

LAWLERlink

A quarterly publication outlining relevant business issues for you

www.lawlerpartners.com.au



Welcome

from the Managing Director

Our last LawlerLink was at the printers when the Newcastle and Hunter community was

devastated by severe flooding over the Queen's Birthday long weekend in June. I would like to personally thank everyone that has assisted affected individuals throughout this time and I am humbled by the support that has been shown to this region.

On a brighter note, we are very proud to announce that a number of clients have been acknowledged recently for their level of service and commitment to their profession. Four of our clients, Contrax Project Services Pty Ltd, UGM Engineers Pty Ltd, Ampcontrol Pty Ltd and Life Without Barriers have won awards relating to their continued growth. National Brokers Group, who feature as our Client Profile on page 3 were recently named National Mortgage Aggregator of the Year.

Lawler Partners client, Peter Cockbain, was further recognised for his service to the engineering profession, with his appointment as a member of the Prime Minister's Science, Engineering and Innovation Council.

We sincerely congratulate all our clients on their continuing significant achievements and look forward to working with them in the future.

The Lawler Partners Hunter Valley Winery Running Festival was held on Sunday, 22 July 2007 at the Hunter Valley Gardens. It was a wonderful day which saw Peter Cochrane named the male marathon winner and Lawler Partners sponsored athlete, Kirsten Molloy defend her female marathon title. Congratulations to both Peter and Kirsten and we look forward to seeing them again at next year's event. Further information on the Running Festival can be found on page 4.

Furthermore, we wish Kirsten all the very best as she competes in the World Ironman Championships in Hawaii in October and we will be reporting her achievements in our next issue.

The past few months have seen some great achievements for Lawler Partners including the appointment of Associates Stewart Free and Clayton Hickey as Partners. These appointments are in recognition of Stewart and Clayton's outstanding client care, technical skills and significant contribution to their teams and the firm overall.

Stewart has in excess of 12 years insolvency and reconstruction experience in an extensive range of insolvency engagements, and has been an integral part of the Business Recovery & Insolvency team since commencing with us.

Clayton has in excess of 10 years audit experience, and through his leadership, expertise and dedication, the firm has seen significant growth in our audit and assurance capabilities and clientele.

In addition, we have appointed Manager, Anthony Sullivan, to the position of Associate. Anthony assists in leading our Sydney Business Advisory Services team, and his promotion is in recognition of the commitment and value he has added to the firm since his commencement with us.

We welcome Stewart, Clayton and Anthony and look forward to their ongoing contribution in continuing to strengthen our leadership team, client service and community involvement.

On 1 September 2007 we relocated our Sydney offices to one location at Level 9, 1 O'Connell Street, Sydney. You can be assured the close CBD proximity of our new premises means that the relocation will not impact on the services provided to you by our staff.

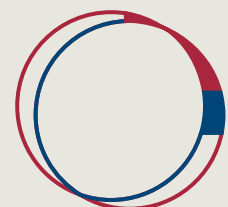
We are excited about the opportunities this relocation brings, particularly in relation to the client benefits of having all of our service areas under one roof, and we look forward to showing you through these new offices in the not too distant future.

Kind regards,

Terry Lawler
Managing Director

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LAWLER
PARTNERS

Getting Value From Your Audit?



Clayton Hickey – Audit Partner

Changing legislation over the last 2 years has not only raised the complexity of providing audit advice, but has also resulted in increases to the cost of these services. But exactly how much value can businesses, especially a small publicly listed company or a large emerging private business, really derive from this change and the increase in fees?

The introduction of a new suite of accounting standards, along with changes to the Corporations Act giving Australian Auditing Standards the force of law, has increased the amount of compliance work and testing required of an auditor.

In March 2006, the Australian Financial Review reported that these changes and the introduction of A-IFRS would increase audit costs by up to 30%.

The financial impact of Force of Law Auditing Standards is yet to be quantified.

The impact of these changes, however, is not restricted to the big end of town. These changes impact any organisation that has a formal reporting responsibility to an external party or parties such as a bank, members or shareholders, and any Company that must lodge a financial report with the Australian Securities and Investments Commission (ASIC).

Therefore, small publicly listed companies, large and emerging private companies, registered clubs and other community-based organisations are all captured, and must apply the same reporting rules as a top 20 publicly listed company.

Benefits Of This Change

There is no doubt that introducing greater accountability through increased disclosure and reporting improves the quality of information being released into the market place.

The changes have forced businesses to report in a different manner and demand specific information from their people and systems. In addition, they have provided a good opportunity for the auditor to review their overall approach to an audit.

The increased level of paperwork auditors are now required to perform is positively balanced by the opportunity to provide advice to the client in terms of improving their commercial processes.

What Should You Expect From Your Auditor Arising From These Changes?

These changes are a clear opportunity for auditors to review their approach and provide further value. They also afford organisations the opportunity to obtain frequent information and reports in relation to their audit to ensure all audit requirements are met and required changes are implemented throughout the year.

The Lawler Partners Audit and Assurance team has responded to the changes in the following ways :

- Reviewing audit visitation schedules and introducing periodic checks to enable auditors to focus on value-add issues, such as reviewing internal control and systems and making recommendations for improvement. This increased transparency of the audit process, means that our auditors are already aware of the key issues and can plan a realistic timeline for delivery with the client with no surprises arising at the end of the year.
- Reviewing Information Technology (IT) and reporting systems and investing in upgrading software and other technology.
- Improving the quality of board and management reports to include more regular feedback and recommendations.
- Delivering audit services more cost effectively than our competitors by the development of a niche that includes small to medium ASX listed companies, and subsidiaries of significant multinational corporations.

For more information on how Lawler Partners can assist you regarding the recent audit changes and our approach contact Audit Partner, Clayton Hickey, on 02 4962 2688.



People are the key to unlock business success



NBG Directors – Ranjit Thambyrajah, Bryan Gulliver, Rod Lange, Bob Collins and Greg Sterland

In this edition, LawlerLink speaks with CEO of National Brokers Group (NBG) Graham Bennett. NBG is a mortgage aggregator who provides services, products and facilities to independent loan writers.

Established in 1995 in the Hunter Valley, the company provides independent mortgage brokers with the tools, continuing professional development and sales support needed to build a successful business.

With headquarters in Hamilton NSW, the NBG broker support system includes twenty seven staff that help implement the custom built services business partnership model for the company. This includes finance industry compliance requirements, product & application knowledge and customer advocacy.

In addition, they offer targeted services and resources to assist their members, combined with access to experienced in-house commercial lending managers, and a national training manager whose role is to improve and broaden professional skills and technical knowledge. This level of support and care helps to ensure that a full service proposition is provided to clients at the retail end of the loan process.

NBG CEO Graham Bennett explains, "We seek to achieve excellence through encouraging effective communication. Our focus is on the personal and continuing professional development needs of our staff and members so we are prepared for current and future changes in the financial services and mortgage broking industry."

It is this people philosophy that has resulted in NBG taking out the 2007 Mortgage and Finance Association of Australia's prestigious award for Wholesale Aggregator of the Year, where they were acknowledged for their innovation, support and benefits to members.

A strategic approach to growth over the past twelve years has resulted in NBG being ranked as one of the top five wholesale aggregator's in Australia. A change in name from Finance Analysis Services of Australia to the NBG branding has also been extremely positive and has led to further opportunities. In recent years the group has also acquired two other aggregator groups as part of their plan to continue to grow both organically and through acquisition.

Lawler Partners Director, Simon Rutherford and his team, have worked closely with NBG since they began operations and according to Graham they have added enormous value.

"We have an excellent support infrastructure in Lawler Partners and there is no doubt that it has contributed to the success that we have experienced.

It has been an exciting relationship, and Simon has expertly guided us through the maze of the business planning, strategy and acquisition processes."

Intrinsic to the success of the business has been the NBG Board of Directors who all have significant mortgage and banking backgrounds. This is a distinct point of difference in the marketplace and creates an advantage in understanding what is needed to deliver to members in terms of service and experience.

Graham's passion for the industry shows. He commented, "It's an exciting sector of the finance industry, with an industry acknowledged 40% plus and growing of all home loans processed in Australia via mortgage brokers.

The key components of both choice of lender and product together with a strong service culture provides a very attractive proposition for clients from all walks of life."

The group promotes itself through professional journals and industry magazines, and generates interest through their website and Business Development Managers who operate in each state. A comprehensive member's log-in area on the company website also provides an economic and efficient way of communicating. Here members can access detailed templates and documents to assist with lending, legal and compliance matters, marketing support and member news and events.

For further information visit www.nationalbrokersgroup.com.au

HAPPENINGS @ LAWLER PARTNERS

Our Community



Male winners – Peter Cochrane (1st) ; Raymond Wareham (2nd) & John Siede (3rd)



Female winner - Kirsten Molloy and Terry Lawler



Sam Martin – NUSport; Dianne Fitzgibbon; Noleen Arnold



Joel Fitzgibbon – Member for Cessnock; Mark Arnold - Lawler Financial Services



Luke Bennett – MAP Marketing; Kristy Nunn – Mullane & Lindsay

Hunter Valley Winery Running Festival

Over 900 entrants competed in this year's Lawler Partners Hunter Valley Winery Running Festival on 22 July, including 30 overseas competitors from Austria, England, Switzerland, Hong Kong, New Zealand, South Africa and the USA.

Peter Cochrane was named the overall marathon winner with Kirsten Molloy taking the title for the female winner.

The weather while looking threatening on the day, was very kind to us and made for some challenging running conditions.

Thankyou to all our clients and colleagues who joined us for the day and we look forward to seeing you all there again next year.

Our Community

Our Community



Queen's Birthday Weekend, June 2007

A significant part of NSW was declared a natural disaster after the worst floods in thirty years caused extensive flooding, damage and loss of life in the Hunter Region and Central Coast.

The photos above show the extent of the flooding in Newcastle and the coal ship the Pasha Bulker, that ran aground on Nobbys Beach.



Division 7A Loans and Recent Changes

Division 7A most commonly applies where owners of private companies access cash or other assets owned by their private companies in an 'untaxed' manner.

For example, one of the most common forms of access is by way of a "shareholders loan" where cash is taken from the company as a 'loan' and used for private purposes. Prior to the introduction of Division 7A, access to surplus cash held by private companies was often able to be achieved without any immediate tax liability for the shareholder.

However, following the introduction of Division 7A on 4 December 1997, access to cash and other assets held by the company in an 'untaxed' manner became much more difficult. In summary, the originally enacted provisions had the following essential features:

- Automatic application;
- Deeming of amounts as 'unfranked dividends';
- Requirement for written loan agreements to be in place before loans were drawn to avoid a deemed dividend arising;
- Maximum loan periods, of either 7 or 25 years;
- Minimum required annual interest rates and principal repayments;
- Potential application of FBT as well as Division 7A; and
- A debit to the company franking account.

However, over the last few years (and especially with the release of recent legislation following the May 2007 budget) the penal impact of Division 7A has been softened.

Whilst the same maximum loan period, minimum annual interest rate and principal repayment rules still apply as under the originally enacted provisions, the following is an overview of some of the recently enacted and proposed concessional changes:

- Loan agreements can now be put in place before the earlier of the due dates and actual lodgment of the income tax return for the company for the year in which a loan is made. This is a change from previously having to have the agreement in place before the loan was made.
- Current year loans can be repaid up to the earlier of the due dates and actual lodgment of the income tax return for the company for the year in which a loan is made, without a Division 7A loan arising. Previously any loans that remained outstanding at year end became subject to Division 7A at that time.
- There is no longer an automatic debiting of the company franking account for any deemed dividend that may arise under the provisions. Previously once an unfranked dividend was deemed to have arisen, the company also became subject to a penalty debit to their franking account.
- There can no longer be a potential for FBT and Division 7A to apply to the same loan amount. Previously loans made to shareholders who were also employees could have been subject to both Division 7A and FBT.
- A 7 year loan can now be converted to a 25 year loan. Previously it was unclear whether the provisions effectively allowed an excluded loan on a 7 year term to be refinanced to a 25 year term.
- Payments can now be recognised as loans and repaid under the excluded loan provisions of Division 7A. Previously 'payments' (as opposed to loans) were immediately caught by Division 7A.

- If the required minimum annual repayment is short, then only the short payment (and not the whole loan balance that remains outstanding) will risk being treated as a deemed dividend. Previously any shortfall in making a minimum loan repayment triggered a deemed dividend for the remaining loan balance.
- It may now also be possible to request that any such deemed dividend will be a franked dividend. This effectively allows a company to rectify a breach of Division 7A by making a bona fide frankable dividend rather than having a 'deemed dividend' apply.
- The ATO now has a discretion to not apply the provisions in certain circumstances (basically where there was an 'honest mistake or inadvertent omission'), which is backdated to 1 July 2001.

As a further concession, the ATO recently announced a one-off opportunity to correct any past mistakes with payments and loans that could have resulted in the application of Division 7A before 30 June 2008 provided certain criteria are met. Where this is the case, the ATO has advised that the relevant taxpayers need not be concerned about further enquiries and no formal notification is required to be made to the ATO.

Following this one-off correction opportunity, the ATO have signaled that they will resume audit work in relation to compliance with Division 7A from 1 July 2008.

Therefore, the time to review any concerns with Division 7A is now. The rules have been relaxed in comparison to what they were and any past mistakes may be able to be corrected by 30 June 2008 without fear of any full scale ATO enquiry. This may also include reviewing any prior year returns where deemed dividends have arisen and having these amended.

Should you have any questions regarding Division 7A, or would like further information on the recent changes and the one off opportunity to correct past mistakes, please do not hesitate to contact Darren Shone on 02 4962 2688.

Superannuation Now – Income Stream Planning Strategies



The proposed superannuation changes that were the subject of many a baby boomer BBQ are now with us, and those over age 60 and in pension phase, find themselves in a very unlikely tax haven – Australia!

During the past 12 months we have been able to assure many clients that it is not too good to be true, with millions of dollars of their wealth transferred into superannuation in the lead up to 30 June 2007.

Now that the funds are in superannuation, the next logical question is whether there is anything else that can be done to make superannuation even more beneficial for them.

On face value it would appear not, after all how can it get any better than zero tax?

The short answer is that it cannot get any better for those over age 60, but it can get materially better for their children.

In the press much was made of the potential for superannuation to become a form of death duty due to as much as 16.5% being lost in tax upon payment of a superannuation death benefit paid to adult children.

It is on this front that taxation savings can be achieved via careful planning.

Some of the more fanciful strategies published in the media include keeping a signed withdrawal form in the drawer or a signed cheque on hand such that a death benefit can be paid to the parent at zero taxation in preference to being paid to the adult children.

We obviously don't support this form of strategy, but nevertheless there are more ethical and prudent strategies available that can substantially reduce the back end tax burden imposed when a superannuation death benefit may ultimately be paid to adult children.

The careful structuring of pensions and future contributions to the fund, together with structured withdrawal and recontribution strategies, are the tools to achieving this outcome.

As an example, consider Reginald Johns who is 61 and has \$800,000 in superannuation as follows:

\$600,000 contributions from employer plus earnings

\$200,000 undeducted contributions

Reginald is divorced and would like to benefit his two children with his superannuation entitlements, but is concerned that they may pay \$100,000 or more in tax upon his passing.

Following advice from his adviser, he segregates his balance into two separate income streams and performs a series of withdrawals and recontributions prior to age 65.

As a result, by age 65 Reginald has transformed his entire balance to the 'Tax Free' Component and included this balance in a superannuation pension. Therefore, any amount paid to his children from superannuation will ultimately be tax free.

If you would like more information in relation to these strategies, please do not hesitate to contact Damien Passmore, our Superannuation Associate on 02 4928 7000 or via dpassmore@lawlerpartners.com.au

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Tax Calendar

21 September 2007

- Monthly activity statement for August 2007.

30 September 2007

- PAYG withholding payment summary annual report for payer who has agent involvement in preparing the report. (If payer has only closely held payees they may be eligible for a concession to lodge this report by the due date of their income tax return).

21 October 2007

- Annual PAYG instalment notice.
- Quarterly PAYG instalment activity statement - head companies of consolidated groups - quarter 1, 2007-08.
- Monthly activity statement for September 2007.

28 October 2007

- Quarterly instalment notice - form R, S or T - for quarter 1, 2007-08 - lodgment only required if varying the instalment amount.
- Superannuation guarantee contributions, for quarter 1, 2007-08 - contributions to be made to the fund by this date.

31 October 2007

- Income tax return for all entities where one or more prior year income tax returns were outstanding as at 30 June 2007. (If all outstanding prior year returns have been lodged by this date, the 2007 return will be due as in the normal program).
- Income tax return for all entities prosecuted for non-lodgment in 2006-07 and advised of a lodgment due date of 31 October 2007.

- Annual investment income report.
- Departing Australia superannuation payments annual report.
- Franking account return where the return is a disclosure-only return (no amount payable), and where the taxpayer is a June balancer.
- PAYG withholding annual report (no ABN withholding).
- PAYG withholding annual report (interest, dividend and royalty payments paid to non-residents).
- PAYG withholding annual report (payment to foreign residents).
- APRA annual return and audit report - lodgment with APRA.
- Lost members report for the period 1 January 2007 to 30 June 2007.

11 November 2007

- Quarterly activity statement, quarter 1, 2007-08 - paper or ECI lodgment.

21 November 2007

- Monthly activity statement for October 2007.

25 November 2007

- Quarterly activity statement, quarter 1, 2007-08 - secure electronic lodgment (ELS or the Tax Agent Portal).

28 November 2007

- Superannuation guarantee charge (SGC) statement - quarterly for quarter 1, 2007-08 (if required contributions were not made by the due date).



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