The following tax planning checklist provides a general list of major issues that should be addressed. (The checklist is not designed to be an exhaustive list of all issues that may warrant consideration.)

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|  |  |
| --- | --- |
| Entity’s Name |  |

| Deferring Assessable Income | Yes | No | N/A |
| --- | --- | --- | --- |
| Application of Arthur Murray Principle to receipts |
| Review contracts for the provision of services to determine whether income from such contracts can be regarded as only being derived as and when the services are rendered. |  |  |  |
| Accruals of interest, rent and other regular contractual payments |
| Consider the basis on which interest or income is derived and the scope for income deferral. |  |  |  |
| Sales and work in progress |
| Consider the deferral of sales until next financial year. |  |  |  |
| Realisation of assets |
| Consider the postponement of the realisation of any assessable gains such as capital gains until after year end.**Note:** it is generally the contract execution date that determines the timing of a disposal for CGT purposes. |  |  |  |
| Consider deferring the disposal of an asset that would result in an assessable balancing charge. |  |  |  |
| Consider CGT and/or depreciation rollover relief where possible. |  |  |  |
| Realisation of foreign exchange gain |
| Consider the deferral of realising foreign exchange gains until after year end. |  |  |  |
| Insurance proceeds |
| Consider the timing of lodgement of an insurance recovery claim, subsequent negotiations with the insurer and final payment. |  |  |  |
| Trading stock – valuation |
| Consider the benefits of revaluing trading stock. |  |  |  |
| Determine whether any trading stock is obsolete. |  |  |  |
| Comments: |

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| --- | --- | --- | --- |
| Accelerating Deductions | Yes | No | N/A |
| General |
| Have the outgoings sought to be deducted been properly ‘incurred’? |  |  |  |
| Prepayments |
| Has an immediate deduction been claimed for prepaid expenses that are:* less than $1,000 (GST exclusive)
 |  |  |  |
| * required to be made by court order or law
 |  |  |  |
| * made under a contract of service e.g. salary and wages
 |  |  |  |
| * capital or private in nature or
 |  |  |  |
| * incurred by a Small Business Entity (SBE) taxpayer, or is non-business expenditure incurred by an individual taxpayer, with an eligible service period of no more than 12 months?

**Note**: it was proposed in the 2016-17 Federal Budget that the aggregated threshold to be regarded as an SBE be increased from $2 million to $10 million effective from 1 July 2016.  |  |  |  |
| Realisation of assets |
| Consider realising assets that will produce capital or revenue losses which can be used to offset capital gains or revenue income in the income year. |  |  |  |
| Superannuation contributions |
| Ensure superannuation contributions are paid by year-end and meet any required conditions as is the case with deductions claimed by self-employed, or substantially self-employed, taxpayers.**Note**: various changes to the rules associated with both concessional and non-concessional contributions were proposed in the 2016-17 Federal Budget which should be considered when formulating future tax planning strategies. |  |  |  |
| Employee bonuses |
| Ensure that staff bonuses are quantified and documented prior to year-end to enable a deduction to be claimed for bonuses accrued *(Merrill Lynch International (Australia) Ltd v FCT (2001)* 47 ATR 611*).* |  |  |  |
| Foreign exchange losses |
| Consider realising foreign exchange losses before year-end so that a deduction can be claimed. |  |  |  |
| Capital allowances |
| For an SBE taxpayer check whether assets acquired during the year costing less than $20,000 can be immediately written off. Also, the closing balance of the low value pool of an SBE taxpayer’s depreciating assets may be written off if less than $20,000.**Note**: it was proposed in the 2016-17 Federal Budget that the aggregated threshold to be regarded as an SBE be increased from $2 million to $10 million effective from 1 July 2016. |  |  |  |
| For non SBE taxpayers check if there are assets costing $1,000 or less (other than a horticultural plant and certain R&D depreciating assets) that can be allocated to a low-value pool.  |  |  |  |
| Check to see if there are any depreciating assets which have stopped being used in the business in which case a balancing deduction may be available in respect of their adjustable value. |  |  |  |
| Check whether items of depreciating assets with an adjustable value greater than nil are obsolete and can be scrapped. |  |  |  |
| Trading stock write-offs |
| Determine whether items or lines of trading stock should be scrapped or have become obsolete. These may be tax deductible. |  |  |  |

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| Accelerating Deductions | Yes | No | N/A |
| “Black-hole” expenditure |
| Determine whether business expenditure incurred that is not deductible, amortised or capitalised under any other provision, could be deductible pursuant to section 40-880 of the ITAA 1997. Broadly, such expenditure will include pre commencement and post cessation business capital expenditure for which tax relief is not otherwise allowable.**Note**: there is a 100% write off available to small business entities for expenditure on capital items regarded as “start-up” costs if incurred on or after 1 July 2015. |  |  |  |
| Bad debts |
| Check whether any debts can be written off as bad debts. Ensure that the debt has not been compromised or released before it is written off, and that documentation has been retained evidencing that the debt was non-recoverable. |  |  |  |
| Where there is a change in the ownership or control of the company or trust, check that the entity passes the same business test.**Note**: consider the proposed “similar business” test for tax losses incurred on or after 1 July 2015. |  |  |  |
| Ensure that all necessary steps required to write off a debt are completed prior to year-end, and that the debt was previously returned as assessable income or was made in the course of a money lending business. |  |  |  |
| Gifts, donations or contributions |
| Check whether deductions have been claimed for gifts or contributions that were made to ‘Deductible Gift Recipients’. |  |  |  |
| Check that any deductions for gifts, donations or contributions do not exceed the statutory limits (per section 26-55 of the ITAA 1997), i.e. deductions cannot exceed an entity’s taxable income disregarding the following amounts:* the donation amount
* carried forward losses
* farm management deposits.
 |  |  |  |
| If the donation amount exceeds the statutory deduction limit, then determine whether the deduction will satisfy the requirements in subdivision 30 DB of the ITAA 1997 – allowing the donation deduction to be claimed over a maximum of five years. |  |  |  |
| Comments: |

| Capital Gains Tax | Yes | No | N/A |
| --- | --- | --- | --- |
| CGT discount |
| If the taxpayer is a trust, individual or complying superannuation fund check whether the capital gains made by the taxpayer are eligible for the CGT discount (e.g. capital gain has arisen from the disposal of an asset and the asset has been held by the taxpayer for at least 12 months).**Note:** if the taxpayer is a foreign resident they will not be eligible for the CGT discount on any capital gain that accrued after 8 May 2012. If a foreign resident owns assets that are ‘taxable Australia real property’ it is recommended that a valuation is obtained to determine the market value of the asset at 8 May 2012, which will enable the CGT discount to be applied to discount the gain (if any) that accrued from acquisition until this date.It should also be noted that a 10% non-final withholding tax will apply where a non-resident sells certain taxable Australian property on or after 1 July 2016 which needs to be retained by the purchaser.  |  |  |  |
| Unrealised losses and CGT |
| If the taxpayer is a company, have you considered the unrealised loss rules in Subdivision 165-CC of the ITAA 1997 in relation to the disposal of CGT assets that were held at a change over time (i.e. change in the ownership or control of the company). |  |  |  |

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| **Capital Gains Tax** | Yes | No | N/A |
| **Small business CGT concessions** |
| Check whether the taxpayer satisfies all of the **basic conditions** set out below for the small business CGT relief:1. a CGT event happens in relation to a CGT asset and a capital gain arises
2. the taxpayer satisfies either the:
3. $6m maximum net asset value test or
4. $2m small business entity test and
5. the taxpayer satisfies the active asset test.

**Note:** the $6 million maximum net asset value test requires that the aggregate net market value of CGT assets of the taxpayer, the taxpayer’s affiliates and entities connected with the taxpayer cannot exceed $6 million just before the CGT event occurs in an income year. By comparison the small business entity test the taxpayer must be carrying on a business, and the aggregated turnover of the taxpayer, the taxpayer’s affiliates and entities connected with the taxpayer must be less than $2 million for the income year in which the CGT event occurs. Very broadly, a taxpayer may be able to satisfy these tests where the CGT asset in question is used in a business carried on by an affiliate or an entity connected with the taxpayer if the basic conditions are otherwise met.If the CGT asset is a directly owned share in a company or an interest in a trust, the taxpayer must be a CGT concession stakeholder in the company or trust. If the CGT asset is a share in a company or an interest in a trust which is owned by an interposed entity the taxpayer must be a CGT concession stakeholder in respect of the object company or trust. In addition, CGT concession stakeholders in that object company or trust must together also have a small business participation percentage of at least 90% in the interposed entity which makes the capital gain in respect of the share or interests in the object company or trust. |  |  |  |
| Consider whether the taxpayer is eligible to utilise any of the following concessions:* the small business 15-year exemption
 |  |  |  |
| * the small business 50% reduction
 |  |  |  |
| * the small business retirement exemption
 |  |  |  |
| * the small business roll-over.

Note: consider deferring certain CGT transactions until 1 July 2016 if they are eligible for the new small business entity CGT restructure rollover relief. Broadly, these provisions apply on or after 1 July 2016 to genuine business restructures that do not result in any change to the underlying economic ownership of assets. |  |  |  |
| Comments: |

| Debt and Equity | Yes | No | N/A |
| --- | --- | --- | --- |
| Related party at call loans |
| Determine whether any interest deductions may be denied as a result of loans or other debt instruments being reclassified as equity. |  |  |  |
| Ascertain whether:* the carve-out for companies with less than $20m turnover applied during the current year or
 |  |  |  |
| * whether any at call loans should be put under a written loan agreement.
 |  |  |  |
| Comments: |

| Debt Issues | Yes | No | N/A |
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| Thin capitalisation |
| Consider whether the taxpayer’s foreign assets represent less than 10% of its total assets. If so the exemption in section 820-37 of the ITAA 1997 may apply. |  |  |  |
| Consider whether the sum of the taxpayer’s debt deductions together with those of its associate entities exceed $2 million in a year of income. |  |  |  |
| Consider whether the taxpayer should seek to reduce the incurrence of ‘debt deductions’ coming up to year end to qualify under the de minimus rule, which is currently set at $2 million. |  |  |  |
| Consider any current year asset impairments and consequential reduction in the safe harbour debt amount and the risk of breaching this safe harbour. |  |  |  |
| Capital protected loan facilities |
| Consider whether the taxpayer has obtained any capital protected loans to fund investments?If they have, any capital protection fee payable or any capital protection fee component incorporated with the overall interest charge payable to the lender will be non-deductible. |  |  |  |
| Debt forgiveness |
| For debts you owe that have been released, waived or extinguished or assigned, consider the commercial debt forgiveness (“CDF”) provisions. The CDF provisions may apply to reduce the following amounts in the following order:1. prior year revenue losses2. carried forward net capital losses3. deductible expenditures including the opening adjustable value of depreciating assets4. the cost base of certain CGT assets.In particular, consider whether there are any timing advantages of postponing a debt forgiveness until after 30 June 2016.**Note:** in some circumstances the forgiveness of a debt by a private company or even a trust may give rise to a deemed dividend under Division 7A under separate but similar rules. |  |  |  |
| Comments: |

| Individuals | Yes | No | N/A |
| --- | --- | --- | --- |
| Salary sacrifice |
| Ensure that salary sacrifice arrangements have been considered in light of TR 2001/10 so that any gross salary foregone for fringe benefits or additional superannuation contributions is under an agreement entered into before gross salary is derived. |  |  |  |
| Low income tax offset |
| Check whether the taxpayer is eligible for the $445 low income tax offset (LITO). Note that the full rebate is available for individuals with taxable income of less than $37,000 but fully phases out where taxable income is $66,667 or more.**Note**: since 1 July 2012 minors (i.e. children under 18 years of age) have not been eligible to receive the LITO to reduce tax payable under Division 6AA. |  |  |  |

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| Individuals | Yes | No | N/A |
| Small business tax offset |
| Check whether the individual is entitled to the small business income tax offset for the year ended 30 June 2016 being 5 per cent of the income tax payable on the portion of an individual’s taxable income that is their ‘total net small business income’. This offset is available to individuals who operate as a sole trader, and to individuals who are not a small business entity, but who are assessed on a share of the income of a small business entity in that they are a partner in a partnership that is a small business entity or a beneficiary of a trust that is a small business entity. An individual is only able to claim one small business tax offset for an income year irrespective of the number of sources of small business income derived by that individual and the maximum amount of the offset is capped to $1,000 per year. **Note**: it was proposed in the 2016-17 Federal Budget that the tax offset increase by 3% from 5% to 8% from 1 July 2016, and that the eligibility threshold enabling individuals with business income to access the tax offset would increase from a $2 million to $5 million aggregated turnover threshold from 1 July 2016. It was also proposed that the offset would be progressively increased to 16% by the year ended 30 June 2027.  |  |  |  |
| Superannuation |
| Consider the superannuation employee contribution limits:* the concessional contributions cap of $30,000 per year (except for older Australians)
* the concessional contribution cap is $35,000 for individuals aged 49 or over on 30 June 2015
* the non-concessional contribution cap of $180,000 per year.

Note: for tax planning purposes you may want to have regard to proposed changes to the caps on concessional and non-concessional contributions proposed in the 2016-17 Federal Budget especially the $500,000 lifetime cap on non-concessional contributions which is proposed to apply from 3 May 2016.  |  |  |  |
| Check whether the taxpayer is entitled to the Federal Government co-contribution for personal after-tax contributions made up to $500. |  |  |  |
| Luxury cars |
| Check whether the taxpayer is intending to purchase a luxury car (i.e. acquisition cost greater than $57,466). If so, ensure that the depreciation claimed is based on an acquisition cost not exceeding $57,466 rather than its actual cost. |  |  |  |
| Check whether the taxpayer is intending to lease a luxury car. If so, ensure that the taxpayer does not claim the lease payment but rather works out a notional interest and depreciation deduction based on the notional acquisition cost. |  |  |  |
| Non-commercial losses |
| If the taxpayer satisfies the non-commercial loss tests (i.e. the real property test, the profits test, other assets test or the assessable income test) losses from conducting certain business activities will be able to be offset against other income. If these tests are failed (and the Commissioner does not exercise a discretion) such losses must be quarantined and carried forwardOnly taxpayers with adjusted taxable income of less than $250,000 will be able to apply the non-commercial loss tests against salary and wages income. Taxpayers with adjusted taxable income greater than $250,000 must seek the Commissioner’s discretion to be able to offset such losses against their other income, or must only apply such losses against income derived from the same business activity.**Note**: adjusted taxable income is the total of the taxpayer’s taxable income, total reportable fringe benefits, reportable superannuation contributions and total net investment losses. |  |  |  |
| Comments: |

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| --- | --- | --- | --- |
| Trusts | Yes | No | N/A |
| Trust distributions |
| Does the trust deed allow the trustee to stream franked dividends and capital gains? |  |  |  |
| Where the trustee has the power to stream franked dividends and capital gains has the trustee’s exercise of this power been evidenced in a trustee resolution?  |  |  |  |
| Where the trustee has the power to stream, and this is evidenced by resolution, have trust funds been distributed optimally? Consider the tax status of the beneficiaries:* franked dividends should then be distributed to low-taxed Australian residents as the excess franking credits (for company tax paid at 30%) are available to reduce tax payable on other income derived by individual taxpayers
* foreign income and Australian interest should be distributed to foreign residents who are not taxed on foreign income or Australian interest income (Australian sourced interest income is subject to 10% withholding tax)
* franked dividends distributed to company beneficiaries will not generally suffer further tax
* companies do not have access to the CGT discount and are not an efficient vehicle for capital gain distributions
* foreign residents do not have access to the CGT discount for capital gains that accrue on or after 8 May 2012.

For further information and guidance in relation to the streaming of capital gains and franked distributions please refer to CPA Australia’s *Trust* *Streaming Manual* at <https://www.cpaaustralia.com.au/professional-resources/taxation/trusts>  |  |  |  |
| Review the trust deed of the trust estate to ensure that the relevant beneficiaries are being made entitled to the appropriate amount of trust capital and trust income.**Note:** the ATO has withdrawn its administrative treatment that previously permitted trustees to make resolutions after 30 June. If the trust deed requires the trustee to make a beneficiary presently entitled to trust income by way of a resolution, this resolution must now be made by the end of the income year (i.e. 30 June). This resolution will determine each beneficiary’s share of the trust income which in turn will establish who is to be assessed on share of the trust's net income (i.e. taxable income). If the trust deed requires a resolution to be made at a date before 30 June the trustee should comply with the requirements of the deed. For further information and guidance in relation to trust resolutions please refer to CPA Australia’s *Trustee Guidance Resolutions* fact sheet at <https://www.cpaaustralia.com.au/professional-resources/taxation/trusts>  |  |  |  |
| Where relevant, has the trustee made a determination about what amounts should be treated as income of the trust estate e.g. capital gains may be treated as trust income in certain circumstances if permitted by the trust deed? *(*refer to *Commissioner of Taxation v Bamford [2010] HCA 10)*. |  |  |  |
| Check that trust income has been fully distributed to beneficiaries. If not, section 99A will usually apply to tax the trustee at the effective highest marginal tax rate, which is currently 49% where no beneficiary is presently entitled to trust income.  |  |  |  |
| Check whether a beneficiary has been made presently entitled to trust income due to a reimbursement agreement with a third party. If so, section 100A of the ITAA 1936 may deem a beneficiary not to be presently entitled.**Note:** if a tax exempt entity is being made presently entitled to a proportion of trust income, the trustee should ensure that a similar proportion of the net income (i.e. taxable income) is attributed to the entitlement.Furthermore, if the tax exempt entity has not received a payment in respect of their entitlement within two months of the end of the year, the trustee should ensure that the tax exempt beneficiary is notified of this entitlement in writing.If there is a mismatch between the proportion of trust income compared to the proportion of net income, or if the trustee fails to notify the exempt entity of their entitlement, then sections 100AA and 100AB of the ITAA 1936 may deem the exempt entity to not be presently entitled to the income of the trust estate. The trustee will therefore pay tax on net income at the effective highest marginal rate being currently 49%. |  |  |  |

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| Trusts |  Yes | No | N/A |
| Trustee unpaid present entitlements owing to companies |
| Consider whether the trust has a post 16 December 2009 unpaid present entitlement (UPE) owing by a trust to a company which is part of the same family group.In relation to 2016 UPEs has (where the trust deed permits it) the UPE been put on sub-trust for the sole benefit of the private company per the Commissioner’s Practice Statement PS LA 2010/4 by the lodgement date of the trust’s 2016 tax return?Where the 2016 UPE has not been put on a sub trust the Commissioner considers that this UPE will be deemed to be a loan made from the company to the trust on the trust’s lodgment day (e.g. 15 May 2017). Subject to the relevant company having distributable surplus, the Division 7A rules need to be considered in relation to this new deemed loan. Refer to Taxation Ruling TR 2010/3. **Note**: please refer to CPA Australia’s Division 7A checklists for further information*.* |  |  |  |
| Consider whether the trust has a pre-16 December 2009 UPE owning to a company. If so, to the extent that these have been properly recorded as a UPE (and not a loan), then ensure that these UPE’s are not disturbed. These UPE’s should not generally be subject to deemed loan treatment. |  |  |  |
| Where the trust has a pre-16 December UPE, or has put a post 16 December UPE on sub trust terms, you should consider the application of subdivision EA of the ITAA 1936 - where the trustee makes any loans, payments or forgives a debt in favour of to shareholders or associates of the private company. |  |  |  |
| Has the trust used a conduit trust previously in making distributions to a company beneficiary?If so, consider the implication of the interposed entity rules in Division 7A from 1 July 2009. |  |  |  |
| Closely held and family trusts – TFN withholding tax  |
| Have you disclosed the TFNs of all the beneficiaries that have received distributions of ordinary or statutory income or that are made presently entitled to a share of the income of the trust estate.(No disclosure is required for beneficiaries that are under a legal disability (e.g. minors), non-residents or tax exempt entities)**Note:** where no TFN is quoted before the payment or present entitlement arises the trustee must withhold tax from any future payments unless a TFN is quoted; lodge an annual TFN withholding report containing details of all withheld amounts by 30 September, which is lodged by:* completing information on the trust tax return for the relevant income year
* providing an annual payment summary to the beneficiary where tax has been withheld
* registering for pay as you go (PAYG) withholding for closely held trusts
* remitting tax withheld to the ATO.
 |  |  |  |
| Family trust election  |
| Determine whether any Family Trust Elections are required to be made for the purposes of:* loss recoupment
* satisfying the 45/90 day holding period rules for franking purposes
* assisting a loss company (in which the trust holds shares) to satisfy the continuity of ownership test or
* being excluded from the trustee beneficiary reporting rules.
 |  |  |  |
| Losses  |
| If the trust has tax losses to be recouped ensure that you have considered the respective trust loss rules that apply to fixed and non-fixed trusts.**Note**: the legislative distinction between fixed and non-fixed trusts has become somewhat blurred following the issue of the ATO’s Decision Impact Statement in respect of the Federal Court decision in *Colonial First State Investments Ltd v Commissioner of Taxation* (2011) FCA 16. The ATO takes the view in that Decision Impact Statement that very few trusts satisfy the definition of a “fixed trust’ under the trust loss provisions but that the Commissioner of Taxation may exercise a discretion to treat such a trust as a fixed trust in certain circumstances.  |  |  |  |
| Comments: |

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| Companies  | Yes | No | N/A |
| Note: it was proposed in the 2016-17 Federal Budget that the company tax rate would be reduced by 1% from 28.5% to 27.5% from 1 July 2016 for a company which is an SBE, and that the aggregated turnover threshold to be such an SBE would increase from less than $2 million to less than $10 million from 1 July 2016. It was also proposed that the company tax rate for all companies would be progressively reduced to 25% by the year ended 30 June 2027.  |
| Dividends  |
| Check whether the taxpayer has a deficit franking account balance at year-end. |  |  |  |
| If there is a deficit franking account balance:* consider deferring any franked dividends to the next financial year
 |  |  |  |
| * check the liability for franking deficit tax (and the amount of any franking deficit tax offset potentially available).
 |  |  |  |
| Ensure that the 45/90-day rule has been considered in relation to dividends paid/received. |  |  |  |
| Fringe benefits tax  |
| Consider if your staff entertainment expenditure will qualify for the minor and infrequent FBT exemption (i.e. less than $300) to minimise FBT liability. |  |  |  |
| Ensure that no GST input tax credit has been claimed on entertainment that qualifies for the minor and infrequent FBT exemption. |  |  |  |
| Ensure pooled or shared cars which are used by more than one employee for private purposes are not reported on the employee’s payment summary. |  |  |  |
| Check for any exempt eligible work items, intended to be used primarily in the employee’s employment, including:* portable electronic devices
* computer software
* protective clothing
* briefcase
* tools of trade.
 |  |  |  |
| Is the employer a small business that provides car parking to its employees?**Note**: employers that are not public companies, and which have derived less than $10m in ordinary and statutory income in the previous income year or are small business entities, may currently qualify for the small business car parking exemption. |  |  |  |
| Check for exempt relocation benefits, such as relocation transport travel and removal and storage expenses. |  |  |  |
| Losses  |
| If the company has tax losses to be recouped ensure that the continuity of ownership test (COT) or the same business test (SBT) is passed.**Note**: consider the proposed “similar business” test for losses incurred from 1 July 2015. |  |  |  |
| Ensure that the company has not entered into transactions in order to inject income into the loss company to absorb its losses. |  |  |  |
|  **Division 7A** |
| Check whether loans, payments or debt forgiveness by a private company to a shareholder, former shareholder or an associate of such a person would be deemed to be an unfranked dividend. Where such an exposure arises do any of the exemptions under Division 7A apply which could exempt such an amount from Division 7A? Alternatively, can such a transaction be structured to be an ‘excluded loan’ before the earlier of the actual or due date of lodgment of the company’s income tax return. |  |  |  |
| Ensure that pre-4 December 1997 loans are not refreshed and remain undisturbed. |  |  |  |
| Does the company provide its shareholders or associates with free (or less than market rate) use of the company property e.g. holiday home or boat?If so, such use of assets may deem a dividend to be paid from the company to the shareholder (subject to certain conditions being met). The amount of the dividend is the market value of such use less any consideration paid. However, the deemed dividend will not arise if the annual value of the benefits received was less than $300, the private usage would otherwise have been allowable as a once-only deduction or where certain dwellings are provided for private use by the company. |  |  |  |

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| Companies  | Yes | No | N/A |
| Division 7A (continued) |
| Check whether corrective action can be undertaken to eliminate a deemed dividend which arose because of an honest mistake or inadvertent error by applying to the Commissioner to disregard the deemed dividend or allow it to be franked.Note: post 16 December 2009, unpaid present entitlements may be treated as deemed loans for Division 7A purposes. Please refer to CPA Australia’s Division 7A checklist for further information. |  |  |  |
| Comments: |  |  |  |
| Tax Compliance  | Yes | No | N/A |
| Research and development  |
| Ascertain whether a company may be eligible for the R&D tax incentive for companies whose aggregate turnover is less than $20 million and are not controlled by income tax exempt entities, in which case a 45% refundable tax offset is available. If the company’s aggregate turnover exceeds $20 million, a 40% non-refundable tax offset is available. **Note:** where an entity’s notional R&D deductions exceed $100 million for an income year, the rate of the R&D tax offset is reduced to the company tax rate for that portion exceeding $100 million.It should also be noted that it has been proposed that the refundable R&D tax offset be reduced to 43.5% and the non-refundable tax offset be cut to 38.5% from 1 July 2014 but legislation proposing such changes has not been passed by Parliament, and that the current offset rates therefore continue to apply.  |  |  |  |
| Superannuation guarantee – ‘ordinary times earnings’  |
| Consider whether all required Superannuation Guarantee (SG) contributions have been made for the year. |  |  |  |
| Consider whether the payroll needs to be reviewed to ensure that Superannuation Guarantee calculation is based on the employees’ ordinary time earnings as opposed to salary and wages.**Note**: for more information about what constitutes ordinary time earnings please refer to Superannuation Guarantee Ruling SGR 2009/2. |  |  |  |
| Comments: |

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| Tax Consolidation  | Yes | No | N/A |
| General  |
| If the taxpayer is part of a corporate group, consider the best time to consolidate if the taxpayer has not already done so. |  |  |  |
| Consider selling shares in certain wholly owned subsidiaries to exclude the entities from consolidation if the taxpayer does not want the entities to be part of the tax consolidation group. |  |  |  |
| Consider whether tax sharing and tax funding agreements should be put in place for the existing tax consolidated group. |  |  |  |
| Comments: |

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| Taxation of Financial Arrangements – Division 230  | Yes | No | N/A |
| What is a financial arrangement?  |
| A financial arrangement is any arrangement under which **all** significant rights and/or obligations can be settled with money or another financial arrangement (i.e. cash settlable arrangements).Some common examples of financial arrangements are:* debt type arrangements including loans, bonds, promissory notes and debentures
* risk shifting derivatives including swaps, forwards and options
* deferred settlement arrangements.

**Note:** the broad effect of the provisions may be to bring gains and losses to account on a mark to market valuation basis rather than on a realisation basis. |  |  |  |
| Does Division 230 apply to you?  |
| Division 230 may apply to the following taxpayers with financial arrangements:* financial institutions whose aggregated annual turnover exceeds $20m
 |  |  |  |
| * managed funds and superannuation funds with assets of $100m or more
 |  |  |  |
| * other businesses, unless their aggregated annual turnover is less than $100m, financial assets are less than $100m and total assets are less than $300m
 |  |  |  |
| * other taxpayers that hold a qualifying security with a remaining term of more than 12 months at the time that they begin to hold it.

**Note**: where Division 230 does not apply, a taxpayer can make an irrevocable election to that it will apply (this may suit associates of entities that are required to apply Division 230). |  |  |  |
| Comments: |

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| Transactions At Risk Under ATO Compliance Activities  |
| Arrangements to exploit mismatches between trust and taxable income (Taxpayer Alert 2013/1) |
| The ATO has announced its view the application of the general anti-avoidance provisions of Part IVA in relation to “dividend washing” arrangements in TD 2014/10, and will be using data matching techniques to identify taxpayers that are engaged in such arrangements and new legislation has also been introduced to counter such activity under section 207-157 of the imputation provisions.  |
| Purported alienation of income through discretionary trust partnerships (Taxpayer Alert TA 2013/3) |
| Using data matching the ATO will be increasing its focus on employer obligations in relation to superannuation guarantee and PAYG withholding. |
| An increased focus on international transactions including exploitation of transfer pricing and thin capitalisation. |
| Using data matching to identify non-disclosure and incorrect reporting of capital gains. |
| Self-managed superannuation funds arrangements to acquire property which contravene superannuation law (Taxpayer Alert TA 2012/7. |
| Accessing private company profits through a dividend access share arrangement attempting to circumvent taxation laws (Taxpayer Alert Tax 2012/4). |
| Non-disclosure of foreign source income by Australian tax residents (Taxpayer Alert TA 2012/1). |
| Loans to members of companies limited by guarantee in an effort to circumvent the operation of Division 7A (Taxpayer Alert TA 2011/1). |
| The use of certain labour hire arrangements utilising a discretionary trust to split income to avoid the application of the personal services income rules (Taxpayer Alert TA 2011/2). |
| Arrangements that involve holiday travel claimed as a work related, investment or self-education expense where there is a private purpose for the travel (Taxpayer Alert TA 2011/3). |
| Deductibility of unpaid director’s fees (Taxpayer Alert TA 2011/4). |
| Offshore income transactions including dividends and interest, royalties and rental income. |
| Loans, payments and debt forgiveness by private companies to shareholders or their associates in a form other than dividends. |
| International non-arms-length transactions between related Australian and offshore entities that may be intended to shift profits from Australia to other countries. |
| Arrangements which are contrived and artificial in their method of execution. |
| Arrangements involving limited or non-recourse financing associated with a round-robin flow of funds. |
| Arrangements where the taxpayer is not subject to significant risks when the tax benefit is taken into account because of the existence, for example, of a ‘put’ option. |
| Little cash outlay associated with borrowing of funds under a capitalising debt facility. |
| Mechanisms for winding up or exiting an arrangement before net income is generated for an investor. |
|  Use of tax exempt entities, especially charities, to wash income. |
| Transactions involving tax havens and preferential tax regimes. |
| Financial arrangements made on unusual terms e.g. interest rates above or below market rates, security for loans of little value in comparison to the principal amount, repayment of loan substantially deferred until the end of a length repayment period. |
| Arrangements where the transaction or series of transactions produce no economic gain or loss e.g. where the whole scheme is self-cancelling. |
| Arrangements which lack economic substance and are not rationally related to any useful non-tax purposes e.g. inter-group or related party. |
| Arrangements to shift foreign losses into Australian branches or resident entities and greater deductions for losses are sought in Australia by the Australian resident entity. |
| Arrangements whereby a shareholder claims to make a repayment of a shareholder loan from a private company via a round robin of endorsed cheques so as to avoid the operation of Division 7A. |
| Dividend stripping arrangements involving the transfer of private company shares to a self-managed superannuation fund. (Taxpayer Alert TA 2015/1 and related addendum TA2015/1A) |
| Transactions At Risk Under ATO Compliance Activities (continued) |
| Franked distributions funded by raising capital to release franking credits to shareholders. (Taxpayer Alert TA 2015/2) |
| Trusts mischaracterising profits on certain property developments as being capital gains rather than as income on revenue account. (Taxpayer Alert TA 2014/1)  |
| Accessing business profits through an interposed partnership with a private company partner where most of the net income is taxed to a private company partner at the company tax rate but such profits are accessed by individuals without paying any additional top-up tax. (Taxpayer Alert TA 2015/4)  |
| Diverting personal services income to Self-Managed Superannuation Funds. (Taxpayer Alert TA 2016/6) |
| Entity’s Name |  | Initial  | Date |
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| Reviewer |  |  |
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**Year ended 30 June 2016**

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