BusinessPlus+ Newsletter

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Issue – December 2018

Merry Christmas and Best Wishes for 2019!

New SME withholding Obligations and Tax Deductions

An extra layer of complexity is being added for small businesses as new measures to tighten grip on black economy targets withholding obligations and tax deduction. Legislation was passed on 15 November 2018, and amends the tax laws to disallow income tax deduction for certain payments if the associated withholding obligations have not been complied with. The new law will take effect from the date the bill receives Royal Assent.

Employers and entities who do not comply with their withholding obligations will now be denied a tax deduction for payments where the obligations have not been met.

Businesses are encouraged to take the opportunity to review the payments made to employees and contractors to ensure withholding obligations are being met and the business is not at risk of being denied tax deductions for essential business payments.

What payments does the new law apply to that would potentially affect an SME

- Salary, wages, commissions, bonuses or allowances to an employee
- Director's fees
- Payments under a labour hire arrangement, or
- Payments for a supply of services – excluding the supply of goods and supplies of real property – where the payee has not quoted its ABN, subject to certain other conditions.

Reporting requirements – the impact of single touch payroll

Single touch payroll (STP) came into effect for businesses with 19 or more employees from 1 July 2018 and a proposal seeks to extend this to businesses with less than 19 employees from 1 July 2019.

The STP system requires same day reporting for wages, director's fees and other applicable payments, meaning that businesses need to ensure regular reviews for compliance on an ongoing basis.

Privately owned businesses that may have traditionally waited until year-end to classify payments to directors as director's fees or bonuses are encouraged to review the withholding requirements when the payments are made to ensure compliance both with withholding obligations and STP reporting requirements.

Payments to contractors – contractor or employee

Businesses who engage workers on a contract basis are encouraged to review the basis on which these parties are engaged. There are many factors that need to be taken into consideration when determining if a party is a contractor or an employee. The mere fact that the worker provides an ABN and an invoice will not extinguish any obligations under the law in respect of employee entitlements (including PAYG withholding, compulsory superannuation guarantee, leave entitlements, workers compensation).

If the ATO determines a contractor is in reality an employee and payments have been incorrectly classified, the employer will not only be at risk for unpaid PAYG withholding and compulsory superannuation guarantee payments, the employer will also be at risk of being denied a tax deduction for such payments if the withholding obligations are not complied with.

Exceptions to the new law

If a business becomes aware of withholding obligations that it has not met **and makes voluntary disclosure to the ATO in the approved form**, a tax deduction will be allowed for payments that would otherwise have been denied. We note this exception is **only available where the notification is made *before* the ATO commences an audit or other compliance activity.** The new law also does not apply to payments where a business is not required to withhold, for example where a contractor is not required to provide an ABN.

Action Steps

The best way to mitigate any risk of non-compliance is to review all payments that may be impacted.

Should you find PAYG withholding obligations that have not been met, we recommend making a voluntary disclosure to the ATO. It is also imperative to engage with the Australian Taxation Office (ATO) to ensure outstanding payments are made or where necessary, payment arrangements are established.

Businesses with less than 19 employees should make early arrangements to ensure their accounting systems comply with STP reporting requirements from 1 July 2019.

Lessons for Business from the Banking Royal Commission

So here **are five clear and simple lessons that all businesses** (and clearly the Banks) can learn from this experience.

1. Put Customers first

In 2015 Ken Henry said, "A bank that truly puts the customer at the centre of everything it does should not need regulation." The average Net Promoter Score of the big four banks of -10 confirms that the banks are failing miserably on this measure. At least the banks have now acknowledged they have lost sight of the customer. A problem cannot be fixed until first it is acknowledged.

2. Leaders need to Lead

Shareholders, customers and staff want leaders who are trustworthy, ethical, authentic, courageous, loyal, visionary and accountable. They will support those who exhibit these attributes and they will disengage with those who don't.

3. Good times don't last forever

ANZ's Shayne Elliott made a valid point when he talked about what it means not to have had a recession in nearly three decades. This has contributed to our leaders displaying traits including complacency, over confidence, arrogance and, at the extreme, hubris. Based largely on escalating house prices, we supposedly now have the highest net wealth per capita in the world. Warren Buffett once said, "You only find out who is swimming naked when the tide goes out." Don't get caught naked, be prepared.

4. It shouldn't be all about the pay - "Core Values" come first

Banking was not always a highly paid profession but bankers did feel privileged to serve and the reward for this came from knowing they were valued, respected and trusted by their customers and communities. There is still much to be said for these "traditional values."

5. Diversity is good for business

The big banks have been slow to move on diversity and their failure to fully embrace all its aspects in this rapidly changing environment has been a contributing factor to losing touch as well as opportunities.

Source: The Bank Doctor

Opening a Bank Account for a Discretionary Trust – Not that Easy!

Well you would not have thought opening a bank account for a Trust would be that difficult would you. However although the Anti Money Laundering and Counter-Terrorism Financing Act 2006 has been around for some time, it is now being more rigorously enforced. All new bank account signatories must be fully identified; however it goes further than that for a discretionary (family) trust. So for example where it is a trust with a corporate trustee, the requirements are as follows:-

(1) Collect the full name, date of birth and residential addresses for all officeholders of the corporate trustee;
(2) For all beneficial owners(defined as individuals who directly or indirectly own 25% or more of the shares of the trustee company) will need to be identified by the bank, that is satisfy the 100 point ID check process;
(3) All named Beneficiaries will need to provide the following details (with no proof of the details required if their beneficial interest is less than 25%):
    - Full name;
    - Date of birth;
    - Residential address;
    - Gender;
    - Country of residence;
    - Citizenship;
    - Tax residency;

Item (3) requirements are particularly interesting for a discretionary trust beneficiary as they have no definitive interest at all unlike a Unit Trust where there is ordinarily a defined fixed interest based upon the number of issued units held in that trust. So you have been warned – plenty of paperwork to be completed and details to be provided and verified in certain instances and not all the banks seem to follow the same process either just to confuse the issue.

Cyber Security Small Business Program - Grants

A new Grants program for SME's has recently been announced and is provided to eligible small businesses.

What does it offer?

Grants up to $2,100 will be provided to small businesses (with 19 or fewer employees) for up to 50 per cent of the cost of a certified small business health check. The health check involves an approved provider certified by the Council of Registered Ethical Security Testers Australia New Zealand (CREST). They will perform a cyber-security test to determine your business risk and areas that need attention.

Grant funding is available for a micro, small or standard certified small business health check. These health checks are essentially the same, but vary in price depending on the number of devices that are tested.

Grants will be awarded on a first-come first-served basis, subject to the availability of funds. The program will close when funding is fully committed.

Who can apply?

To be eligible to apply for a grant your business must:

- have an Australian Business Number (ABN)
- be registered for the Goods and Services Tax (GST)
- employ 19 or fewer full-time equivalent employees
- and be one of the following:
  - an entity incorporated in Australia
  - a partnership
  - a sole trader

Who is not eligible to apply?

The following cannot apply:

- a trust (***however, an incorporated trustee may apply on behalf of a trust***)
- a publicly funded research organisation (PFRO)
- a Commonwealth, state, territory or local government body (including government business enterprises)
- a business that employs more than 19 full-time equivalent people

An eligible small business can only receive one grant under the program.

For more information and application forms and other information, please go to www.business.gov.au

What is a 'Break-even Analysis' – Part 2

We continue our discussion on breakeven from our November newsletter article.

Calculating break-even

1. First you need to work out your contribution margin. This is the margin or percentage of sales left to cover all your fixed costs, once all the variable costs are paid.
2. From here you apply the contribution margin to your fixed costs to assess the breakeven point. This can be expressed in either sales dollars or sales volume.

Ratio	How to calculate
Contribution Margin	1 - (variable costs / sales) x 100
Break-even Sales	(fixed costs / contribution margin)
Break-even Gap	sales - break-even sales
Break-even to Achieve Profit	(fixed costs + target profit) / contribution margin

Case study: How to do a break-even analysis

Clients often come to us with plans for expansion, enter into a new market, or purchase/start a new venture. The outline below represents a useful way to initially evaluate the sales volume necessary to cover costs, including target (or required) profits.

Let's assume that you have three stores and you plan to open a fourth. By doing a little financial analysis, you find that your cost structure is as follows:

Fixed Cost	$250,000
Variable Cost %	60% (as a percentage of sales)
Your Planned Investment	$1,000,000
Your Target ROI	20%
Target Profit on your Investment	$200,000 (20% of $1,000,000)

Here are the calculations:

Ratio	How to calculate
Contribution Margin	1-(0.6) x 100 = 40%
Break-even to Achieve Profit	(250,000 + 200,000) / 0.4 =$ 1,125,000

So you need sales of $1,125,000 from your new store to cover your fixed costs and provide your target profit return of $200,000.

No break-even analysis is complete without a market analysis to help forecast the sales you will likely get. You can then compare what you will get (market analysis), with what you need (break-even analysis).

If what you will get is greater than what you need, then the fourth store is a good option. If what you will get works out to be less than what you need, then it is back to the drawing board.

Some break-even analysis points to remember

As a result of completing countless break-even assessments, we have learnt some lessons along the way, so here are the key points to remember;

- Always think in terms of gross contribution (***not Sales***);
- Gross contribution is the only income of the business;
- Gross contribution can be increased by increasing price and/or reducing direct costs;
- Always consider the magnified effect of a small discount or a small price increase on gross contribution;
- Avoid discounting—who wants to be a busy fool. Instead, consider adding more value and/or a price increase;
- Break-even and your cost structure will have ramifications on your product/service mix, how you manage staff remuneration and incentives, and resource allocation decisions and ultimately your cashflow position.

Business Needs Review – Part 10
Family & Personal

In this final area of business needs review we recommend you should undertake, we look at the personal and family aspects connected to your business, which in many ways should be one of the key drivers of what you are looking to achieve from your business.

If these items are not properly addressed they can have significant implications for the success of your business and therefore warrant due consideration and corrective action if necessary.

1. *What are your goals, hopes and dreams for your family and yourself?*
2. *What is concerning you regarding your family?*
3. *What changes will be happening (or you would like to see happen) on the family front in the next few years?*
4. *What are you doing to ensure you're getting enough of a break to recharge your batteries?*
5. *What are you doing to ensure you stay healthy and keep stress under control?*

6. *What are the obstacles making it hard for you to achieve your goals?*
7. *How happy are you with the performance of your business and the return for your effort?*
8. *If you had more personal time what would you do with it?*
9. *What is frustrating you?*
10. *How could family life be improved?*

If you need assistance in any of these areas of your business, please contact Lyall Bear our Business Advisory consultant.

The Australian Business Growth Fund Announced

Being a small business means it is hard to get money from a bank, unless you take it on a secured basis, and usually against real estate and more commonly your own home. This means that people are not able to get into running a small business without some sort of solid financial backing and the consequences of the business not being successful means that a family will lose their home.

Assuming this is not a problem, the next concern is that, if a small business has already borrowed money from a bank, it will be secured against the real estate and no bank will be able to lend money to help a small business grow without additional security, which is not optimal for the small business, employment opportunities for people and the Australian economy in general

There is a new fund currently being established by the Federal government in consultation with large financial institutions that would provide longer term equity funding to small businesses. This fund has one purpose and it is simply to provide longer term equity funding to small businesses.

Why do we have the Australian Business Growth Fund?

Small business can only start or grow its business via internal cashflow (not the easiest task) or borrowing from a bank (which is not easy without real estate security) and it has been nearly impossible for small business to attract equity funding enabling them to grow. (The government's decision to allow small proprietary companies to raise up to $5 million in a twelve month period via Crowd Sourced Funding Equity Raising will improve the positon for companies which are eligible to utilise Crowd Sourced Funding Equity Raising).

The Australian Business Growth Fund is based on the current United Kingdom's Business Growth Fund (www.bgf.co.uk) which has been operating since 2011 and invested approximately $3 billion into various small businesses based throughout the United Kingdom and the government is stepping in here because nothing similar has emerged in Australia unlike many other parts of the world. This fund has not yet been created, but this is included as part of the Federal government's $2 billion of funding provided to another fund to provide securitisation funding for smaller banks and non-bank lenders to start lending to small businesses. There are plenty of details to be ironed out and regulatory matters to be dealt with but Canada has launched a similar fund earlier this year.

If you would like to discuss your vision for your company, please don't hesitate to contact a partner in our firm for a discussion.

"Bank of Mum and Dad" Loans are Important for SMEs

Parents of small and medium-sized business operators have been called upon to supply about 25% of the loans negotiated for small and medium-sized businesses in Australia, according to the Australian government's Small Business Ombudsman Kate Carnell.

Ms Carnell indicated that the "Bank of Mum and Dad" was being forced to fund a significant percentage of loans because of the credit crunch, which is being worsened by fallout from the Banking Royal Commission the "Financial Review" reported last week.

The situation is being compounded by falling residential property prices, making it very difficult for many small and medium-sized operators to be able to borrow from banks.

Some business operators may be feeling subtle pressure from their parents, relative to loan repayments, because their parents wish to retire or to purchase another asset.

Repayment of “Bank of Mum and Dad" loans is another opportunity for well-run small or medium-sized businesses to be able to utilise Crowd Sourced Funding Equity Raising to raise some capital for their business and utilise part of the capital raised to pay out the loans.

If you would like to discuss with us the potential of utilising Crowd Sourced Funding Equity Raising for this purpose or indeed any other purpose, please do not hesitate to contact us.

Crowd Sourced Funding Capital Raising has Commenced

A number of small or medium-sized enterprises have already raised capital under the Australian government’s Crowd Sourced Funding Equity Raising Amendments to the Corporations Act.

The government has appointed seven Intermediaries (businesses with Australian Financial Services Licenses) to act as the “gatekeepers” for the legislation and to assist companies to be able to raise capital, once the company has finalised its Crowd Sourced Funding Offer Document.

One of those Intermediaries has advised that it has six listings at present which are all taking advantage of the change in the law that applied from 19 October 2018, which allows a small proprietary company (turnover up to $25 million per annum) to raise up to $5 million in a 12-month period, direct from the public without having to convert to an unlisted public company.

That Intermediary has indicated that they had acted for five companies prior to the legislation being changed and that four of those companies successfully raised an aggregate of about $5 million, with the largest capital raise being $2.8 million.

The seven Intermediaries appointed by ASIC are now fully operational operating under the new legislation and are keen to interview companies which aspire to raise capital.

If you are interested in attempting to raise share capital from the public, why not contact us for an initial interview and we will advise you the services that our firm can offer to you to assist your company on the Crowd Sourced Funding Equity Raising journey?

Are you monitoring PPSR Registrations due to Expire?

The Personal Property Securities Act commenced in January 2012. Registrations were able to be made for a 7-year period, thus the first lot of registrations are due to expire from January 2019 onwards. If the registration is still important for your business, you should be giving consideration to renewing the registration.

You can access a free PPSR report called “Registrations Due to Expire” which enables you to run a report that lists registrations due to expire in a specified date range for your secured party group.

The report includes the following information:

- Secured Party Group Number
- Registration Number
- End Date and Time
- Collateral Type
- Collateral Class
- Serial Number and Serial Number Type
- Grantor

If you require any assistance on the renewal of your PPSR registrations, please do not hesitate to contact us.

Federal Government tells Big Business to pay Promptly

The Prime Minister has indicated that the Federal government will be requiring Australia’s 3,000 largest businesses to pay their bills to small and medium enterprises within 20 days, as a condition of future contracts with the Federal government.

As part of future government contracts, these businesses will have to disclose each year the details of how promptly they have paid their bills to small and medium-sized businesses.

The Prime Minister, Mr Scott Morrison, has indicated that *“the government is aware that cashflow is crucial to the health of any business, but especially small business”.*

Under the changes businesses, with turnovers over $100 million per annum, will have to publish each year their record of engagement with small and medium-sized businesses. This new policy will bring the 3,000 largest businesses into line with the Australian government’s policy which, from 1 July 2019, requires government departments to pay invoices, to small and medium-sized businesses, within 20 days.

When implemented, this policy should assist in ridding Australia of one of the worst titles ever bestowed on Australia -- having the ***“longest debtors' days outstanding in the world”.***

Good and Bad News!

There is certainly a mixed bag of economic news affecting the Australian economy at present.

Good news:

- 27th year running with no recession - Australia is the envy of many other countries
- real economic growth of 3.4%
- unemployment rate headed to below 5%
- house prices down in all capital cities, except Hobart
- Reserve Bank cash rate still at 1.5% – even though some banks have started to increase their charges for interest
- Australian dollar 8% more favourable against US dollar for exporters and 5% more favourable against UK pound for exporters

Bad news:

- erosion of confidence in banking and financial industry in general and politicians
- big drops in share prices
- big drops in house prices
- less spending power for Australians travelling overseas through currency devaluations
- currency movement causing headaches for importers

Providing you professional direction