

The end of the financial year represents an opportunity to review your financial position. In doing this, your business and investment structures and strategies will be up to date, enabling you to enter the new financial year with a clear understanding of the way forward.

To assist you in this process, we have included in this edition of the newsletter changes that have emerged from this year's Federal Budget, the response to the Henry Tax Review, and an insight into the Cooper Super System Review.

Federal Budget and Response to Henry Tax Review

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Key points include:

- ❑ A 40% resource rent tax applicable to mining and petroleum projects from 1 July 2012;
- ❑ A resource exploration rebate for expenditure carried out in Australia from 1 July 2011;
- ❑ The superannuation guarantee rate will increase gradually from 9% to 12% from 1 July 2013; Salary sacrifice arrangements and concessional contributions strategies will need to be reviewed in light of the increases to ensure the concessional contribution caps are not breached.
- ❑ The company tax rate will decrease from 30% to 29% in 2013-14, and to 28% in 2014-15;
- ❑ Small businesses will be eligible for a 28% company tax rate from 1 July 2012;
- ❑ Small businesses will be able to immediately write-off assets valued at under \$5,000 (currently \$1,000) and all other assets (except buildings) will be written off in a single depreciation pool at a rate of 30%. This will apply from 1 July 2012;

- Confirmation of personal income tax cuts from 1 July 2010, announced in the previous budget;
- Individuals will be eligible for a 50% tax discount on up to \$1,000 of interest earned from 1 July 2011;
- Taxpayers will have the option to claim a standard deduction of \$500 in 2012/13, increasing to \$1,000 in 2013/14. Those taxpayers with deductible expenses greater than the standard deduction amount will still be able to claim their higher expenses, in lieu of claiming the standard deduction amount.
- Concessional contributions cap of \$50,000 from 1 July 2012 for those who are over the age of 50, and with total superannuation balances of less than \$500,000;
- Superannuation guarantee age limit will be increased from 70 to 75 from 1 July 2013;
- The government will provide a \$500 annual superannuation contribution to individuals with an adjusted taxable income up to \$37,000.
- Maximum co-contribution matching rate and payment amount will remain at 100% and \$1,000 respectively.

Note: A number of the above measures are conditional on the successful introduction of the resource rent tax.

Residents: rates and tax payable from 1 July 2010

Taxable income (\$)	Tax payable (\$)
0 – 6,000	Nil
6,001 – 37,000	Nil + 15% of excess over 6,000
37,001 – 80,000	4,650 + 30% of excess over 37,000
80,001 – 180,000	17,550 + 37% of excess over 80,000
180,001 +	54,550 + 45% of excess over 180,000



Superannuation Update

The Cooper Super System Review – Self Managed Super Solutions

The Super System Review Panel released its preliminary report in April 2010 dealing with self-managed superannuation funds (SMSFs).

In releasing the report, Review Chair, Jeremy Cooper, stated that Australia's self-managed superannuants need to stay focused on investing for retirement savings, rather than related party transactions, collectables and leverage.

The following are some of the key recommendations from the report.

In-house (related) Assets:

The Panel recommends that in relation to the self-managed superannuation sector:

- The 5% in-house (related) asset investment limit is removed so that no in-house asset investments would be allowed.
- SMSFs with existing in-house asset investments be given a transitional period (up to 30 June 2020) in which to dispose of their in-house asset investments. No new in-house asset investments are to be permitted during this transition period.

Note that business real property is not considered an in-house asset, so this type of property would continue to be able to be purchased by the SMSF and leased to either a related, or non related business.

Acquisition and disposal of assets from related parties:

The Panel recommends that the Superannuation Industry Supervision (SIS) legislation relating to acquisitions and disposals between related parties be amended so that either:

- Where an underlying market exists, all acquisition and disposal of assets between SMSFs and related parties must be conducted through that market.
- Where an underlying market does not exist, acquisitions or disposal of assets between related parties must be supported by a current independent valuation from a registered valuer.

The Panel believes the current provision relating to related party acquisitions and disposals is insufficient to mitigate the potential risk of transaction date and asset value manipulation to illegally benefit the SMSF or the related party.

This will mean that transfers of listed Australian shares would need to be carried out on the Stock Exchange rather than by off-market share transfer forms.

Collectables and personal use assets:

The Panel recommends that:

- The acquisition of collectables and personal use assets by the SMSF trustee be prohibited. This group of assets includes paintings, antiques, stamps, wine, vintage cars, golf club memberships, race horses and boats.
- SMSFs that own collectable/personal use assets have a transitional period to 2020 in which to dispose of those assets.

Note that although funds have been able to acquire these types of assets the ability to have related parties use them, even through a commercial lease, has been limited from August 1999.

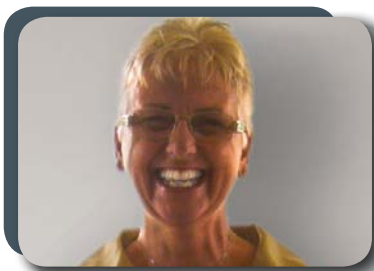
Other recommendations include:

- Reduced requirement for minutes of meetings which are currently required to confirm decisions of trustees as these decisions can be inferred from the fact that the trustees have carried out the transactions.
- Development of an extensive website with information about SMSF investments, regulations, statistics and with templates for investment strategies and other documents which are required. The website would also offer voluntary training for fund trustees.
- Increased measures to make illegal early access to superannuation more difficult by stricter requirements for banking of rollover payments.

Please note that at this stage, the above are only recommendations to the Federal Government. They have not yet been accepted or legislated.



Team Profile



Jenn Stephens spent her childhood years in Quilpie and moved to Gatton in 1963. Her working life has been diverse and includes banking, real estate and accounting administration. She is the Office Manager at Conrad Carlile. Jenn is also an authorized marriage celebrant and spends many weekends performing marriage and naming ceremonies all over the south east. Jenn and her husband Gary have just celebrated their 38th wedding anniversary. They have four children, one grandchild and another on the way. Jenn thoroughly enjoys working at Conrad Carlile and looks forward to many more years ahead as part of the team.

Economic Outlook

Over the past few weeks, significant volatility has re-entered global financial markets with falls in equities, declines in government bank yields and sharp moves in exchange rates – including a fall in the Australian dollar. The appetite for risk has diminished and this has resulted in some large global investors reassessing asset allocations. It is likely they are taking profits after earning strong returns over the past year.

The falls in equity markets especially here in Australia, have been quite sharp, but follow on from a period of solid recovery from the lows of March 2009.

One of the main drivers of financial market volatility and reduced global risk appetite is the sovereign debt crisis in Europe. After a period of concern over the debt level of Greece and other southern European nations, the European Stabilization Method was seen as a positive and helped avoid a liquidity crisis. Overall this is positive but questions have now been directed toward the pace of growth in Europe over coming years. Affected governments will need to reduce budget deficits and debt levels and to do this will need to increase taxes and cut government expenditure through winding back pensions and public sector wages.

For Australia the global market volatility has manifested a sharp fall in the local share market (down 14% from its high in Mid April) and in a large decline in the AUD (down from US 0.9350 in Mid April to near USD 0.84). Adding to the concerns has been signs that policy tightening by the Reserve Bank has started to work with recent weakness in consumer confidence, housing finance and retail sales leading to expectations that the Reserve Bank will remain on hold for several months.

Another factor worth highlighting is the proposed introduction of the “Resources Super Profits Tax” (RSPT). While views on the merits of the RSPT vary greatly, there is a strong view that the proposed RSPT, the way in which the government went about announcing its arrival, and the public nature of the debate over its merits or otherwise, has added to Australia’s country risk premium. While it could be argued that the negative market reaction to the proposed RSPT has much to do with bad timing (ie. Coming at the same time as the negative global developments). It does seem clear that proposing a significant new tax to Australia’s resource sector has added an extra level of uncertainty to Australia that certainly has not been helpful in the current environment.

The extent of these concerns and the global reduction in risk appetite are unfortunately, unlikely to be unwound in the very near term so volatility can be expected to remain for a while.

Over the medium term however continued recovery in some key economies should see markets stabilise and eventually return to their recovery trend from the lows of 2009.

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ATO Attack on Trusts and Unpaid Present Entitlements

In December 2009, the ATO released a draft ruling (TR 2009/D8) outlining how Division 7A should apply to private companies with an unpaid present entitlement from a trust.

The draft ruling outlines situations which the ATO considers that an unpaid present entitlement should be treated as a loan. A consequence of treating an unpaid present entitlement as a loan under Division 7A is that, unless the loan satisfies certain requirements, the loan will be treated as a deemed dividend for tax purposes.

Division 7A – Background

Division 7A is designed to ensure that private companies are not able to distribute profits to shareholders by way of non-arm's length payments or loans rather than as taxable dividends.

Where Division 7A applies, such payments and loans are treated as dividends in the hands of the shareholders.

Draft Ruling TR 2009/D8

The draft ruling concerns the situation in which a private company will be taken to have made a 'loan' to a shareholder for the purposes of Division 7A. More specifically, the draft ruling is concerned about:

- A company which has a present entitlement to an amount from a related trust as a result of the decision of the trustees at year end to distribute net income to the company. Further, if a company has a present entitlement it can call for immediate payment of the amount by the trust.
- The amount remains in the trust rather than being distributed to the private company ie. there is an unpaid present entitlement.
- The amount is used by the trust for its own purposes or intermingled with other trust funds (as opposed to being held by the trust on a sub-trust for the company).

Solution

1. The trust actually pays the entitlement across to the company bank account which results in no unpaid present entitlement;
2. Put in place a written loan agreement whereby the company effectively lends back to the trust its entitlement. The trust will pay interest on this loan to the company and the principal must be repaid by the trust in full within 7 years. The interest will be deductible to the trust and assessable to the company respectively, on the assumption that the funds represented by the unpaid present entitlement are used by the trust for income producing purposes.

With tax time now upon us, we look forward to meeting with you all over the coming months. We take this opportunity to wish you well for the coming financial year and encourage you to contact your accountant at Conrad Carlile with any questions that may arise throughout the duration of the year.

The information in this newsletter is general commentary only and should not be considered advice. You should not act solely on the basis of the material contained in this newsletter. We recommend that you seek our formal advice prior to acting. Liability limited by a scheme approved under Professional Standards Legislation.