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 to identify income that has been received or is receivable in advance for the provision of goods and 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, rental or other income is derived and the scope for income deferral where income is recognised on a cash basis when received.**Note:** interest and rent may be derived on an accrual basis if the taxpayer is in the business of lending money or of leasing property.  |  |  |  |
| Receipt of dividends |
| Dividends are only included in assessable income under section 44(1) when distributions are made or credited to shareholders by Australian resident companies. Consider whether a dividend should be paid around year-end or be deferred until the 2018 year. **Note:** ensure that all deemed dividends have been identified including, amongst others, payments, loans and debt forgiveness transactions that result in a deemed dividend arising under Division 7A, excess payments to associates under section 109, and dividends arising on off-market share buy-backs under section 159 GZZZP.  |  |  |  |
| Sales and work in progress |
| Consider the deferral of sales, including delaying the issue of an invoice for work in progress 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 lodgment of an insurance recovery claim for a loss amount, subsequent negotiations with the insurer and the date the final insurance payment is received. **Note:** review the specific provision which relate to the amount of insurance proceeds to determine if income is only regarded as being derived when received, such is the case with section 15-30 of the *Income Tax Assessment Act (1997)*, which applies to the insurance proceeds for the loss of an amount.  |  |  |  |

| Deferring Assessable Income | Yes | No | N/A |
| --- | --- | --- | --- |
| Trading stock – valuation |
| Consider the benefits of revaluing trading stock. |  |  |  |
| Comments: |
| 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 all eligible prepayments incurred by a Small Business Entity (SBE) taxpayer, or for non-business expenditure incurred by an individual taxpayer, with an eligible service period of no more than 12 months?**Note**: the number of entities eligible to be regarded as an SBE has substantially increased in the 2017 year as the aggregated turnover threshold increased from $2 million to $10 million effective from 1 July 2016. Accordingly, there may be greater scope for eligible SBE’s to make deductible prepayments than in earlier years.  |  |  |  |
| Have the following categories of immediately deductible expenditure excluded from the prepayment rules been identified, being expenses that are: |  |  |  |
| * less than $1,000 (GST exclusive)
 |  |  |  |
| * required to be made by court order or law
 |  |  |  |
| * payments made under a contract of service e.g. salary and wages.
 |  |  |  |
| 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.**Note**: in considering whether any such sales should proceed it is also necessary to consider the application of the general anti-avoidance provisions of Part IVA of the *Income Tax Assessment Act (1936)*. In this regard, the ATO has issued Taxation Ruling TR 2008/1 which provides that an asset sold under a ‘wash sale’ to generate a capital or revenue loss will have those amounts cancelled under Part IVA where in substance there has been no significant change in the taxpayer’s economic exposure in the asset (e.g. selling a CGT asset and creating a trust over the asset or transferring the asset to a related trust).  |  |  |  |
| 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 who need to notify their fund of their intention to claim a deduction for personal superannuation contributions.**Note**: the cap on concessional contributions for the 2017 year is $35,000 for each individual aged 49 years or over at 30 June 2016 and $30,000 for individuals under that age. However, the amount of the concessional contributions cap for the 2018 year has been reduced to $25,000 regardless of age. Accordingly, consult an appropriately licensed financial planner to consider the merits of maximising concessional superannuation contributions in the 2017 year before the lower cap on concessional contributions applies in the 2018 year.**Note**: the annual cap on non-concessional contributions for the 2017 year is $180,000 but will be reduced to $100,000 in the 2018 year. Similarly, consider consulting an appropriately licensed financial planner to consider the merits of making additional non-concessional contributions for the 2017 year taking into account the superannuation reforms that take effect from 1 July 2017. As a corollary, the amount of non-concessional contributions that a person aged under 65 can bring forward under the three-year rule will be reduced from $540,000 to $300,000 (subject to transitional arrangements). However, these transitional arrangements do not apply where the full $540,000 non-concessional contribution is made under the three-year brought forward rule in the year ended 30 June 2017.  |  |  |  |
| Employee bonuses |
| Ensure that staff bonuses are quantified and documented in a resolution prior to year-end to enable a deduction to be incurred for employee bonuses *(*see *Income Tax Ruling IT 2534* and *Merrill Lynch International (Australia) Ltd v FCT (2001) 47 ATR 611).* |  |  |  |
| Accelerating Deductions | Yes | No | N/A |
| 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 2017 year costing less than $20,000 can be immediately written off if used or installed ready for used by 30 June 2017. Also, the closing balance of the SBE taxpayer’s depreciating assets in a general small business pool may be written off if less than $20,000.Depreciating assets costing more than $20,000 acquired during the 2017 year can be depreciated as an addition to the general small business pool at 15% (regardless of the date of acquisition) if used or installed ready for use by 30 June 2017 (and at 30% in subsequent years). Assets excluded from this concessional treatment include horticultural plants, assets allocated to a low value pool or software development pool and certain other assets. **Note**: the number of entities eligible to be regarded as an SBE has substantially increased in the 2017 year as the aggregated turnover threshold increased from $2 million to $10 million effective from 1 July 2016.**Note**: the Government proposed in the 2017-18 Federal Budget to extend the $20,000 threshold applied under the small business entity depreciation rules for a further 12 months until 30 June 2018. Accordingly, small business entities will be able to, amongst other things, claim an immediate deduction for eligible depreciating assets that cost less than $20.000 if used or installed ready for use by 30 June 2018.  |  |  |  |
| 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) they can be allocated to a low-value pool. **Note**: the depreciation rate for such low-cost assets is 18.75% in the year of addition and 37.5% in subsequent years.  |  |  |  |
| 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 (see *Taxation Ruling TR93/23*). |  |  |  |
| “Black-hole” expenditure |
| Determine whether business capital expenditure incurred that is not deductible, depreciable or included in the cost base of an asset may be deductible as ‘blackhole expenditure’ under section 40-880 of the ITAA 1997.Eligible blackhole expenditure is deductible over five years in equal proportions (and there is no pro-rating of the deduction in the year the expenditure is incurred by the taxpayer).It may be available in relation to the taxpayer’s business or in respect of a former business that used to be carried on or in respect of a business that is proposed to be carried on provided there is a sufficient and relevant connection between the expenditure incurred and the business carried on (see *Taxation Ruling TR 2011/6*). **Note:** section 40-880(5) provides that no deduction is available under the blackhole deductibility rules where, amongst other things, the expenditureforms part of the cost of land or depreciating asset; it would be taken into account in working out an assessable profit, deductible loss, capital gain or capital loss; it relates to a lease or other legal or equitable right; or if it is deductible under another provision of the income tax assessment acts. **Note**: there is a 100% immediate 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, check that the company passes the same business test in seeking to deduct bad debts.**Note**: consider the proposed alternate “similar business” test for bad debts incurred on or after 1 July 2015.Where a fixed or non-fixed trust seeks to deduct a bad debt it must satisfy the applicable trust loss tests.  |  |  |  |

| Accelerating Deductions | Yes | No | N/A |
| --- | --- | --- | --- |
| Bad debts (continued) |
| 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 ordinary course of a money lending business. |  |  |  |
| Gifts, donations or contributions |
| Check whether deductions have been claimed for gifts or contributions made to endorsed ‘Deductible Gift Recipients’.If so, confirm that the client did not receive any tangible benefit from making the donation and has receipts to evidence the making of such donations. **Note**: section 26-55 of the *Income Tax Assessment Act* *1997* (ITAA 1997) limits the amount of the donation deduction as the making of a deductible gift cannot create a tax loss. Where the deductible donation amount exceeds this limit, you may elect to carry forward the donation deduction and claim this over a maximum of five years (for certain gifts where the conditions of Subdivision 30DB of the ITAA 1997 are met). |  |  |  |
| **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:** check to see if the asset has been held for the full 12 months before any sale at year-end. It should be noted that the date of acquisition and the day of the CGT event are not included in satisfying the 12-month holding period (see *Taxation Determination TD2002/10*). Also, determine whether the capital gain is non-discountable because it arose in respect of a CGT event which resulted in the creation of a CGT asset as set out in section 115-25(3) of the *Income Tax Assessment Act (1997*). **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. Where the foreign resident acquired ‘taxable Australia real property’ before 8 May 2012 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. |  |  |  |
| Capital gains withholding |
| A 10% non-final withholding tax applies to vendors selling certain taxable Australian property on or after 1 July 2016, which needs to be retained by the purchaser at settlement and remitted to the ATO. However, such tax will not need to be retained on a sale of such property if the vendor obtains a clearance certificate from the ATO prior to settlement or if an exemption or variation otherwise applies. **Note:** the Government proposed various amendments to these rules in the 2017-18 Federal Budget in relation to contracts entered into on or after 1 July 2017, including increasing the rate of withholding tax from 10% to 12.5%. The operation of the foreign resident capital gains withholding regime is complex and specialist advice should be sought where required.  |  |  |  |
| Unrealised losses and CGT |
| If the taxpayer is a company, have you considered the unrealised loss rules in Subdivision 165-CC of the *Income Tax Assessment Act (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 CGT asset 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. Very broadly, the asset must be used in carrying on a business but can extend to certain assets held by connected entities, affiliates and partners in a partnership where those entities do not carry on a business 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: compliance with the small business CGT concessions is an area of ATO focus and the eligibility conditions are difficult to satisfy, especially the $6 million maximum net asset value test which has been litigated on several occasions. Accordingly, care should be taken and specialist advice obtained where required. Note: where not all of the capital gain can be reduced under the CGT Discount and small business concessions consider whether rollover relief should be sought under the small business entity CGT restructure rollover relief under Subdivision 328-G of the *Income Tax Assessment Act (1997)*. Very broadly, these provisions apply on or after 1 July 2016 to genuine business restructures from one small business entity who transfers active assets to another small business entity that does not result in any change to the underlying economic ownership of assets. Care should be taken in choosing this rollover to ensure all eligibility conditions are met including the lodgment of a family trust election if required.  |  |  |  |
| 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 $20 million turnover applied during the current year or
 |  |  |  |
| * whether any at call loans should be put under a written loan agreement.

**Note:** the calculation of a company’s $20 million turnover is worked out at the end of the year and will be based on the calculation of the company’s GST turnover.  |  |  |  |
| Comments: |

| Debt Issues | Yes | No | N/A |
| --- | --- | --- | --- |
| Thin capitalisation |
| Consider whether an Australian resident taxpayer’s foreign assets represent less than 10% of its total assets. If so, the exemption in section 820-37 of the *Income Tax Assessment Act (1997)* may apply. |  |  |  |
| Consider whether the sum of the taxpayer’s debt deductions together with those of its associate entities is $2 million or less in the year of income. If so, the exemption in section 820-35 of the *Income Tax Assessment Act (1997)* may apply.  |  |  |  |
| 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. |  |  |  |
| Consider the interaction of the thin capitalisation and transfer pricing provisions under Subdivision 815-B of the *Income Tax Assessment Act (1997)* on interest claimed on any cross-border related party debt.  |  |  |  |
| 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 within 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 during the year, consider the commercial debt forgiveness (“CDF”) provisions under Division 245 of the *Income Tax Assessment Act (1997).* The CDF provisions may apply to reduce any net forgiven amount by the following amounts applied 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 2017.**Note:** in some circumstances, the forgiveness of a debt by a private company or even a trust to a shareholder or an associate may give rise to a deemed dividend under Division 7A under separate but similar rules. Please refer to CPA Australia’s [2017 Division 7A checklist](https://www.cpaaustralia.com.au/professional-resources/taxation/division-7a) and [2017 Division 7A UPE checklist](https://www.cpaaustralia.com.au/professional-resources/taxation/division-7a) for further information. Also, where it is determined that Division 7A does not apply to a debt forgiveness to a shareholder or an associate it is still necessary to determine if the CDF provisions apply to that debt forgiveness.  |  |  |  |
| 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 employer superannuation contributions is under an agreement entered into before gross salary is derived.**Note:** in entering into a salary sacrifice arrangement make sure that any additional employer superannuation contributions do not result in the total of compulsory superannuation contributions and salary sacrificed contributions exceeding the concessional contributions cap.  |  |  |  |

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| --- | --- | --- | --- |
| Individuals | Yes | No | N/A |
| Low income tax offset |
| Check whether the taxpayer is eligible for the $445 low income tax offset (LITO). Note that the full offset 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. |  |  |  |
| Small business tax offset |
| Check whether the individual is entitled to the small business income tax offset for the year ended 30 June 2017 being 8 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 sole traders who would meet the requirements of being a small business entity, 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 entity is a small business entity if it carries on business and its aggregated turnover for the 2017 year is less than $5 million. 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.  |  |  |  |
| Superannuation |
| Consider the limits that apply to the making of concessional and non-concessional contributions for the year ended 30 June 2017:* the cap on concessional contributions for the 2017 year is $35,000 for each individual aged 49 years or over at 30 June 2016 and $30,000 for individuals under that age
* the annual cap on non-concessional contributions for the 2017 year is $180,000.

**Note**: the amount of the concessional contributions cap for the 2018 year has been reduced to $25,000 regardless of age. Accordingly, consult an appropriately licensed financial planner to consider the merits of maximising concessional superannuation contributions in the 2017 year before the lower cap on concessional contributions applies in the 2018 year.Note: the annual non-concessional contributions cap will be reduced to $100,000 in the 2018 year. Similarly, consider consulting an appropriately licensed financial planner to consider the merits of making additional non-concessional contributions for the 2017 year taking into account the superannuation reforms that take effect from 1 July 2017. As a corollary, the amount of non-concessional contributions that a person aged under 65 can bring forward under the three-year rule will be reduced from $540,000 to $300,000 for the 2018 year (subject to transitional arrangements). However, these transitional arrangements do not apply where the full $540,000 non-concessional contribution is made under the three-year brought forward rule in the year ended 30 June 2017.  |  |  |  |
| Consider the impact of superannuation reforms that limit the amount of funds that can be held in the retirement phase of a taxed fund to support an account-based pension to $1.6 million, which will commence from 1 July 2017.**Note:** check to see if the individual is already in retirement phase and has a personal balance cap in excess of $1.6 million before 30 June 2017. If so, consult an appropriately licensed financial planner on commuting that excess or withdrawing it from the superannuation regime, and the merits of electing to apply related CGT transitional relief.  |  |  |  |
| Check whether the taxpayer is entitled to the Federal Government co-contribution for personal after-tax contributions made up to $500, or the low-income superannuation contribution.  |  |  |  |
| Luxury cars |
| Check whether the taxpayer is intending to purchase a luxury car (i.e. acquisition cost greater than $57,581). If so, ensure that the depreciation claimed is based on an acquisition cost not exceeding $57,581 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 loan to the lessee equal to the cost of the leased car. |  |  |  |

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| --- | --- | --- | --- |
| Individuals | Yes | No | N/A |
| 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**: the non-commercial loss rules will also not apply if the individual operated a primary production or professional arts business at a loss (subject to a $40,000 limit on other sources of income excluding capital gains). **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: |

|  |  |  |  |
| --- | --- | --- | --- |
| 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 are available to reduce tax payable on other income derived by individual taxpayers
* 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*](https://www.cpaaustralia.com.au/professional-resources/taxation/trusts).  |  |  |  |
| Review the trust deed of a discretionary or hybrid trust to ensure that the relevant beneficiaries are being made presently entitled to a share of the income of the trust estate (subject to beneficiaries being made specifically entitled to any capital gains or franked distributions).**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*](https://www.cpaaustralia.com.au/professional-resources/taxation/trusts)publication*.* |  |  |  |
| Where relevant, has the trustee made a determination about what amounts should be treated as income of the trust estate e.g. trust 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 so that all net income of the trust is assessed to beneficiaries. If not, section 99A will usually apply to tax the trustee at the effective highest marginal tax rate on any net income which is not assessed to beneficiaries, which is currently 49% where no beneficiary is presently entitled to trust income.  |  |  |  |
| Trusts | Yes | No | N/A |
| Trust distributions (continued) |
| 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 *Income Tax Assessment Act (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 *Income Tax Assessment Act (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%. |  |  |  |
| 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 2017 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 lodgment date of the trust’s 2017 tax return?Where the 2017 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 2018). 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 and Division 7A UPE checklists](https://www.cpaaustralia.com.au/professional-resources/taxation/division-7a) 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 shareholders or associates of the private company.**Note**: please refer to CPA Australia’s [Division 7A UPE checklist](https://www.cpaaustralia.com.au/professional-resources/taxation/division-7a) for further information*.* |  |  |  |
| 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. Nor will these measures apply to complying superannuation funds, listed trusts, certain deceased estates and trusts which have been subject to the trustee beneficiary reporting rules or family trust distribution tax). **Note:** where no TFN is quoted before the distribution or present entitlement arises the trustee must withhold tax from any future payments at the effective highest marginal tax rate of 49% unless a TFN is quoted. However, once a trustee has provided a beneficiary’s TFN details to the ATO it will not need to be quoted again. Where a TFN has not been quoted a trustee must:* lodge an annual TFN withholding report containing details of all withheld amounts by 30 September
* provide an annual payment summary to the beneficiary where tax has been withheld
* register pay as you go (PAYG) withholding for closely held trusts
* remit tax withheld to the ATO.
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| Trusts | Yes | No | N/A |
| Family trust election  |
| Determine whether the trustee of a non-fixed trust should make a Family Trust Election for the purposes of:* loss recoupment, as any non-fixed trust electing such relief will only be subject to a modified version of the income injection test
* satisfying the 45/90 day holding period rules for franking purposes so that franking credits can be passed on to beneficiaries of non-fixed trusts who are not otherwise eligible for the small shareholder exemption
* assisting a loss company (in which the trust holds shares) to satisfy the continuity of ownership test
* being excluded from the trustee beneficiary reporting rules or
* applying the small business restructure rollover relief under Subdivision 328-G of the *Income Tax Assessment Act (1997)* where the transferor or transferee is a trust which is also a small business entity.

**Note**: if such a trust is a new client check to see if It has previously made a family trust election.  |  |  |  |
| Where a family trust election is in place, have any distributions been made outside the test individual’s family group which may be subject to family trust distribution tax? If so, check whether the entity receiving the distribution has made an interposed entity election.  |  |  |  |
| 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 under Schedule 2F of the *Income Tax Assessment Act (1936)*.**Note**: a non-fixed trust will need to satisfy the income injection test, control test, pattern of distributions test and the 50% stake test (if applicable). In practice, the most difficult test to apply is often the pattern of distributions test especially where there is significant variance in trust distributions over the period tested. Broadly, a fixed trust need only satisfy the income injection test and 50% stake test. **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. Guidance on when the discretion may be exercised is set out in *Practical Compliance Guideline PCG 2016/D16*.  |  |  |  |
| Comments: |

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| Companies  | Yes | No | N/A |
| Note: the company tax rate has been reduced to 27.5% for a company which is a small business entity for the 2017 year. A company will be regarded as a small business entity for the year ended 30 June 2017 if it carries on business and has an aggregated turnover of less than $10 million. The 27.5% company tax rate will also apply to a company which is a base rate entity for the year ended 30 June 2018 being a company which carries on a business and which has an aggregated turnover of less than $10 million for the 2018 year.  |
| Dividends  |
| Check whether the taxpayer has a franking deficit account balance at year-end. |  |  |  |
| If there is a franking deficit 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. |  |  |  |
| Check to ensure that dividends have been franked to the correct extent given that the company tax rate for a company which is an eligible small business entity has been reduced to 27.5% for the year ended 30 June 2017.  |  |  |  |
| Companies  | Yes | No | N/A |
| Fringe benefits tax  |
| Review an employee’s remuneration package to determine whether any exempt or concessionally taxed fringe benefits could be provided to employees as part of their future packaging arrangements.**Note:** refer to CPA Australia’s [FBT checklist](https://www.cpaaustralia.com.au/professional-resources/taxation/year-end) for details of each category of fringe benefits and their valuation rules. |  |  |  |
| 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 alternate “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. |  |  |  |
| 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 under section 109RB of the *Income Tax Assessment Act (1936)*.**Note:** post 16 December 2009, unpaid present entitlements may be treated as deemed loans for Division 7A purposes. Please refer to CPA Australia’s [2017 Division 7A checklist](https://www.cpaaustralia.com.au/professional-resources/taxation/division-7a) for further information. |  |  |  |
| Comments: |

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| 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 43.5% refundable tax offset is available. If the company’s aggregate turnover exceeds $20 million, a 38.5% 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. |  |  |  |
| Superannuation guarantee – ‘ordinary times earnings’  |
| Consider whether all required Superannuation Guarantee (SG) contributions have been made for the year. Employers who do not meet their obligations may be liable to the superannuation guarantee charge.  |  |  |  |
| 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. |  |  |  |

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| Taxation of Financial Arrangements – Division 230  | Yes | No | N/A |
| Does Division 230 apply to you?  |
| Division 230 may apply to the following taxpayers with financial arrangements:* financial institutions whose aggregated annual turnover exceeds $20 million
 |  |  |  |
| * managed funds and superannuation funds with assets of $100 million or more
 |  |  |  |
| * other businesses, unless their aggregated annual turnover is less than $100 million, the value of financial assets are less than $100 million and the value of total assets are less than $300 million
 |  |  |  |
| * 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) |
| Exploiting the proportionate approach to trust taxation which result in the economic benefits associated with the net income being retained by the trustee or passed on to a different beneficiary in a purportedly tax free form (Taxpayer Alert TA 2016/12)  |
| Reviewing arrangements which attempt to re-characterise trading income into more favourably taxed passive income (Taxpayer Alert TA 2017/1) |
| Entity’s Name |  | Initial  | Date |
| Preparer |  |  |
| Reviewer |  |  |
| Partner |  |  |

**Year ended 30 June 2017**

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