GFM Gruchy Accounting

THE PRACTITIONER

Tax News and Commentary for you and your business

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MAJOR MILESTONES FOR PHILIP GRUCHY

By Andrew Goldman

This month, we celebrate and congratulate Philip as he turns 75 years of age and reaches 45 years of service with the practice!

After completing an honours degree in Economics at Monash University in 1969, Philip spent time tutoring students in Micro Economics and Economic Statistics for several years before spending several years in Canberra working with Treasury and Defence.

Philip moved back to Melbourne in 1977, where he joined his father, Philip Snr, in his accounting practice. After completing further studies at Monash, he became a CPA in 1979.

While forging such an exciting and varied career, Philip also met the love of his life, Pat, who he married in 1976, and they now enjoy two children and a hand full of grandchildren together.

In 1983 Philip welcomed a new partner in the practice, Alistair Thompson. Together they grew the practice for over two decades before merging with GFM and creating the practice we know as GFM Gruchy Accounting Pty Ltd. Philip then continued to manage the business until 2015. At that point, Alistair retired, and I joined the practice as Managing Partner.

Philip and Pat enjoy caravanning and spending time in Yarrawonga. Phil also enjoys collecting Australian art, including some indigenous pieces. He enjoys visiting antique auctions from time to time and picking up items such as small furniture pieces, Silver, books and other things that catch his eye.

While he doesn't call himself an overly keen follower, he calls Hawthorn his AFL team and keeps his eye on the Cricket scores in Summer. Philip keeps active by attending the gym regularly.

Philip is a tireless worker both in the office and in his private life. His mentorship and caring nature benefit all he meets, and we look forward to his presence for years to come.

30 JUNE TAX PLANNING

By Andrew Goldman

As we move towards the end of the 2021/22 financial year, several year-end income tax planning opportunities may be available to optimise your tax position.

Business Asset Temporary full expensing

Temporary full expensing (TFE) supports businesses and encourages investment. Eligible businesses can claim an immediate deduction for the business portion of the cost of an asset in the year it is first used or installed ready for use for a taxable purpose in your business (rather than depreciation deductions being spread out over several years). This improves cash flow which can be a big problem for small businesses.

Eligible assets include most business-related assets, including new or second-hand equipment, furniture, computers, machinery, vehicles etc. (vehicle claims

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may be capped by the car limit). Ineligible assets include certain primary production assets and buildings or other capital works.

You'll be able to claim in 2021/22 if the asset is first used or installed and ready for use between 7.30 pm AEDT on 6 October 2020 and 30 June 2022. Any business with an aggregated turnover of less than $5 billion is eligible to use TFE.

TFE will continue into the new financial year and ends on 30 June 2023, so if you miss out this year, there is one more year to take advantage of this arrangement.

Crystalise capital losses

If you made capital gains in 2021/22, it might be worth considering crystalising any capital losses you are currently sitting on. If you have made a capital gain from your investments, the taxable portion will be added to your other income and taxed at your marginal tax rate, which could be as high as 45% if you hold the asset personally.

However, capital losses can offset capital gains and, in doing so, reduce your tax liability.

For CGT purposes, a capital gain/loss generally occurs on the date you **sign** a contract, not when you settle on a contract.

If there is no contract of sale, the gain or loss usually occurs when you stop being the asset's owner. For example, if you sell shares, the gain or loss happens on the date of sale. Knowing which financial year the gain/loss will be attributed to is important when tax planning.

Write-off bad debts

Businesses should review their aged debtors to determine if any debts are not recoverable. If so, by writing them off as bad debts before 1 July 2022, you may be able to claim a tax deduction for the total debt in 2021/22. For a debt to qualify as 'bad', there must be little or no likelihood of recovery. Records should be kept to demonstrate that you have taken reasonable steps to recover the debt before writing it off.

FOUR PRIORITIES FOR THE ATO THIS TAX TIME

By Ivan Yeung

In the middle of May, the ATO announced that there would be four focus areas on their radar during Tax Time 2022 – record-keeping, work-related expenses, rental property income and deductions, and capital gains from crypto assets. It is reminding taxpayers that there are three golden rules when claiming a deduction:

1. You must have spent the money yourself and weren't reimbursed
2. If the expense is for a mix of income-producing and private use, you can only claim the portion that relates to producing income, and
3. You must have a record to prove it.

Record-keeping

For those who lodge their tax returns using a tax agent, your agent's hands are tied when claiming deductions. If you can't furnish them with records to prove you have incurred the work-related expense, they can't claim it. Records can be kept in paper or digital format.

Examples of records you need to keep include income statements or payment summaries, statements from your bank and other financial institutions, dividend statements, summaries from managed investment funds, receipts or invoices for equipment or asset purchases and sales, receipts or invoices for expense claims and repairs, contracts, and tenant and rental records.

Work-related expenses

Noting that many people worked from home during COVID-19, if your working arrangements have changed, the ATO warns taxpayers not just to copy and paste your prior year's claims. If you use a tax agent, inform them of your changed circumstances. If your expense was used for both work-related and private use, you can only claim the work-related portion of the expense. For example, you can't claim 100% of mobile phone expenses if you use your phone for private purposes. You can easily keep track of your expenses with the myDeductions tool in the ATO app. Just take a photo of the receipt in the app, record the expense details, and at tax time, upload the information directly to your return in myTax or email it to your registered tax agent.

Rental income and deductions

If you are a rental property owner, you need to include all the income you've received from your rental in your tax return, including short-term rental arrangements, insurance payouts and rental bond money you retain.

The ATO says it knows that many rental property owners use a registered tax agent to help with their tax affairs. The ATO encourages you to keep good records as all rental income and deductions must be entered manually.

Capital gains from Crypto

If you dispose of an asset such as property, shares, or a crypto asset, including non-fungible tokens (NFTs), this financial year, you will need to calculate a capital gain or capital loss and record it in your tax return.

The ATO's Assistant Commissioner says, "Crypto is a popular type of asset and we expect to see more capital gains or capital losses reported in tax returns this year. Remember you can't offset your crypto losses against your salary and wages."

"Through our data collection processes, we know that many Aussies are buying, selling or exchanging digital coins and assets, so it's important people understand what this means for their tax obligations".

SIX SUPER STRATEGIES TO CONSIDER BEFORE 30 JUNE

By Kerry Taylor

With the end of the financial year (EOFY) fast approaching, now is a great time to boost your superannuation savings and potentially save on tax. Below are six superannuation strategies to consider before 30 June 2022.

Tip 1 – Use the carry forward concessional contribution rules

If you want to make extra contributions to top up your superannuation balance, you may be able to use the carry forward concessional contribution rules. Otherwise known as "catch-up concessional" rules, this allows you to make large concessional contributions this year without exceeding your concessional contribution cap.

This strategy can allow you to carry forward any unused concessional contribution cap amounts that have accrued since 2018/19 for up to five financial years.

You can then make a concessional contribution using the unused carry-forward amounts. This is provided your total superannuation balance (TSB) on 30 June 2021 was below $500,000.

Tip 2 – Make a personal deductible contribution

Carry-forward contributions may also allow you to make higher amounts of personal deductible contributions in financial years where you may have a higher level of taxable income, for example, due to assessable capital gains.

But if you can't use the carry forward rules, you can still make a personal deductible contribution up to the general concessional contribution cap.

It's important to note that personal deductible contributions are only deductible if you meet all of the following conditions:

- You contribute to a complying superannuation fund
- You are at least age 18 when the contribution is made (unless you derived income from carrying on a business or from employment related activities)
- You make the contribution within 28 days after the month in which you turn 75
- You notify your superannuation fund trustee in writing of your intention to claim the deduction
- The notice must be given by the earlier of:
  - when you lodge your income tax return for the year the contributions were made, or
  - the end of the financial year following the year, the contributions were made
- The trustee of your superannuation fund must acknowledge receipt of the notice, and you cannot deduct more than the amount stated in the notice.

Tip 3 – Spouse contribution splitting

You can split up to 85% of your 2020/21 concessional contributions before 30 June 2022 to your spouse's superannuation account if your spouse is:

- Less than the preservation age, or
- Between preservation age and age 64 (and you must declare they do not satisfy the 'retirement' condition of release).

This is an effective way of building superannuation for your spouse and can assist in managing your TSB, which can have several advantages, including:

- Equalising balances to make the best use of both of your transfer balance caps (TBC), which can maximise the amount you both have invested in tax-free retirement phase income streams
- Optimising both of your TSBs to:
  - Access a higher non-concessional contribution (NCC) cap
  - Allow access to use the carry-forward concessional contribution rules
  - Utilise the work test exemption
  - Qualify for a government co-contribution
  - Qualify for a tax offset for spouse contributions
- Boosting Centrelink entitlements by transferring funds into a younger spouse's accumulation account if your spouse is under age pension age.

Tip 4 – Superannuation spouse tax offset

If your spouse is not working or earns a low income, you may want to consider making an NCC into their superannuation account.

This strategy could benefit you both by boosting your spouse's superannuation account and allowing you to qualify for a tax offset of up to $540.

You may be able to get the full offset if you contribute $3,000 and your spouse earns $37,000 or less pa. The $37,000 includes assessable income, reportable fringe benefits and reportable employer superannuation contributions).

A lower tax offset may be available if you contribute less than $3,000 or your spouse earns between $37,000 and $40,000 pa.

Tip 5 – Maximise non-concessional contributions

Another way to boost your superannuation is to make an NCC with some of your after-tax income or savings.

The general NCC cap for 2021/22 is $110,000, and eligibility to utilise the cap depends on your TSB.

Although NCCs don't reduce your taxable income for the year, you can still benefit from the low tax rate of up to 15% paid in superannuation on investment earnings. This tax rate may be lower than what you might pay if you held the money in other investments outside superannuation.

Tip 6 – Receive the government co-contribution

If you're a low or middle-income earner earning less than $56,112 in 2021/22 and at least 10% is from your job or a business, you may want to consider making an NCC to superannuation before 1 July 2022. The government may make a 'co-contribution' of up to $500 into your superannuation account if you do.

The maximum co-contribution is available if you contribute $1,000 and earn $41,112 pa or less. You may receive a lower amount if you contribute less than $1,000 and/or earn between $41,112 and $56,112 pa.

Like the superannuation spouse tax offset, the definition of 'total income' for the co-contribution includes assessable income, reportable fringe benefits and reportable employer superannuation contributions.

DOWNSIZER CONTRIBUTIONS TO SUPER

By Kushal Sharma

From 1 July 2022, if you're aged 60 years or older, you may be eligible to make a downsizer contribution of up to $300,000 (or $600,000 for a couple) to superannuation from the sale proceeds of your home.

Eligibility requirements

1. You must be aged 60 or over from 1 July 2022 (or 65 or over if the contribution is made before 30 June 2022).
2. The contribution amount is equal to all or part of the sale proceeds (capped at $300,000 per person) of a qualifying main residence, where the contract of sale of the main residence was exchanged on or after 1 July 2018.
3. You or your spouse owned the home for ten years or more before the sale.
4. The proceeds of selling your home are either fully exempt or partially exempt from capital gains tax under the main residence exemption.
5. You make the downsizer contribution within 90 days of receiving the sale proceeds (i.e., usually settlement date).
6. You complete the 'Downsizer contribution into super form' (NAT 75073), available on the ATO website, and provide it to your superannuation fund either before or when making the downsizer contribution.
7. You have previously not made a downsizer contribution from selling another home.

Provided that the above conditions are met:

- There is no obligation to purchase a new home. You only need to sell your home and meet the above criteria to make a downsizer contribution.
- There is no maximum age limit to make a downsizer contribution.
- The downsizer contribution does not count towards your non-concessional or concessional contributions caps.
- There is no requirement to meet a work test or work test exemption to make a downsizer contribution, and
- Downsizer contributions can be made regardless of the size of your total superannuation balance (TSB). A downsizer contribution can still be made even if you have more than $1.7 million in superannuation.

Tip:

As part of the federal election campaign, the new Labor government pledged to match the former Coalition government's commitment to lowering the downsizer eligibility age to 55. If Labor passes this measure, it will allow Australians over the age of 55 to sell their home and contribute the proceeds into superannuation.

Other points to consider

While downsizer contributions can be made regardless of your TSB, it forms part of your TSB once the downsizer contribution is made to superannuation.

At this point, the downsizer contribution will increase your TSB, which may impact your eligibility to:

- Make carry forward concessional contributions
- Make non-concessional contributions
- Receive government co-contributions, and
- Receive a tax offset for spouse contributions.

Similarly, a downsizer contribution will also count towards your transfer balance cap (TBC), which applies when you move your superannuation into the retirement phase to commence an income stream.

So, if you intend to use your sale proceeds to commence a superannuation income stream in retirement, it's important to note that you have a personal TBC of up to $1.7 million on the total amount that can be transferred from a superannuation account into a tax-free superannuation income stream. You can find your personal TBC by contacting the ATO or logging into myGov.

Lastly, your superannuation balance is assessed for your eligibility for the government age pension, whereas the value of your family home is an exempt asset. This means you may see a reduction or lose your entitlement to the age pension when you contribute some or all of the sale proceeds to your superannuation.

Seek advice

Although making a downsizer contribution may seem to be a straightforward strategy, you must be aware of many eligibility requirements and nuances when utilising these rules. Talk to us if you're thinking about downsizing and contributing to superannuation but want more information.

2022 ELECTION WASHUP

By Philip Gruchy

Following the election of the new Labor Federal Government on 21 May, there are several tax and superannuation proposals that they have announced or existing measures they have committed to that may impact you and your business moving forward.

Some are subject to the passage of enabling legislation through the new Parliament.

Tax cuts

The incoming government has committed to the so-called Stage 3 tax cuts that the former government passed into legislation in 2018.

This will see the 37% tax bracket abolished, the top 45% bracket will start from $200,000, and the 32.5% rate will be cut to 30% for all incomes between $45,000 and $200,000. This is legislated to commence from 1 July 2024.

Multinational tax crackdown

This will involve a four-pronged approach:

- Supporting the OECD's Two-Pillar Solution for a global 15% minimum tax and ensuring some of the profits of the largest multinationals – particularly digital firms are taxed where the products or services are sold.
- Limiting debt-related deductions by multinationals at 30% of profits, consistent with the OECD's recommended approach while maintaining the arm's length test and the worldwide gearing ratio.
- Limiting the ability of multinationals to manipulate Australia's tax treaties when holding intellectual property in tax havens.
- Introducing transparency measures, including reporting requirements on tax information, beneficial ownership, tax haven exposure, and government tenders.

SG increases to proceed

The increases to the superannuation guarantee rate will go ahead as legislated. The rate of SG will be increased to 10.5% from 1 July 2022, and it will then continue to increase by a further 0.5% each year until reaching 12% in 2025.

Home to Buy Scheme

With the Labor party winning the election, the former government's proposal to let individuals raid their super to buy their first home will not proceed. Instead, the new government will presumably push ahead with its home buyer proposal, Help to Buy. This will be open to 10,000 Australians each financial year.

Eligible home buyers will need a minimum deposit of 2%. There is an equity contribution from the Federal government of up to 40% of a new home and up to 30% of an existing home.

Help to Buy will be open to buyers who do not own a home – not just first home buyers – but eligible buyers must earn less than $90,000 a year, or $120,000 if they are a couple.

Participants must buy back the government's share in their house if they start to earn more than the above amounts.

REVISITING TRUST DISTRIBUTIONS – SECTION 100A

By Andrew Goldman

There have been further developments on the ATO's planned crackdown on certain distributions for the many business owners and investors who operate their affairs through discretionary trusts.

During June, we will be embarking upon our annual Trustee Resolutions project. We will provide those with discretionary trusts suggested pre-30 June resolutions relating to 2021/22 trust distribution income.

Backstory

As discussed in Edition 15 of The Practitioner, the ATO in February updated its guidance around trust distributions made to adult children, corporate beneficiaries, and entities carrying losses. Depending on the structure of these arrangements, there is a potential that the ATO may take an unfavourable view of what were previously understood to be legitimate distribution arrangements.

The ATO is targeting arrangements under section 100A of the Tax Act, specifically where trust distributions are made to a low-rate tax beneficiary. However, the real benefit of the distribution is transferred or paid to another beneficiary, usually with a higher tax rate. In this regard, the ATO's new Taxpayer Alert (TA 2022/1) illustrates how section 100A can apply to the common scenario where a parent benefits from a trust distribution to their adult children.

At the same time, the ATO's new draft ruling states that for the new guidance to potentially apply, one or more parties to the agreement must have entered into it for a purpose (not necessarily a sole, dominant purpose) of securing a tax benefit. This sets the bar low and may capture arrangements previously thought to be within the law.

Going forward

A conservative approach would be to adopt the "beneficiaries must benefit" approach that underpins the guidance material, as much as that might be a worry for controlling individuals who have benefited from tax optimisation without

actually giving their adult children beneficiaries access to their present entitlements. This means the days of controlling individuals taking loans from the trust as they go along and squaring them off through the trust accounts after year-end might soon be over.

Alternatively, one could continue to deal with 2021/22 trust distributions as in the past. The law has not been changed, and the draft ruling is at odds with a recent Federal Court decision. Such an approach would reflect a view that the Commissioner is wrong in his narrow interpretation of what constitutes ordinary family dealings. However, that could be a brave strategy as we do not know when or how the draft guidance material will be finalised, while the above Federal Court appeal decision is unlikely to be handed down this side of 30 June 2022.

If you have any concerns about your trust distributions, you should contact us.

ATO WARNING OF FAKE ABN AND TFN SCAMS

By Miryam Schejtman

The ATO has recently reported an increase in fake websites offering to provide tax file numbers (TFNs) and Australian Business Numbers (ABNs) for a fee but then failing to provide the service – leaving taxpayers out of pocket.

The fake TFN and ABN services are typically advertised on social media platforms like Facebook, Twitter, and Instagram.

The advertisements offer to obtain your TFN or ABN for a fee. Instead of delivering this service, the scammer uses these fraudulent websites to steal money and personal information.

It is free, quick and easy to use government services to apply for a TFN through the ATO or apply for an ABN through the Australian Business Register (ABR).

ATO Assistant Commissioner Tim Loh said:

"Scammers are constantly developing new ways to target the community, and we expect to see more of these malicious attempts to steal identity details in the lead up to tax time."

In 2021, more than 50,000 people reported ATO impersonation scams, with victims losing more than $800,000.

"We are concerned about a recent increase in the number of victims reporting scams around TFN and ABN applications.

We are also still seeing scammers impersonating the ATO, making threats, demanding the payment of fake tax debts or claiming a TFN has been 'suspended' due to fraud.

Those who apply for a TFN or ABN through a tax agent should always check that the tax agent is registered with the Tax Practitioners Board.

We are encouraging everyone to be on alert and take the time to remind family and friends to be on the lookout and stay safe online, so you don't fall victim to a scam this tax time."

TIPS TO PROTECT YOURSELF FROM SCAMMERS:

Know your tax affairs

You will be notified about your tax debt before it is due. Check if you have a legitimate debt owed by logging into your myGov account via an independent search or by calling your tax agent if you have one (on a number sourced independently).

Guard your personal and financial information

Be careful when clicking on links, downloading files or opening attachments. Only give your personal information to people you trust and don't share it on social media.

If you are unsure, don't engage

If a call, SMS or email leaves you wondering if it is genuine, don't reply. Instead, you should phone the ATO's dedicated scam line 1800 008 540 to check if the communication is legitimate.

Know legitimate ways to make payments

Scammers may use threatening tactics to trick their victims into paying fake debts via unusual methods. For example, they might demand pre-paid gift cards or transfers to non-ATO bank accounts. To check that a payment method is legitimate, visit ato.gov.au/howtopay.

Talk to your family and friends about scams

If you or someone you know has fallen victim to a tax-related scam, call the ATO as soon as you can.

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