R&G TAX REPORT

June 2003

Year End Tax Planning

As we approach the financial year end, it is time to focus on tax planning issues, including the deferral of income, the acceleration of deductions and other planning initiatives.

Important matters to consider are outlined below.

Deferring Income

In relation to the derivation of income, note the following points:

- Most taxpayers will not be assessed on interest, dividends or rent until it is received (unless otherwise paid or credited on their behalf). This creates an opportunity for deferral;
- Work in progress of professional practices will not be assessable until there is at least an entitlement to bill;
- In line with the *Arthur Murray* principle, taxpayers may be able to defer recognition of income received before year end for services not yet performed;
- Royalties and insurance proceeds are typically assessable on a cash basis; and
- Derivation of income in general might be deferred where possible.

Accelerating Deductions

Some initiatives to accelerate deductions include:

- Ensure that superannuation contributions are paid by year end;
- Write off bad debts before year end;
- Ensure that audit fees are incurred before year end, based on tax ruling IT 2625;
- The outlay for deductible expenses may be bought forward;
- Consider scrapping stock and plant and equipment of nil value before year end;
- Value stock at a lower replacement price or market value where appropriate;
- Maximise prepayments subject to existing transitional rules;
- Consider the appropriateness of the low value pool for depreciation of plant and equipment;
- Consider realising foreign exchange losses and deferring the realisation of gains; and
- Ensure that bonus obligations are incurred before year end.

Capital Gains Tax

Some strategies to minimise Capital Gains Tax (CGT) include:

- Defer a disposal to a subsequent income year;
- Defer a disposal to ensure the asset has been held for at least 12 months, to (potentially) benefit from the 50% discount;
- Match gains and losses where possible to avoid carrying forward a capital loss;
- Consider the availability of rollover relief for disposals to related parties;
- Utilise the CGT small business and retirement concessions;
- Consider whether non-deductible costs may be included in an asset's cost base; and
- Consider whether it is most beneficial to utilise the 50% discount, where available, or frozen indexation.

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Consolidation

- Consider whether any tax planning or restructuring may be appropriate in the lead up to consolidating;
- Consider whether an election to form a consolidated group should be made for tax purposes;
- Analyse new Allocable Cost Amount (ACA) cost setting rules. Determine whether there would be a benefit in adopting ACA rather than retaining existing asset cost figures;
- Review the potential tax treatment of losses within company groups;
- If ACA is to be used, or if there are losses, consider whether valuations should be obtained as part of the consolidation process.

Other Issues

Other important matters include:

- Try to match foreign source income of a particular class with related expenditure, to avoid a quarantined foreign loss;
- Plan to utilise foreign tax credits against Australian tax on foreign income of the same class, or transfer the credits to a group company;
- Avoid paying rebateable dividends to a loss company;
- Remember that year end trust distributions and income injections may affect a trust's ability to recoup prior year tax losses and bad debt deductions;
- Consider the impact of *private company loan rules,* and whether loans can be structured to comply with the provisions to avoid a deemed unfranked dividend and franking debit.
- Ensure that minimum prescribed repayments are made on private company loans as required;
- Consider whether the commercial debt forgiveness rules apply and, if so, whether grouping rules or other planning initiatives can mitigate the impact;
- Ensure optimum utilisation of franking credits and consider making a family trust election where a trust holds shares acquired post 31 December 1997;
- Consider whether the non-commercial loss rules apply;
- Consider the effective lives of depreciable assets;
- Where loans have been made involving non-resident associates, consider the application of the Thin Capitalisation rules;
- Consider international-related party transactions, whether arm's length prices have been charged, and whether there are transfer pricing issues to address;
- Identify and address other international tax issues, such as permanent establishments and controlled foreign companies;
- Consider whether a family trust election should be made because of losses or bad debts in trusts or companies owned by trusts;
- Do the alienation of personal services income rules apply? Is a personal services business determination required, or can the rules be avoided through careful planning?
- Is there any entitlement to a refund of franking credits?
- Consider whether non-commercial loans made to a company may be treated as equity under the debt equity rules;
- Ensure all dividends paid within a franking period have been franked to the same extent;
- Ensure franking accounts are converted on 1 July 2002 to reflect 'tax paid'; and
- Ensure a company paying a franked dividend has issued a distribution statement in the 'approved form'. Otherwise, the recipient will be unable to claim the imputation credit as a tax offset.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.