

Welcome to the February issue of Pearce Norris Tax News. This issue focuses on:

- Bringing in the money – debt collection
- Late Super Guarantee payments
- WorkChoices
- FBT check-up time
- Spotlight on barter trade
- Is DIY super for me?

We would be pleased to discuss the tax issues set out in this issue of Tax News. Please contact Michelle Pearce on (02) 9555 1309 or Kathryn Norris on (02) 9555 7739 to discuss how Pearce Norris can assist you and your business.

BRINGING IN THE MONEY

February is traditionally a tight month for cash flow for small business owners, particularly with the lodgment of your October-December 2005 quarter BAS (due on 28 February).

Your debt collection over the holiday period may not have been as good as it could be. One way to boost your cash flow is to refocus on collecting your outstanding debts.

Checklist of debt collection tips:

- ensure your invoices clearly indicate exactly when you expect payment
- to encourage payment, you may consider offering a discount if the invoice is paid before the due date
- on the other hand, if your clients are outside your terms of trade you may want to indicate on all your invoices that a late payment penalty applies
- when your clients are outside your terms of trade, you need to chase them up as soon as possible without damaging your business relationship
- you should be clear about when you put your debt collection strategy into action – for business clients, you may need to take account of their reporting cycles (e.g., monthly) before deciding when to chase up an outstanding debt. On the other hand, you may want to chase up individual clients as soon as they are outside your terms of trade
- your debt collection strategies should cover such things as whether your first request for payment will be by phone, when to send a follow-up letter and when you will resort to legal debt recovery assistance
- you cannot get blood out of stone – if you know your client has no money, it may be better to consider negotiating a repayment schedule over a period of time

What happens when a debt goes bad?

The trouble with a bad debt is that it is highly likely that you have already brought it to account as assessable income. If this is the case, you may be entitled to a deduction for the bad debt if it is written off before 30 June:

One of your debts is likely to be 'bad' if:

- you have made an effort to collect it
- there is little likelihood that you will ever be successful in collecting it

- you abandon any debt recovery action

PREVENTION BETTER THAN CURE

It is best to prevent problems before they occur – you may want to consider checking first with credit reference agencies, or you can even do an informal check with other suppliers, to see if there are any potential problems with a client.

LATE SUPER GUARANTEE PAYMENTS

What happens if you unintentionally pay the quarterly compulsory superannuation guarantee (SG) contributions for your employees after the payment cut-off date?

Unfortunately, you are not considered to have made a SG contribution at all for the missed quarter (even though you paid the contribution – admittedly late).

This means you will have to pay the SG charge to the ATO. In this situation, the charge will be the full amount of the SG contribution plus interest and an administration fee.

As the SG charge is not tax deductible, you have effectively paid the SG contribution twice – once as a late payment and again as part of the SG charge!!

How do I get out of this mess?

Option 1

Until recently, your only escape was to approach the super fund and request that the late payment be offset against your next quarter's SG obligation for the employee(s) involved. However, it is an expensive mistake on your part if the fund will not do this.

Option 2

From 1 January 2006, provided you make the late SG contribution no later than 1 month after the due date, you may also now have the option of requesting the ATO to offset this late payment directly against the SG charge itself. If you do this, then the late payment is not tax deductible.

Of course, the best way to avoid this problem altogether is to pay your compulsory SG contributions on time. Here is your payment schedule for 2006:

<i>Quarterly period</i>	<i>Pay contributions by</i>
1 Jan 06 – 31 Mar 06	28 Apr 06
1 Apr 06 – 30 Jun 06	28 Jul 06
1 Jul 06 – 30 Sep 06	28 Oct 06
1 Oct 06 – 31 Dec 06	28 Jan 07

WORKCHOICES

The Government's much publicised new national workplace relations system (WorkChoices) is expected to come into force in March this year.

Whilst we normally deal with tax related issues in our newsletter, it is worth making a note that WorkChoices may impact on the way you currently manage your relationship with your employees (e.g., pay and working conditions, workplace agreements, industrial disputes and termination of employment).

Although WorkChoices is not about tax, it may have some tax implications.

For example, if your business is not incorporated (e.g., you currently operate your business through a partnership), your business cannot access the WorkChoices regime.

If you decide that WorkChoices is right for your business and you are not incorporated, you may want to consider the pro's and con's of incorporating - this will have some tax consequences.

TIP

You need to be sure that incorporating your business is the right way to go, not just because of WorkChoices, but because it is the best overall way to conduct your business.

Will I get a tax deduction for the costs of incorporating?

Yes. You can generally write-off the cost of establishing your business structure, as well as the cost of converting your business structure to a different structure. These costs are written-off over a 5 year period.

For example, you can claim a deduction (apportioned over a 5 year period) for the costs of incorporating your business that had been operating as a partnership. The types of costs covered include things like stamp duty on transferring assets, filing fees, as well as any fees you pay to your solicitor or tax agent for advice about incorporating.

Are there any other tax consequences?

Yes. The main one is likely to be on the transfer of assets from one entity to another. This may give rise to capital gains liabilities, balancing charges on depreciated assets or stamp duty. If these liabilities arise, you will need to check whether you can take advantage of any rollover relief.

For example, you might be able to take advantage of the capital gains tax rollover relief available on the transfer of assets from a partnership to a company.

FBT CHECK-IN TIME

The fringe benefits tax (FBT) year end is just around the corner (31 March 2006).

Small businesses bring in around 23% of FBT revenue collected by the ATO – that is currently over \$700 million!

Recent investigations by the ATO show that FBT compliance amongst small businesses is not as good as it could be.

So it is that time of year again to check if you have provided any fringe benefits to your employees that are taxable and make sure you are ready to lodge your FBT return and pay any FBT liability on time.

Checklist of some FBT basics:

- the current FBT year runs from 1 April 2005 to 31 March 2006
- as an employer, you have to calculate and pay any FBT liability
- if you have an FBT liability, you must lodge your FBT return and pay your FBT liability by 21 May 2006
- FBT is separate from income tax and is levied at the top personal marginal rate of income tax, including the Medicare levy (i.e., currently 48.5%)
- you can generally claim an income tax deduction for the cost of providing fringe benefits and for the FBT you pay
- where the total taxable value of reportable fringe benefits for an employee is more than \$1,000 for the FBT year, you will have to disclose this value (grossed-up) on the employee's payment summary

DUE DATE FOR FBT

Because 21 May 2006 falls on a Sunday this year, you can lodge your FBT return and pay any FBT liability at the latest by Monday 22 May 2006.

Tips for reducing your FBT exposure

Everybody is a winner if you can make use of FBT exempt benefits.

Provided you comply with any requirements that make a particular benefit FBT exempt, you (as the employer) do not have to pay any FBT on this benefit and these types of benefits are generally not subject to income tax in the hands of your employees.

A checklist of some common FBT-exempt work related items:

- mobile phones (must be used primarily for employment)
- a notebook, laptop or similar computer (only 1 per employee per year)
- computer software (e.g., electronic diary software)
- an electronic diary or similar item
- briefcases and calculators
- protective clothing required for a job
- tools of trade (e.g., you are in the building industry and provide loose tools like hammers, wrenches, chisels and hand operated power tools)

MORE EXEMPT BENEFITS

From 1 April 2006, personal digital assistants and portable printers designed for use with work-related portable computers are exempt.

SPOTLIGHT ON BARTER TRADE

If you exchange your goods and services for another business's goods and services without money, you are engaging in barter trading.

For example, you run a cleaning business and you provide cleaning services for your local newspaper in exchange for some advertising for your business.

Whether you barter on a casual or one-off basis directly with another business, or through your membership of a barter exchange (where you exchange goods and services using the "trading currency" of the exchange) – barter transactions have tax consequences.

Make sure that you do not overlook the potential tax effects of bartering:

- **Income tax** – the goods and services exchanged in a barter transaction still have a dollar value – this value may be taxable as assessable income
- **GST** – you still need to account properly for GST liabilities and entitlements to GST input tax credits (including the exchange of tax invoices for GST purposes)

Although no money changes hands in a barter transaction, the transaction creates an income tax and GST liability that has to be paid in dollars, the only type of exchange unit the ATO accepts!

You need to budget for some real dollars to pay any taxes that may arise.

The ATO investigates...

Barter trade exchanges are escalating in popularity. The ATO has recently issued a warning to these exchanges and their members about schemes to increase GST refunds through the trading of goods and services at inflated values.

TIP

It is best to make sure that the exchange units charged for your goods and services through a barter exchange are in the same ball park as the dollar price you would normally pay for them in the open market.

IS DIY SUPER FOR ME?

We have covered DIY super in this newsletter a number of times. Usually our focus has been on tax and tax-related issues. However, having a DIY super fund (a Self Managed Superannuation Fund – SMSF) is not just about tax.

These funds continue to be popular and people keep asking whether DIY super is the right way for them to go.

Here are some questions for you to consider in working out whether you should set up and run your own DIY super.

Is DIY super a viable option for me?

You must decide whether DIY super is right for you and this will involve getting advice about tax and accounting issues, legal matters and financial planning. It pays to bear in mind that:

- your super fund must have sufficient funds invested to meet your retirements needs
- there is no legally required amount of money that has to be invested in your fund - opinions on this amount can vary considerably
- it is also common sense that your fund should be able to meet your retirement needs in addition to making the set-up and running costs worthwhile

WHAT ARE RUNNING COSTS LIKE?

The ATO indicates that the running costs of a DIY fund depends on your own circumstances but can be around \$1,700 per year. This is a guide only and can vary enormously.

Who is responsible for the fund?

- You are – if you choose to set up a DIY super fund you (and all other members of the fund) will be a trustee of the fund
- Even though you can get advice about setting up a fund and assistance with running it from appropriately qualified professionals, you as trustees are legally responsible for making sure the fund is correctly structured and meets all regulatory and reporting requirements – the buck stops with you!

How do I set up a DIY fund?

You will have to do 4 main things:

- establish a trust – you will need to get a trust deed and make sure it contains all the relevant requirements and is properly executed so that your trust is correctly and legally established

- elect to be a regulated fund and obtain a tax file number and an Australian business number for the fund
- prepare and implement an investment strategy – you must formulate, implement and manage an investment strategy that ensures your investments and level of contributions meet your retirement needs
- open a bank account – a bank account is generally required to manage your fund's investments and contributions

Who do I talk to about DIY super?

It is important to get the right advice from the right person.

Your tax agent:

- can advise you on and help you with all tax matters in relation to your DIY fund
- may be able to help with some aspects of setting up the fund
- can help you run it (e.g., prepare accounting records, produce financial statements and prepare and lodge returns)

Your solicitor/legal adviser:

- can help you with any legal matters and advice (e.g., in relation to setting up and running a fund, such as establishing the required trust)

A licensed financial adviser:

- can give you advice about investment products to ensure that your investments and level of contributions meet your retirement needs
- can help you prepare and implement an investment strategy for your fund
- can advise you whether DIY super or a particular investment product is the right financial decision for you

ON THE HORIZON

Our next newsletter will be in May 2006 and we will continue to cover a range of current tax topics relevant for small business.

Disclaimer

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