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"Year's end is neither an end nor a beginning but a going on, with all the wisdom that experience can instill in us". *~Hal Borland*
Let us use this wisdom and experience to improve - not only to improve our own financial position - but also on a larger scale to make our mark on a world which presently seems to be shadowed with doom and gloom.

Happy New Year to you!!!!! Welcome to our first newsletter for 2009. At Veale Partners, we commence 2009 with great optimism and hope for a wonderful year, which will be filled with hard work, satisfaction, challenges and of course rewards. In fact, the year has already started with the acquisition of an accountancy practice – D F Richardson & Associates. We welcome our new clients both to this publication and to our business. We hope you will find our association over the years rewarding. To our existing clients, we hope you find this edition informative and helpful.

And now for the latest developments for Jan/Feb 2009:

Temporary Investment Allowance

A temporary 10% investment allowance has been introduced by the government to encourage businesses to undertake capital investment. This allowance is effectively an additional tax deduction equal to 10% of the cost of an eligible asset.

However conditions do exist. The business must start to hold or construct a qualifying asset after 12:01 am (AEDT) 13 December 2008 and before 1 July 2009. It is also a requirement that the asset cost $10,000 or more, be used in Australia, and be installed and ready for use by the end of 30 June 2010.

Qualifying assets are tangible assets used in carrying on a business for which a deduction is available under the core provisions of Division 40 (Capital Allowances) of the *Income Tax Assessment Act 1997* (ie Subdivision 40-B). This includes most plant and equipment, including items such as tractors and forklifts. However intangibles & rights are excluded. Broadly, the following assets will **not** qualify for the allowance:

- Land
- Trading stock
- Intangible assets, including:
  - Mining, quarrying or prospecting rights
  - Mining, quarrying or prospecting information
  - Items of intellectual property
  - In-house software
  - Indefeasible right to use a telecommunications cable system
  - Spectrum licences
  - Datacasting transmitter licences
  - Telecommunications site access rights.

Luxury Car Tax

A Bill amending the Luxury Car Tax regime has received enactment. This ensures that vehicle financing arrangements do not affect refunds being claimed by eligible primary producers and tourism operators. Furthermore, refunds will be paid directly to claimants.

The amendments also clarify that the transitional provisions for contracts entered into before 7.30pm (AEST) on 13 May 2008 will still apply, notwithstanding that a luxury car was the subject of a financing arrangement entered into after that date.

Please note, eligible primary producers and tourism operators may be entitled to a partial refund for luxury car tax paid. The government has enacted amending regulations which define the terms ‘tourist activity’ and ‘refundable-eligible car’ for determining this.

Managed Investment Schemes and Deductions

In a test case decision, the Full Federal Court has held that two taxpayers were entitled to deductions relating to their investment in an almond managed investment scheme (MIS).

The Court found the taxpayers’ investment in the MIS was a business. It held that any relevant outgoings would be incurred as operating expenses of the business and therefore the outgoings were deductible pursuant to the tax laws.

One-off Sale of Land and GST

In a recent case, the AAT held that a sale of land was a taxable supply, even though the acquisition and sale of land was distinguishable from the vendors’ primary production business and a one-off transaction.

- TIP: Each activity of an entity needs to be considered separately to determine whether that activity is an enterprise for GST purposes. Generally, if a profit-making intention exists, an enterprise exists. Therefore, a liability for GST potentially arises.

FBT and Exempt Benefits

An Interpretative Decision released by the Tax Office has stated that any cost of upgrades involving built-in internal components that are made at the time of the purchase of a portable electronic device will form part of the cost-base of the device. That is, the cost of the upgrades may also qualify for an exemption from FBT.

However, the cost of peripheral items (e.g. extended warranty) will not be included in the cost of a device.

Deductibility of Compound Interest

Compound interest is interest that accrues on interest that is unpaid.

The Tax Office has released a Tax Determination in which it states that the principles governing the deductibility of compound interest are the same as those governing the deductibility of ordinary interest.

Broadly, a nexus must exist between the interest and the deriving of assessable income for the interest to be deductible.

Racehorses and Data Matching

The Tax Office has announced that it will electronically match data relating to the sale and ownership of thoroughbred racehorses.

According to the Tax Office, the data will be obtained from the sales records from auctioneers and from the Registrar of Racehorses.

The data collected will be used to identify taxpayers whose tax affairs should be reviewed and ensure taxpayers have reported their obligations in accordance with the tax laws.

Goods Taken for Private Use

The Tax Office has released the amounts which it will accept as estimates of the value of goods taken from trading stock for private use for the 2008/09 income year by taxpayers in certain specified industries

These industries include:

- Bakery
- Butcher
- Restaurant/ cafe
- Catering
- Delicatessen
- Takeaway food shop
- Fruiterer/ greengrocer
- Mixed business (e.g. general store)

HOT TOPIC: RENTAL PROPERTIES

Repairs

Repairs are generally tax deductible when they relate to property which is used for income producing activities.

A repair involves a restoration of a thing to a condition it formerly had without changing its character. This will be when something is restored by replacement or renewal of a worn-out or dilapidated part of something but not reconstruction of the whole thing, i.e. the entirety.

Furthermore, there are often arguments about whether a particular expense is a repair (and deductible) or an improvement (and not deductible as a capital expense). The cost of replacing a roof on a house may be deductible if it can be shown that the replacement simply brought the house back to its original condition. However if the roof is of better materials (a corrugated iron roof is replaced by a tiled roof), it would be regarded as an improvement and hence non-deductible.

Painting, conditioning gutters, maintaining plumbing, repairing electrical appliances, mending leaks, replacing broken parts of fences and windows and repairing machinery would generally constitute deductible repairs.

Disallowed deductions for repairs to rental properties:

Deductions for repairs or expenditure incurred after a business ceases may be disallowed by the ATO in certain circumstances. Rental property owners should therefore carry out all necessary repairs whilst the premises are still rented.

In this way, it can clearly be shown that the premises were actually being used to produce assessable income at the time the expenses were incurred.

If this is not possible, repair expenditure should still be claimed if the repairs were related to the period in which the premises were used to produce assessable income.

Initial Repairs:

If you buy a rental property which is in need of repair, you will normally not be entitled to claim a deduction for the cost of the ‘initial repairs’. However the Commissioner has ruled that initial repairs will be tax deductible where:

(i) the property was formerly used for non-income producing purposes;
(ii) the repairs are carried out within a short time after the property is rented out; and
(iii) the repairs are undertaken to rectify damage, defects or deterioration that are attributable in whole, or in part, to the previous private use of the property.

Capital items costing under $300:

For non-business individuals, plant and equipment that cost under $300 are deductible in the year they are acquired. These include items purchased for rental properties.

When applying the $300 immediate write-off to a jointly owned rental property asset, each joint owner’s interest in the asset is effectively treated as a separate asset for depreciation purposes. Therefore, where the cost of a joint owner’s interest in an asset is not more than $300, an immediate write-off can be claimed by the joint owner notwithstanding the overall cost of the asset is more than $300. For example, if a rental property is jointly owned by two or more persons, an asset costing up to $600 could be written off in the year of purchase.

Mortgage expenses:

The costs of preparing a mortgage for borrowings to be used for income producing purposes are deductible over the lesser of the term of the loan or five years. Costs involved in the discharge of the mortgage are also deductible.

Tips relating to investment loan interest:

- Ask your bank if you can defer repayments on your rental property loan as long as possible. However, it is best to have some separate levels of minimum repayment in respect of both your residential loan and your rental property loan.
- Try to maximize the percentage borrowing against your rental property (if you have equity in your residential home, the bank will often be flexible).
- Use your excess cash to repay your residential loan as quickly as you can.
- Ask your bank if you can increase your rental property borrowings to pay for all the costs related to your rental property. Or ask if you can maintain a separate (flexible) overdraft facility to cover all the costs of your rental property, such as repairs, agent's fees, capital improvements, advertising, council rates, land tax etc.
- Use an interest offset deposit account as your everyday account (i.e. your wages can be paid into this account), with the interest otherwise payable on the deposit account reducing the interest payable on your residential loan.
- Consider the possibility of intra-marriage transfers. For example, if you are looking to rent out your long standing jointly-owned residence and purchase a new home, consider transferring your old residence wholly into the name of one spouse, who would borrow to make the acquisition. The new residence could perhaps be acquired by the other spouse. However, remember the stamp duty cost and be wary about transferring and setting up rental arrangements between spouses in order to claim interest deductions.
- Take care when planning and get your borrowings and repayments right the first time. If you mistakenly increase your rental property loan for a private purpose and then try to refinance this cost, you will put yourself in a difficult position.

Pitfalls to avoid:

- Don't use a split loan borrowing facility (i.e. one loan with two notional sub-accounts for separate borrowing purposes).
- Don't use two separate loans which are completely linked by having just one joint credit limit and one joint minimum monthly repayment. Ensure that there are separate limits and separate repayment levels for each loan.
- Don't use a facility offered by a bank or other financial institution which promotes the 'tax savings' in its marketing materials.
- Don't enter into an arrangement with a bank which provides 'unusual' terms – such as indefinite deferral of repayment on one part of the borrowing.
- Don't enter into an arrangement which provides you with a tax saving, but which comes at a real commercial cost, such as payment of a higher interest rate or other charges.
- Don't redraw amounts for private purposes from your rental property loan as this will mix the purposes and reduce the deductible element.

PAYG Income Tax Withholding Variations:

If you have purchased a negatively geared investment (see below), it is possible to have your PAYG withholding wage deductions reduced to allow for the losses being incurred.

You can submit an application with the ATO each year for them to determine the reduced withholding rate. Employers are then required to withhold tax from your salary at a reduced rate. Otherwise you will receive the refund of additional tax paid on lodgement of your income tax return.

Negative Gearing:

Where interest costs, depreciation and other expenses are greater than the income earned from the investment, the difference reduces the taxable income of the taxpayer.