Nash Solutions
Tax + Business + Wealth

Tax Planning Checklist 2014

Entity's Name	

Deferring Assessable Income	Yes	No	N/A
Application of Arthur Murray Principle to receipts			
Review contracts for the provision of services to determine whether income from such contracts can be regarded as only being derived as and when the services are rendered.			
Accruals of interest, rent and other regular contractual payments			
Consider the basis on which interest or income is derived and the scope for income deferral.			
Sales and work in progress			
Consider the deferral of sales until next financial year.			
Realisation of assets			
Consider the postponement of the realisation of any assessable gains such as capital gains until after year end.			
Consider deferring the disposal of an asset that would result in an assessable balancing charge.			
Consider CGT and/or depreciation rollover relief where possible.			
Realisation of foreign exchange gain			
Consider the deferral of realising foreign exchange gains until after year end.			
Insurance proceeds			
Consider the timing of lodgement of an insurance recovery claim, subsequent negotiations with the insurer and final payment.			
Trading stock – valuation			
Consider the benefits of revaluing trading stock.			
Comments:			

Accelerating Deductions	Yes	No	N/A
General			
Have the outgoings sought to be deducted been properly 'incurred'?			
Prepayments			
Has an immediate deduction been claimed for prepaid expenses that are: • less than $1,000 (GST exclusive)			
• required to be made by court order or law			

Tax Planning Checklist 2014

• made under a contract of service e.g. salary and wages			
Accelerating Deductions	**Yes**	**No**	**N/A**
Prepayments *(continued)*			
• capital or private in nature or			
• incurred by a Small Business Entity (SBE) taxpayer, or is non-business expenditure incurred by an individual taxpayer, with an eligible service period of no more than 12 months?			
Realisation of assets			
Consider realising assets that will produce capital or revenue losses which can be used to offset capital gains or revenue income in the income year.			
Superannuation contributions			
Ensure superannuation contributions are paid by year-end and meet any required conditions as is the case with deductions claimed by self-employed, or substantially self-employed, taxpayers.			
Employee bonuses			
Ensure that staff bonuses are quantified and documented prior to year-end to enable a deduction to be claimed for bonuses accrued *(Merrill Lynch v FCT).*			
Foreign exchange losses			
Consider realising foreign exchange losses before year-end so that a deduction can be claimed.			
Capital allowances			
Check whether assets costing less than $100 can be immediately written off.			
Check whether assets (other than cars) costing less than $6,500 and acquired before 1/1/14 (or 1/7/14?) can be immediately written off.			
Check whether the first $5,000 of the cost of a car acquired before 1/1/14 (or 1/7/14?) can be immediately written off.			
Check if there are assets costing $1,000 or less (other than a horticultural plant and certain R&D depreciating assets) that can be allocated to a low-value pool.			
Check to see if there are any depreciating assets which have stopped being used in the business in which case a balancing deduction may be available in respect of their adjustable value.			
Check whether items of depreciating assets with an adjustable value greater than nil are obsolete and can be scrapped.			
Trading stock write-offs			
Determine whether items or lines of trading stock should be scrapped or have become obsolete. These may be tax deductible.			
Blackhole expenditure			
Determine whether business expenditure incurred that is not deductible, amortised or capitalised under any other provision, could be deductible pursuant to s 40-880 of the ITAA 1997 over 5 years. Broadly, such expenditure will include pre commencement and post cessation business capital expenditure for which tax relief is not otherwise allowable.			
Bad debts			
Check whether any debts can be written off as bad debts. Ensure that the debt has not been compromised or released before it is written off.			
Where there is a change in the ownership or control of the company or trust, check that the entity passes the same business test.			

Tax Planning Checklist 2014

Ensure that all necessary steps required to write off a debt are completed prior to year end, and that the debt was previously returned as assessable income or was made in the course of a money lending business.			

Accelerating Deductions	Yes	No	N/A
Gifts, donations or contributions			
Check whether deductions have been claimed for gifts or contributions that were made to 'Deductible Gift Recipients'.			
Check that any deductions for gifts, donations or contributions do not exceed the statutory limits (per section 26-55 of the ITAA 1997), i.e. deductions cannot exceed an entity's taxable income disregarding the following amounts: • the donation amount • carried forward losses • farm management deposits.			
If the donation amount exceeds the statutory deduction limit then determine whether the deduction will satisfy the requirements in subdivision 30 DB of the ITAA 1997 – allowing the donation deduction to be claimed over a maximum of five years.			
Comments:			

Capital Gains Tax	Yes	No	N/A
CGT discount			
If the taxpayer is a trust, individual or complying superannuation fund check whether the capital gains made by the taxpayer are eligible for the CGT discount (e.g. capital gain has arisen from the disposal of an asset and the asset has been held by the taxpayer for at least 12 months). **Note:** if the taxpayer is a foreign resident they will not be eligible for the CGT discount on any capital gain that accrued after 8 May 2012. If a foreign resident owns assets that are 'taxable Australia real property' it is recommended that a valuation is obtained to determine the market value of the asset at 8 May 2012, which will enable the CGT discount to be applied to discount the gain (if any) that accrued from acquisition until this date.			
Unrealised losses and CGT			
If the taxpayer is a company, have you considered the unrealised loss rules in Subdivision 165-CC of the ITAA 1997 in relation to the disposal of CGT assets that were held at a change over time (i.e. change in the ownership or control of the company).			
Small business CGT concessions			

Check whether the taxpayer satisfies all of the **basic conditions** set out below for the small business CGT relief:
a. a CGT event happens in relation to a CGT asset and a capital gain arises
b. the taxpayer satisfies either the:
    a. $6m maximum net asset value test or
    b. $2m small business entity test and
c. the taxpayer satisfies the active asset test.
Note: if the taxpayer cannot pass the $6m maximum asset value test (and the asset is a passively held asset), the taxpayer may still be able to satisfy the basic conditions if the asset in question is used by an affiliate, an entity connected with the taxpayer or a partnership of the taxpayer where that entity meets the small business entity test.
If the CGT asset is a directly owned share in a company or an interest in a trust, the taxpayer must be a CGT concession stakeholder in the company or trust.
If the CGT asset is a share in a company or an interest in a trust which is owned by an interposed entity the taxpayer must be a CGT concession stakeholder in respect of the object company or trust. In addition, CGT concession stakeholders in that object company or trust must together also have a small business participation percentage of at least 90% in the interposed entity which makes the capital gain in respect of the share or interests in the object company or trust.			

Tax Planning Checklist 2014

Capital Gains Tax	Yes	No	N/A
Small business CGT concessions (continued)			
Consider whether the taxpayer is eligible to utilise any of the following concessions: • the small business 15 year exemption			
• the small business 50% reduction			
• the small business retirement exemption			
• the small business roll-over.			
Comments:			

Debt and Equity	Yes	No	N/A
Related party at call loans			
Determine whether any interest deductions may be denied as a result of loans or other debt instruments being reclassified as equity.			
Ascertain whether: • the carve-out for companies with less than $20m turnover applied during the current year or			
• whether any at call loans should be put under a written loan agreement.			
Comments:			

Individuals	Yes	No	N/A
Salary sacrifice			
Ensure that salary sacrifice arrangements have been considered in light of TR 2001/10 so that any gross salary foregone for fringe benefits or additional superannuation contributions is under an agreement entered into before gross salary is derived.			
Superannuation			
Consider the superannuation employee contribution limits: • the concessional contributions cap of $25,000 per year. From 1 July 2014 increases to $30,000 • the concessional cap will increase to $35,000 for individual's aged 60 years of age or older from 1 July 2013. From 1 July 2014 age reduces to 50. • the non-concessional contribution cap of $150,000 per year. From 1 July 2014 increases to $180,000			
Check whether the taxpayer is entitled to the Federal Government co-contribution of up to $500 for personal after-tax contributions made up to $1,000.			

Tax Planning Checklist 2014

Individuals	Yes	No	N/A
Luxury cars			
Check whether the taxpayer is intending to purchase a luxury car (greater than $60,316 for standard cars and $75,375 for fuel efficient cars). If so, ensure that the depreciation claimed is based on an opening adjustable value of $60,316 (or $75,375) rather than its actual cost.			
Check whether the taxpayer is intending to lease a luxury car (greater than $60,316 for standard cars and $75,375 for fuel efficient cars). If so, ensure that the taxpayer does not claim the lease payment but rather works out a notional interest and depreciation deduction based on the notional acquisition cost of $60,316 (or $75,375).			
Non-commercial losses			
If the taxpayer satisfies the non-commercial loss tests (i.e. the real property test, the profits test, other assets test or the assessable income test) losses from conducting certain business activities will be able to be offset against other income. If these tests are failed (and the Commissioner does not exercise a discretion) such losses must be quarantined and carried forward Only taxpayers with adjusted taxable income of less than $250,000 will be able to apply the non-commercial loss tests. Taxpayers with adjusted taxable income greater than $250,000 must seek the Commissioner's discretion to be able to offset such losses against their other income.			
Comments:			

Trusts	Yes	No	N/A
Trust distributions			
Does the trust deed allow the trustee to stream franked dividends and capital gains?			
Where the trustee has the power to stream income has the trustee's exercise of this power been evidenced in a trustee resolution?			
Where the trustee has the power to stream, and this is evidenced by resolution, have trust funds been distributed optimally? Consider the tax status of the beneficiaries: • franked dividends should then be distributed to low-taxed Australian residents as the excess franking credits (for company tax paid at 30%) are available to reduce tax payable on other income derived by individual taxpayers • foreign income and Australian interest should be distributed to foreign residents who are not taxed on foreign income or Australian interest income (Australian sourced interest income is subject to 10% withholding tax) • franked dividends distributed to company beneficiaries will not generally suffer further tax • companies do not have access to the CGT discount and are not an efficient vehicle for capital gain distributions • foreign residents do not have access to the CGT discount for capital gains that accrue on or after 8 May 2012.			

Tax Planning Checklist 2014

Trusts	Yes	No	N/A
Trust distributions (continued)			
Review the trust deed of the trust estate to ensure that the relevant beneficiaries are being made entitled to the appropriate amount of trust capital and trust income.			
Where relevant, has the trustee made a determination about what amounts should be treated as income of the trust estate e.g. capital gains made be treated as trust income in certain circumstances if permitted by the trust deed? *(refer to Commissioner of Taxation v Bamford [2010] HCA 10)*.			
Check that trust income has been fully distributed to beneficiaries. If not, section 99A will usually apply to tax the trustee at the highest marginal tax rate.			
Check whether a beneficiary has been made presently entitled to trust income due to a reimbursement agreement with a third party? If so, section 100A may deem a beneficiary not to be so presently entitled.			
Trustee unpaid present entitlements owing to companies			
Consider whether the trust has a post 16 December 2009 unpaid present entitlement (UPE) owing by a trust to a company which is part of the same family group. In relation to 2013 UPEs has (where the trust deed permits it) the UPE been put on sub-trust for the sole benefit of the private company per the Commissioner's Practice Statement PS LA 2010/4 by the lodgement date of the trust tax return? Where the 2013 UPE has not been put on a sub trust the Commissioner considers that this UPE will be deemed to be a loan made from the company to the trust on the trust's lodgement day (e.g. 15 May 2014). Subject to the relevant company having distributable surplus, the Division 7A rules need to be considered in relation to this new deemed loan. Refer to Taxation Ruling TR 2010/3.			
Consider whether the trust has a pre-16 December 2009 UPE owning to a company. If so, to the extent that these have been properly recorded as a UPE (and not a loan), then ensure that these UPE's are not disturbed. These UPE's should not generally be subject to deemed loan treatment.			
Where the trust has a pre-16 December UPE, or has put a post 16 December UPE on sub trust terms, you should consider the application of subdivision EA of the ITAA 1936 - where the trustee makes any loans, payments or forgives a debt in favour of to shareholders or associates.			
Has the trust used a conduit trust previously in making distributions to a company beneficiary? If so, consider the implication of the interposed entity rules in Division 7A from 1 July 2009.			
Closely held and family trusts – TFN withholding tax			
Have you disclosed the TFNs of all the beneficiaries that have received distributions of ordinary or statutory income or that are made presently entitled to a share of the taxable income of the trust. (No disclosure is required for beneficiaries that are minors, foreign residents or tax exempt)			

Tax Planning Checklist 2014

Trusts	Yes	No	N/A
Family trust election			
Determine whether any Family Trust Elections are required to be made for the purposes of: • loss recoupment • satisfying the 45/90 day holding period rules for franking purposes or • assisting a loss company (in which the trust holds shares) to satisfy the continuity of ownership test.			
Losses			
If the trust has tax losses to be recouped ensure that you have considered the respective trust loss rules that apply to fixed and non-fixed trusts.			
Comments:			

Companies	Yes	No	N/A
Dividends			
Check whether the taxpayer has a deficit franking account balance at year-end.			
If there is a deficit franking account balance: • consider deferring any franked dividends to the next financial year			
• check the liability for franking deficit tax.			
Ensure that the 45/90-day rule has been considered in relation to dividends paid/received by the company.			
Fringe benefits tax			
Consider if your staff entertainment expenditure will qualify for the minor and infrequent FBT exemption (i.e. less than $300) to minimise FBT liability.			
Ensure that no GST input tax credit has been claimed on entertainment that qualifies for the minor and infrequent FBT exemption.			
Ensure pooled or shared cars which are used by more than one employee for private purposes are not reported on the employee’s payment summary.			
Check for any exempt eligible work items, intended to be used primarily in the employees employment, including: • portable electronic devices • computer software • protective clothing • briefcase • tools of trade.			
Is the employer a small business that provides car parking to its employees?			
Check for exempt relocation benefits, such as relocation transport travel and removal and storage expenses.			

Tax Planning Checklist 2014

Companies	Yes	No	N/A
Losses			
If the company has tax losses to be recouped ensure that the continuity of ownership test (COT) or the same business test (SBT) is passed.			
Ensure that the company has not entered into transactions in order to inject income into the loss company to absorb its losses. **Note**: if a company has tax losses in the 2013 year and had a taxable profit in the 2012 income year, it may be able to carry back these losses and offset these against the tax paid in the 2012 year. Loss carry back may be available subject to the following conditions: • loss carry-back is limited to $1m of losses per year • applies to revenue losses only • refund of prior year tax paid is limited to the company's current year franking account balance.			
Division 7A			
Check whether loans, payments or debt forgiveness by a private company to a shareholder, former shareholder or an associate of such a person would be deemed to be an unfranked dividend. Where such an exposure arises do any of the exemptions under Division 7A apply which could exempt such an amount from Division 7A? Alternatively, can such a transaction be structured to be an 'excluded loan' before the earlier of the actual or due date of lodgement of the company's income tax return.			
Ensure that pre-4 December 1997 loans are not refreshed and remain undisturbed.			
Does the company provide its shareholders or associates with free (or less than market rate) use of the company property e.g. holiday home or boat? If so, such use of assets may deem a dividend to be paid from the company to the shareholder (subject to certain conditions being met). The amount of the dividend is the market value of such use less any consideration paid. However, the deemed dividend will not arise if the annual value of the benefits received was less than $300, the private usage would otherwise have been allowable as a once-only deduction or where certain dwellings are provided for private use by the company.			
Check whether corrective action can be undertaken to eliminate a deemed dividend which arose because of an honest mistake or inadvertent error by applying to the Commissioner to disregard the deemed dividend or allow it to be franked.			
Comments:			

Tax Compliance	Yes	No	N/A
Research and development			
Ascertain whether a company may be eligible for the R&D tax incentive for companies whose aggregate turnover is less than $20 million and are not controlled by income tax exempt entities. A 45% refundable offset is available. If the company aggregate turnover exceeds $20 million, a 40% non-refundable tax offset is available.			
Tax Compliance	**Yes**	**No**	**N/A**
Superannuation guarantee – 'ordinary times earnings'			
Consider whether all required Superannuation Guarantee (SG) contributions have been made for the year.			
Consider whether the payroll needs to be reviewed to ensure that Superannuation Guarantee calculation is based on the employees' ordinary time earnings as opposed to salary and wage.			
Comments:			