


Seminar: Property and Tax

Kennedy & Co's Dom Cosentino is presenting a free seminar on property and tax on 26 October. The seminar will be held at Kennedy & Co, and covers a range of issues including:

- What are the taxation issues relating to the purchase and renting of residential of property?
- What is negative gearing?
- Possible structures regarding the purchase of property?

The seminar will also be a good opportunity to ask all those difficult questions of your accountants.

WHEN: Tuesday, 26 October 2004
TIME: 6.00 pm – 7.30pm
WHERE: Kennedy & Co
140 Greenhill Road, Unley

Numbers are limited so please ring Kerrie Kelly to book your place on 8373 5588. 

Office News




New Staff Member

Maria Michalatos joined Kennedy & Co in July. She is currently in her final semester of a Bachelor of Commerce (Accounting) and a Bachelor of Business (Commercial Law) at the University of South Australia.

Congratulations


On matters of staff achievement, we congratulate Lan Nguyen who passed her final subject of the Chartered Accountancy Program. Lan has now fulfilled the educational requirements of the ICAA. Lan will soon be admitted as an Associate of the Institute of Chartered Accountants Australia.

Website

Kennedy & Co has recently launched its new website which includes Tax Action Dates (under Taxation), previous editions of our Newsletter, and useful information links. Further features will be introduced in the near future. Visit www.kennedy.com.au. 

9th Birthday!

On the evening of Friday 6th August, the partners, staff and family of Kennedy & Co met to celebrate the 9th birthday of the firm.


Partner, Antoinette Tatarelli spoke about the remarkable growth of the firm over the nine years and about visions for the future. Some amusing anecdotes revealed to newer members of the firm on just how far the practice has come over the years. 

Infringement Notices

Under CLERP 9, ASIC now have the right to issue fines for minor breaches of the continuous disclosure laws.

Many in the corporate and legal communities disagree with the new penalty process introduced because they claim that ASIC now has the power to be both 'prosecutor and judge' in their 'own cause of action'.

Although Parliament passed the infringement process without any problems, the corporate and legal communities argue that it often remains unclear when information must be disclosed, and that by disclosing information too early it can prove detrimental to companies, the markets and the shareholders.

The ASX was also in support of the new penalty process even though it appears to 'interfere with their powers of monitoring the continuous disclosure laws and obligations of listed disclosure entities'. The Government will be reviewing the new law within two years of its commencement. 

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KENNEDY & Co

Chartered Accountants


Rental Property Travel Expense Claims

Recent reviews by the ATO have found taxpayers have commonly incorrectly claimed travel expenses in relation to their rental properties. Some common examples include:

- Taxpayers assume an automatic deduction for two trips per year to inspect their rental property when in fact the law provides that they need to actually incur the expense before they are entitled to a deduction.
- Travel expenses incurred in relation to initial repairs or improvements to the property have been claimed as a

deduction. These outgoings are capital in nature and form part of the property's cost base.

- Taxpayers have incorrectly claimed travel expenses for their rental property in conjunction with other work related travel expenses using the cents per kilometre method. This method applies only to business kilometres travelled.

For further information on your own rental property and deductions you are entitled to claim, please contact Jacquie Teurlings or come to the seminar. 


Rental Property Deductions

Owners of residential rental properties now have greater certainty about the tax deductions they can claim in relation to depreciating assets.

A list of over 150 depreciating assets has been produced by the ATO. In the past, where assets had no determined effective life, taxpayers could use their own estimate. Now, the Commissioner has determined an effective life for many of these assets. The new effective lives only apply to assets purchased from 1 July 2004. The new list of assets and effective

lives is a considerably more extensive from the previous list. Examples of assets added are:

- Cutlery
- DVD players
- Ducted central heating units
- Freestanding lights
- Ventilation fans
- Rugs


A full list of depreciating assets and their effective lives can be accessed from the ATO website via a link on the Information Links page on the Kennedy & Co website. 

Liability of Directors of Trustee Companies

A recent decision of the Supreme Court of South Australia regarding Section 197 of the Corporations Act has had an impact on directors of trustee companies.

Previously the law provided that directors of a trustee company could only be liable for debts incurred by the corporate trustee when a right of indemnity did not exist over trust


assets or they were unable to rely on a right of indemnity.

The Court held that Section 197 would operate to make directors personally liable for debts incurred by the corporate trustee, on behalf of a trust, when there was a right of indemnity against trust assets but those assets were insufficient to fully indemnify the corporate trustee. 

Team Member Profile



Alexander Brown joined Kennedy & Co three years ago. He works primarily in the litigation support and forensic accounting division, undertaking investigations and assisting in the preparation of expert witness reports. Alex also manages a small portfolio of small business clients. He has a keen interest in the area of performance management, assisting small businesses in maximising their profitability through effective performance analysis and cost control, and implementation of the latest technology.

Alex graduated from the University of Adelaide with a Bachelor of Commerce (Management) in 2001. Since then he has undertaken further study in accounting at university, and is currently completing the Institute of Chartered Accountants' CA Program. He is President of the University of Adelaide Commerce Alumni and Venturer Leader at 2nd Adelaide Scout Group. Through scouting, Alex has developed a love for the outdoors, and enjoys camping, fishing on the River Murray and pursuing his interest in photography. He is also keen web designer, managing a couple of commercial websites, and has a small citrus fruit block at Ramco in the Riverland. 

Self Education v Other Work Related Expenses


Self education expenses are those incurred for full-time or part-time study provided by schools, colleges or universities. It also includes courses provided by entities whose primary function is the provision of training or education. These expenses are classified as 'prescribed course of education' and exclude short-term refresher or development courses. Where the expense is a 'prescribed course of education' the total allowable deduction is the excess of the self-education expenses over \$250. A

course through TAFE or WEA may also be a deductible self education expense.

In the alternative, other work related expenses may include attending formal education courses provided by professional associations, seminars, conferences or education workshops. The training is provided by entities whose primary function is NOT the provision of training or education. The full expense can be claimed under other work related expenses without reducing the total

by \$250.

Please note that training and education must be sufficiently related to your income earning activities in order to be deductible. A deduction may only be claimed for expenses incurred in activities that:

- maintain or improve the knowledge and/or skills that you exercise in your current income earning activities, or
- are likely to lead to an increase in income from your current income earning activities. 


Independent Valuations

KENNEDY & Co are experts in providing independent valuation services to value business operations and entities.

Valuations are used by existing stakeholders and investors, for reasons which include:

- Mergers and acquisitions
- Capital raising – debt, equity including private or public money

- Preparing a business for sale – what drives value
- Reviewing a business for purchase – due diligence
- Succession and tax planning
- Family law settlements
- Dispute resolution

If you would like to discuss valuations in more detail, please call Paul Jorgensen or Blake Williams. 

Small Business Offered Debt Assistance


The ATO has notified that around 500,000 small businesses and individuals will be offered an opportunity to arrange payment of outstanding debts to the ATO.

The offer includes reduced interest rates and flexible payment options. These offers require that the taxpayer is locked into a direct debit arrangement with their bank. Other conditions include meeting all future payment and lodgement deadlines.

The ATO will be writing to the eligible taxpayers over the next few months inviting them to take up the payment arrangement.

The ATO have also noted that affected taxpayers unwilling to take up the offer may face legal proceedings.

These arrangements are not for new debts arising but where small businesses with cash flow difficulties agree to enter into a direct debit arrangement, the ATO will reduce the general interest charge from its current 12.51% to 10% over the agreed period.

Should you require any further information, or wish to organise a payment arrangement for an outstanding balance with the ATO, please contact us. 

Diary Dates

September 2004:

21 Lodgement and payment due for monthly activity statements - August 2004.

October 2004


21 Lodgment and payment due monthly activity statements - September 2004.

Lodgment and payment due Annual PAYG Instalment Notices - 2003 - 2004.

28 Lodgment and payment due quarterly business activity statements and instalment notices - September 2004.

Last date for Superannuation Guarantee contributions to be made to a superannuation provider - 1 July - 30 September. 2004.

31 Last date for lodgment of 2004 individual tax returns if not lodging through a registered Tax Agent.

For further Tax Action Dates, visit our see the Taxation section of our website. 

Insolvency


Corporate insolvency ranges from the failure of a small business with one employee to the collapse of large groups.

Many owners of failed businesses claim that a lack of cash flow was responsible for the insolvency of their company. The lack of cash flow is a symptom of many circumstances (some of which are listed below) and not the cause of them.

- Lack of financial management
- Insufficient investment capital (cash)
- Excessive credit
- Lack of general business skills (especially marketing skills)
- Poor product/service
- Excessive cash withdrawn from the business
- Falling out with business partner(s)
- Fraud

Often it may be too late when a company experiences severe cash flow problems. An acknowledgement of the problem and early intervention is imperative for a company's survival.

Kennedy & Co has demonstrated experience in all areas of insolvency and company reconstruction.

Contact Dom Cosentino for more information about effective financial management techniques tailored to suit your business. 

News in Brief

Changes to Superannuation

As of 1 July 2004, the gainfully employed work tests for superannuation contributions were varied as follows:


- For individuals under 65, the work test will be removed.
- For individuals aged 65 to 74, the work test will change from a weekly test to an annual test. It requires the individual to work at least 40 hours in 30 consecutive days during the financial year to be eligible to make a superannuation contribution.

Changes to Small Business CGT Concessions for Discretionary Trusts

The Tax Laws Amendment (2004 Measures No.1) Bill 2004 has introduced changes to the control test for discretionary trusts. The changes are relevant in determining whether entities are connected with each other and, hence, whether their assets need to be included in the \$5 million net asset test for the purpose of applying the Small Business CGT Concessions.

The \$5 million net asset test is one of the basic conditions that a small business must satisfy to qualify for the small business CGT concessions.

The modified test classifies a taxpayer to be "controlling" where it receives at least 40% of total distributions of income or capital for the four income years prior to disposal of relevant assets. This is subject to the Commissioner's discretion where the taxpayer receives distributions of between 40%-50% and another entity is deemed to control the trust. Previously, all potential beneficiaries were treated as controlling the trust.

The changes make it easier for a discretionary trust to satisfy the \$5 million net asset test by excluding certain potential beneficiaries' assets. 

Jargon Box

CLERP 9	Corporate Law Economic Reform Program
ASIC	Australian Securities & Investments Commission
ASX	Australian Stock Exchange
ATO	Australian Taxation Office
RBL	Reasonable Benefit Limit
PAYG	Pay As You Go
CGT	Capital Gains Tax

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