FINANCIAL TIMES

WINTER 2024

HLB MANN JUDD
ADVISORY AND ACCOUNTING

IN THIS ISSUE

Focus on client service continues

Family trusts – what you need to know

The evolution of audit: from defence to value add

Report reveals not-for-profit leaders fear cyber attacks

Financial reporting season – are you ready?

Federal Budget wrap

Australia's innovation engine needs reigniting

DON'T FORGET TO CATCH UP ON YOUR SUPER

PETER SPEECHLEY
Partner, Wealth Management
PERTH

At this time of year, many people are reviewing their finances and considering opportunities to improve their financial wellbeing. One strategy that is sometimes overlooked is catching up on concessional superannuation contributions.

What is a 'catch-up' concessional contribution?

It used to be a case of 'use it or lose it' when it came to super contributions. If you couldn't contribute the maximum annual concessional (before-tax) contribution amount to superannuation in a financial year, the opportunity was lost.

As a result, many people entered retirement with a lower super balance than they hoped for. This was typically a result of their working life being interrupted by starting a family, taking care of parents, or studying.

However, from 1 July 2019, new rules were introduced that allowed people with less than $500,000 in superannuation to "carry forward" their unused concessional contributions to top up their super contributions in the future.

Can I make concessional contributions now?

For the 2023/2024 financial year, an annual cap of currently $27,500 applies to concessional contributions made before June 30, 2024. After this, it increases to $30,000 per annum. This is the most that can be contributed in one year under concessional caps.

Concessional contributions include:

- mandatory employer contributions (such as Super Guarantee)
- salary sacrifice contributions (paid from salary before it's taxed), and

cont. on page 2...

cont. from page 1..

- personal contributions for which a personal tax deduction is claimed.

Under the updated rules, if the concessional contributions in one year are less than the annual cap for that year, the 'unused' amount can be carried forward for the next five financial years. After five years, that unused amount will expire.

For example, if someone has made total concessional contributions of $10,000 out of the available $25,000 in the 2020/2021 financial year, the unused amount of $15,000 could be carried forward for the next five years. For those who are eligible, this means they can make a greater concessional contribution in a future year.

People aged between 67 and 74 will need to meet a work test to make concessional contributions. They need to have done at least 40 hours of paid work in any consecutive 30-day period that financial year. Those over age 75 can't make voluntary concessional contributions.

Can I make catch-up contributions?

Those with an unused amount that they have carried forward from an earlier year, should first look at their total super balance.

The total super balance at the 30 June prior to a contribution being made must be less than $500,000 in order to be eligible to make the catch-up contribution using the carried forward amount.

The balance at a particular time is broadly the total of the:

- accumulation phase value of super interests
- value of super pension accounts
- rollovers in transit between super funds.

This amount can be determined by contacting the super fund or funds, and can also be found in the latest balances reported to the Australia Taxation Office through the MyGov online services.

Contact the author: psheechley@hlbvic.com.au

FOCUS ON CLIENT SERVICE CONTINUES

HLB Mann Judd was named "Best Accounting & Consulting Services Firm ($100-$200m revenue)" at the recent Client Choice Awards, researched by Beaton Research + Consulting.

It is the ninth year the HLB Mann Judd Association has won this award. HLB Mann Judd was also a finalist in the "Best CX Firm: Accounting & Consulting Services" category.

HLB Mann Judd Australasian Association chair, Tony Fittler, says it is an honour to win an award that is based on client feedback.

"Receiving the Client Choice Award shows that we are achieving our goal of providing the best service possible to our clients, and helping guide and advise them in their particular needs.

"The bar continues to rise as the professional services sector recognises the importance of prioritising clients' experience. It is incredibly important to listen and learn where we need to provide value.

"We are committed to our clients and their success and we are proud that our clients have repeatedly voted us as one of the best accounting & consulting firms in Australia and New Zealand for service - it is the most important and valuable accolade we can receive," he says.

Mr Fittler says that success locally has also been reflected globally.

"The HLB International network has moved up two places in the rankings of global accounting networks, to now rank eighth. It reflects the 23 per cent growth in the network since 2023 which is now represented in 157 countries, with a global community of 46,755 people in 1,069 offices."

FAMILY TRUSTS – WHAT YOU NEED TO KNOW

HELENA YUAN
Director, Tax Consulting
SYDNEY

A common question we get asked is "what is the difference between a family trust and a discretionary trust?"

The answer is both simple and complex, with legal and tax considerations.

A discretionary trust is one that is set up with a broad range of the beneficiaries and the trustee of the trust can decide how much money each beneficiary can receive. That is, the trustee has discretion over these decisions.

Most family trusts are a type of discretionary trust, although it is possible to call any trust a "family trust" if it has been set up for the benefit of a family group.

However there are legal and tax requirements, including reports and documentation, for discretionary trusts that must be complied with. One of the most important documents is the trust deed which is the legal document governing the trust. Trustees are obliged to act in accordance with the terms of the trust deed and must always check it before distributing any trust income, to identify who is eligible to receive a distribution.

From a tax perspective, whether to make a 'family trust election' (FTE) is an important decision for the trustee in managing the trust's affairs.

An FTE is when the trustee elects one of the people within the family to be the 'test individual'. This person then become the reference point for the 'family group' that can be beneficiaries of the trust.

The decision to make an FTE cannot be revoked once made and the decision must be reported to the ATO. The test individual nomination can only be varied in limited situations.

An FTE has an effect of limiting the pool of beneficiaries that the trustee can distribute income to, regardless of what the trust deed says. In recent years, we have seen some undesirable practical implications for some of our clients, especially with the number of inter-generational wealth transfers taking place.

A typical situation involves an original family trust set up decades ago with a grandparent elected to be the 'test individual'. Fast forward to now, a grandchild has also set up their own family trust with the grandchild as the 'test individual'. There can be significant tax issues when the grandparent's trust wants to distribute income/capital to the grandchild's family trust if this is not correctly managed.

There are both pros and cons to making a family trust election.

Advantages

From a tax perspective, a typical discretionary trust enjoys many tax concessions, but is unable to pass franking credits to beneficiaries if the credits total more than $5000 for the year. This can be a significant limitation for many family groups who use discretionary trusts as an investment vehicle. Making an FTE allows trustees to pass franking credits to beneficiaries.

Another benefit is that an FTE allows the trustee to bypass the complicated rules around recouping prior year's tax losses, including accessing concessional rules.

Disadvantages

The main disadvantage of making an FTE is that if a distribution is made to a beneficiary outside the family group (as defined by the tax legislation) they will be liable for a special tax – the 'family trust distribution tax'.

This tax is payable at the top personal marginal tax rate, plus the Medicare levy. The trustee and the directors of the trustee are personally liable for family trust distribution tax.

Trustees must therefore manage an added level of complexity if they make an FTE, ensuring beneficiaries are eligible to receive a distribution under the trust deed and is in the family group of the 'test individual' for tax purposes.

There can be legal and tax consequences if a distribution is made to an ineligible beneficiary. For example, other beneficiaries may bring legal action against the trustee for failing its fiduciary duties. In addition, the distribution to an ineligible beneficiary would be deemed to be ineffective and the tax on that portion of the distribution could be borne by the trustee at the top marginal rate.

Contact the author: hyuan@hlbnsw.com.au

THE EVOLUTION OF AUDIT: FROM DEFENCE TO VALUE-ADD

KAPIL KUKREJA
Partner, Risk, Assurance & Consulting
Melbourne

The role of the internal auditor has changed significantly in recent years, with many organisations now relying on them to help achieve their strategic goals.

In the past, audit was primarily seen as a form of "defence" – helping improve internal operations by evaluating procedures and processes and ensuring accurate and timely financial reporting. It was a fairly static role and largely backwards-looking to ensure that processes were working correctly and to identify any areas that required fixing.

However the internal audit role is now seen as a strategic partnership role, with the ability to add value by identifying gaps in resourcing and improving efficiencies through practical recommendations to enhance business operations.

Boards and senior management are increasingly recognising that they can use internal auditors to play a big role in the company's ongoing success.

Internal audit is now taking a forward-looking approach to ensure a company is adequately resourced and equipped, both for business improvement and efficiency, and also in risk management.

An internal auditor's recommendations can act as road map for the organisation identifying gaps and adding value by considering the resources available (financial, operational and technological), which can aid an organisation to achieve its pre-determined goals.

With risk management, the growing use of technology has created an interconnected world where everyone is vulnerable to risks such as geopolitical tensions, economic turmoil, or cyber hacks.

This is particularly critical as the legal obligations of directors overseeing the affairs of a company become more stringent. This requires them to be fully up to date on what is happening at a company, including its financial position and its risk management processes.

Those companies that aren't working with their auditor, and other experts, in this way, risk being left behind as the pace of change in the business world continues to accelerate.

Contact the author: kkukreja@hlbvic.com.au

REPORT REVEALS NOT-FOR-PROFIT LEADERS FEAR CYBER-ATTACKS

AIDAN SMITH
Partner, Audit & Assurance, & Advisory
SYDNEY

For the fourth year, HLB Mann Judd has surveyed more than 100 members of its Exclusive Not for Profit Community and the wider not-for-profit (NFP) sector on their strategic planning.

The 2024 results reveal that cyber-attacks are one of the greatest concerns of respondents.

This year's report also found that several economic factors pose challenges for the NFP sector.

Just as in 2023, inflation and interest rates are causing difficulties for NFPs, testing resilience and demanding adaptive strategies from businesses and policymakers alike.

Some of the 2024 report findings include:

- 83 per cent of leaders are concerned about a cyber-attack on their organisation
- Developing and diversifying funding sources is a priority for 77 per cent of respondents
- Leaders are still exploring of technology and artificial intelligence
- 76 per cent of leaders had seen an increase on demand for their services in the last 12 months and were anticipating a similar trend for the year ahead
- Employee turnover has decreased over the last three years
- Boards are continuing to participate in setting organisational goals.

The ENFP was founded in 2010 by HLB Mann Judd Sydney in collaboration with the Commonwealth Bank, and brings together senior executives in the NFP sector, focusing on what they need to help them achieve their missions.

Contact the author: asmith@hlbnsw.com.au

FINANCIAL REPORTING SEASON – ARE YOU READY?

NORMAN NEILL
Partner, Corporate & Audit Services
PERTH

As the financial year draws to a close, it's time to start preparing for audit season. Finance team members need to be in top condition, well-resourced and prepared to understand the rules of game to ensure they are audit ready.

I am a big believer in the 4 Ps: **Preparation Prevents Poor Performance**. In my experience, preparation is the key to a smooth and efficient audit. But how do you get your preparation right given the inevitable juggle of managing business priorities and getting the staffing resources to prepare for the audit?

The good news is that there have been no significant changes to accounting standards for the 2023/2024 year. Additionally, it is expected that ASIC will continue its focus on corporate disclosures regarding a company's operations, asset values and impairment, provisions and events occurring after the balance sheet date but before the completion of the audit report.

According to ASIC, directors are primarily responsible for the quality of an audit. ASIC states that: "This includes ensuring that management produces quality and prompt financial information for audit, supported by robust position papers with appropriate analysis and conclusions referencing relevant accounting standards. Companies must have appropriate processes, records and analysis to support information in the financial report".

ASIC also expects that "directors should ensure there are adequate resources, skills and expertise applied to promote quality in the reporting process so that assumptions underlying estimates and assessments for financial reporting purposes are reasonable and supportable".

In practice, over the past few years, many auditors have experienced resourcing challenges, as well as elevated levels of 'scope creep' where they are asked to help with the application of accounting standards. This potentially increases the risk of an auditor's independence, which can impact on the quality of an audit and therefore lead to significant time and cost impacts.

Many accountants can underestimate the time taken to prepare financial statements and supporting documents for an audit or resolve accounting issues, so the key may be to starting earlier and setting realistic timetables to better grasp any accounting challenges that may affect an audit.

Accountants should identify early any challenges or problems that need to be discussed specifically with the auditors or requiring external assistance early on.

Certain challenges should be resolved well before the commencement of a final audit visit including determining share-based payments, R&D claims, and acquisitions, to name a few. This alleviates pressure from the busier months of August and September. The management of the board's expectations may also be necessary.

Whilst acknowledging things do not always go to plan, the impact of missing timetables does have a flow on effect to audit resourcing, flexibility and costs. It is critical that management teams drive the financial reporting process, allowing sufficient time for the identification of issues, preparation of reports, review by the board and the overall audit process.

It's clear that all businesses are facing challenges on a number of fronts. However, to ensure that the upcoming financial reporting season is as smooth and efficient as possible, additional early preparation will go a long way to ensure that you come out of the end of season on top of the ladder.

Contact the author: nneill@hlbwa.com.au

FEDERAL BUDGET WRAP

JOSH CHYE
Partner, Tax Consulting
Melbourne

MITCHELL MARKWICK
Partner, Superannuation
WOLLONGONG

There were few surprises in this year's Federal Budget, with most of the big news – primarily the changes to personal tax rates – already announced by the Government.

Some upcoming changes that will affect individuals, and businesses, include:

Superannuation and personal tax

As the government flagged, the main focus of the Budget was on "cost of living" measures.

The main updates and changes were:

Energy bill payments

All Australian households will receive a $300 rebate on their energy bills in the next financial year. This is not means tested, and will be paid to every household, including holiday homes.

Deeming rates

The freeze on the social security deeming rate was extended for another year. This rate is used by the government to calculate how much income people earn from their investments, including superannuation. It will stay at 2.25 per cent for at least another 12 months, meaning people will remain eligible for the same level of pension payments.

Super on paid parental leave

As previously announced, the Government will pay superannuation on top of paid parental leave from 1 July 2025, when the super guarantee rate will increase to 12 per cent.

In addition, paid parental leave will be extended. This will be added incrementally, so that from 1 July 2024, families will get an extra two weeks of leave, for 22 weeks in total. This will increase to 24 weeks from July 2025 and 26 weeks from July 2026.

Personal tax rates

In the Budget, the government also reiterated that the stage 3 tax cuts will be implemented from 1 July 2024, with no other changes announced.

The stage 3 tax changes will see all 13.6 million taxpayers receive a tax cut. From 1 July, the tax rates and income thresholds will be:

TAXABLE INCOME	TAX RATE
$0 - $18,200	Nil
$18,201 to $45,000	16% of excess over $18,200
$45,001 to $135,000	$4,288 plus 30% of excess over $45,000
$135,001 to $190,000	$31,288 plus 37% of excess over $135,000
More than $190,001	$51,638 plus 45% of excess over $190,000

Medicare levy

The Medicare levy low-income threshold for singles will increase to $26,000 for 2023/2024. For couples with no children, the family income threshold is $43,846, while each dependent child or student adds $4,027 to the threshold.

For single seniors and eligible pensioners, the Medicare levy low-income threshold is $41,089. The family threshold for seniors and pensioners is $57,198, plus $4,027 for each dependent child or student.

Business tax and super

Instant asset write-off

The main change for businesses in the Federal Budget was that the instant asset write-off concession was extended for another 12 months.

The concession applies to businesses with turnovers capped at $10 million and allows them to immediately deduct the full cost of eligible depreciating assets costing less than $20,000.

Energy bill payments

Like households, small businesses will receive energy bill relief, with a $325 rebate on 2024-2025 bills.

Tax compliance

The Government has introduced several measures to improve tax compliance, giving the ATO greater powers to track down delinquent tax and combat fraud.

These include:

- Extending the time the ATO has to notify businesses if it intends to investigate a business activity statement (BAS), from 14 days to 30 days
- Providing funding to the ATO ($187 million over four years) to better detect, prevent and mitigate fraud in the tax and superannuation systems
- Extending the ATO Tax Avoidance Taskforce for two years. This taskforce focusses on multinationals, large public and private businesses and high-wealth individuals.

Super compliance

With the introduction of payday super scheduled for 1 July 2026, the government is stepping up its activities to help ensure compliance. These include:

- Funding to better pursue unpaid super in bankruptcies or liquidations
- Stepping up investment in the ATO's data matching capability to increase super guarantee payment compliance.

Contact the authors: jchye@hlbvic.com.au & mmarkwick@hlbw.com.au

Disclaimer: All material contained in this newsletter is written by way of general comment to clients of member firms of the HLB Mann Judd Australasian Association. No material should be accepted as authoritative advice and any reader wishing to act upon the material contained in this newsletter should first contact a member firm for properly considered professional advice which will take into account each client's own specific conditions. No responsibility is accepted for any action taken without advice by readers of the material contained herein. **ISSN 1037-1915** © Copyright on all contents of this newsletter is held by the HLB Mann Judd Australasian Association. Articles may be reproduced only if acknowledgement to an HLB Mann Judd member firm is given.

Liability limited by a scheme approved under Professional Standards Legislation.

HLB Mann Judd firms are members of HLB International, the global and advisory accounting network.

CONTACT

The HLB Mann Judd Australasian Association comprises a number of independent accounting firms in Australia, New Zealand and Fiji.

MEMBER FIRMS

ADELAIDE
T: (0)8 8133 5000
E: mailbox@hlbsa.com.au

AUCKLAND
T: +64 (0)9 303 2243
E: hlb@hlb.co.nz

BRISBANE
T: (0)7 3001 8800
E: mailbox@hlbqld.com.au

FIJI
T: +679 670 2430
E: info@hlbnadi.com.fj

MELBOURNE
T: (0)3 9606 3888
E: mailbox@hlbvic.com.au

PERTH
T: (0)8 9227 7500
E: mailbox@hlbwa.com.au

PERTH INSOLVENCY WA
T: (0)8 9215 7900
E: mailbox@hlbinsol.com.au

SYDNEY
T: (0)2 9020 4000
E: mailbox@hlbnsw.com.au

WOLLONGONG
T: (0)2 4254 6500
E: mailbox@hlbw.com.au

REPRESENTATIVE FIRMS

HOBART / LORKIN DELPERO HARRIS
T: (0)3 6224 4844
E: mail@ldh.com.au

LISMORE / THOMAS NOBLE AND RUSSELL
T: (0)2 6621 8544
E: enquiries@tnr.com.au

NEWCASTLE / CUTCHER & NEALE ASSURANCE
T: (0)2 4928 8500
E: cnmail@cutcher.com.au

AUSTRALIA'S INNOVATION ENGINE NEEDS REIGNITING

TROY SMITH
Consultant, R&D Tax Incentives
ADELAIDE

In the government and business landscape, innovation is the driving force behind efficiency gains and economic progress. However, recent statistics raise concerns about the state of research and development (R&D) expenditure in Australia.

National spending on R&D fell to a 17-year low of 1.68 per cent of GDP in 2021-22, a 0.12 per cent fall from 2019-20, according to the Australian Bureau of Statistics (ABS). While a 0.12 per cent decline may seem small, it reflects the challenges Australia faces to boost R&D spending – which is needs to do to remain competitive with other OECD nations. This statistic falls significantly below the OECD average of 2.71 per cent but it also lags behind global leaders. For instance, South Korea has an impressive 4.93 per cent R&D-to-GDP ratio.

Robust R&D investment is of paramount importance to a nation as it fuels innovation, enhances competitiveness and secures a nation's foothold in the global marketplace. The current trajectory for Australia paints a concerning story, with Australia potentially slipping further down the list of OECD countries investing in innovation in the next five years.

The consequences of this decline in R&D spending as a proportion of GDP extend across industries reliant on innovation, potentially compromising Australia's global standing in technology, healthcare and other critical sectors.

The Federal Government's most recent budget earmarked a review into Australia's R&D system. The review will aim to reverse this trend of R&D investment in Australia and seek to understand the continuing decline in R&D business intensity.

The ATO has also issued additional clarification and guidance regarding some R&D integrity rules, directed towards addressing recurrent issues that regulatory bodies have identified in claims, which should provide valuable assistance in claiming the R&D tax incentive (RDTI). This guidance release marks its first commentary on R&D issues in quite some time.

These include concerns related to:

Associate expenditure

Claiming R&D expenditure with associates involves specific considerations. Generally, such expenditure can only be claimed in the year of payment, unless the R&D entity opts for an irrevocable election. Notably, certain arrangements are viewed as not constituting payment to associates, including converting the amount owed into a loan or offsetting a licensing fee against R&D service fees in non-arm's length transactions.

Aggregated turnover

Aggregated turnover is a crucial factor in R&D tax offset eligibility. Entities with an aggregated turnover below $20 million are entitled to a refundable offset, while those at $20 million or above receive a non-refundable offset. Exemptions apply to R&D entities 50 per cent controlled by exempt entities, ensuring eligibility for the non-refundable offset, regardless of turnover.

Overseas expenditure

Overseas expenditure claims require an overseas finding from the Department of Industry, Science and Resources (DISR). Without this, the work must be conducted in Australia, not subcontracted overseas. Physical location helps determines overseas expenditure validity.

Contact the author: tsmith@hlbsa.com.au

> "Robust R&D investment is of paramount importance to a nation as it fuels innovation, enhances competitiveness and secures a nation's foothold in the global marketplace."