



June 2010 Newsletter

Well, to say a lot has happened in Australia over the last 12 months would be an understatement!

We've had the following big-ticket items occur:

- The release by the Federal Government of the Ken Henry Report;
- The 2011 Federal Budget;
- Sustained credit-tightening by banks when lending to businesses;
- An increase in businesses suffering financial difficulties; &
- An ever-increasing tightening of legislation by the Australian Taxation Office.

As if simply trying to run your business wasn't enough, business owners also now have to contend with tighter legislation surrounding various taxation structures (see our article regarding "*Trust Matters*").

As always, there are a number of issues to consider prior to 30 June 2010 and now is the time to address these. Our "*Year-End Considerations*" article highlights some major areas you should be considering now.

In the current environment, it is extremely important that you focus on the major drivers of your business. Cash is king as they say! Our "*Key Business Indicators*" article highlights areas where a small change could reap significant dividends in cashflow and profit.

Finally, we are proud to announce the opening of our Brisbane Office!

A number of clients and acquaintances have asked when we would be opening a Brisbane office and we have been fortunate to secure office space at West End, from which we hope big things will follow. We provide details for this office later in this newsletter.

For now, take your time to go through this newsletter and, as always, if you have any questions regarding its contents, we are always happy to help and clarify.

Steven J Lutz

Principal



Year-End Considerations

With 30 June 2010 coming-up quickly, now is the time to ensure you have attended to all those last minute matters.

- To gain a tax deduction in the 2009/10 year, for superannuation contributions, you must ensure that those contributions are in the superannuation fund's bank account by 30 June 2010. Don't leave this until 29 June 2010 to do as you may miss out!;
- For those on salary-sacrifice arrangements, involving superannuation contributions, keep in mind that for the year ending 30 June 2010, the maximum contributions that can be made are \$25,000 if under 50 years of age and \$50,000 if over 50 years of age. Also keep in mind that if considering maximising superannuation contributions, for the year ending 30 June 2010, such limits include the 9% superannuation contributions paid on any salary income. Any salary-sacrifice agreement must be pursuant to a *prospective* agreement between employer and employee.;
- Look at bringing-forward any deductions into this 2009/10 year that may otherwise have been paid in July or August 2010, to gain a possible tax deduction;
- For those receiving quarterly PAYG instalments, consider whether the June 2010 instalment can be varied down, based on the business' overall performance for the 2009/10 year. This will involve allowing us to review your year-to-date figures to ensure any possible variation can be undertaken by the due date of 21 July 2010, for monthly BAS businesses and 28 July 2010 for others;
- To ensure you are not subject to the Medicare Surcharge, make sure you have private health cover for at least hospital cover;
- Given that a significant number of businesses may have had to deal with bad debts this year, ensure that you have documented evidence that shows you've taken all reasonable steps to try and have the debt paid before writing it off as "bad". You must also ensure that the debt is written-off as bad in your debtor's ledger in the June 2010 period, at the latest, in order to claim the tax deduction;



- Where operating your affairs through a discretionary trust, ensure that the annual trust income distributions have been determined and the distribution minute prepared accordingly;
- Where there is a Division 7A loan from a company to a related-entity, such as an individual or trust, ensure that the annual minimum repayment has been made by 30 June 2010. The consequences of not making this repayment are that any shortfall will be treated as a deemed dividend and assessable to the shareholders.

Key Business Indicators

For those businesses relying on debt funding for everyday working purposes, no doubt you will have felt the winds change over the last 12 months as bankers become more cautious and strict in their terms relating to providing and renewing debt funding.

Debt funding is an integral part of a business' growth so what can a business owner do when the banks are playing hardball and he/she needs to manage operations to free-up cash?

Listed below are 5 areas of a business where we have found the best opportunities to "create" cash and improve profitability to make your business more attractive to a bank.

1. Review Your Customers & Products

The customer or product providing the highest turnover to your business may not be the most profitable! What inputs are required in order to generate the sale? Don't forget the opportunity cost of hands-on time with the customer and collecting debts. The "Pareto-rule" applies here – focus on the 20% of customers or products that provide 80% of profits. By discontinuing unprofitable product lines or customers, you free yourself up to focus on growing the profitable ones – and if your competitors take over those troublesome customers, then you'll have less worries.



2. Overheads

Don't underestimate the little things! Do your customers prefer you to correspond by letters or email? Those customers who are more technologically comfortable may not wish to be sent hard-copy letters or documents, thereby reducing printing & stationery costs. For those businesses that deliver goods, can these goods be delivered monthly instead of fortnightly, thus saving on supply costs?

3. Outstanding Accounts Receivable

If your Accounts Receivable at any one time are \$300,000, then what can you be doing to have \$100,000 of those debtors converted to cash in your bank account? The longer a debtor is outstanding, the less chance there is of collecting it so make sure your customers know your terms of trade. Most businesses we see hold-off collecting accounts until the last possible moment, yet if a customer has not paid within the terms of trade and is aware of them, then it usually costs less to have a professional collect the debt owing than all the time and effort of you chasing it. Indeed, you might also consider arrangements where any debt is paid-off via a direct debit from your customer's bank account, over a certain period, to allow for certainty in cashflow.

4. Accounts Payable

Whilst some business owners generally tend to hold-off chasing accounts receivable to the last possible moment, surprisingly, they also tend to pay suppliers quickly. Perhaps it's the "I don't want to owe anything" maxim, yet you should have control over your payments to suppliers. Paying too quickly may cause the supplier to think they can control you! Also, if you are going to pay accounts before the due date, you might want to negotiate a discount for early payment.

5. Trading Stock

Your goal, as business owner, should be to turn-around your stock as quickly as possible. This means, get the stock sold so it is not sitting in the warehouse. Stock just sitting around is costing you money. You should be aware of your stock movement patterns – what times during the year does my stock turn-around quickly and what times does it lag? Also, be careful of accepting discounts for stock purchases at times of the year which are proven to be slow. The discount may actually cost you more through lost cashflow which could have been used for more profitable or faster-moving products. Finally, consider any obsolete stock you may be holding and the best methods of disposing of this (i.e. discounting or just simply scrapping).



Trust Matters

Over the last 12 months, there has been a renewed focus on trust arrangements, by the Australian Taxation Office (“ATO”), from a number of fronts, including:

- Unpaid Present Entitlements; &
- Trust Deed definitions of income.

1. Unpaid Present Entitlements

Recently, the ATO issued its final ruling regarding unpaid present entitlements (“UPE”).

A UPE arises where a trust makes a distribution to a related company. However, the cash is not paid by the trust to the company but merely is retained in the trust for either working capital purposes or drawn by a beneficiary of the trust.

Before the ATO issued its draft ruling on this matter, there were rules in place to deal with situations where a beneficiary of a trust had drawn the cash, represented by the UPE, however, where the funds were retained in the trust, there were no further issues to deal with.

The recently-released ruling now draws a line between pre and post 16 December 2009 UPEs, whereby UPEs arising after this date may be placed on a commercial footing by having loan agreements between the company and trust in place and repayments subsequently made.

Of more concern are those UPEs which arose prior to 16 December 2009 and may have been in existence for a number of years. It would appear that where there was knowledge of the UPE by both the company directors and trustee of the trust, the ATO may now construe these as being loans, upon which annual minimum repayments should have been made. The consequences of this stance by the ATO is that any repayments that should have been made may now be treated as deemed dividends with tax payable at 46.5% – a potentially significant burden for a taxpayer, especially when you consider the retrospective nature of the ruling.



As at the time of writing this article, the final ruling had only been released for short period of time and we would venture to suggest that further lobbying by various bodies will be undertaken with the goal of minimising the practical application of this ruling. Obviously we will keep you updated as and when more details are released as to how this ruling will be enacted.

2. Trust Deed Definition of Income

As a result of *Bamford's Case*, which dealt with the definition of distributable income, under the taxpayer's trust deed, it is critical that where you operate your affairs under a discretionary trust, that trust deed be reviewed so that the trustee is aware of what income is distributable income, the subject of the annual distribution minute and the annual statutory accounts are reviewed to ensure that the correct distribution of income is being made.

Where you have a trust deed that has been in existence for a significant period of time, we would strongly recommend that it be reviewed to ensure that the income being distributed is in accordance with the trust deed.

No doubt, in due course, the ATO will provide further details on how it will be focussing and applying the laws regarding the use of trusts. However, at this stage, the above two points should be considered and acted-upon, where required.

Independent Contractors

One of the questions we constantly have asked of us is “What do I have to think of if I want to hire an independent contractor” and “What is the difference between an employee and independent contractor?”

The below link will take you to a Federal Government booklet that has been recently published, which addresses such issues as:

- Who is responsible for paying superannuation contributions?
- Do I have to pay Payroll Tax for a contractor?
- What are the WorkCover implications of hiring a contractor?
- What Occupational Health & Safety issues should I consider?

The booklet also provides a checklist for both hirers and contractors covering the main issues to consider.

This report is of a general nature only and should not be construed as specific advice.



The booklet provides a good overview of the main issues that those looking to hire contractors should consider and we would recommend that you peruse it to gain an overview of the important points.

<http://business.gov.au/BusinessTopics/Independentcontractors/Documents/IndependentcontractorstheessentialhandbookApril2010.pdf>

Our Brisbane Office!

It is with much pleasure that we announce our Brisbane office is now open for business!

With clients located over a vast geographical territory, we have had a number of enquiries as to whether we would be opening an office in Brisbane, at some stage. Recently, we were fortunate to secure office space located at West End, to allow us to establish a presence in Brisbane and continue to service our clients to a high degree.

Both Craig Wood and Steven Poon will be spending some time on a weekly basis in our Brisbane office, whilst also continuing to service existing clients.

The details of our Brisbane office are as follows:

- Level 3, Oxley House
25 Donkin Street
West End QLD 4101
- PO Box 3870
South Brisbane BC QLD 4101

Phone No: (07) 3013-6500
Fax: (07) 3255-0608



Important Dates

Keep in mind the following important upcoming dates:

- 30 June 2010 - Due date for superannuation contributions to claim tax deduction
- 14 July 2010 - Due date to provide 2010 PAYG Payment Summaries to employees
- 21 July 2010 - Due date for payment/lodgement of June 2010 monthly IAS/BAS
- 21 July 2010 - Lodge and pay annual 2010 Payroll Tax return
- 28 July 2010 - Due date for SGC superannuation contributions
- 28 July 2010 - Due date for June 2010 quarterly BAS
- 14 August 2010 - Due date to provide ATO with 2010 PAYG Payment Summary Statement
- 21 August 2010 - Due date for lodgement/payment of July 2010 monthly IAS/BAS