RENSHAW DAWSON LANG

overVIEW

Spring 2010 Edition

Will You?

"...in this world nothing can be said to be certain, except death and taxes."

— Benjamin Franklin (1789)

Despite the best attempts to have a current will, the contents of a will can create significant tension.

One of the great challenges to a business owner is dealing with the succession of the business, especially where not all of the siblings have worked in the business. Sometimes this can be achieved by transferring the business during a parent's lifetime, but other times the planning is not so smooth.

I recently read of a case where a parent left his total estate, including the family business, to his two adult children. While the son had worked in the business for many years, his sister had never had an involvement. Now they were joint shareholders, and no decisions could be made without unanimous consent. They each sought valuations on the business to enable the son to buy out his sister, and as expected these varied significantly, resulting in further tension. Soon the lawyers were involved. The matter was ultimately resolved, but not after considerable time and cost, not just in dollars. The business suffered significantly due to the loss of focus, and the relationship between the siblings was irreparably damaged.

While the contents of a will are personal, it is often wise to communicate these with the family in order to help prevent situations such as the one above. Sometimes it may be prudent to create a forum (perhaps with the accountant or legal advisor present) to enable siblings to express their opinion in a setting that can be more formally facilitated. This may allow the will maker the opportunity to foresee potential problems, and take necessary steps. For example, in the case above, a set business valuation process, and discretion to the executor to allocate specific assets to beneficiaries in an equitable way, may have worked better.

The passing of a loved one is a very difficult time. Careful preparation can help families avoid a cost that for most is more than they would be willing to bear.

In this edition

» ATO Targets the Cash Economy

» Easier for Expatriates

» Changes to Companies Limited by Guarantee Reporting

» Why the Tax Office is Looking at your Facebook Profile

ATO targets the Cash Economy

In these tighter economic times, the ATO has been allocated additional funding to target companies paying employees cash in hand, thus enabling them to circumvent their obligations, including tax and superannuation. Paying employees in cash is not an offence in itself provided that PAYG tax withholding and super contributions have been met.

The main offenders include the hospitality and construction industries, both known to be responsible for widespread cash in hand payment practises, including paying employees through the books during the week but in cash if they work on the weekend.

The ATO's cash economy taskforce, which operates mainly in the small business area, has produced a number of industry benchmarks to help identify businesses that pay cash-in-hand. Other avenues used to catch non-compliers, range from the ATO's tax evasion referral centre, where people can volunteer information about non-compliance, to referrals from people who are applying for an ABN where they are an employee, which can be an indicator of employment income being treated as contractual.

Easier for Expatriates

Australians working overseas will now be able to claim a Foreign Tax Offset for foreign income tax paid on those amounts now included in their assessable income.

This follows the measures implemented in July 2009 that meant the foreign employment income of most Australians working overseas was no longer exempt from Australian income tax.

Theses taxpayers will not be required to lodge a foreign tax return but will be required to retain pay slips that, under the self-assessment regime, will need to be provided if the tax office undertakes an audit.

ATO Delays in Processing Returns

As has been reported in the media, the ATO is still experiencing delays in processing of tax returns. In a recent letter to accountants, the ATO advised that while they expect a majority of tax assessments to issue within 14 days of lodgement, there are still some that are expected to be delayed. In particular, tax returns with Higher Education Loan Program (HELP) and Student Financial Supplement Scheme (SFSS) obligations have been delayed, with the ATO only starting to process these in late July.

Changes to Companies Limited by Guarantee Reporting

Introduced back in December last year, the Corporations Amendment (Corporate Reporting Reform) Bill 2010 gained Royal Assent on 28th June 2010. It introduces some changes to company reporting, particularly for Companies Limited by Guarantee.

Historically all companies limited by guarantee have required audits. As a result of this new bill, whether an audit is required is now dependant on revenue and deductible gift recipient (DGR) status, as is summarised in the following table:

For those second and third tier companies below, the requirements for the Directors' report have also changed to include details of the objectives of the entity, the strategies employed, its activities and their role in achieving the objectives, and how the organisation measures performance.

These changes are already law and affect companies limited by guarantee with 30 June 2010 year ends. During the coming months we will be assisting our audit clients in working through the new requirements.

Tier	Revenue	DGR	Financial Report	Audit/Review
1	$0-$249,999	No	Not Required	Not Required
2	$0-$249,999	Yes	Required	Audit or Review
2	$250-000-$999,999	Either	Required	Audit or Review
3	>$1,000,000	Either	Required	Audit

Why the Tax Office is looking at your Facebook profile

A recent article published in the online small business magazine SmartCompany will have many people reviewing what they say and expose on Facebook or MySpace and other social networking sites.

According to a lecturer at Latrobe University's Faculty of Law and Management, cited in the SmartCompany article, the popular social networking site is being used by ATO to build prima-facie cases against investors using offshore tax havens.

The compulsion of some to share every movement on online forums is being used by the Tax Office as a tool to build profiles on high net wealth individuals. So, if the tax office is told by the taxpayer that they have a modest income but regularly post photos of holidays in Barbados, or shopping expeditions in Paris, then be sure to expect a call from the Tax Office very soon.

Offshore tax havens are a particular focus and this compliance program has claimed the scalps of many high profile taxpayers through Project Wikenby (a multi-agency task force established in February 2006 set up to protect the integrity of Australian financial and regulatory systems by preventing people from promoting and participating in the abusive use of secrecy havens).

The accessibility of the information available to the Tax Office to investigate and build cases against taxpayers is increasing every day. Facebook profile is just another avenue.

Interest free payment arrangements and activity statement payment deferrals for small business

The measures introduced last year to assist small businesses to meet their tax payment obligations have been extended until 30 June 2011. The measures are:

- 12 month general interest charge (GIC) free payment arrangements
- Deferred activity statement payment due dates

They remain available to businesses with a turnover under $2 million. The ATO now expects businesses entering GIC free payment arrangements to pay by direct debit.

Renshaw Dawson Lang ABN 84 164 947 290

60-64 Railway Road, Blackburn 3130
PO Box 189, Blackburn 3130

Phone 03 9878 1477 **Fax** 03 9894 1798
Email contact@rdl.net.au **www.rdl.net.au**

DISCLAIMER: The contents of this publication are general in nature and we accept no responsibility for persons acting on information contained herein without first consulting us.