

FEBRUARY 2011

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Hot Topics

Changing Rules for Trusts



A lot of family businesses use Discretionary Trust structures. These Trusts have been popular because they provide both a level of risk management, separating the business from your personal assets, and are also very tax efficient. A discretionary trust allows the trustee to appoint the income of the trust (this is typically the profit of the business) to any of its beneficiaries in the proportions that it determines from year to year. The entitlement of the beneficiary is not fixed; rather it is a decision of the trustee each year.

See Below for Full Article

Social Media: The Good, The Bad and The Ugly



Social media allows every comment, word, thought, and rant of an individual to be accessible to the world. Everyone can have a say and much of what is said is often given credence regardless of the source or weight of evidence. At its best, social media gives every David a forum to beat Goliath. At its worst, the faceless pseudonym driven world of social media can be used to destroy reputations or spread misinformation either by intent or sheer ignorance. As a business and employer, the question is, is social media a threat or an opportunity and how paranoid should you be?

See Below for Full Article

Why February is Cash Flow Hell...and What to do about it



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Important Dates To Remember

21 February

January 2011 Monthly Activity Statements - Lodge and Pay

21 March

February 2011 Monthly Activity Statements - Lodge and Pay

1 April

Super Guarantee Quarter 4 starts

21 April

March 2011 Monthly Activity Statements - Lodge and Pay

What's Happening at Marsh Tincknell

Team Member of the Month – Kylie Greene



January's Team Member of the Month is Kylie Greene, as voted by the Team and Directors at Marsh Tincknell. Well done Kylie!

Kylie joined Marsh Tincknell in 2008 and has over six years experience working in Chartered Accounting Firms. Kylie is a Business Specialist at Marsh Tincknell and is currently working towards her Chartered Accountant qualification.

In her spare time Kylie enjoys playing touch football, camping, water skiing, jet-skiing and exercising with her dog Amba.

Marsh Tincknell Contributes to the Flood Appeal



On January 12, the Marsh Tincknell Super Team organised a Staff Morning Tea to raise funds in aid of the recent flood disaster to hit Queensland. "All you can drink coffee" and a selection of sweet and savoury treats were on offer for a donation of \$5. The team at Marsh Tincknell were very generous and raised a total of \$8,000. Well done Team!

Global Business Camps Update



Next Conference: 4 – 6 April 2011

Here at Marsh Tincknell we care about YOU and your Business. The two are intertwined. Without you there is no business and without your business there is no lifestyle, great things for family or early retirement!



The three day programs that Global Business Camps conduct have been specifically designed for business owners and their management teams, to assist them with the day to day, and longer term, challenges of running and growing a business.

Marsh Tincknell have attended these camps with business owners for 4 years now and we can confidently say it has made a difference in those businesses.

We highly recommend you attend this next Camp. We will be there with you and are happy to continue the journey with you to assist you in having the business of your dreams!

To help you attend we have secured seats at \$1980 per person. That is a

**great saving of \$660 (Standard price for attending is \$2640 per person).
Click here to download the Registration Form AND you can also pay via
progress payments (provided fully paid for by 15th March 2011).**

**REGISTER NOW to secure your place for the Global Business Camp
at Sheraton Mirage Resort & Spa, Gold Coast, 4 – 6 April, 2011.**

www.globalbusinesscamps.com.au

“Do not follow where the path may lead. Go instead where there is no path and leave a trail.”

-Harold R. McAlindon

Hot Topics - Full Articles

Changing Rules for Trusts

A lot of family businesses use Discretionary Trust structures. These Trusts have been popular because they provide both a level of risk management, separating the business from your personal assets, and are also quite tax efficient. A discretionary trust allows the trustee to appoint the income of the trust (this is typically the profit of the business) to any of its beneficiaries in the proportions that it determines from year to year. The entitlement of the beneficiary is not fixed; rather it is a decision of the trustee each year. Normally the trustee is either the key person in the business or a company controlled by this person. In a typical family situation, Mum and Dad may be the trustees or directors of the trustee company. Using this structure business owners have the flexibility to distribute income in the most tax efficient way. None of this has changed.

A common technique employed by a lot of trusts was to appoint some of the income to a related company. Normally, this was done where the other beneficiaries had received income for the year that would take them past the 30 cents in the dollar tax rate and by appointing this excess income to a company the family could limit its immediate tax cost to 30 cents in the dollar. It was also common for trusts to appoint this income to the company, but perhaps not pay all or any of this income over to the company. It created a debtor creditor relationship between the company and trust which is called an "unpaid present entitlement". This simply means that the company is entitled to the money but it was not paid at the time.

Apart from limiting the amount of tax payable, the main reason for employing this technique was because often the profits of the business had not fully realised into cash. Most businesses find that some of their profits can be tied up in stock, debtors, or other working capital. The profit has been made; it is just not cash in the bank at the end of the financial year. And, practically, you can't pay out profits that haven't turned into cash. Sounds sensible to most of us but the Tax Office doesn't see it that way.

Last year the Tax Office announced that where there is an unpaid present entitlement between a trust and a company beneficiary that continues past the end of the financial year, they will treat this as a loan from the company back to the trust. The implication of this is that it could trigger Division 7A of the Tax Act and cause the amount to be a deemed dividend. In most cases you want to avoid this situation. Income appointed by a trust to a company after 16 December 2009 is affected by these new rules (so this could affect your 2010 income tax return).

Many small businesses have used this strategy as a way of managing their tax and cash flow position and dealing with the differences between their accounting profits and available cash. There are still a number of options available to you in how you manage this situation.

If you operate your business through a trust and have used a related company as a beneficiary, call us to discuss what needs to change and we will review your tax strategy and position.

Social Media: The Good, The Bad and The Ugly

Social media allows every comment, word, thought, and rant of an individual to be accessible to the world. Everyone can have a say and much of what is said is often given credence regardless of the source or weight of evidence. At its best, social media gives every David a forum to beat Goliath. At its worst, the faceless pseudonym driven world of social media can be used to destroy reputations or spread misinformation either by intent or sheer ignorance. As a business and employer, the question is, is social media a threat or an opportunity and how paranoid should you be?

Social media and your team

Aggrieved or just plain naive employees have the capacity to turn a bad day at the office into a brand embarrassment.

Take the example of the 13 Virgin Atlantic crew members who used facebook to insult passengers and generally complain about the airline. In a statement, Virgin Atlantic confirmed that "13 members of its cabin crew will be leaving the company after breaking staff policies due to totally inappropriate behaviour."

The BBC reported the case of a Swiss woman fired by Nationale Suisse for using facebook on the day she called in sick with a migraine saying she had to be in a darkened room and could not use her computer. Allegedly, another employee alerted the company to the fact that she was using facebook that same day.

Australia is not isolated from the facebook firing phenomena. In a recent case before Fair Work Australia, a hairdresser successfully won her case for wrongful dismissal after her employer fired her for, amongst other things, comments she made on facebook stating "Xmas bonus alongside a job warning and no holiday pay!!! Woohoo the hairdressing industry rocks man!!!"

In the decision, Fair Work Commissioner Bissett said that "What might previously have been a grumble about their employer over coffee or drinks with friends has turned into a posting on a

website Posting comments about an employer on a website (Facebook) that can be seen by an uncontrollable number of people is no longer a private matter but a public comment....A Facebook posting, while initially undertaken outside working hours, does not stop once work recommences.”

Despite this, Fair Work Australia saw that the comments made by the hairdresser “were silly in the context of being made in a public forum” but not damaging to the hairdressing business.

As an employer, the question of how to protect your corporate image without impinging on your employees personal lives is vexing and remains largely unanswered. However, if the comments of an employee are shown to be detrimental to the business and the business has an active policy in place preventing employees from being publicly critical of the employer and its business, then an employer should be within their rights to pursue disciplinary action. But firing an unruly employee in a knee-jerk reaction to sarcastic comments is not enough.

The Commonwealth Bank recently came under fire for its internal social media policy released to staff in December. The Financial Services Union (FSU) released a public letter to the bank stating that the policy “..seeks to impose unreasonable restraints upon employees use of social media channels..” and “...goes beyond conduct that could legitimately be regarded as involving damage to the banks reputation or interests.” The FSU goes on to say that the requirement for employees not to “comment on, post or store any information about bank related matters”, or “disparage or speak adversely about the group, its customers, employees or customers” severely restricts employees’ freedom of expression. Employees who breach the policy may face disciplinary action including termination.

Social media and your brand

Any form of investment whether it’s in technology or in time needs to have a clear and measurable objective. Social media is an untamed beast. Does your business have the time and resources to measure and manage what is being said all day, every day? If you have a blog or are on twitter, do you have the resources (and enough to say that is valuable) to maintain consistency? The online community is understandably cynical of business and their desire to simply spin –they can get that from the mainstream media.

The Commonwealth Bank found this out when a customer, a journalist, used twitter to vent her frustration at delays in the bank’s mortgage processing centre. She then reported in news.com.au the fact that 1 hour and 17 minutes later she was “contacted by someone offering to help to solve my problem.” The journalist then states that the bank had said it would continue to “reach out to customers via social networking.” So, is the bank acting on twitter posts? Apparently not. Not long after this story broke, a US blogger pointed out that the tweet responding to the journalist’s complaint was not from the bank “reaching out” but from a private employee who appeared to work for the bank (the tweet was from @ozdj not @CBAOnline).

There are business operators who actively use social media to their advantage. Virgin America states that it uses social media to boost its brand presence, allocating up to 70% of its advertising budget to the format. It’s a good match for a business that sells the vast majority of its tickets online. In Australia, there was the Tourism Queensland’s “Best job in the world campaign” that primarily used social media (as part of an integrated strategy) that attracted 8.4 million site visits.

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The number one reason why companies fail is a lack of cash. Don't be deceived by the simplicity of this problem – some of the mightiest companies have simply run out of cash or their rate of growth has outpaced their capacity (or their banker's willingness) to fund the additional investment.

The balance between growth and cash flow is always a delicate one. All it takes is for a few major customers to either slow down or stop paying you and your cash flow is suddenly compromised.

February is traditionally the worst cash flow month in the calendar. Large companies are the worst payers with smaller companies, previously the fastest payers, now slowing their payment cycles. With businesses trying to reopen after being virtually wiped out and with BAS payments due, many will pick and choose who they pay.

So what can you do to reduce your risk?

Manage your debtors. Set your payment terms and stick to them. Have a strong follow up process. In an environment where the first bill to be paid is the one judged to be the most urgent, it's worth speaking up and asking for what is owed to you.

Plan. Take a look at the cash requirements of your business and what investments need to be made. Make sure forecasts are not overly optimistic and performance measured closely.

Explore. Spend some time looking at efficiency. Not so much cost cutting (we've probably all done this) but where gains can be made without sacrificing resources.

Flood Levy Announced

The Government recently announced an increase in the Medicare Levy threshold to help pay for the flood recovery process. The legislation to approve this levy will be introduced in early February, and will probably need the support of Independents for it to become law.

Applying from the 2011/2012 income year, a flood levy of 0.5% will apply to taxable income between \$50,000 and \$100,000, increasing to 1% for taxable income above \$100,000. Those below the income threshold or who are in receipt of an Australian Government Disaster Recovery Payment for a flood event that occurred during the 2010/2011 income year will be exempt from paying the flood levy. The levy is intended to apply to the 2011/2012 income year only.

The flood levy will be applied to the Medicare Levy. This suggests that the levy will not be imposed on non-resident taxpayers although this is yet to be confirmed.

Pay As You Go (PAYG) Instalment taxpayers will have the levy charged in their PAYG instalments. People who received an Australian Government Disaster Recovery Payment can seek a variation to their instalment payment so that they don't have to pay the levy. The ATO is also investigating the possibility of automating PAYG Instalment amounts so that people who don't have to pay the levy are not charged an amount in their PAYG instalments.

Employees who are exempt from the levy should ask their employer to not have the levy withheld from their regular pay with other tax withheld. Alternatively, at the end of the year the ATO will assess taxpayers' tax liability taking into account the exemption from the levy.

Marsh Tincknell Chartered Accountants

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