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PLANNING AHEAD KEY FOR AGED CARE NEEDS

LUKE ROBSON
Financial Adviser, Wealth Management
BRISBANE

As Australians live longer and longer, there is an increasing likelihood that they will need some kind of health care assistance in their lifetime.

This could include help around the house, independent living with moderate care, or high level residential nursing care.

At first glance, these options can seem very expensive. However, government funding is available for many individuals, no matter their financial circumstances.

An assessment by the Department of Human Services (DHS) is necessary for accessing government subsidies. It is therefore very important to plan ahead and structure assets and income in a way that results in a favourable assessment.

CONSIDER FINANCIAL POSITION

Before submitting any assessments, a good place to start is considering how to optimise your financial position. Often we see clients who have already sold assets or made incorrect declarations before their options have been properly assessed. By sending in an assessment prematurely, people are committed to an outcome that may be less beneficial.

KEEP UP TO DATE

Legislation for aged care is constantly evolving, resulting in grandfathering for those already receiving help. However this presents a new set of rules for those trying to access the same benefits. For example, in January 2015, changes were made to the way superannuation is assessed for both the Age Pension and aged care fees, so any withdrawal from super could be less favourable for government funding. In January 2016 the family home lost rental income exemptions as well as the

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IMPACT OF PROPOSED LABOR TAX CHANGES

STEVE TOTH
Partner, Tax Consulting
ADELAIDE

With a Federal Election on the horizon, many people are starting to consider how a possible Labor government could affect tax policy.

The Labor party has already announced a number of key tax policies. While these are dependent on Labor winning the next election, as well as the passage of legislation through Parliament, it is worthwhile thinking about the impact of these proposed changes.

IMPUTATION CREDITS

Perhaps the most controversial announcement has been the plan to limit tax refunds from excess franking credits from 1 July 2019.

When Australian companies pay dividends to shareholders, they can attach a franking credit for tax paid on company profits.

Currently, Australian residents, superannuation funds and charities can claim a refund if the total franking credits received exceeds their tax liability.

The Labor party intends to limit those who can receive a refund to charities. Individuals and superannuation funds will still be able to apply franking credits to reduce their tax liability, but will not be entitled to receive a refund.

NEGATIVE GEARING

Currently, investors can offset losses resulting from negatively geared investments against their other income, including any salary or wage income.

Investors are entitled to claim a tax deduction for any expenses incurred in the course of earning their investment income, including interest paid on borrowings. For property investors, it also includes depreciation and capital works deductions. If these deductions exceed the income received, the investment is referred to as being negatively geared.

Under Labor policy, losses from negatively geared investments will only be applied to other investment income. If the deductions still exceed the income, the remaining loss can be carried forward to offset future investment income, or capital gains realised from the sale of the investment.

It is proposed to exclude losses made on newly constructed houses. Labor has not advised a start date for this measure, however, losses from investments entered into prior to the start date will still be able to offset income from all sources, in line with the current rules.

CAPITAL GAINS TAX DISCOUNT

Australian resident individuals and trusts are entitled to reduce the taxable capital gain realised on the sale of assets by 50 percent, provided that they have held the asset for more than 12 months.

However, under the Labor policy, this 50 percent discount would be reduced to 25 percent.

Small business assets would be exempted from this change, and continue to be eligible for a 50 percent discount, together with the small business capital gains tax concessions.

Superannuation funds would still be eligible for the current 33.33 percent discount.

As yet, there is no proposed start date for this measure, however, assets acquired prior to the start date will continue to be eligible for a 50 percent discount.

Contact the author: stoth@hlbsa.com.au

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indefinite exemption from aged care assessment. These changes have had a considerable impact on how people should consider what to do with the home and in turn how the Assets and Income Assessment should be completed.

PLAN AHEAD

Those that plan ahead will be well-placed to access the best and most appropriate care that doesn't break the bank. They may even be lucky enough to find themselves in a position to access an Age Pension or Seniors Health Care Card that they were previously not entitled to.

Remember, while aged care can be a daunting and emotional experience, it's designed to be affordable for everyone.

GET ADVICE

Our biggest tip is to get advice early. It can be a complicated area, and there will almost certainly be opportunities or pitfalls that take people by surprise. Specialist help can help achieve the best possible result for all but not if it is sought too late.

Contact the author: lrobson@hlbqld.com.au

BLACK ECONOMY MEASURES TARGET PAYMENTS TO WORKERS

ALEXANDER KING
Director, Tax Consulting
SYDNEY

New measures targeting the "black economy" will deny businesses a tax deduction for payments to workers if businesses do not comply with their pay as you go (PAYG) withholding obligations.

Under the rules, deductions will be denied for payments to employees or contractors where either no amount has been withheld at all, or the withheld amounts are not reported to the ATO.

For businesses who are doing the right thing, the measures include safeguards for those who make an error while attempting to comply with their withholding obligations. For example, withholding an incorrect amount, or reporting an incorrect amount to the ATO, will not affect a business's entitlement to a deduction.

There are also two exemptions that allow taxpayers to deduct payments that would otherwise be denied under the new rules.

The first exemption applies if a business voluntarily notifies the ATO of its failure to withhold or report an amount. However, the exemption only applies if the voluntary disclosure is made before the ATO commences any audit or other compliance activity for the relevant period.

The second exemption applies to employers that make payments to an employee they honestly believe to be a contractor and, as a result, fail to comply with their withholding obligations. Deductions for the payments will not be denied in these circumstances.

Although these rules are primarily targeted at those operating in the black economy, businesses should not underestimate the impact of the new measures.

For example, businesses that make irregular payments, such as bonuses, commissions or allowances, may be at risk where their systems do not appropriately identify the payments as subject to withholding.

Similarly, businesses that make payments to employees that are below the PAYG withholding thresholds may not be aware that a small increase in the payments could trigger a withholding requirement.

To ensure they are not denied deductions under this new measure, businesses should consider reviewing their systems and procedures before 1 July 2019 to ensure they are compliant with their PAYG withholding obligations.

Contact the author: aking@hlbnsw.com.au

"Businesses should not underestimate the impact of the new measures."

UNCERTAINTY REMAINS AROUND PRIVATE COMPANY LOAN RULES

DARYL JONES
Director, Tax Consulting
BRISBANE

Recent changes introduced by the Government to the "Division 7A integrity rules" on private company loans do not remove all the uncertainties surrounding the rules, nor the compliance burden they create.

Most of the changes will start from 1 July 2019 and include:

- All new loans will be for a maximum 10-year term with yearly principal and interest payments
- The annual benchmark interest rate will be the official "Small Business: Variable: Other; Overdraft" indicator lending rate, published by the Reserve Bank, which is currently around 8.65 percent (approximately three percent higher than the bank variable housing rate)
- There will be no requirement for a formal loan agreement but evidence of the loan must exist prior to lodgement of the company income tax return
- The minimum yearly repayment will now consist of principal and interest. The principal will be made up of equal annual payments over the loan term, with any shortfall in the minimum repayment to be a deemed dividend in that year.

There are also a number of transitional rules including:

- Existing seven year loans will retain their current term from 1 July 2019, however the interest rate will be reset in line with the new annual benchmark interest rate
- Existing 25 year loans will not be subject to the new rules until 30 June 2021 but the interest rate will be the new rate. On 30 June 2021, the outstanding balance of the loan will give rise to a deemed dividend unless a loan agreement complying with the new rules is put in place by the lodgement day of the company's 2021-22 tax return
- Currently, pre-1997 are generally outside the current Division 7A rules. It is proposed to make these loans subject to Division 7A from 1 July 2021 (which represents a complete reversal of treatment that has applied for over 20 years).

DISTRIBUTABLE SURPLUS

The current mechanism to calculate the amount of the deemed dividend under Division 7A is the "distributable surplus". It is proposed that this concept will be removed, meaning that a deemed dividend will arise where there are no profits in the company. The consultation paper notes this is justified on the basis that the Corporations Act 2001 no longer requires dividends to be paid out of profits.

UNPAID PRESENT ENTITLEMENT (UPE)

The proposed amendments will deem a UPE to be a loan whether or not it is put in a sub-trust, thus treating UPEs consistently with private company loans. Following the 30 June 2019 deadline, UPEs would have to be paid to the private company or put under a complying loan. UPEs arising between 16 December 2009 and 30 June 2019 that are not under complying loans or deemed to be a dividend will have to be put on complying loan terms by 30 June 2020.

It will be interesting to see where these changes will fit in the legislative priority of the Government, whoever that may be, after this year's election.

Contact the author: djones@hlbqld.com.au

NEW LOOK FOR HLB MANN JUDD

The HLB Mann Judd Australasian Association has launched a new corporate brand in Australia, New Zealand and Fiji.

The rebrand includes a new logo, tagline, website and overall look and feel.

Tony Fittler, chairman of the HLB Mann Judd Australasian Association, says the new brand illustrates the international network's global reach and that clients receive a consistent high-quality experience and personalised service wherever they operate.

"The new tagline - together we make it happen - illustrates HLB's philosophy that collaboration between member firms and a close relationship with the client leads to the best results and added value for all parties involved.

"HLB Mann Judd is committed to the growth of its clients and working closely with them to assist with the day-to-day challenges of operating in an ever-changing business climate," he said.

FBT TIPS FOR NOT-FOR-PROFIT ORGANISATIONS

LITSA CHRISTODULOU
Partner, Business Advisory
PERTH

Not-for-profit organisations often struggle to find the right employees because budgetary constraints restrict their ability to offer competitive salaries.

A possible solution is to utilise fringe benefits tax (FBT) exemptions, specific to the sector, which unlock extra financial resources and increase the attractiveness of the salary package to the prospective employee.

However, it can be a tricky area because of the confusion surrounding what can and can't be done. With the end of the FBT financial year fast approaching, it is a good idea to review the do's and don'ts of FBT.

CAPPING THRESHOLDS

As a starting point, organisations need to assess which category of not-for-profit organisation they fall under.

This then determines the capping thresholds applied to each employee in order to avoid incurring FBT, as shown in the accompanying table.

Types of organisations eligible for FBT exemption	Threshold (per employee)	ATO endorsement required?
Public benevolent institutions other than hospitals	$30,000	Yes – and should be registered with ACNC as a charity before endorsement
Health promotion charities	$30,000	Yes – and should be registered with ACNC as a charity before endorsement
Public and not-for-profit hospitals	$17,000	No
Public ambulance services	$17,000	No

In addition, there is a separate single grossed up cap of $5,000 for salary packaged meal entertainment and entertainment facility leasing expenses. If this cap is exceeded, then the excess can be offset against the general cap thresholds.

The next step for organisations is to ensure that whatever they offer to employees complies with any awards or enterprise agreements, and the benefits provided are effective in attracting the appropriate staff.

Common examples of types of expenses offered by not-for profit organisations include mortgage repayments, provision of motor vehicles, meal cards, rent and school fees.

OTHER EXPENSES

The expenses listed above would be factored into the capping thresholds as they are mostly private or non-deductible in nature. However, other expenses do not affect the capping thresholds and can sometimes be overlooked.

These include purchases that employees could otherwise claim in their tax return such as membership association fees, laptop computers which only have minor private use, and professional development.

COMMON MISCONCEPTIONS

Common FBT misconceptions include:

- the cap is for non-grossed up amounts - i.e. employees believe they can salary sacrifice the total amount of the cap rather than the grossed up amount.
- when the cap is exceeded, only the excess is reported on the FBT return.
- when the meal entertainment and entertainment facility leasing cap is exceeded, it is taxed.

Contact the author: litsa@hlbwa.com.au

CARE NEEDED WITH FAMILY BUSINESS SUCCESSION PLANNING

PETER BEMBRICK
Partner, Tax Consulting
SYDNEY

Many people like the idea of a son or daughter, or other family member, taking over the business when they retire, but they need to think carefully about this approach.

There is often a balance to be found between helping out the next generation and passing on the "family jewels" to them, and providing sufficiently for the founders of a family business to enjoy a comfortable retirement and benefit from the fruits of all their hard work.

The first question to ask is, are there any family members ready to take over, as well as interested in and capable of taking over, or at least become more heavily involved in, the running of the business? It may be the case that the family isn't as keen on the idea as they are.

If there is no obvious family candidate, business owners need to look at other options. Perhaps the family retains ownership of the business, but someone else takes on the management and day-to-day running of it. Business owners therefore need to consider whether there are key employees who could be involved in a business succession, or is it more likely that the business will be sold?

These questions are critical to any family business owner when planning for their retirement.

Another consideration is whether there are key employees who have been, or will be, critical to building up, maintaining and continuing to grow the business, and whether providing them with some ownership interest in the business will help incentivise them and make it more likely that they can be retained.

This needs to be balanced off against the expectations of the family to retain control or even complete ownership in the medium and long term.

One approach might be to issue shares to a key employee but with a mandatory buy-back period and other conditions that allow the family to take back complete ownership in due course, or on certain events occurring.

Another potentially tricky situation is if some, but not all, of your children will take ownership of the business. In this scenario, how will the family's overall wealth be divided amongst the various individuals?

It is important to be clear about which assets, and the extent of income distributions, will go to the children during the business owner's lifetime, compared to assets and funds that will be retained and distributed only after their death.

The difficult process of dividing the family wealth amongst the members of the next generation also includes balancing the relative value of giving, transferring or leaving ownership in the business assets or entities to one or more family members who are involved in the business, and providing other family members with non-business assets.

It can also be more difficult where some family members receive funds earlier than others (either due to their age or their personal circumstances) – and even more so where some effectively receive a portion of their "inheritance" during their parents' lifetimes, in which case their siblings may need to receive a greater share of the assets under their parents' Wills in order to maintain equity.

Alternatively, if the shares in the companies through which a family business are to be carried on are simply left equally to all of the founders' children, but not all of the children are involved in running the business, this can sometimes produce a difficult situation where at some point there must be a negotiation between the siblings to agree a buy-out of some of the shares. Funding such an acquisition is not always straightforward.

Last, but certainly not least, difficult tax issues can arise in every one of the scenarios mentioned above, and careful planning can help make sure that family business owners do not end up handing over more of their hard-earned wealth to the ATO than is necessary.

Contact the author: pbembrick@hlbnsw.com.au

"The first question to ask is, are there any family members ready to take over?"

CYBER SECURITY CRITICAL FOR SMES

KAPIL KUKREJA
Manager, Risk & Assurance
MELBOURNE

A cyber security plan is vital for mitigating online risks – but it can be hard to know where to start, especially for small businesses.

The statistics are alarming.

- Cybercrime costs the Australian economy more than an estimated $1 billion annually
- Up to 22 percent of the small businesses that were breached by the 2017 Ransomware attacks were so affected they could not continue operating
- In total, 87 percent of small businesses believe themselves to be safe from cyber-attacks because they use antivirus software.

Some of the important factors to consider in formulating a cyber security plan include:

HAVE A POLICY

Develop a business-wide policy so staff know cyber security is a priority. Ensure the policy addresses issues such as the scenarios in which business information is shareable, appropriate use of devices and online tools, and storage of sensitive material.

UPDATE SECURITY SOFTWARE

Antivirus software is not enough to stop cyber attacks. PCs and mobile devices integrate security software as standard these days, so make sure devices are regularly updated. Microsoft Windows has the free built-in Windows Defender Firewall, which is considered to be as good as any paid anti-malware platform.

EVALUATE EXPOSURE

Conduct Security Vulnerability Assessments. Steps can then be identified to reduce the risk of compromise, educate staff on best practice, and implement actions to build security.

CYBER SECURITY TRAINING

It's important to separate cyber security from standard Information and Communications Technology (ICT), because it applies to anyone who uses the internet. Ensure staff are made aware of the business's cyber rules from day one. This can be through HR processes, or in meetings to communicate the results of regular Security Vulnerability Assessments. Train staff in what a potential attack looks like, so they know how to recognise them to avoid falling into phishing, malware and ransomware traps.

CYBER ATTACK RESPONSE

Conduct a security audit, analyse and document how the incident transpired, isolate affected systems, collect evidence to understand the gravity of the incident, tighten network security and document findings needed for stakeholders and appropriate regulatory bodies.

Contact the author: kkukreja@hlbvic.com.au

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HLB Mann Judd firms are part of HLB International, the global advisory and accounting network.

CONTACT

The HLB Mann Judd Australasian Association comprises a number of independent accounting firms in Australia, Fiji and New Zealand.

MEMBER FIRMS

ADELAIDE
T: (0)8 8133 5000
E: mailbox@hlbsa.com.au

AUCKLAND
T: +64 (0)9 303 2243
E: mailbox@hlb.co.nz

BRISBANE
T: (0)7 3001 8800
E: mailbox@hlbqld.com.au

FIJI
T: +679 670 2430
E: info@hlbnadi.com.fj

MELBOURNE
T: (0)3 9606 3888
E: mailbox@hlbvic.com.au

PERTH
T: (0)8 9227 7500
E: mailbox@hlbwa.com.au

PERTH INSOLVENCY WA
T: (0)8 9215 7900
E: mailbox@hlbinsol.com.au

SYDNEY
T: (0)2 9020 4000
E: mailbox@hlbnsw.com.au

WOLLONGONG
T: (0)2 4254 6500
E: mailbox@hlbw.com.au

REPRESENTATIVE FIRMS

HOBART / LORKIN DELPERO HARRIS
T: (0)3 6224 4844
E: mail@ldh.com.au

LISMORE / THOMAS NOBLE AND RUSSELL
T: (0)2 6621 8544
E: enquiries@tnr.com.au

NEWCASTLE / CUTCHER & NEALE ASSURANCE
T: (0)2 4928 8500
E: cnmail@cutcher.com.au

IPO FUNDS RAISED UP IN 2018 AS MARKET BRACES FOR SLOWDOWN

MARCUS OHM
Partner, Corporate & Audit Services
PERTH

Total funds raised in initial public offerings (IPOs) in 2018 hit $8.44 billion, up 106 per cent on the 2017 total of $4.09 billion, although the pipeline into 2019 reflects a softening of the market, according to the latest HLB Mann Judd IPO Watch report.

Despite the increase in funds raised, there were only 93 initial public offering (IPO) listings on the ASX in 2018, down from the 110 new market entrants in the previous year, but in line with the five year average.

Unusually for recent years, there were a number of $1 billion+ cap companies listing during the year.

The three largest IPOs of the year (Viva Energy Group, Coronado Global Resources Inc. and L1 Long Short Fund Limited) raised $4.75 billion between them – 64 per cent of the total funds raised.

Continuing the trend of the past few years, small cap* companies – those with a market capitalisation of less than $100 million - continued to make up the bulk of new entrants to the IPO market.

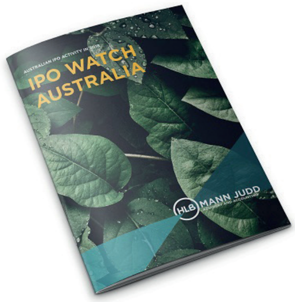
There were 72 small cap IPOs undertaken during the year, down on the 88 of the previous year, but nevertheless representing 77 per cent of the total IPO market.

The total also remains well above the previous five year average of 50 listings.

As well as being one of the few growth sectors for the year, the Materials sector recorded the most listings – with 35 listings representing 38 per cent of all IPOs undertaken - compared to 29 listings in 2017.

Some companies had difficulties raising capital during the year, and this is reflected in the total number of IPOs that did not meet their capital raising goals.

Only 72 per cent of all new listings were able to meet their target, which was down on both the 2017 and 2016 years which saw 79 per cent and 83 per cent of targets met respectively.



On average, IPOs in 2018 experienced an underwhelming share price performance subsequent to listing.

New market entrants recorded an average first day share price gain of 5 per cent, but only 47 listings ended their first day above their listing price – a rather poor result given that the issue price of these IPOs was typically discounted.

Year end gains were disappointing too, as on average, new IPOs for the year decreased in share price by 18 per cent by year end. This is a worse performance than other market indicators, with the ASX 200 recording a decrease of 7 per cent for the calendar year.

The year end losses made by a significant number of IPOs in 2018 and general market conditions suggest that there is likely to be a reduction in IPO activity in the coming six months.

Unsurprisingly only 17 companies had applied to list on the ASX at the end of 2018, well down on the 37 that had applied at the same time in the previous year.

The companies that have applied are hoping to raise $179 million, which is a 70 per cent reduction on the $603 million sought at the end of 2017.

Materials stocks made up the majority of the proposed listings with seven listings, showing market sentiment still remains for this sector.

Overall however, the pipeline appears to be soft and reflects the performance of IPOs and the wider market.

** Emerging, or small cap, companies are defined in this report as those with a market capitalisation of $100 million or less. All data excludes property trusts.*

Contact the author: mohm@hlbwa.com.au