

## Summer Newsletter 2006



*Merry Christmas to all our Valued Clients & Friends.*

*Wishing you all a Joyous Christmas and*

*A Prosperous 2007*

*From*

*David, James, Jason, Joan, Amy, Jeremy, Richard, Jan,*

*Rachael and Melinda.*

The MBA office will be closed from  
3pm Friday 22<sup>nd</sup> December 2006  
until  
9am Monday 8<sup>th</sup> January 2007.

Instead of sending costly Christmas cards, the MBA Team has chosen to make a donation of the money saved to The Cancer Council Australia. I hope you will all agree this is a worthwhile cause.

### JAMES IS OFF TO EUROPE IN FEBRUARY

James and Catherine are busy planning their wedding for the 24<sup>th</sup> February, 2007 and organising their European honeymoon to follow the big day. James will be out of the office for 6 weeks from 21<sup>st</sup> February, returning after the Easter break.

### A REMINDER

Business Activity Statements for the quarter ended 31<sup>st</sup> December 2006 will be due on the 28<sup>th</sup> February, 2007. This is an extension of time due to the Christmas holiday period – the ATO will not be granting any further extensions.

Please make sure that if you are heading away on holidays that you get your information into MBA as soon as possible. The Tax Office will still expect your BAS/GST obligations to be met on time!

### ASIC ANNUAL STATEMENTS

ASIC issues Annual Statements and invoices to all Companies on the anniversary date of the company incorporation. The annual fee is \$212 and it is very important that this fee is paid to ASIC by the due date. Late fees charged by ASIC are significant:

- If paid up to one month late - \$65 late payment fee
- If paid more than one month late – an additional \$205 (total late payment fee of \$270)

When you receive your Annual Statement and letter from MBA please make sure you make note of the due date and ensure that payment is made on time. If you have any questions regarding ASIC issues please give Jan or Rachael a call.

**Disclaimer:** These notes are intended to be a guide only. Any information relating to financial product should not be considered to be personal advice as your needs, financial situation or objectives have not been taken into account. MBA Business Solutions Pty Ltd, its directors, employees and consultants expressly disclaim any and all liability to any person, whether a client or not, for the consequences of anything done or omitted to be done by any such person relying on a part or the whole of the contents. Do not act on the information without first obtaining specific advice regarding your particular circumstances from a professional.

### AGRIBUSINESS INVESTMENTS AND CAPITAL GAINS

Australia's strong property market has seen many investors realise a large capital gain on the sale of investment properties. Others are considering selling, however are put off by the capital gains tax implications of their decision. Similarly, strong gains in the Australian share market are presenting investors with an opportunity to "lock in" gains.

Under current taxation law, if you have owned the investment for more than 12 months, your assessable capital gains tax liability will be 50 % of the gain at your marginal tax rate. If you have owned the investment for less than 12 months that figure rises to 100%.

On the sale of an investment this can equate to a significant amount, and it's therefore not surprising that it can pose problems for those investors who are not adequately prepared. For example, an investor liable for capital gains tax may have already spent or reinvested the gain, a situation which can cause significant financial stress when the time comes to pay the capital gains tax.

An increasingly popular solution to this problem, which combines effective tax planning to reduce the tax with a diversified investment in an emerging asset class, is a 100% tax deductible agribusiness investment.

Although agribusiness investments have been historically linked to timber and timber products there are now a wide variety of products that investors can choose from including almonds, wine grapes and olives. Each of these products can offer different rates of return and different lengths of investment.

It is important that prospective investors investigate any financial product thoroughly before making a financial commitment. The Australian Taxation Office is also interested in investment products and it is wise to look for an investment that has a product ruling. This ruling provides certainty to prospective investors by confirming that deductions claimed through the use of the product will be 100% tax deductible. Choosing a financial product that has an ATO signoff is a sensible step towards numerous tax planning and wealth creation possibilities.

In summary, this strategy allows the individual to reduce or eliminate their capital gains taxation liability in the short term, at the same time as creating a diversified investment.

Note that some agribusiness investment managers have released some of their projects early this year due to their increased popularity among investors. If you have current or upcoming capital gains issues we strongly recommend that you contact us on (03) 5970 8100 to discuss further or to arrange an appointment with one of our financial advisers at Financial Foundations Australia (AFSL No. 237439).

*(Based on an article distributed by Ambry Legal in their November 2006 newsletter)*

## CHRISTMAS PARTIES AND FRINGE BENEFITS

### TAX (FBT)

With Christmas fast approaching many people will be having Christmas parties or may have already had Christmas parties for their employees and their families. It is important to know the taxation and fringe benefits tax implications of the expenses associated with a Christmas party and gifts.

### Tax Deductibility of a Christmas Party

The cost of a Christmas party held off the employer's premises will generally come under the definition of an entertainment expense. Entertainment expenses paid in relation to employees and associates are generally only tax deductible if the employer also pays FBT in relation to that expense. Entertainment expenses paid in relation to clients are generally not tax deductible nor are they subject to FBT.

The cost of a Christmas party held on the employer's premises may be tax deductible where the benefits (food and drink, etc) are provided to, and consumed by, employees on a working day.

Eligibility for GST credits on expenses paid in relation to a Christmas party are basically tested against the same criteria as those for determining tax deductibility, therefore if an expense is deductible then it is likely you can also claim the GST credits on that expense.

### What costs of a Christmas party are exempt from FBT?

If the costs of a Christmas party are provided on a working day on your business premises and consumed by employees, the costs may be exempt from FBT as well as tax deductible.

If the aggregated costs of the party are less than \$100 (GST inclusive) per employee and any of their associates attending the party and certain conditions are satisfied then the costs may be exempt from FBT. These are known as minor benefits. Minor benefits may also be tax deductible and GST creditable unless they are of the nature of entertainment fringe benefits.

### Gifts and FBT

Depending on the circumstances, a gift provided by an employer may not be a property fringe benefit but an entertainment fringe benefit. Generally, a gift is an entertainment fringe benefit where it can be immediately enjoyed and does not have an enduring benefit (e.g. restaurant meals, theatre tickets). Items that do have an enduring benefit and that cannot be immediately consumed or enjoyed are generally classified as property fringe benefits (e.g. TV's and swimming pools).

Provided certain other conditions are met, where an employer wishes to provide gifts to their employees, it can be worthwhile considering providing these gifts on a separate day from that on which the Christmas party is to be held.

As shown above, it is rarely "cut and dried" as to whether Christmas related expenses will be tax deductible and/or subject to FBT due to the complexity of the relevant legislation. This is determined by the individual facts of each case. If you wish to know more about this or want to discuss how this affects you, please contact your client manager to discuss the above issues further.



## PROPOSED CHANGES TO SUPERANNUATION IN 2006 BUDGET

After an extensive consultation process, the Treasurer on the 5th of September announced that the Government will be proceeding with the proposals to simplify and streamline superannuation as announced in this year's Federal Budget.

As part of this announcement, the Treasurer confirmed a number of transitional arrangements would apply to make the transition to the new rules easier. In particular the announcements included significant changes to the Post Tax (Undeducted) Contributions Cap so we will focus on this area for the purposes of this article.

### Transitional Undeducted contribution cap

The cap on undeducted contributions from 10<sup>th</sup> May 2006 to 30<sup>th</sup> June 2007 has increased to \$1 million. To access the cap a person must be eligible to contribute to superannuation under current contribution rules. For those members who breach the transitional cap, they may withdraw these benefits without penalty prior to 1<sup>st</sup> July 2007.

## Post-tax contributions cap

Post-tax contributions made on or after 1<sup>st</sup> July 2007 will be subject to a cap of \$150,000 in a financial year. Averaging provisions will allow \$450,000 to be made for individuals under age 65 permitting contributions under the cap to be "brought forward" over three years to accommodate larger once-off payments. Under these arrangements, a person could make a maximum single contribution of \$450,000 every three years, or \$150,000 each year as outlined below:

	Example 1	Example 2
2006 – 2007	\$1,000,000	\$1,000,000
2007 – 2008	\$150,000	\$450,000
2008 – 2009	\$150,000	\$0
2009 – 2010	\$150,000	\$0

Super funds will not be able to accept post-tax contributions in excess of \$450,000.

Clients age 65 and over will be restricted to contributing \$150,000 per financial year provided they satisfy the work test (i.e. 40 hours in 30 consecutive days in the year the contribution is made). No contributions can be made from age 75.

Other amounts which are included in the post-tax contributions cap are spouse contributions, transfers from overseas superannuation funds exceeding the taxable amount, and deductible contributions made above the concessional cap.

If an individual exceeds the post-tax contributions cap, the excess contributions will be taxed at the highest marginal tax rate plus Medicare levy (there is no refund of excess contribution or earnings under the new proposal). The balance of capital will remain in the superannuation fund. The ATO will seek the additional tax from the member, however the member will be able to nominate a superannuation fund from which to pay the tax if preferable.

The post-tax contribution cap of \$150K will be maintained at three times the concessional deductible contribution limit (initially \$50,000) which will be indexed in future years in increments of \$5,000.

### Exemptions to the cap

- The proceeds from the sale of assets that qualify for the small business Capital Gains Tax (CGT) exemptions (i.e. the 15-year exemption and the \$500,000 retirement exemption) up to a lifetime limit of \$1 million (indexed);
- Proceeds from a settlement for an injury resulting in permanent disablement; and
- The Government co-contribution will not be included in the cap.

The above clarifications on the Undeducted Cap represent an opportunity for those seeking to place large lump sums

into superannuation to access the concessional tax superannuation environment.

If you have any queries relating to this or wish to take advantage of the opportunities presented by the transitional measures, please contact us on (03) 5970 8100 to discuss further or to arrange an appointment with one of our financial advisers at Financial Foundations Australia (AFSL No. 237439).

*(Based on an article distributed by Financial Foundations Australia in their Investor Update for October 2006)*

Note: While the above has been finalised as a proposal by the Government, it is yet to be legislated. It is possible that the final version may differ slightly from that presented above. We have focused on the changes to undeducted contributions in this quarter's newsletter. In future newsletters we will present the changes to other areas of superannuation such as deductible contributions.

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Please have a look at the various advertisements by some of our clients who have advertised their businesses in this month's MBA Newsletter.

If you would like to place a FREE advertisement in the next edition contact Joan at MBA on 5970 8100.

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