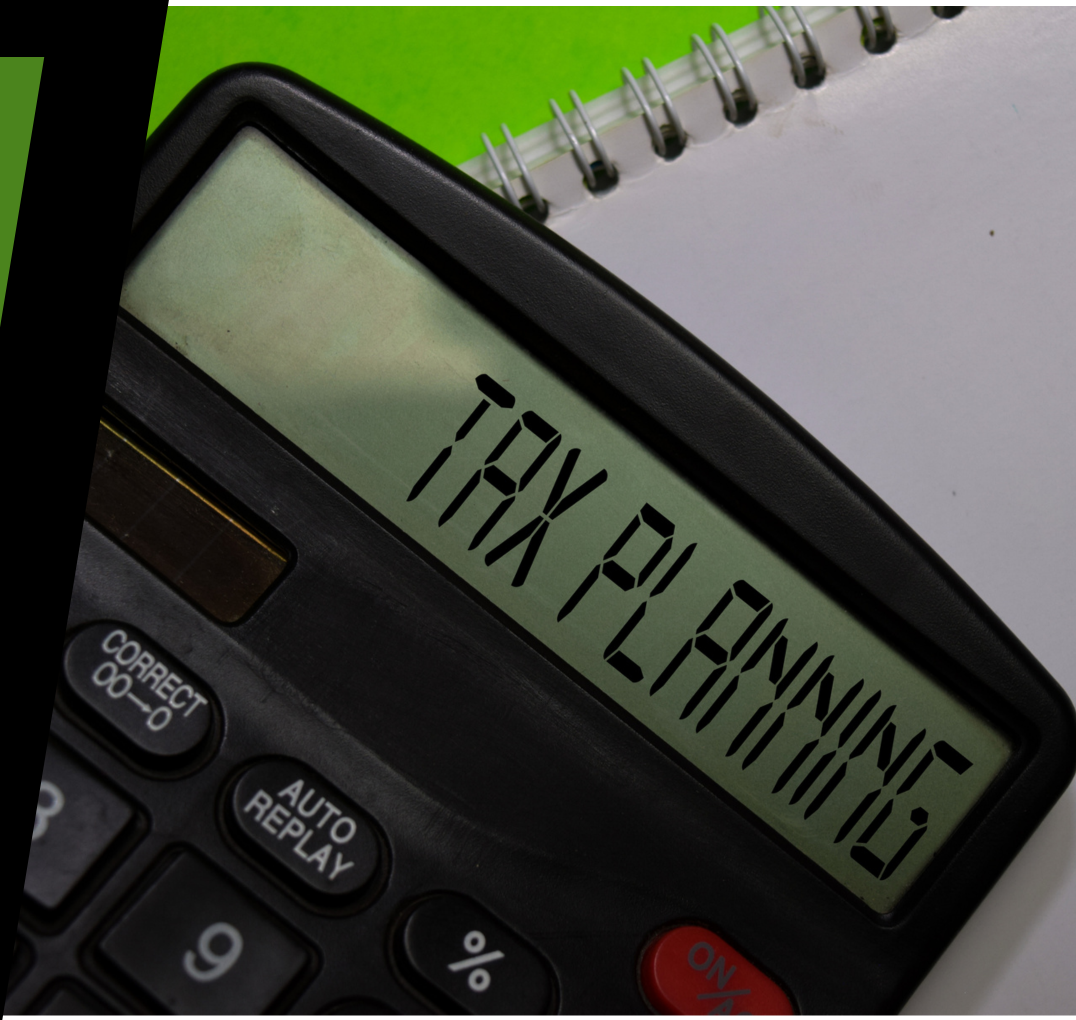
O'Bryan & O'Donnell
Helping Your Farm, Small Business or Trade Succeed



2023 END OF YEAR TAX PLANNING GUIDE

Your guide to tax planning opportunities in 2023 to legally reduce your tax and get your business and personal finances organised before the end of the financial year.

Intro

Year End 2023 Tax Planning Guide

As we approach the end of the 2023 financial year, tax planning has never been more important. This newsletter highlights some end of year tax planning opportunities you can take advantage of to legally reduce your tax and pay no more than you are required to. We encourage you to schedule a meeting with us as early as possible to assess your tax planning options.

In this guide, you'll find a list of strategies to consider before 30 June.

To maximise your benefits, we suggest you prepare a preliminary calculation of your taxable income for the year ending 30 June 2023 to identify the size of your likely tax debt and establish if you have a tax 'problem'.

- Review all tax-deductible expenses and assessable income in the latest available figures to determine the possibility of pre-paying some expenses before 30 June or deferring some revenue until after 1 July 2023.

Please note, the following list of tax planning opportunities is not exhaustive and depending on your circumstances (including your turnover and whether you are on a cash or accruals method of accounting), some of these strategies may not apply to you.

If you would like to discuss your tax planning options, we urge you to contact us today. It's important you don't leave your tax planning to the last minute as many of these strategies require adequate time and preparation to implement!

Key Takeaways for Tax planning FY2023-23

1. Trust complexities continue to evolve

Throughout tax planning with our clients, we are observing trusts becoming subject to an increasingly complex set of requirements to remain compliant and within ATO guidelines. Recent court cases have confirmed that trustees have an obligation to consider the needs to the beneficiaries when considering trust distributions, or they could be subject to challenges.

The ATO have now issued their final ruling on Section 100A which confirms their view that it has a much broader application than was previously understood. This can result in distributions to low-income beneficiaries being disregarded for tax purposes, where it was never intended that they would receive the funds. The updated guidance on professional firm profit allocations is also applicable for the first time in the 2023 financial year.

This means professional practitioners may be subject to ATO scrutiny where they do not meet certain benchmarks regarding average tax rates.

2. Temporary Full Expensing measure is set to end on 30 June 2023

To take advantage of this measure before it expires, ensure your new assets are installed ready for use by Friday 30 June 2023. If you are a small business entity with aggregated turnover below $10 million, a less generous instant asset write-off will apply from 1 July 2023 for assets costing up to $20,000.

3. Loss carry back measure finishes

The loss carry back measure introduced during Covid is also finishing and will not apply to 2024 income year losses.

4. Coalition small business measures expected, yet to be confirmed

We expect two of the small business incentives announced in the May 2023 Coalition budget to apply for the 2023 financial year, however be aware the legislation is still before Parliament.

The Small Business Technology Investment Boost provides an additional 20% deduction for expenses incurred on digitalising business operations to 30 June 2023, up to a maximum deduction of $20,000. The Small Business Skills and Training Boost provides an additional 20% deduction for expenditure on eligible external training courses to 30 June 2024. Both measures apply to businesses with aggregated turnover below $50 million.

Tax planning: Income

Capital Gains

- Defer triggering capital gains until after the end of the financial year. Capital gains on the sale of assets generally arise on the contract date, rather than settlement date.
- Defer the sale of assets until 12 month holding period is met to access the general 50% discount.
- Realise capital losses on shares (especially where capital gains exist in the same income year), if it is unlikely that the market value will recover. (If you intend to immediately reacquire the shares you may attract the general anti-avoidance provisions.)
- Where a business is involved, consider the small business capital gains tax exemptions, and obtain advice if necessary.
- Consider if any capital gains tax rollovers are available, such as scrip for scrip rollover relief on the disposal of shares in exchange for shares in another company.

Sales

- Defer sales contracts until after the end of the financial year, where it is possible and reasonable to do so.
- Where timing of sales income is based on issuing invoices, consider issuing invoices after the end of the financial year (noting that the other party may miss out on a tax deduction).
- Capitalise income received in advance and recognise over the life of the agreement, where certain requirements are met.

Averaging Income

- Where income for this income year is higher than average, consider income averaging.
- Applicable to all farmers, sportsmen and artists.

Personal Services Income

- If receiving Personal Services Income (PSI), consider whether the Personal Services Business (PSB) rules are satisfied to be treated as a business rather than as an employee for tax purposes, where the PSI rules apply.

Dividends/Distributions

- Ensure family trust distributions are only made to beneficiaries within the family group of the specified individual.
- Declare franked dividends where shareholders on low marginal tax rates can benefit from refund of franking credits.
- Consider recent ATO guidance on distributions to adult children when planning trust distributions.

Cryptocurrency

- Defer disposing of cryptocurrency that would result in a capital gain, where you are a cryptocurrency investor, rather than trader.
- Capital gains may be triggered when cryptocurrency is converted from one coin to another or used to purchase goods or services.

FX Gains/Losses

- Consider the tax consequences of disposing of foreign currency or repaying foreign currency denominated loans and realising foreign exchange gains/losses prior to the end of the income year.

Tax planning: Deductions

Accounts Receivable

- Review trade debtors listing to identify unrecoverable amounts and record the bad debts prior to year-end. Directors should take reasonable steps to recover the debts and make a commercial judgement based on all available information prior to writing off the debts. This should be supported by a directors resolution made before year-end.

Depreciation/Immediate Write-Offs/ Building Write offs

- Ensure new assets are installed ready for use by 30 June 2023 to take advantage of Temporary Full Expensing (TFE), which ends on this date.
- Review depreciation rates to ensure they are still adequate and reflective of the useful life of the assets.
- Identify obsolete items in the depreciation schedule that can be scrapped/written off.
- Obtain a quantity surveyors report to maximise building write-offs, including for rental properties.

Loss Carry Back

- Eligible companies can claim a refundable tax offset if they have incurred recent tax losses and had tax liabilities in earlier income years going back to the 2019 income year. Note, 2023 is the last income year to claim the loss carry-back.
- Losses incurred because of claiming Temporary Full Expensing of Depreciating Assets may be eligible for the loss carry back.
- The franking account will be debited by refunds received from the loss carry back, therefore it may affect the ability to pay franked dividends, which may be important for managing Division 7A loan repayments.

Tax Losses

- Where there are carried forward losses in a company or trust, consider if the relevant loss provisions are satisfied to utilise the losses to offset taxable income.
- Changes in more than 50% of the underlying ownership may cause the more onerous same business test to apply.
- For individuals carrying on a business with losses, consider whether the non-commercial loss rules apply to prevent offsetting small business losses against other income.

Prepayments

- Small and medium business entities and non-business individuals are entitled to claim the full amount of the prepayment in the year in which the payment is incurred, provided the service is completed within 12 months.
- Prepaid wages are excluded from the prepayments rules and are only deductible in the year in which the expense is incurred.

Superannuation

- Ensure all employee superannuation contributions are paid by 30 June (and actually banked into the superfund's bank account). If not, the deduction is not allowable until the following income year.
- Superannuation guarantee paid from 1 July 2023 will also be subject to the increased rate of 11%.
- You may be entitled for a deduction for personal superannuation contributions paid from after-tax income. The concessional contributions cap for the 2023 income year is $27,500, which includes your employer contributions. If you have not contributed up to the limit in previous years, you may be entitled to carry forward unused contributions cap to increase your deductible contributions.
- Consider a reserving strategy to bring forward next year's deductible super contributions. This means two year's worth of personal contributions can be deducted in the one year for tax purposes, while counting towards this year's and next year's contributions cap.
- Beware that concessional superannuation contributions may be subject to an additional 15% tax if your total adjusted taxable income is over $250,000.
- Consider the availability of the government's superannuation co-contribution. The government will provide up to $500 for a $1,000 contribution made by a low-income individual if they receive employment or business income and earn less than $43,445 per year (the government stops making co-contributions at $58,445).

Staff Bonuses

- Staff and director bonuses are required to be approved for payment by 30 June to be deductible in the same income year. This should be evidenced by a directors' resolution.

Stock on Hand

- Can be valued at the lower of its cost, market selling value, or replacement value.
- Consider writing off obsolete stock or revaluing slow-moving stock.
- Ensure a stock take is completed at the end of the financial year.

Farm Management Deposits ("FMD")

- Individuals receiving primary production income can deposit income into an FMD and receive a deduction for the full amount deposited, however the income is assessable on withdrawal.

Tax planning: Additional Considerations

Professional Firm Profit Allocations

- The ATO's updated guidance on professional firm profit allocations is applicable for the 2023 financial year. Any business with individual professional practitioners should consider the guidance and risk assessment framework, particularly where income is distributed to associated entities of the individual practitioners.

Division 7A Deemed Dividend Provisions

- Directors and shareholders with loans owing to companies should consider the option of paying a dividend to clear the loan at year end or entering into a loan arrangement.
- In relation to any existing Division 7A loans to companies, taxpayers should ensure that minimum yearly repayments are made prior to the end of the financial year.
- In relation to any existing sub-trust arrangements, taxpayers should ensure that the accrued interest has been paid by the trust tax return lodgement date.

Trusts

- Annual income distributions are required to be resolved by the trustee before the end of the financial year.
- Trustees should ensure they are fulfilling their trustee fiduciary duties and consider all beneficiaries when deciding on income distributions.
- Consider recent ATO guidance on distributions to adult children when planning trust distributions. Where someone other than the beneficiary benefits from the distribution, the reimbursement agreement provisions in section 100A could apply.
- The gifting of unpaid present entitlements could also attract section 100A.
- Ensure any unpaid present entitlements to companies are paid or placed onto complying Division 7A loan agreements.
- If the trust has made a Family Trust or Interposed Entity Election, ensure that distributions are only made to members of the family group to avoid onerous family trust distributions tax.

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Get in touch with us today to book your 2023 Tax Planning session.

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