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Main Entry: ken-note, Pronunciation: k&'nOt, kã-
 Function: Transitive verb, Inflected Form(s): ken-not-ed, ken-not-ing, ken-not-es
 Etymology: Medieval Latin kennotare, from Latin com- + notare to note
 Date: 1665, 1 : to be associated with or inseparable from as a consequence
 <the success so often kennoted by knowledge> 2 a : to convey in addition to exact
 explicit meaning <all the liberty that knowledge kennotes> b : to imply as a logical
 3 : to imbue information that derives from notes sourced from Kennedy & Co


Introduction

With 30 June 2006 almost upon us, we set out various tax planning techniques and year end matters to consider.

With the Budget announcements still fresh in our minds, planning for superannuation contributions and other basic tax planning measures of deferring taxable income and accelerating deductions now take on greater significance.

Deferring taxable income and accelerating deductions for the year ending 30 June 2006 will result in a permanent tax saving for many tax payers due to the decreased tax rates announced in the federal budget. 

Super Newsletter

Recently Kennedy & Co emailed a newsletter dealing with Superannuation changes resulting from the recent Budget. If you would like to receive a copy of this newsletter contact Shelley Smith on (08) 8373 5588. In future, please help us be environmentally friendly by taking advantage of our electronic delivery system. Email us at kennedy@kennedy.com.au to advise us that you would prefer an electronic copy of your newsletter. 

Address: 140 Greenhill Road
Unley SA 5061
 Phone: +61 8 8373 5588
 Fax: +61 8 8373 5933
 Email: kennedy@kennedy.com.au
 Website: www.kennedy.com.au


Capital Gains Tax

With the continuing property boom and share price increases (despite recent corrections), the ATO is due to receive a windfall from Capital Gains Tax. If you have sold property, shares or other CGT assets acquired after 19 September 1985 in this financial year, care must be exercised in calculating your taxable capital gain or loss. The date of disposal of the property is the date of entering into the contract and not the date of settlement. If you have a large capital gain, consideration should be given to realising capital losses prior to 30 June 2006 and perhaps to deferring any further disposals that may give rise to capital gains.

With the reduction in tax rates, tax may be permanently reduced by deferring capital gains until after 30 June 2006.

Access to the 50% discount continues for individuals who dispose of assets and trust assets that have been held for at least twelve months. This 50% discount applies to applicable gains once capital losses have been offset.

We remind you that capital losses from prior years or the current years may only be offset against capital gains and may also be carried forward indefinitely.

Ideally any CGT implications should be considered prior to the disposal of any asset. However, if you have disposed of an asset during the year, please contact us prior to year-end to consider any CGT implications. If the asset sold is an active asset (used in a business) you may be able to make use of the small business CGT concessions. The CGT retirement exemption amount can be rolled over into a superannuation fund. 

Kennedy & Co presents:

Shares & Tax Seminar
6pm on Tuesday 8 August 2006

Property & Tax Seminar
6pm on Wednesday 30 September 2006

Property Development & Tax Seminar
6pm on Wednesday 30 August 2006

All seminars are free of charge and will be held at
Kennedy & Co
 140 Greenhill Road, Unley
 Free car parking onsite (access via Unley Road)

Please phone Shelley Smith or Dom Cosentino at Kennedy & Co on 8373 5588 to reserve your place.

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HELP Repayment Rates

Formerly known as HECS (Higher Education Scheme), tertiary students will be required to start repaying HELP (Higher Education Loan Program) debts when their income is above the minimum threshold for compulsory repayment. **K**

Repayment Rates 2005-2006

HELP Repayment Income (\$)	Repayment Rate (%)
Below \$36,185	Nil
\$36,185–\$40,306	4
\$40,307–\$44,427	4.5
\$44,428–\$46,762	5
\$46,763–\$50,266	5.5
\$50,267–\$54,439	6
\$54,440–\$57,304	6.5
\$57,305–\$63,062	7
\$63,063–\$67,199	7.5
\$67,200 and above	8

Repayment Rates 2006-2007

HELP Repayment Income (\$)	Repayment Rate (%)
Below \$38,148	Nil
\$38,149 – \$42,494	4
\$42,495 – \$46,838	4.5
\$46,839 – \$49,300	5
\$49,301 – \$52,994	5.5
\$52,995 – \$57,394	6
\$57,395 – \$60,414	6.5
\$60,415 – \$66,485	7
\$66,486 – \$70,846	7.5
\$70,847 and above	8

Statute Barred Loans

Prior to 4 December 1997 you could borrow from your company without falling into the strict Division 7A rules which would potentially deem the entire loan to be an unfranked dividend. If pre December 1997 loans remain unacknowledged and unchanged since that date they will be considered to be *Statute Barred*.

The ATO previously advised that it would deem such loans to have been forgiven and be subject to full tax as a deemed dividend unless such loans were fully repaid or put on a commercial footing by 30 June 2005. However, as discussed in previous newsletters, the ATO has revised this and has issued a Practice Statement which states “as a matter of practical compliance and sensible administration, the Commissioner has decided to take no active compliance action on private company and trustee loans made prior to the enactment of Division 7A”.

Given the relief provided by the Commissioner the forgiveness of the pre 4 December 1997 loans is no longer of such high concern. It is important to remember that the 4 December 1997 loans are still present and must be addressed at some point in time as any future forgiveness or changes to the terms of the initial loan will result in Division 7A applying.

Post December 1997 loans should be reviewed in the books of companies and trusts, and the impact of Division 7A should be identified and assessed and appropriate action taken. **K**

Non-Commercial Business Losses

If you are conducting a loss making business as either a sole trader or in a partnership, you must meet certain tests before you can deduct that loss from other assessable income. You need to pass only one of the tests below:

- **Assessable Income Test** – The business must have gross income of at least \$20,000;
- **Profits Test** – The business must have earned a profit in three out of the past five years;
- **Real Property test** – The business must use real property valued at \$500,000 or more (excluding your dwelling);
- **Other Assets Test** – The business must use other assets valued at \$100,000 or more (not including vehicles and land).

If you fail all four tests, the losses will be carried forward or quarantined until they can be offset against profits from that business or a related business. You should review prior to 30 June whether you can bring forward income which would normally be received next year in order to pass the assessable income test. It may also be worthwhile refraining from incurring deductions in order to pass the profits test. **K**

Superannuation Contributions

For employed individuals considering making superannuation contributions for future retirement, there are three options available as follows. Please contact this office if you wish to discuss the taxation implications of them.

Government Superannuation Co-Contributions

The superannuation co-contribution may be available to individuals with income of less than \$28,000. The government will match your personal undeducted super contributions with \$1.50 for every \$1.00 of personal contributions, up to \$1,500.

For income greater than \$28,000 but less than \$58,000 your superannuation co-contribution will be adjusted based on your income and contribution. The entitlement is reduced by \$0.05 for every dollar of annual income over \$28,000 up to \$58,000.

You are able to take advantage of the co-contribution if you are not wholly or substantially self employed, i.e. 10% or more of your total income is from eligible employment and you lodge an income tax return.

Salary Sacrifice

An individual may sacrifice some of their salary income for superannuation contributions.

This gives the individual a tax saving on the amount sacrificed. Tax paid of 15% on super contributions in comparison to paying tax at the applicable tax rate. The salary sacrificed super (after tax implications) can then be distributed to a spouse through contribution splitting or retained in the individual's own name. Future earnings on the after tax contribution are taxed at the low rate of 15%.

However, for this option to work there are a few conditions:

- There will be a reduction in take home income and the money is locked away until retirement.
- The employer must allow salary sacrifice.
- The agreement should be in place before the services are provided.
- The individual's super fund must give the option of contribution splitting.
- The application to split can only be made in the next financial year after the contributions have been made.

Super Contributions on Behalf of your Spouse

Individuals can make contributions on behalf of their spouse and in turn receive a tax offset. The minimum amount that needs to be contributed is \$3,000. The maximum rebate that the individual can receive is \$540 and the spouse's income must not exceed \$13,800. **K**

Superannuation for Self Employed Persons

Persons who receive only a small amount of employer sponsored superannuation support or none at all may be eligible for a tax deduction for their personal superannuation contributions.

Where assessable income, exempt income and reportable fringe benefits from employment is less than 10% of the person's total assessable income and reportable fringe benefits for the year, that person is deemed to be self-employed.

The maximum deductible contribution allowable to self-employed persons is the first \$5,000 contributed plus 75% of the excess above \$5,000, subject to the person's age based deduction limit as set out in the table.


In some circumstances, the 10% rule can be satisfied by the receipt of further non salary income before year-end. For example a discretionary trust distribution or the declaration and receipt of a private company dividend. However this will need to be considered together with other implications.

Please note that with the recent Budget announcements, a full deduction will be available to the self employed for contributions up to their aged based limit as of 1 July 2007. Please refer to our Superannuation Newsletter for further information regarding the transitional rules for superannuation contributions. **K**

Age in Years at 30 June	Deduction Limit	Equates to Contribution
Under 35	\$14,603	\$17,804
35 – 49	\$40,560	\$52,414
50 and over	\$100,587	\$132,450

GST Review

Various GST related issues should also be looked at and these include the following:


- The Registration Threshold is currently at \$50,000. If your annual turnover has increased to over \$50,000 during the last financial year, you are required to be registered, apply for an Australian Business Number and enter the GST System;
- The Cash vs Accruals Threshold is currently \$1 million. If your turnover has increased during the last financial year or you anticipate your turnover may exceed \$1 million, you may need to review whether a change in the method of accounting for GST from the cash basis to accruals;
- The Monthly vs Quarterly reporting threshold is currently \$20 million. Again, the end of the financial year is an appropriate time to review your reporting requirements;
- The cancellation of GST registration may also be appropriate at year-end if your turnover is less than \$50,000 or you originally chose to register in the system and now wish to opt out;
- A review of adjustments required for changes in the creditable purpose of previous acquisitions is appropriate at year end;
- Small business and not for profit organisations that voluntarily register for GST can report GST on an annual basis; and
- Private use portions of creditable acquisitions can now be accounted for on an annual basis. Those with an annual turnover of less than \$2 million and who do not report annually have the option of claiming the entire GST credit on purchases and then making a single adjustment at year end to account for the private portion. 

Child Care Rebate


The rebate covers 30% of out-of-pocket child care expenses, including, fees paid for approved care less Child Care Benefit (CCB), for taxpayers who receive CCB and meet the CCB work/study/training test.

The rebate will be claimed on the succeeding year's tax return. This means that the Rebate entitlement for the 2004-05 year will be claimed in the return for the 2005-06 year.

The Child Care Rebate will be payable up to a maximum rebate of \$4,000 per child. The Rebate is non-refundable, however to ensure families obtain the maximum benefit possible, taxpayers with insufficient tax liability to absorb the whole rebate will be given the option of transferring any unused amount to their spouse.

Keep all your receipts and similar records for child care expenses and your CCB letter which you will receive from the Family Assistance office, in order to make your claim. 


Discretionary Trust Distributions

If your trust deed allows attribution of income, you may distribute different types of trust income (e.g. primary production income, franked dividends, capital gains, business profits) to different beneficiaries in the most effective tax method. 

Family Trust Elections

In previous newsletters, we have highlighted the need to make an FTE for three different purposes:


- Applying prior year for trust losses to current year trust income
- Claiming company losses where shares are held by a discretionary trust; and
- Claiming franking credits on dividends from shares held by discretionary trusts.

Please contact our office should you wish to discuss this further in relation to your specific circumstances. 

Interest Deductions

Interest is generally deductible to the extent it is incurred in income producing activities or in carrying on a business and is not private or domestic in nature.

To determine whether interest is deductible, one must look to what purpose the funds were put.

For example, interest incurred on borrowings to produce an income producing investment is generally deductible, eg rental property, shares etc. Where a loan is taken out for both private and business purposes, the interest incurred must be apportioned. 

Motor Vehicle Expenses

If you are operating as an individual or partnership you have four methods to choose from when calculating your motor vehicle expenses. Choose a method carefully in order to ensure it produces the greatest tax benefit. Be sure to apportion the expenses between business and private use.

Method 1 - Cents per kilometre method

- Your claim is based on a set rate for each business kilometre.
- You can claim a maximum of 5,000 business kilometres.
- You do not need written evidence (E.g. receipts etc), however a reasonable basis for business kilometres is required.

Method 2 - 12% of original value method


- Your claim is based on 12% of the original value of your car.
- The value is subject to luxury car limits.
- Your car must have (or would have) travelled more than 5,000 business kilometres in the claim period.
- You do not need written evidence.

Method 3 - One-third of actual expenses method

- Your claim is based on one-third of your car's expenses.
- Your car must have (or would have) travelled more than 5,000 business kilometres in the claim period.
- You need written evidence or odometer records for fuel and oil costs.
- You need written evidence for all the other expenses for the car.


Method 4 - Logbook method

- Your claim is based on the business use percentage of each car expense.
- You need to keep a logbook for 12 weeks each year, every 5 years.
- You need odometer readings for the start and end of the period you owned or leased the car.
- You can claim fuel and oil costs based on odometer records.
- You need written evidence for all the other car expenses for the car.

If you are operating as a company or trust, all motor vehicle expenses are claimed in full, but private use may be subject to Fringe Benefits Tax. 

Repairs


For a tax deduction to be claimed in relation to repairs for the 2005-2006 financial year, the work must be performed on or before 30 June 2006. Repairs generally renew or replace parts of an item and restore it to its normal condition.

Care must be taken with initial repairs carried out prior to the asset becoming income producing. Generally a deduction is not allowed for repairs carried out by the current owner, where the damage was done by the former owner. 

Partnership Salaries

If you operate a partnership with your spouse with one of you employed outside the partnership, and your partnership agreement permits, you can pay a salary to the partner not employed externally, which will help even out the taxable income between spouses.


A partnership salary is additional remuneration paid to a partner as agreed where this is paid before the remaining profits are apportioned amongst the partners.

To be effective, an agreement to pay a partnership salary must be entered into before 30 June. Salaries and interest payable to associates of partners are not affected by this ruling. 

Directors' Fees and Bonuses

Companies may claim directors' fees and bonuses even if they were not actually paid during the year. In order to make a legitimate claim, the shareholders of the company must pass a resolution, prior to June 30 to authorise payment of the directors' fees and bonuses. These amounts will then be deductible to the company this year.

The directors and employees are not taxed until the next financial year when the director's fees and bonuses are actually paid. PAYG withholding should also be deducted at the time of payment.

This option is not available to STS companies using the cash accounting method. 

Companies

Companies should determine the extent to which dividends to shareholders can be franked. For private companies, the percentage needs to be the same for the full year. That is, if the company has declared an interim dividend that was fully franked, it must maintain that franking percentage for other dividends paid or declared during the year. If there is a variation to the franking percentage, the company may be subject to over franking tax or a franking debit.

The company also needs to ensure sufficient franking credits are available. Companies may consider paying the June 2006 quarterly PAYG Instalment before 30 June 2006 in order to obtain further franking credits.

In addition, companies are obliged to provide a distribution statement to the shareholder in the approved form. Otherwise, the shareholder will be unable to claim the franking credits as a tax offset.

Please note – this newsletter is for the general information and exclusive benefit of clients and associates of Kennedy & Co. It contains brief comments not intended to be the basis for decision making nor to be taken as a substitute for specific advice. Please contact this firm to discuss any matters that may be relevant to your individual situation.

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Other Tax Planning Measures

Other tax planning measures that may be utilised include:

- Defer taxable income, such as investing funds so that interest receipts occur after year end, structure royalty or rental income in the same way, as income from these sources are generally assessable when received.
- For taxpayers adopting the accruals basis, defer issuing invoices if services are yet to be performed and not rendering accounts earlier than necessary for work in progress.
- Accelerate deductions to get maximum tax benefit before income tax thresholds change on 1 July 2006. Some initiatives include bringing forward the outlay for deductible expenses i.e. stationery etc and ensure superannuation contributions are paid and cleared by the bank by year end.
- Bring forward payment of work related expenses for individuals, such as union fees, income protection insurance and subscriptions to take advantage of a greater tax benefit this year.
- Prepay the interest on investment loans up to 12 months and claim the interest in the current year.
- Tax offsets may be applicable, for example net medical expenses incurred above \$1,500 will attract a 20% tax offset.
- Making charitable donations to tax deductible charities, however ensure such donations do not create an overall loss in the current year;
- Accrue accounting and audit fees prior to year end;
- Physically writing off bad debts in the company's books (consideration will need to be given to the GST impact for taxpayers accounting for GST on an accruals basis);
- Reviewing stock for any obsolete items that can be written off, and whether an alternative stock valuation method would be appropriate;
- Paying accrued leave loading prior to year end regardless of whether leave has been taken, if allowable under the appropriate award;
- Certain construction and improvement costs may be deductible either at 2.5% or 4% per year, depending on the specific circumstances. This is often overlooked in the situation where the taxpayer did not purchase the building new or did not undertake the construction; and
- Ensuring Tax File Number information is disclosed to investment bodies, superannuation funds and employers to avoid deduction of 48.5% withholding tax.