

PINN DEAVIN

BUSINESS & INVESTMENT ADVISORS

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INTEREST RATES CUT

The Reserve Bank met this morning and, in a move that is sure to add weight to the argument that our future is going to get darker before it gets brighter, acted to further reduce interest rates by 0.25% thus bringing the rate to just 3.0%. Predictions of unemployment rates in excess of 7% by year's end abound and even though there are slivers of good news emanating from the US from time to time it is clear that the bad news is still far outweighing the good. It remains to be seen what impact the much-discussed \$900 tax bonus has but the RBA is seemingly of the view that whatever it is, it alone will not be enough. The only issue that remains now is to see how much of the cut the banks actually pass on. They have been making noises that their funding costs have been increasing of late so it would not surprise to see that only part of the reduction flows through to borrowers.

30% TAX BREAK (INVESTMENT ALLOWANCE)

In our last newsletter we gave details of the new 30% tax break. Since that time, Treasury has released further details of how the incentive will operate and more importantly what you need to do and when you need to do it to ensure you maximise the benefit. It is noteworthy that if an item is not used or installed ready for use by 30 June 2009 then **your deduction could be delayed** by 12 months. Further, the fact that you may show a loss doesn't mean the potential benefit is lost – the tax break is a deduction like any other and therefore simply adds to your loss giving you an increased loss to carry forward to next year.

It is vital, therefore, if you are considering acquiring a "new" depreciable asset pre 30 June 2009 that you contact your Pinn Deavin advisor to ensure that you get advice specific to your situation and that your deduction is claimed at the maximum possible rate and at the soonest possible time.

GENERAL INTEREST CHARGE

The ATO has advised that the General Interest Charge, which is the interest rate that it charges you on overdue amounts, for the period 1 April to 30 June 2009, is 10.16% pa.

SMSF 5% IN-HOUSE ASSETS RULE

In a recent speech a senior ATO officer has stated that it is "cognisant of the impact of the global financial crisis and the challenges experienced by many trustees, taxpayers and tax professionals". In that regard, it has flagged the fact that in falling markets the rule that says a fund cannot have more than 5% of its assets invested in associated entities may be breached.

Whether the downturn in market values of shares and other assets will actually cause a trustee to breach the rule will obviously not be evident until year-end values are known. The ATO has indicated that if there is a problem then trustees will need to have a plan in place to address the issue and to reduce the in-house portion of its investments to a figure below 5%. If values recover in the following year then there will be no need to sell, but if not, the ATO will "look at the action we should take, based on the circumstances". They have said that they will "consider these circumstances sympathetically, particularly where the situation is beyond the trustees' control".

Whilst it is pleasing to see the ATO taking such a generous approach at this time, we suggest that it would be prudent that all SMSF trustees review their circumstances so that appropriate action can be taken to correct any problems now. We don't recommend that you rely on statements such as these from the ATO should your fund be audited as their attitude at audit time may have shifted from what it is today. We would suggest that it's better to avoid the potential issue in the first place by ensuring, as far as is possible, that the rules are complied with.

TAX STRATEGIES TO IMPROVE LIQUIDITY

Given the tough trading conditions currently being experienced, it is timely that we review some simple tax strategies for improving liquidity. The reduction in December quarter PAYGI by 20% combined with changes to the basis of calculating 2009/10 PAYGI instalments from an increase of 9% down to 2% are helpful, but there are other things that a business is able to do to for itself including:

- Using the trading stock rules to claim losses before stock is sold;
- Using sale and leaseback strategies;
- Ensuring that non-paying debtors are written off as bad; and
- Using the new SMSF borrowing concession to extract equity.

For details of how these strategies may be applied to your own circumstances please contact your Pinn Deavin advisor.

SMSF – PAYMENT OF EXPENSES BY EMPLOYER NO LONGER ALLOWED

In the past clients have requested that the employer company be billed for annual superannuation financial accounts, income tax return preparation, audit and so forth. Clients have also wanted to pay any term insurance premiums out of the company account as a de facto superannuation contribution top up. Likewise any superannuation fund annual administration fees.

The effect of all of these practices is that the ATO misses out on the 15% contribution tax and the ATO have come down strongly with a number of releases as to these practices ceasing. It is a double bonus for the ATO as where an employer might have been charged for the accounting work the employer likely obtained the benefit of the GST input credit whereas the superannuation fund would not. For example:

Employer is billed for super fund accounting work	\$1,000
Plus GST	\$ 100
Total	\$1,100
Employer contributes extra cash to super fund	\$1,294
Less 15% contributions tax	\$ 194
Net Cash available to pay for accounting work	\$1,100

From the above you see that the business needs to fund the difference between a GST exclusive \$1,000 versus a GST and Contributions Tax inclusive amount of \$1,294.

Is there a way around this? No. As clients sign off on their 2008 superannuation fund financial accounts and income tax returns they are noticing the differences, but to many, it is when receiving a bill for the first time in the name of the superannuation fund that they are realising the impact.

If you have previously been using employer funds to pay insurance premiums you can continue to do so but you need to record the payment as a superannuation contribution and include it in the gross superannuation contributions for the year for individual employees. This is likewise with any other expenses paid on behalf of the fund by the employer. However where there are multiple employees to share the cost across this creates another allocation issue. The simple answer to avoid any confusion is to actually use the superannuation fund's own bank account to pay these amounts and seek to utilise all of the other benefits of an SMSF to offset the extra tax grab.

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