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GNS Profit Builder

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Are You On The Tax Office Hit List?

Small and medium sized enterprises and their executives

Three key issues exist for business: the relationship between company income and your personal income; the income declared between related entities; and, GST integrity – particularly on property transactions. The first rule, regardless of who is on the hit list, is to lodge your tax return on time (or at least enabling us to lodge it on time). Late lodgers often appear as if they have something to hide. Here are a series of other areas to look at to make sure your business doesn't become an audit target:

Your income vs company income

An emerging focus for the Tax Office is how income flows between a company, its executives and any related entities. Generally the Tax Office has not mapped this level of interaction before unless there has been a problem. Now technology has advanced to explore these relationships. In other words the Tax Office will be looking at the income you declare relative to that of your business and its related entities and then making a call as to whether you should be further investigated. One key area is company loans to shareholders. If your business has outstanding company loans to shareholders, be wary of Division 7A. If you have a debit loan account this can be deemed an unfranked dividend in the hands of the shareholder. A debit loan account arises when the company makes payments on behalf of a shareholder or advances funds to them. Where an unfranked dividend occurs, the dividend is declared as income on the shareholder's personal tax return and taxed at their marginal tax rate. If your company has an outstanding debit loan, you need to decide how you will manage this. You may need to document the loan agreement. If you already have an existing loan agreement then make sure that you make the minimum loan repayments before 30 June. Also, the Tax Office amnesty that enabled taxpayers to correct past loan account errors ends on 30 June. If you have not tidied up this area, now is the time. Speaking of data matching, the ATO is reviewing Luxury Car purchase records against declared income on tax returns for the respective purchaser. If you have purchased a luxury car in the past 3 years and your personal income raises suspicions about how you could afford such a purchase then it is likely you are on the ATO hit list.

Company losses

There are a couple of problem areas when it comes to claiming company losses. Obviously, claiming a loss where the origin of that loss cannot be proven, or where losses claimed are from a related party (that is not part of a consolidated group) are going to be denied. Another problem area is where you have a mix of carry forward capital and revenue losses and you attempt to claim all of those losses against revenue profits. Capital losses can only be offset against capital gains.

Buying or selling a business

In addition to the standard capital gains tax issues from any sale (i.e., making sure you declare the capital gain), the Tax Office is looking closely at mechanisms such as share buy-backs, capital reductions and the sale of shares to exit from businesses. Debt forgiveness or write offs to facilitate a transfer of a business will also be in the spotlight. Nothing wrong with any of this providing it is managed correctly. The devil is in the detail.

Federal Budget—News for Business

The Federal Budget 2008-09 did not include sweeping changes to business taxation — any reform at this level will be driven by the 'root and branch' tax system review that was announced by the Government in the Budget. There were, however, some Budget tax-related measures of interest to small and medium businesses.

Small Business Tax Concessions

You may already be aware that access to small business tax concessions was simplified from 1 July 2007. You can now pick and choose what type of concession suits your business:

- most small businesses with an aggregated annual turnover of less than $2 million are able to access a range of small business tax concessions, ranging across income tax, capital gains, GST and PAYG; or
- if your business does not satisfy this $2 million threshold test, but the net value of its CGT assets does not exceed $6 million, it may still be able to access the CGT small business concessions, subject to satisfying any other eligibility tests.

With effect *from the 2007-08 year,* access to the small business CGT concessions will now be extended to:

- taxpayers owning a CGT asset used in a business by a related entity; and
- partners owning a CGT asset used in a partnership business.

Family trust elections

There are plans afoot to reverse some of the family trust election changes made by the previous Government. If you have a family trust, you need to be aware that the proposed reversals may impact on the ability of your family trust to utilise its tax losses to lower its income tax:

- *from the 2007-08 income year,* family trusts will be prevented from making a once off variation to the test individual specified in a family trust election (unless it relates to marriage breakdown); and
- *from 1 July 2008,* the definition of family in the family trust election rules will be narrowed to limit lineal descendants to children or grandchildren of the test individual or of the test individual's spouse.

Luxury cars

If you're going shopping for new cars in the new financial year, you may find them more expensive. From ***1 July 2008*** the luxury car tax rate is expected to increase from 25% to 33%, bearing in mind that the luxury car tax currently cuts in at $57,123. Before you rush out and go car shopping before 1 July 2008, it's still not clear in what circumstances the 25% rate will continue to apply before 1 July (eg, whether you simply need to order before 1 July or whether you will also have to take delivery of the vehicle on or before 30 June 2008).

Crack down on fringe benefits *Work related items*

From 7.30 pm (AEST) on 13 May 2008, the FBT exemption for purchases of certain work-related items (including laptop computers, personal digital assistants and tools of trade) only applies where your employees use these items primarily for work purposes. The FBT exemption will generally be limited to one item of each type per employee per year. Your employees will also now be denied depreciation deductions for FBT exempt items (that is, items purchased primarily for work purposes) purchased from 7.30 pm (AEST) on 13 May 2008. This eliminates a double taxation benefit that was available before these Budget changes were announced.

Other FBT changes

It is expected that some other FBT changes will occur that may limit your employees' ability to access FBT free benefits. Effective ***from 7.30 pm (AEST) on 13 May* 2008** FBT will be imposed on:

- meals provided to your employees on your business premises as part of a salary packaging arrangement (known as *meal* cards). Existing balances on meal cards as at 7.30 pm (AEST) on 13 May 2008 will remain eligible for the FBT exemption, provided they are used by 31 March 2009; and
- the reimbursement of an associate's share of expenses incurred in relation to jointly held investment assets. If any of your employees have entered into this particular arrangement, they will have until 31 March 2009 to renegotiate their salary package to avoid incurring a FBT liability.

GST and property transactions

If you are a property developer, you may have been using the 'margin scheme' to help reduce your GST liability on any ultimate sale of your property development. In practice, this opportunity usually arises where you purchase property as either a GST-free supply of a going concern or a GST-free supply of farmland. You calculate your GST liability on the 'margin' — the difference between the sale price of the finished development and the GST-free purchase price. The Government plans to amend the GST laws to ensure that the full amount of 'value added' to the property will now be subject to GST (by including in the margin scheme calculation the value added by the registered entity that made the supply). These changes will apply when the enabling legislation becomes law.

Federal Budget—News for Business continued...

Superannuation clearing house
The Government plans to introduce an optional superannuation clearing house to help you manage your employer obligations under Super Choice. Under Super Choice some employers have to pay superannuation into a large number of different funds for their employees. This can be a costly administrative exercise. Under this new proposal:

- you will be able to pay your employee contributions into a single location - the superannuation clearing house; and
- the superannuation clearing house distributes the contributions to the various super funds selected by your employees.

It's early days for this proposal because the Government still has to consult with industry on this measure before it goes any further. It is planned to be free for companies with less than 20 employees.

Superannuation Guarantee Changes
As you are aware, you are required to provide a minimum level of superannuation support for an employee - currently 9% of the employee's notional earnings base. In working out an employee's notional earnings base, *from 1 July 2008,* you will now be required to make sure all your employees' Super Guarantee contributions are calculated using *ordinary time earnings. Ordinary time earnings* (OTE) *is* generally what your employees earn for their ordinary hours of work, including salary and wages, over-award payments, commissions, shift allowances and paid leave. However, it excludes things like overtime.

Federal Budget—News for Individuals

Personal Tax Cuts
The Government will deliver the tax cuts that were promised in the 2007 election campaign, including deferring previously budgeted reductions in the top marginal tax rate for taxpayers on incomes of more than $180,000 per annum until beyond 2010-11. The table below shows what the personal income tax rates will be:

Current 2007-08		2008-09		2009-10		2010-11	
Income ($)	Rate (%)	Income ($)	Rate (%)	Income ($)	Rate (%)	Income ($)	Rate (%)
0 -6,000	0	0- 6,000	0	0- 6,000	0	0- 6,000	0
6,001 -30,000	15	6,001 - 34,000	15	6,001 - 35,000	15	6,001 - 37,000	15
30,001 - 75,000	30	34,001 -80,000	30	35,001 - 80,000	30	37,001 - 80,000	30
75,001 - 150,000	40	80,001 - 180,000	40	80,001 - 180,000	38	80,001 - 180,000	37
150,001 +	45	180,001 +	45	180,001 +	45	180,001 +	45

The Government also set an aspirational tax goal over six years for a personal income tax system which reduces the number of rates from four to three with a personal income tax scale of 15%, 30% and 40%.

More for low income earners

- ***From 1 July 2008:*** the **low income tax offset** (LITO) is expected to increase from $750 to $1,200. If you're eligible for the full LITO, you will not pay tax until your taxable income exceeds $14,000.
- ***From 1 July 2009:*** LITO is expected to increase from $1,200 to $1,350. If you're eligible for the full LITO, you will not pay tax until your taxable income exceeds $15,000.
- ***From 1 July 2010:*** LITO is expected to increase from $1,350 to $1,500. If you're eligible for the full LITO, you will not pay tax until your taxable income exceeds $16,000.

Medicare levy thresholds

Low income thresholds— With effect from *1 July 2007,* the Medicare levy low income thresholds will be increased to: $17,309 for individuals; $29,207 for individuals who are in families; and $22,922 for pensioners below Age Pension Age.

Surcharge thresholds—With effect from *1 July 2008,* the Medicare levy surcharge thresholds will increase for singles from $50,000 to $100,000; and for those who are members of a family from $100,000 to $150,000.

Federal Budget—News for Individuals continued...

In addition to tax cuts, key changes announced in the Budget impacting on individuals include:

New education tax refund—An eligible family may be able to claim a 50% refund every year for eligible education expenses up to: $750 for each child undertaking primary studies (a maximum refundable tax offset of $375 per child, per year); and $1,500 for each child undertaking secondary studies (a maximum refundable tax offset of $750 per child, per year).

Increase in childcare tax rebate—From *1 July 2008,* we are expecting an increase in the current level of childcare tax rebate from 30% to 50%. This could result in an annual rebate of up to $7,500 of eligible out of pocket costs per child. The rebate will be paid to you quarterly rather than annually.

Tightening Family Tax Benefit access—From *1 July 2008,* Part B of the Family Tax Benefit will only be available to families whose principal earner has a taxable income of up to $150,000.

Tighter access to dependency offsets—From *1 July 2008,* an indexed income threshold of $150,000 will apply to determine your eligibility for the following dependency tax offsets: Dependent Spouse, Housekeeper, Child Housekeeper, Invalid Relative or Parent/Parent.

Rent assistance— With effect from **1 July 2007,** the Government plans to provide a tax exemption for rent assistance paid to Austudy recipients.

First Home Saver Accounts— The Government has honoured its 2007 election commitment to introduce a First Home Saver Account (FHSA). This initiative is designed to encourage tax effective saving for contribution towards the cost of acquiring your first home. Some of the key features of the FHSA initiative will be:

- a concessionary tax rate of 15% on the interest on savings accumulated and used to purchase a first home;
- the FHSA will be capped - you will not be able to make further contributions once the balance of your FHSA account reaches $75,000; and
- the Government will also make a 17% co-contribution to your FHSA (up to the first $5,000 of your annual contributions to the account): and
- must be for a minimum of 4 years.

Time for Tax Planning—Maximise Deductions Before June 30 Hits

There are now fewer legitimate ways to reduce your personal or business income. Forget throwing money into trees, emu's, avocado's or even fish farms—invest in your future through Superannuation.
For those under 50, a maximum concessional contribution of $50,000 can be made and for those eligible workers over 50, up to $100,000 can be contributed to Super. What's better—a tax deduction now and you get it back, tax free, when you retire!

If we still haven't convinced you on the benefits of additional payments to Super, there are a few other things to consider to reduce your tax:

- Bring forward any maintenance into this financial year: car, building, office
- A last minute trip to Officeworks
- If you are an eligible small business, minor asset purchases under $1,000 can be written off immediately, as can some prepayments such as interest
- There is also some benefit in purchasing assets, costing more than $1,000, in June rather than July
- Make a donation to a deductible gift recipient

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