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| Logo, company name  Description automatically generated 2021 YEAR END TAX PLANNING | Discussed | | Action Plan | |
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| What can you expect from a tax planning session? We estimate your 2020-21 taxable income position and resulting tax liability based on year-to-date figures plus estimates of expected income and expenses. This includes all wages income, interest, dividends, rental income, business profits/losses, and any capital gain or losses you expect to make.  We discuss all of your tax options with consideration to both your short and long-term needs. Tax planning discussions typically include:   * [Maximising superannuation contributions](https://marshpartners.com.au/smsfs/tax-and-super-in-2021/) without exceeding the relevant limits * [Minimising business tax](https://marshpartners.com.au/accounting-tax/minimise-business-tax/) by bringing forward deductibles and deferring income * [Minimising personal tax](https://marshpartners.com.au/accounting-tax/how-to-minimise-personal-tax-in-2021/) * A review of your Division 7A loan position (if applicable) and resulting tax consequences * Optimising trust distributions and preparing Trust Distribution Resolutions * A review of your SMSF position (if applicable) to determine if any action is required as a result of changes to superannuation legislation. * A review of your Capital Gains Tax position (if applicable) * A discussion on the impact on cash flow for business tax liabilities or PAYG instalments and of the strategies put in place.   We provide you with a Tax Plan that explains the strategies we recommend and exactly how much each strategy will save you in tax.  We provide you with an Action Plan to ensure that everything that needs to be actioned is completed before 30 June. |  |  | |

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| YEAR-END CONSIDERATIONS |  |  |
| Please find detailed below commentary on the following categories of tax planning issues that you may wish to consider in the lead up to year- end, in particular: |  |  |
| 1. Business year-end tax preparation issues |  |  |
| 1. Individual tax preparation considerations |  |  |
| 1. Tax and superannuation reforms impacting property ownership. |  |  |
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| 1. BUSINESS YEAR-END TAX PREPARATION ISSUES |  |  |
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| Over the past financial year, the Government has announced several changes that may impact your year-end tax planning for 2021 and the ATO has announced the audit taskforce for small business. |  |  |
| Some key business issues which may be relevant prior to the end of the financial year are outlined below. |  |  |
| * Lower Company tax rate |  |  |
| * Enhancing the instant asset write-off / Temporary Full Expensing measures |  |  |
| * Loss Carry Back Tax Offset |  |  |
| * PSI/PSB and General Anti Avoidance Rule |  |  |
| * Trustee Resolutions |  |  |
| * Division 7A – Shareholder Loans |  |  |
| * Basic Year-End Strategies |  |  |
| * JobKeeper Payments |  |  |
| * Cashflow Boost |  |  |
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| Lower company tax rate |  |  |
| It is critical to establish whether or not a company is a base rate entity for the purposes of determining the amount of its income tax liability for the year ended 30 June 2021. |  |  |
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| A company which is a base rate entity will pay tax at a rate of 26% on its taxable income for the year ended 30 June 2021 whereas a company which is not a base rate entity will pay tax on its taxable income at the 30% tax rate for the 2021 year. |  |  |
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| A company will be regarded as being a base rate entity if no more than 80% of the company’s assessable income comprises ‘base rate entity passive income’ (BREPI) and its ‘aggregated turnover’ is less than $50 million for the year ended 30 June 2021. For these purposes aggregated turnover is only calculated on the relevant annual turnover of the company and its affiliates and connected entities for the current year being 30 June 2021. |  |  |
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| Important to note that the base rate for 2022 and onwards will be reduced to 25%. |  |  |
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| Consider the advantage of paying franked dividends at 26%, rather than the reduced 25% in future years. |  |  |
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| Enhancing the instant asset write-off |  |  |
| For assets first used or installed ready for use between 12 March 2020 until 30 June 2021, providing the asset was purchased by 31 December 2020, the instant asset write-off: |  |  |
| * threshold amount for each asset is $150,000 (up from $30,000) |  |  |
| * eligibility extends to businesses with an aggregated turnover of less than $500 million (up from $50 million). |  |  |
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| From 7.30pm AEDT on 6 October 2020 until 30 June 2022, temporary full expensing allows a deduction for: |  |  |
| * the business portion of the cost of new eligible depreciating assets for businesses with an aggregated turnover under $5 billion or for corporate tax entities that satisfy the alternative test |  |  |
| * the business portion of the cost of eligible second-hand assets for businesses with an aggregated turnover under $50 million |  |  |
| * the balance of a small business pool at the end of each income year in this period for businesses with an aggregated turnover under $10 million. |  |  |
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| Loss Carry Back Tax Offset |  |  |
| 2021 is the first year the new loss carry back measures can be used to provide a refund to companies when they lodge their 2021 tax returns. |  |  |
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| Companies with an aggregated turnover of less than $5 billion can choose to carry back their: |  |  |
| * 2020 tax losses and offset it against their 2019 income tax liability; or |  |  |
| * 2021 tax losses and offset it against their 2019 and 2020 income tax liability, noting the amount of refund/offset is limited to the lesser of the amount of tax paid previously or the surplus in the franking credit account as of 30 June 2021. |  |  |
| If no choice is made to use the loss carry-back measures, the loss is carried forward and can be offset against future profits provided either the continuity of ownership or similar business tests are met. |  |  |
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| Personal Services Income (PSI)/Personal Services Business (PSB) and General Anti Avoidance Rule |  |  |
| The PSI rules were introduced to prevent the shifting or splitting of income with other individuals or entities in an attempt to pay less tax. This strategy is known as the alienation of PSI. |  |  |
| If you have arrangements where your PSI is alienated and is taxed at a lower rate than if you had received the income yourself, you may trigger the general anti-avoidance rules (GAAR). |  |  |
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| Trustee Resolutions |  |  |
| This is specific to businesses that operate in a Discretionary Trust (Family Trust). |  |  |
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| The trustee of a non-fixed trust should document the exercise of any discretion regarding distributions of trust income by 30 June 2021 (or any earlier date required under the trust deed) to ensure that beneficiaries are presently entitled to all trust income and therefore ensure that the trustee will not be potentially subject to tax at a penalty rate of 47% in respect of trust income to which no beneficiary has been made presently entitled. |  |  |
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| Such distributions should be made in accordance with the definition of trust income set out in the relevant trust deed. Prior to making such beneficiaries present entitled it may also be prudent for the trustee to determine whether any beneficiaries should be made specifically entitled to capital gains or franked dividends from a tax planning perspective with the balance of trust income being distributed to presently entitled beneficiaries. Care should be taken to ensure that any exercise of the trustee’s discretion to make beneficiaries specifically entitled to such amounts is permitted under the trust deed and satisfies all the requirements imposed under the tax law. |  |  |
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| Carefully consider which beneficiaries should receive distributions from your trust this year and how much those distributions should be. While the tax effectiveness of the distributions is an important consideration, broader aspects such as asset protection and the impact on other payments a beneficiary may be receiving should not be overlooked. For example, a beneficiary receiving JobSeeker payment may lose their entitlement to that payment depending on the amount of trust distributions they receive this year. |  |  |
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| Division 7A – Shareholder Loans |  |  |
| The ATO is continuing to put pressure on Shareholder Loans. |  |  |
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| It is essential to determine whether any payments, loans or debt forgiveness made by a private company to a shareholder (or an associate of a shareholder) have been made during the year ended 30 June 2021. Where this has occurred during the year it should be determined whether any exemptions potentially apply, and if not, what strategies could be employed to ensure that a deemed dividend does not arise in the 2021 year in respect of any such payment, loan or debt forgiveness. |  |  |
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| It is particularly important to recognise that an unpaid present entitlement which is owed by a trust to a related private company beneficiary who effectively lends those funds back to the associated trust will be treated as a loan for the purposes of Division 7A of the ITAA 1936. |  |  |
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| *Certain payments that a shareholder or their associate makes to a private company in respect of a loan will not be taken into account for the purpose of working out the minimum yearly repayment or how much of the loan has been repaid.* |  |  |
| *A payment will not be taken into account if a reasonable person would conclude that, when the shareholder or their associate made the payment, they intended to obtain a loan from the private company of an amount similar to or larger than the payment and from 1 July 2009, a loan payment will not be taken into account if a reasonable person would conclude that, before making the payment, the shareholder or their associate obtained a loan from the private company of a total amount similar to, or larger than, the repayment.* |  |  |
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| Basic Year-End Strategies |  |  |
| In addition to the above points, we have the usual strategies for Year End Tax Planning to discuss, including: |  |  |
| * Defer income by delaying invoicing |  |  |
| * Bring forward expenditure by incurring the expense prior to year-end |  |  |
| * Review trading stock for possible write-downs of obsolete lines |  |  |
| * Write-off bad debts in the accounts prior to 30 June |  |  |
| * Prepay expenses if relevant to the size of your business. You can claim prepaid expenses this year if your turnover is < $10M. |  |  |
| * Pay superannuation contributions for yourselves, if relevant, and ensure paid, along with employees’ contributions, before 30 June to get the deduction this year. |  |  |
| * *Write-off plant and equipment that is not used, or has been scrapped.* |  |  |
| * *Ensure loans to shareholders are under control with adequate repayments and loan agreements in place.* |  |  |
| * Any bonuses due to employees should be paid before 30 June to receive tax deductions this year, or if committed to this year, but based on a profit calculation that can’t be done until after 30 June, minuted in the statutory records that they are to be paid. |  |  |
| * Any issues with the Personal Services Income rules need to be resolved with the required salary by 30 June. |  |  |
| * Have you made capital gains this year? Do you have the ability to crystallise capital losses before 30 June to offset them? |  |  |
| * If you wish to change structure, 1 July is the easiest and cheapest time to start the new structure. |  |  |
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| JOBKEEPER PAYMENTS |  |  |
| Has your business accessed the Federal’s Government’s JobKeeper Payments? As a unique package, these payments will have a significant impact on both your tax planning and financial reporting. |  |  |
| Tax Planning Impact |  |  |
| JobKeeper payments are considered assessable income and are therefore taxable. |  |  |
| Carefully consider the timing of when JobKeeper payments are assessable, based on the specific circumstances of your business. Whether your business operates on a cash or accruals basis will be important in undertaking this assessment. The JobKeeper payments relating to the June 2020 JobKeeper fortnights (which will be paid by the Australian Taxation Office (ATO) to businesses in July 2020 or later) will generally not be assessable in the 30 June 2020 year for most businesses. |  |  |
| ATO penalties can arise for incorrectly claiming JobKeeper and other benefits. The criteria for accessing the JobKeeper package are very specific. Please arm yourself with a solid understanding of the underlying requirements. The retention of detailed records to support the claim is also crucial. |  |  |
| Accounting Impact |  |  |
| JobKeeper payments should treated as a government grant and either be disclosed as ‘other income’ or netted off against salary expense. The ‘other income’ presentation is generally considered to be more useful as it will allow for appropriate year-on-year comparisons to be made in the future and will also facilitate completing the tax return. |  |  |
| On an accrual basis of accounting, JobKeeper payments will be derived when the entity has reasonable assurance that the conditions attached to the grant will be complied with i.e. that the employer is eligible for the scheme and has paid the requisite salaries to employees. |  |  |
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| On a cash accounting basis, the payments for a JobKeeper fortnight are generally derived when the entity received those payments. |  |  |
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| CASHFLOW BOOST |  |  |
| While a welcome cash injection for many businesses, any Cashflow Boost represents another unique transaction which will affect both your financial reporting and tax outcomes. |  |  |
| Tax Planning Impact |  |  |
| Cashflow Boost payments are considered non-assessable, non-exempt income and are therefore not taxable. |  |  |
| If a Cashflow Boost payment is received by a unit trust, it may result in the unitholder deriving a taxable capital gain, notwithstanding the Cashflow Boost being non-assessable, non-exempt income. |  |  |
| Accounting Impact |  |  |
| The Cashflow Boost is treated in a similar way to JobKeeper. The grant income and reduction in PAYG liability should be recognised when there is reasonable assurance that conditions have been complied with. |  |  |
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| FRINGE BENEFITS TAX |  |  |
| Travel restrictions, mandatory workplace closures and limitations on employee and client entertainment may have had a significant impact on how you calculate your Fringe Benefits Tax (FBT) liability. Some businesses may see a notable decline in their FBT obligations, while others may have a significant increase in FBT payable. |  |  |
| While the FBT year runs from 1 April to 31 March, you should review your FBT calculations and methodologies as part of your year end tax planning, because there may need to be major changes this year. |  |  |
| Tax Planning Impact |  |  |
| In reviewing your FBT, some of the aspects you should consider include: |  |  |
| Cars and utes – Are company vehicles being used more, less or differently from their traditional usage patterns? Are logbooks still valid because the usage patterns have changed? The use of some vehicles may not have previously resulted in an FBT liability because the private use of the vehicle was considered “minor, infrequent and irregular”, is this still the case? |  |  |
| Entertainment – with the possible reduction in entertainment expenditure during the current FBT year, you may wish to consider whether it is worthwhile and administratively possible to keep more detailed records of entertainment benefits, to allow a greater choice of which method to use to calculate fringe benefits tax payable on entertainment. |  |  |
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| 1. INDIVIDUAL TAX PREPARATION CONSIDERATIONS |  |  |
| The following tax planning measures should be considered in respect of your own individual circumstances: |  |  |
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| Salary sacrifice arrangements |  |  |
| If employed, you may wish to review your remuneration arrangements with your employer and forego future gross salary in return for receiving exempt or concessionally taxed fringe benefits and/or making additional superannuation contributions under a valid salary sacrifice arrangement. |  |  |
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| Alternatively, an employee can claim a deduction for personal superannuation contributions provided certain eligibility conditions are met including the requirement to provide a notice of your intention to claim such a contribution with your complying superannuation fund. It is important to make sure that any additional employer superannuation contributions made in lieu of gross salary do not result in the total of compulsory superannuation contributions and salary sacrificed contributions do not exceed the concessional contributions cap which is $25,000 for the 2021 year. |  |  |
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| You should consult our licensed financial adviser planner to consider the merits of exploring these options. |  |  |
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| Capital gains tax planning |  |  |
| Careful planning should be undertaken in planning the timing of any CGT event in respect of the disposal of appreciating assets which may trigger a capital gain. In this context, it is important to recognise that CGT is triggered when you enter into a contract for the sale of a CGT asset rather than on its settlement which is particularly important where the entry and settlement of the contract straddle year-end. |  |  |
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| In these circumstances, it may be preferable for a cash flow perspective to defer the sale of the CGT asset to the subsequent year where other relief may be available such as a capital loss sold on another asset. |  |  |
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| However, it is important to note that Taxation Ruling TR 2008/1 provides that an asset sold under a ‘wash sale’ to a related entity to generate a capital or revenue loss to reduce a capital gain will result in the loss being cancelled under the general anti-avoidance provisions of Part IVA of the ITAA 1936 where there has been no significant change in the taxpayer’s economic exposure to the asset. |  |  |
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| Care should also be taken to ensure that an eligible asset is retained for the 12-month holding period required under the CGT discount, and to recognise that the CGT discount is not available to the extent that any capital gain accrued after 8 May 2012 and you were a foreign resident or temporary resident at any time after that date. |  |  |
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| Work-related deductions |  |  |
| You should ensure that any non-reimbursed claims for work-related, car and travel expenses are correctly allowable on the basis that such expenses were incurred in gaining or producing salary and wages income or other payments subject to the PAYG withholding regime, including any work-related claims below $300. |  |  |
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| Where items are used both for work or business purposes and for private purposes (e.g., use of a mobile phone or home computer) it is also necessary to apportion deductions so that a deduction is only claimed for the business portion of the expense. In addition, all claims for work-related expenses and business travel expenses must be substantiated by way of evidence such as invoices, receipts and credit card statements. |  |  |
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| Where car expenses are claimed using the logbook method, it is also necessary to retain all appropriate invoices and receipts as well as maintain a fully compliant logbook. Alternatively, where car expense deductions are claimed using the cents per kilometre method it is necessary that any estimate of business kilometres travelled be based on reasonable estimates which should be appropriately documented. |  |  |
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| For employees who are working from home during the period 1 July 2020 until 30 June 2021, the ATO allows 3 methods of calculating deductions for additional running expenses: |  |  |
| 1. 80 cents per hour – this method can be used for the period 1 July 2020 until 30 June 2021, |  |  |
| 1. 52 cents per work hour for heating, cooling, lighting, cleaning and the decline in value of office furniture, plus the work-related portion of phone and internet expenses, computer consumables, stationery and the decline in value of a computer, laptop or similar device, or |  |  |
| 1. Actual work-related portion of all running expenses, which will need to be calculated on a reasonable basis. |  |  |
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| N.B. For the 52 cents and actual work related method, you will need to have a dedicated area for home office. |  |  |
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| Care should be taken in claiming such deductions as the Australian Taxation Office (ATO) continues to scrutinise excessive work-related expense claims and uses data analytics and data matching to detect deductions which are unusual or abnormally high relative to other persons in the taxpayer’s occupation or profession. |  |  |
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| Unused concessional cap carry forward |  |  |
| From 1 July 2018 if you have a total superannuation balance of less than $500,000 on 30 June of the previous financial year, you may be entitled to contribute more than the general concessional contributions cap and make additional concessional contributions for any unused amounts. |  |  |
| If you contributed less than $25,000 to superannuation in the 2019 year, then the shortfall can be contributed in 2020 in addition to the normal $25,000 Concessional Contributions Cap. |  |  |
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| The first year you will be entitled to carry forward unused amounts is the 2019–20 financial year. Unused amounts are available for a maximum of five years, after which the opportunity to use this portion of the unused cap will expire. |  |  |
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| 1. REFORMS IMPACTING PROPERTY OWNERSHIP |  |  |
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| Foreign resident CGT withholding rate |  |  |
| A non-final 12.5% foreign resident CGT withholding tax must be retained by a purchaser at settlement from the purchase price of certain property acquired from a foreign resident which must be subsequently remitted by the purchaser to the ATO. However, such tax does not need to be retained from the purchase price of the property if the vendor obtains a clearance certificate from the ATO prior to settlement or if an exemption or variation otherwise applies. It should be noted that the foreign resident CGT withholding obligation does not arise in relation to a CGT asset if the market value of that asset is less than $750,000 or if the CGT asset is not taxable Australian real property or certain indirect Australian real property interests. |  |  |
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| Main residence exemption for foreign residents |  |  |
| Foreign resident individuals who held Australian property prior to 7.30pm (AEST) on 9 May 2017 can only claim the CGT main residence exemption for disposals occurring up until 30 June 2020. |  |  |
| If the property is disposed of on or after 1 July 2020 (regardless of the purchase date), the CGT main residence exemption is only available if the individual satisfies the “life events” test. To satisfy the life events tests all of the following elements need to be satisfied: |  |  |
| * The individual was a foreign resident for a continuous period of six years or less at the time of the CGT event. |  |  |
| * At least one of the following occurred: |  |  |
| * + during all or part of the period of a person’s foreign residency, either they, their spouse or their child who was under 18 years of age had a terminal medical condition, |  |  |
| * + during all or part of the period of a person’s foreign residency, their spouse, or their child who is under 18 years of age at the time of their death died, or |  |  |
| * + the CGT event occurs in a matter involving the distribution of assets between the person and their spouse in a family law context, such as in the event of divorce or separation or similar maintenance agreements. |  |  |
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| All other requirements to claim the main residence exemption must also be satisfied. |  |  |
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| OTHER ISSUES RAISED |  |  |
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