia.gov.au/paidparentalleave

2011 Payment Summaries – Reportable Employer Superannuation Contributions

Employers who only make compulsory super guarantee payments for their employees must not include these amounts on Payment Summaries. Reportable Employer Superannuation Contributions only include additional super contributions made by an employer, for an example, super contributions made on behalf of an employee under a salary sacrifice arrangement.

The 2009/2010 year was the first year employers were required to report Reportable Employer Superannuation Contributions (RESC) on the Payment Summaries of employees. Material from the Tax Office indicates that many employers made mistakes in completing these Payment Summaries. Employers were unsure which superannuation contributions were required. Only RESC need to be reported.

RESC are contributions an employer makes for an employee where all of the following apply:

- The employee influenced the rate or amount of superannuation that the employer contributed for them
- The contributions are additional to the compulsory contributions an employer is required to make under any of the following:
 - o Superannuation Guarantee (SG) law (the compulsory 9% you contribute as an employer)
 - o An industrial Agreement (including an award)
 - o A Federal, State or Territory law

The following table provides a guide on which amounts are RESC and therefore should be included on the Payment Summary

Type of Superannuation Contributions	RESC on Payment Summaries?	
	Yes	No
9% SG		✓
Salary Sacrificed	✓	
Industrial Agreement		✓
Required by law		✓
Extra amounts freely agreed between both parties	✓	

Those amounts identified as RESC amounts are included on a separate label in the Payment Summary.

Even where you have not paid an employee salary and wages, because they have salary sacrificed their salary or wage, you must provide them with a Payment Summary if you have paid them RESC.

Computer Backups

With the 30th June approaching it is a good idea to save the year's financial records digitally and store it on a USB or DVD in a separate location, such as at your home or bank. That way, if there is ever a fire or flood at your work premises you will still have your records should they be required following a disaster.

Cents per Kilometre Rates for Motor Vehicle Expenses 2010 / 2011

The rate for the 2010-11 income year have not changed from the 2009-10 rates. The rates are as follows:

Description	Engine capacity of the car not powered by rotary engine (cc)	Rates per Kilometre (cents)
Small Car	Not exceeding 1600cc	63
Medium Car	Exceeding 1600cc but not exceeding 2600cc	74
Large Car	Exceeding 2600cc	75

FMD Caution

It should be remembered that an FMD applicant must not only be a primary producer carrying on a primary production business in Australia, but must also have off-farm taxable income which is not more than \$65,000.00

Deduction for Personal Super Contributions

There has been some recent publicity concerning the failure by some taxpayers to complete the correct paperwork outlining their intention to claim an income tax deduction for their personal superannuation contribution.

If you intend making a personal superannuation contribution then it is essential that this notice be completed.

You must lodge a notice of intent to claim a deduction with your superannuation fund before whichever of the following occurs first:

- The day you lodge your income tax return for the year the contributions were made; or
- The end of the income year after the income year in which you made the contributions.

If this notice of intent is not completed and sent to your superannuation fund in accordance with the above timeframes then with the eventual matching of data by the ATO the income tax deduction will be denied.

Another step in this process of claiming a personal income tax deduction is the acknowledgment by the superannuation fund that they have received your notice of intent to claim an income tax deduction for your superannuation contribution.

If you receive correspondence from your superannuation fund in relation to claiming an income tax deduction for your contribution and are unsure of how to deal with this paperwork please contact our office or alternatively bring the correspondence to the interview for the preparation of your income tax return.

Please note that the notice of intent to claim only applies to personal superannuation contributions.

Some Budget Announcements

Minor's Eligibility for Low Income Tax Offset on Unearned Income Removed

The Government will remove the ability of minors (children under 18 years of age) to access the Low Income Tax Offset (LITO) to reduce tax payable on their unearned income such as dividends, interest, rent and trust distributions.

Income earned by minors from work will still be eligible for the full benefit of the LITO. The removal of this concession will have an impact for those clients with family trusts which distribute to minor children or grandchildren.

This measure will have effect from 1 July 2011.

Deceased Estates – Discretion to extend 2-Year Ownership Period of Main Residences

The Government will provide the Commissioner with a discretion to extend the 2-Year Ownership period in which the trustee of a deceased estate or beneficiary of such an estate must dispose of their interest in the deceased's dwelling to access a full CGT Main Residence Exemption (or a more generous partial exemption).

Encountering Fraudulent Phoenix Activities by Company Directors

The Government will strengthen the Tax Law to counter fraudulent Phoenix activity, which involves the company intentionally accumulating debts to improve cash-flow and then liquidating to avoid paying the debt. The business is then continued as another corporate entity, controlled by the same person or group and free of their previous debts and liabilities.

With effect from 1 July 2011:

- The director penalty regime will be extended to superannuation guarantee amounts, making directors personally liable for their company's failure to pay employees superannuation.
- The ATO will be given the power to commence recovery action against directors under the director penalty regime, without providing a 21 day grace period, to certain unpaid company liabilities that remain unreported after 3 months of becoming due; and;
- in certain circumstances directors and associates of directors will be prevented from obtaining credits for withheld amounts in their individual tax returns where the company has failed to pay withheld amounts to the ATO.

Reform of the Car Fringe Benefit Rules

The Government will reform the current "statutory formula" method for determining the taxable value of a car fringe benefit by replacing the current statutory rates with a single rate of 20% that applies regardless of the distance travelled.

This reform will apply to new contracts entered into after 7.30pm (AEST) on 10 May 2011, and will be phased in over 4 years.

Farm Management Deposits

The Government will make some minor changes to the administration to the FMD Scheme. One of these will result in allowing primary producers to hold FMDs with more than one financial institution.

Start Date for Paid Paternity Leave Deferred

The Government will defer the implementation of Paid Paternity Leave by 6 months from 1 July 2012 until 1 January 2013.

The measure will provide eligible working fathers, and other partners who are providing full-time care or sharing the child's care, with 2 weeks paternity leave paid at a rate equivalent to the national minimum wage for children born on or after 1 January 2013.

Refund of Excess Concessional Contributions

The Government will provide eligible individuals with the option to have excess concessional contributions taken out of their superannuation fund and assessed as income at their marginal rate of tax, rather than incurring excess contributions tax.

The measure will apply where an individual has made excess concessional contributions of up to \$10,000 (not indexed) in a particular year and will only be for breaches in respect of 2011-12 or later years, and only for the first year in which the breach occurs.

Increased SMSF Levy

The SMSF Supervisory Levy will increase by \$30 to \$180 per year.

Reduction in the Minimum Payment Amounts

The Government will phase out the pension drawdown relief that has been provided over the last three years. Minimum payment amounts for account-based, allocated and market linked pensions will be reduced by 25% for the 2011-12 year and will return to normal in 2012-13. For example, for 2011-12, the minimum payment amount for a pensioner under aged 65 will be 3% of the account balance.

Age of Beneficiary	Percentage factor		
	2010/11	2011/12	2012/13
Under 65	2	3	4
65-74	2.5	3.75	5
75-79	3	4.5	6
80-84	3.5	5.25	7
85-89	4.5	6.75	9
90-94	5.5	8.25	11
95 or more	7	10.5	14

Entrepreneur's Tax Offset Abolished

The Government will abolish the Entrepreneur's Tax Offset, with effect from the 2012-13 income year.

Government Co-Contribution

In last year's Budget the Government announced that the income thresholds for the superannuation co-contribution would be frozen until the 30 June 2012. This year the Government announced this freeze will continue for an additional year. This means that the co-contribution income thresholds will remain at \$31,920 and \$61,920 respectively until the 30 June 2013.

Deductions against Government Assistance Payments Disallowed

The Government will amend the tax law to prevent deductions being claimed against all Government assistance payments. This measure will take effect from 1 July 2011.

Low Income Tax Offset Brought Forward

The Government will increase the amount of Low Income Tax Offset (LITO) that is delivered to low and middle income earners through their regular pay during the year from 50% to 70% of their total entitlements. The remaining 30% of the LITO benefit will still be paid as a lump sum on assessment of Income Tax Returns.

This measure will have effect from 1 July 2011.

Higher Education Contribution Scheme - Reduction in Discount

The Government will, from 1 January 2012, reduce the following discounts applying to payments made under the Higher Education Contribution Scheme (HECS):

- The discount available to students electing to pay their student contribution up front will be reduced from 20% to 10%; and
- the bonus and voluntary payments to the ATO of \$500 or more will be reduced from 10% to 5%.

Accelerated Initial Deduction for Motor Vehicles

The Government will allow small businesses to claim up to \$5,000 as an immediate deduction for new motor vehicles. The remainder of the motor vehicle value will be pooled in the general small business pool (depreciated at 15% in the first year and then 30%).

This measure applies to vehicles acquired from the 2012-13 income year.

Dependent Spouse Rebate for Spouses Under 40 To Be Phased Out

The Government announced it will phase out the tax offset for dependent spouses aged less than 40 (i.e. born on or after 1 July 1971). This change will mean taxpayers with a dependent spouse aged less than 40 years will no longer be eligible for the Dependent Spouse Tax Offset (DSTO) from 1 July 2011.

Exception:

The change will not affect taxpayers whose dependent spouse is a carer, who is an invalid, who is permanently unable to work and taxpayers with children (eligible for Family Tax Benefit B), or eligible for the zone, overseas forces or overseas civilian tax offsets. Dependent spouses with children are not affected by this measure because they receive Family Tax Benefit B rather than DSTO.

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Tax returns, Taxation advice, Capital Gains Tax Planning, Accounting, Budget and Cashflow preparation, Company secretarial services, Company and Trust audits, New Business assessments, Estate Planning, Computer and software selection, Financial management, GST Advising and BAS Preparation.

DISCLAIMER:

Important: We suggest that our clients do not act only on the basis of the material contained in this Report because the items herewith are general comments only, and may be liable to misinterpretation in a particular circumstance. Also, changes in legislation sometime occur quickly. We therefore recommend that our advice be sought before acting in any of these areas. This report is issued as a helpful guide to our clients and is for private information. Therefore, it should be regarded confidentially and not be made available to any person without prior approval.