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INSIDE • *ATO focus on School Building Funds* • *Beat the clock at tax time* • *Market Update*

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ATO FOCUS ON SCHOOL BUILDING FUNDS

In February 2013 the ATO released Taxation Ruling TR 2013/2 relating to what constitutes a tax deductible school building fund. The previous (1996) ruling focussed on the percentage of time a building was used as a school, thus where the school use exceeded 50% the building qualified for funding from a school building fund.

While many of the features of the previous ruling have been restated, TR 2013/2 takes a much more expansive view of which funds meet the building fund requirements. While it lists the more obvious criteria a fund must meet (eg there is a school, a building structure, etc.), it devotes a great deal of attention to what it means for a building to be "used as a school". The greater than 50% test has been replaced by a series of considerations such as the amount of time the building is used as a school, the number of people using it, the physical area, modifications made to the building, and whether the school controls the use of the building.

As is typical of Tax Rulings, this ruling applies retrospectively, although there are concessions where a Fund became committed to the acquisition or construction of a building before 13th February 2013. If an existing school building fund is eligible to apply the "greater than 50%" test, and later (after 13th February 2013) becomes committed to another project that does not meet the requirements of the new ruling, the fund will lose its tax deductibility for all projects. In light of this, it is wise to segregate pre and post ruling building funds.

As a transitional measure Funds established prior to 13th February 2013 will be allowed to continue to pay for maintenance costs of existing buildings up to 30th June 2013.

Claire Harris

Claire is Senior Manager and a Not For Profit specialist.

Save time on your Superannuation Guarantee payments

Are you spending time making payments for employee superannuation?

Do you have 19 or less employees?

Are you manually paying each employees superannuation every quarter?

If you answered yes to the above questions, you may wish to consider using the Small Business Superannuation Clearing House. (http://www.humanservices.gov.au/business/services/medicare/small-business-superannuation-clearing-house/)

This is a free service provided by the government to help small businesses cut compliance costs in relation to superannuation payments for employers.

Some key features of this service include:

- You make one secure electronic transaction and the clearing house distributes the contributions to your employees nominated superannuation funds
- Each time you make a contribution, your employees preferences are already pre-populated, so you only need to enter the contribution amounts
- Its keeps a record of your superannuation guarantee obligations
- Once setup, it only takes a few minutes to process payments

For assistance setting this up please contact us.

Matthew Hung

Matthew is Senior Manager specialising in Tax and Audit

Having trouble paying tax?

In the current poor economic climate, cash flow needs can easily consume funds set aside for payment of tax debts. The ATO has a process in place to allow small businesses to pay off their tax debts over a period of time. At June 2012 the ATO had 35,900 interest-free payment arrangements in place. The ATO is normally willing to allow small businesses to pay back tax arrears over a 12 month period on the proviso that future statements are lodged and paid on time. If you need help organising a payment arrangement please contact us.

Joel Hernandez

Joel is Director and Specialises in Taxation and Business Services

ACNC – ANNUAL INFORMATION STATEMENTS

The ACNC is busy preparing for its first reporting period and has released a sample Annual Information Statement: http://www.acnc.gov.au/ACNC/Manage/AIS/ACNC/Report/2013AISsample.aspx

This information statement is compulsory for all registered charities and will need to be lodged no later than six months after the end of the charity's financial year – first affecting charities with June year ends.

Once processed, the information contained on the statement will be published and available for public viewing on the ACNC Register unless withholding of information has been specifically requested.

The statement is the same for all charities and asks for information about the purposes and activities including narrative description of how your purposes were pursued during the year. The statement also asks for numbers of employees and volunteers and location of operations.

Section D of the form is a voluntary section designed to provide the ACNC with information about reporting obligations your charity may have to other state or commonwealth agencies. This information will be used to help the ACNC reduce red tape for charities.

In this and many of the other reforms in the not-for-profit sector, charitable purpose is key. If you haven't done so recently, take the time to read how this purpose is described in your governing documents and consider how your activities align. It may be that some tweaking is necessary.

Claire Harris

Claire is Senior Manager and a Not For Profit specialist

Beat the clock at tax time

Pretty soon it will be decision time for a number of end of financial year strategies. Here are three ways you may be able to make the most of tax time.

Every year around this time, a window of opportunity opens to help maximise your end of financial year tax strategies. But if you leave it too late, you may lose the opportunity to improve your tax position.

So what are some of the strategies you might want to consider?

*if you are over age 65 when you make the contribution you must meet the work test and if you are intending to make a contribution about the non concessional cap this will need to be done as multiple contributions as the fund can only accept contributions of up to $150K.

1. Manage your contributions caps

What's the goal?

To maximise your super contributions.

How does it work?

There are limits on how much you can contribute to super tax-effectively each financial year. These limits (referred to as 'caps') are important for two reasons:

- If you've already commenced a super contribution strategy, you need to monitor your contribution levels to help maximise your opportunities without unintended penalties.
- If you're not using your caps, there's an opportunity to increase your super contributions.

The following table shows what the two types of super contributions are, and what limits and penalties relate to each.

What are your contributions caps?

	Concessional (before-tax) contributions cap	Non-concessional (after-tax) contributions cap
Types of contributions included	• Superannuation Guarantee (SG) • Salary sacrifice (see strategy 2) • Personal deductible (if self-employed)	• Personal super contributions you've made from your after-tax income (see strategy 3)
Maximum allowed (2012-13)	$25,000	$150,000
Tax on amounts over the cap	31.5% (in addition to the 15% paid by the super fund)	46.5%
Important information	Any concessional contributions in excess of the cap will also count towards your non-concessional contributions cap.	If you are under age 65* at any time during the financial year, you may be able to bring forward the next two years' worth of contributions. This effectively allows you to contribute up to $450,000 at once, or at any time during the next three financial years.

If you have room under your caps, the next two strategies explore how you may be able to use that room to your advantage.

2. Start a salary sacrifice arrangement (using before-tax contributions)

What's the goal?

To boost your super balance in a tax effective manner.

How does it work?

You may be able to enter into a salary sacrifice arrangement with your employer, provided you have room in your concessional contributions cap. This may allow you to contribute some of your before-tax salary directly into your super account.

The benefit of this strategy is that your before-tax super contributions are taxed at 15% – compared to your marginal tax rate of up to 46.5% (including Medicare Levy) if you took this money as cash.

An added benefit is that these potential savings are going towards your super balance, so they can compound over time and make a significant difference to your retirement savings.

Salary sacrifice arrangements differ depending on your place of work, and you may need to check what rules are in place for you. It's a good idea to have this conversation with your employer well before 30 June as you can't salary sacrifice income (including year-end bonuses and commission payments) to which you are already entitled – it must relate to employment income that you will earn in the future.

Remember, if you have a salary sacrifice arrangement in place, it's important to review the strategy annually to ensure it remains appropriate for your circumstances or any changes in legislation.

3. Move assets into super

What's the goal?

To place your long term investments in a tax effective environment .

How does it work?

When you hold investments like shares or managed funds outside super, you pay tax on these investments at your marginal tax rate – which could be as high as 46.5% (including Medicare levy).

However, if you held these assets inside super, those same investments would be taxed at 15% or less. Assuming your marginal tax rate is higher than 15%, these tax savings could help your investments grow faster inside super than outside super.

Once you've started accessing your super in the form of a pension, this strategy may become even more attractive. That's because:

- Any earnings on the investments supporting the pension are tax-free.
- Up to age 60, the tax you pay on pension income you draw may be reduced by tax offsets, and/or

you may receive some income tax-free if you've made after-tax super contributions.

- After age 60, any income or benefits you withdraw from super are tax-free.

This strategy is best suited to investments you're putting aside for retirement, as you won't be able to access them until you reach your preservation age (currently age 55) and you are permanently retired from the workforce. Your financial adviser will assist you in identifying any issues to be aware of with in specie transfers including capital gains tax (CGT) considerations, contribution rules and caps."

Know where you stand before 30 June

The best year-end tax strategies for you depend on your personal circumstances and goals – which may change from year to year. Likewise, the strategies can vary over time with changes to rules and regulations.

To make sure you know where you stand before 30 June, speak with your tax and financial advisers as soon as possible.

Could protecting your family also save you tax?

Income protection is a popular type of insurance that replaces a percentage of your income (usually up to 75%) if you can't work because of sickness or injury.

This insurance may be an effective way to protect your family's lifestyle as it can give you the money you need to keep up with your financial commitments – such as your household bills and mortgage repayments – while you focus on your recovery.

Another benefit of income protection is that premiums are generally tax-deductible. And if you pay your premium in advance before 30 June, you may be able to bring forward the tax-deduction to this financial year. Talk to your financial adviser to find out more.

MARKET UPDATE

The equity market rally at the back-end of 2012 has continued into 2013 with 'risk' seemingly now well and truly back in vogue with global equity markets continuing to move higher.

In January, the US S&P500 posted its largest monthly gain since October 2011 and rose above the 1500 level for the first time since December 2007. At the same time European, Asian and emerging markets are also higher, while the domestic equity market (ASX 200) is now trading above the 5000 mark, its highest level since the peak in mid 2007. However, the ongoing concerns about the direction (and strength) of global growth, combined with the euro debt crisis and the continuing budgetary impasse in the US continue to weigh on market sentiment and have the potential to mitigate some of the recent market gains.

Globally, cash rates have remained unchanged in recent periods and continue to remain very accommodative, a trend that we expect will continue for a number of years. In Australia, so far the RBA has lowered cash rates by 0.50% (50bps) to 3.0% during Q4 2012, but have so resisted making any further cuts through the early part 2013.

The ongoing improvement in US housing remains one of the bright parts of the global economy. Record low mortgage rates spurred by the Federal Reserve's aggressive monetary policy stance have assisted in ongoing signs of a housing recovery.

Notwithstanding signs of increasing stabilisation in regard to the debt crisis in Europe, there remains a significant number of structural headwinds. The labour market remains virtually stagnant with Eurozone unemployment still at 11.7%, while the strength of the euro has reduced the export competiveness of the region and reduced a key lever (i.e. weaker currency) in assisting economic recovery.

In Japan, the economic outlook remains constrained with most recent data indicating that the nation has entered a technical recession (two consecutive quarters of contraction). Data in Asia showed that Japan's industrial output tumbled more than forecast to the lowest level since the aftermath of the record 2011 earthquake, bolstering the case for Prime Minister Shinzo Abe to unleash a large-scale stimulus, beginning with a significant devaluation of the Yen to support the economy.

In China manufacturing expanded at the fastest pace in 19 months in December 2012, boosting optimism that a recovery in the world's second-biggest economy is gaining traction.

Australian Economic Commentary

While the Australian economy continues to track relatively well to its global peers, the recent comments by the RBA and supporting data highlight some underlying general fragility and weakness. Equally, the relative strength of the Australian dollar continues to hamper export orientated industries. That said, if the most recent data from both China, the US and Europe continues to show an improvement this may provide the fillip to the local economy.

Nevertheless, as we expect that domestic growth will continue to moderate through 2013, the potential for more stimulatory measures via further official interest rate cuts still remains.

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