News Bulletin

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Accountants & Business Advisors

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IN THIS ISSUE:

- Tax Developments Update
- Super Guarantee Amnesty
- Identifying the Activities that Drive Profitability
- Key Changes for 2018

TAX DEVELOPMENTS UPDATE

Investigation Lands Tax Evaders in Jail

In a case involving millions in undeclared income, two men have been sentenced to prison for charges, including conspiracy to defraud the Commonwealth.

Anthony Castagna and Robert Agius, both from NSW, have been sentenced to seven years in prison, after an investigation by the Serious and Financial Crimes Taskforce.

The pair used an offshore company to hold funds before using sham loans to return the money to Australia without paying tax.

The men have since been charged with conspiracy to defraud the Commonwealth, conspiracy to cause a loss to the Commonwealth, and conspiracy to deal with the property of a value greater than $1 million.

Black Economy Task Force proposal for ABN's to be subject to periodic Renewal

Millions of small business owners could be forced to pay ABN renewal fees as a result of the Black Economy Taskforce recommendation for ABNs be subject to periodic renewal.

This could include late fees, a change in ABN status published on ABN Lookup, eventual suspension and/or cancellation.

The Taskforce believes imposing a renewal fee could "further discourage people from holding an ABN when they do not need one or are not entitled to one" and to "help restrict the ABN system to genuinely active businesses and other entitled entities".

New Black Economy Measures

Legislation was introduced to the House of Representatives targeting the following black economy activities: -

Non-compliance of entities with their reporting and withholding obligations - amends the Tax Act to denying an income tax deduction for certain payments if the associated withholding obligations have not been complied with.

For example, if an employer fails to withhold PAYE withholding tax from the payment of wages to an employee, then on top of the imposition of non-withholding penalties, an employer will be denied a tax deduction for the wages.

However, a deduction is only denied where no amount has been withheld at all or no notification is made to the ATO. Withholding an incorrect amount will not affect the entitlement to a deduction. A deduction is also denied in relation to a non-cash benefit provided in lieu of a cash payment.

This proposed amendment is intended to create a financial disincentive to businesses making payments to those operating in the black economy by disallowing deductions that would normally be available.

Understating of income by contractors- amends the Tax Act by requiring entities with ABNs in the following industries, providing: -:

- security and investigation services;
- road freight transport; and
- computer system design and related services

to report to the ATO information about transactions in which other entities are engaged to undertake those services on their behalf. Entities will not be required to report in relation to transactions where they and the entities providing cleaning or courier services are members of the same consolidated group.

Prohibition of the production, distribution and possession of sales suppression tools - applies to entities that have Australian tax obligations. This legislation prohibits the use of electronic sales suppression tools to incorrectly keep tax records.

SUPER GUARANTEE AMNESTY ANNOUNCED FOR EMPLOYERS

On 24 May 2018, the Government announced a 12-month amnesty to allow employers to self-correct historical underpayments of Super Guarantee (SG) amounts without incurring the penalties that would normally apply.

Amnesty until 24 May 2019

The amnesty will start from 24 May 2018 and run until 24 May 2019. It applies to SG shortfalls as far back as 1 July 1992 but will not apply to shortfalls for quarters starting from 1 April 2018.

To qualify for the amnesty, a disclosure must be made to the ATO in the approved form (and must not have been previously disclosed).

The Super Guarantee amnesty provides a one-off opportunity for employers to get their superannuation obligations in order before the ATO ramps up its enforcement powers and activities.

Penalties for late SG payments can be significant (with a minimum 50% on top of the SG charge amount). An additional Part 7 penalty up to 200% of the SG shortfall amount may also apply for failing to lodge a SG statement on time.

However, employers who voluntarily disclose previously undeclared SG shortfalls during the SG amnesty will:-

- Not be liable for the administration component and penalties, and
- Be able to claim a deduction for catch-up payments made during the relevant 12-month period

Importantly, SG charge payments (and offsetting contributions) made outside the amnesty period will not be deductible. This alone should provide a strong incentive for employers to pay any unpaid superannuation within the amnesty period.

This is a one-off opportunity for employers to self-correct past SG non-compliance. It is therefore, important for employers to review their SG compliance status and seek advice on whether they qualify for the amnesty.

Business Names to be Removed from ABN Lookup

From November 2018, the Australian Business Register will remove all trading names listed against valid ABN's, from ABN Lookup. If you wish to continue trading under a specific name, the name must be registered with ASIC as a business name.

What you need to do

Prior to the cut-off, if you wish to continue trading under a specific name, you will need to ensure it is registered with ASIC as a business name.

If you have any questions about how to register a business name, or would like us to assist with this process, please contact our office.

IDENTIFYING THE ACTIVITIES THAT DRIVE PROFIT DRIVERS

Profit drivers are leading factors that have a significant impact on your bottom line.

Therefore, it is critically important in boosting profitability that businesses identify and monitor the key profit drivers of the business.

The starting point in identifying the activities that affect the profit drivers is an effective reporting system.

An effective reporting system should tell you exactly what is happening in your business and to do so quickly enough so that you can respond as needed, when needed.

If the financial reporting system is able to identify issues affecting the performance, corrective strategies can be formulated, and appropriate action taken. However, lack of awareness as to issues adversely affecting the business may mean that those issues may continue to impact on the business until it may be too late to take corrective action.

Most Accounting systems provide historical information in the form of Profit & Loss Statements and Balance Sheets. While these reports are important for every business for monitoring how well or how poorly a business is performing on the whole, they *do not provide information in sufficient* *enough detail to monitor the performance of the activities critical to the success of the business.*

This is because the focus of such reports is on the outcome rather than the process.

What is really needed therefore is to supplement these reports with real time reports to identify & track the key activities that are critical to the success of the business

A whole range of internal and external factors affects the performance of every small business. The secret is to focus on a handful of key profit drivers that:

- reflect the performance and progress of your business
- are measurable
- can be compared to a standard, such as a budget or last year's figures, or an industry average
- can be acted upon

For most businesses, there are really only four key profit drivers:

- Sales Volume
- Price,
- Direct costs (i.e. those costs that vary in direct proportion to revenue, typically represented by cost of sales),and
- fixed costs (or overhead)

ATO FOCUS ON REIMBURSEMENT AGREEMENTS

Trustees should be aware of the application of Section 100A of the 1936 Act, especially where a trust has made a distribution of income to a private company.

This section has been around since the early eighties, but until now it has not been on the ATO's radar. However, recently, the ATO indicated that it would be looking very closely at arrangements that fall within the ambit of Section 100A.

Where the Tax Office determines that Section 100A applies to an arrangement, the net income that would otherwise have been distributed by the trustee is instead assessed to the trustee at the highest marginal rate.

Section 100A applies to arrangements that are entered into whereby a party other than the beneficiary (e.g. the trustee) obtains a benefit as a result of the distribution.

Therefore, if you want to increase profitability, then you need to work on the above drivers.

By tracking the above and comparing it to targets set, you will be able to see whether you are on *track* to make the profit that you desire, and if there is a variance, you will be able to *identify* the cause of the variance and thus work towards finding a solution to the problem.

KEY CHANGES FOR 2018

GST and new residential property

From 1 July 2018, purchasers of new residential premises and certain residential land may be required to remit the GST payable on the sale of the premises or land directly to the Tax Office, rather than paying the GST to the vendor of the premises/land.

Vacancy tax

Non-resident (foreign) owners of residential property acquired after 9 May 2017 will be required to lodge an annual vacancy fee return. These returns must be lodged within 30 days of the end of each vacancy year. The vacancy year is usually the 12-month period from the settlement date for the property.

If their dwelling is not residentially occupied or genuinely available on the rental market for more than 183 days (6 months) in a year, the (foreign) owners will be required to pay an annual vacancy fee. Where a dwelling has been occupied or made available for rent during the year, owners must still lodge a vacancy fee return with the ATO every year.

To lodge, foreign owners will need a copy of their Land and Water Register reference number.

Main residence CGT exemption

Legislation has been introduced into Parliament to deny the main residence CGT exemption where the taxpayer selling the property is a non-resident at the time of the sale. These changes take effect from 9 May 2017, although transitional provisions will extend the exemption until 30 June 2019 for properties held on 9 May 2017