

LawlerLink

A QUARTERLY PUBLICATION OUTLINING RELEVANT BUSINESS ISSUES FOR YOU

Issue 7

p 2

SUPERANNUATION
Commencing Super
Pensions Before
Retirement.

p 3

CLIENT PROFILE
Newcastle Stock
Exchange.

p 4

**HAPPENINGS @
LAWLER PARTNERS**

p 5

PICTURE GALLERY
End of Financial
Year Ball.

p 6

BUSINESS SERVICES
Financial and
Accounting
Outsourcing.

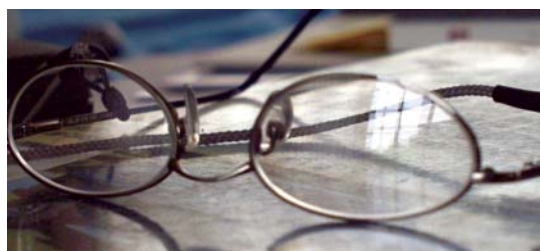
p 7

**HUMAN RESOURCES
MANAGEMENT**
Employee Share
Ownership Plans.

p 8

TAX CALENDAR
ABBIE'S DAY WITH
THE PREMIER.

Compliance with the Law *is Back* on the ATO Agenda



In a recent media release circulated by Michael Carmody (Commissioner of Taxation), the ATO continue to affirm their position that the honeymoon period for taxpayers following the recent tax reform period has ended.

The ATO have acknowledged on previous occasions that there has been a notable absence from their compliance activities in recent times whilst taxpayers and advisors alike became accustomed to the new rules. However as GST moves into its 6th year of operation, the ATO are now moving their focus away from 'educating' clients into ensuring they are complying with their tax obligations.

To coincide with the increase in compliance activity, the ATO have published their 2005/6 Compliance Program.

This booklet seeks to identify the key areas of focus for the ATO for the coming 12 month period. The recent issue of this publication comes as a follow-on from the presentation given earlier this year by Mark Konza, ATO Deputy Commissioner for Small Business, where a number of key areas for small business were outlined as being under investigation. *For example:*

- record keeping;
- analysing compliance risks through information included in tax returns, business activity statements and other information obtained through third parties;
- comparison of information obtained against industry averages;
- the use of tax havens; and
- issues concerning superannuation, the use of service trusts, non commercial loans and Small Business CGT Concessions.

As outlined in the Compliance Program, other areas of interest include (but not limited to):

- habitually late lodgers;
- declaration of capital gains; and
- rental income and expenses.

The effects of this move towards compliance is already evident, with some clients having already been identified as potential concerns with respect to certain areas such as claims made for Work Related deductions. The ATO are taking a direct approach in reviewing these areas by alerting applicable taxpayers to the fact that their affairs fall outside of the accepted ATO 'norms' and may lead to further scrutiny.

Other instances of increasing compliance by the ATO can be seen through the taxpayer surveys being received regarding things such as GST and the Disposal of Assets. Recent publications such as the Service Arrangements booklet detailing acceptable practices for service trusts further reiterates the need for clients to ensure their affairs are in order.

As you lodge returns under a "self-assessment" system, any ATO audit adjustments can result in significant penalties and interest. However these can usually be mitigated by identifying any potential issues before the ATO does.

The ATO will look to generate maximum revenue from these activities, therefore the need to have expert advice with any audit is critical. Accordingly it may be prudent to undertake a thorough review of your tax affairs before your turn for an ATO review arrives.

For further information contact:
Taxation Director - Ian Rodrigues at
irodrigues@lawlerpartners.com.au
or phone 02 4935 6114

COMMENCING

BEFORE RETIREMENT

DAMIEN PASSMORE

The intergenerational report of 2002 and a follow on report prepared by Access Economics* in 2004 have highlighted the threat posed by both the ageing population and declining birth rates. The estimates of Access Economics suggest that, as a nation, our standard of living could decrease by as much as 25% in the absence of significant counter measures.

The three primary countermeasures identified by both the Government and other relevant parties are:

1. Superannuation (increase in national savings).
2. Longer workforce participation.
3. Increased productivity and efficiency in the workplace.

The desirability of longer workforce participation was the catalyst behind John Howard's 'Golden Oldies' speech.

The most recent carrot dangled to encourage longer workforce participation enables retirees to access otherwise inaccessible superannuation benefits in the form of a pension.

It is important to note that safeguards have been built into the legislation to ensure that access can only be in the form of an income stream not a lump sum.

The intention of the government in introducing this legislation was to prevent retirement from the workforce, purely to enable an individual to access their superannuation benefits. The requirement that an individual must be age 55 and retired from the workforce to access 'preserved' superannuation benefits was providing an unintended incentive to those between age 55 and 65 to leave employment.

The legislation is therefore aimed at those who are interested in winding back (not ceasing) their employment activities but that are concerned about the lifestyle implications the reduction in remuneration may have.

Closer consideration of this measure however reveals that there are possible tax benefits available to those between the ages of 55 and 70 who have no intention of scaling back their employment activities in the near future.

A tax effective strategy for individuals in this age bracket may be to commence a pension to support their

Superannuation PENSIONS

current income requirements while simultaneously salary sacrificing some or all of their employment salary into superannuation.

The financial effect of this strategy can best be demonstrated by the following example. An individual who receives a gross salary of \$70,000 per annum will pay tax of \$18,750 on that salary and will therefore receive a net salary of \$51,250 per annum (based on 2006 tax rates).

Assuming alternatively that the same individual commenced a pension of \$56,500 per annum, they would receive the same net payment of \$51,250 per annum. They could then salary sacrifice their entire \$70,000 salary into superannuation.

There would be tax on contributions of \$10,500 on the salary sacrifice contribution but nevertheless the individual would generate an upfront annual tax saving from this strategy of \$3,000 per year.

Much has been made of this strategy by some planners in the market place, however their analysis ordinarily fails to consider both the tax on the salary sacrifice contributions and any likely tax on exit when the benefits are ultimately withdrawn from superannuation.

Our assessment is that there are potential opportunities for some clients to save tax and accordingly increase their retirement benefits.

However, an analysis of the merits of the strategy will need to be conducted on a case by case basis. As there is a cost to establishing and ceasing pensions, it will be necessary to ensure that the benefits (after taking into account all relevant taxes) exceed the costs.

In summary, it is very encouraging to see the government taking pro-active action to encourage longer workforce participation. It is also pleasing to see that some Australians may also obtain an additional taxation benefit by commencing a superannuation pension to fund their living needs and then salary sacrificing their employment salary into superannuation.

**Access Economics provides consultancy services covering economic policy, economic forecasting and commentary, and services to superannuation fund managers.*

Damien Passmore leads the Lawler Partners Superannuation team and can be contacted for further information via dpassmore@lawlerpartners.com.au or phone 02 4935 6157

Newcastle **STOCK**



Scott Evans, General Manager of the Stock Exchange of Newcastle (NSX) talks to LawlerLink about the benefits of listing on the Exchange for growing businesses.

The Stock Exchange of Newcastle Limited (NSX) is unique in Australian Financial Markets.

Founded in 1937, incorporated in 1972 and reactivated as the NSX in 2000, it is today Australia's second official stock exchange approved under the Corporations Act in Australia.

NSX Limited is listed on the Australian Stock Exchange (ASX) and operates two stock exchanges focused on providing markets for small to medium enterprises. Each market has their own characteristics which suit different styles of organisations.

According to Mr Evans no other Australian stock exchange can boast such a strong business environment capable of raising capital for small to medium companies.

"If you are a growing business wanting to raise capital in a certain regulatory environment with a co-operative listing process, the NSX is an ideal choice. We offer a streamlined range of services, supported by expert staff, which makes listing easier and more cost effective."

The products offered by the NSX include the NSX Corporate Exchange which is a Stock Exchange set up and managed specifically to cater for the listing of SME's.

"With electronic trading and clearing and access to an experienced broker and adviser network, we have created an environment capable of achieving the outcomes required for fast growing companies", says Mr Evans.

The NSX also provides an efficient and effective listing platform on developing markets for an alternative range of products, such as community based organisations and other products requiring a trading environment. This stock exchange is known as the NSX Alternative Exchange.



CHOICE, SUCCESS AND RESULTS

"Our focus is on listing small to medium enterprises, as there is a great need for growth companies to have a capital market where they can raise further capital and provide a mechanism for the transferability of their shares." explains Mr Evans.

The NSX has quickly established itself as the premier market for SME's and prominent regional businesses, and in the last 12 months has doubled its listings. The NSX currently has 39 entities and their various securities listed. Earlier this year the NSX took over the Bendigo Stock Exchange who has 33 listed entities.

There is currently a diverse range of companies who are listed with the NSX. These include retail and small service companies with household names such as Brumby's Bakery, Betta Electrical, Capilano Honey and Bendigo Country Bank.

In broad terms, for a company to have its securities listed for quotation on the NSX, it has to meet the following general criteria:

- Minimum of 50 shareholders (\$2000 held);
- Minimum market capitalisation of \$500,000;
- At least 25% of the issued shares in the hands of the public (i.e. interests not associated with the directors),
- Two-year adequate track record (or your IPO is underwritten by an approved underwriter)
- Appointment of a Sponsoring Participant & Nominated Adviser.

"For the past three years, Lawler Partners have played the role of auditors and tax advisers for the NSX. During this time they ensured that our accounts and internal processes were of a certain standard that made us comfortable to go ahead and list the NSX on the Australian Stock Exchange." Says Mr Evans

For further information visit
www.newsx.com.au

Happenings

Lawler Partners

In Memoriam

- Our thoughts are with the family of long standing client Tony Sinclair who passed away in early August after a long battle with cancer.

Tony was never self regarding or self pitying and we will remember him for his contagious sense of humour, generous nature, courage and decisiveness.

Twenty Year Milestone

This year marks the twenty year anniversary of two of the firm's most respected and experienced staff members, Director Simon Rutherford and Internal Accountant, Betty Anderson.

- Simon Rutherford began his career with Lawler Partners as a trainee fresh from Year 12 and was made a Director of the firm in 1994. He was responsible for the growth and management of our Maitland Office which had a team of 17 prior to its integration into the Newcastle operation in 2001. Simon is currently the Division Head of our corporate business services team and specialises in Estate and Succession Planning and Property Development consulting.

Simon also sits on the boards for several clients as a paid non-executive director while for others he is active as an independent member of their management team.



Simon Rutherford and Betty Anderson

- Betty Anderson is the longest serving member of the Lawler Partners staff and began working at the firm in 1985. Her original position was as a Filing Clerk in the firms' King Street Newcastle office when there were only three Partners.

Betty has worked in a number of positions within the Finance and Administration team and her current role is as the firm's internal accountant. Both her knowledge and commitment are highly regarded by staff and clients of the Newcastle and Sydney office.

We wish to warmly congratulate both Simon and Betty on their significant contribution to the firm during the past twenty years.

Appointments Enhance Business Reconstruction Capability

The Business Recovery and Insolvency team welcomes the addition of reconstruction specialists Clive Chambers and Peter Grealish.

- Clive Chambers has been appointed to develop and manage the team's relationships with the accounting and legal profession and his expertise is in the areas of corporate and personal insolvency administrations and solutions involving external administration and management.



Prior to entering the business recovery profession, Clive spent twenty years in commercial financing and was a state manager in a division of a major trading bank.

Clive is also a qualified trainer and has conducted numerous seminars and educational sessions for industry bodies, professional associations and firms of accountants and lawyers.

- The appointment of Registered Liquidator Peter Grealish further adds to the current broad range of insolvency administrations undertaken by Lawler Partners, including Receiverships, Agent for Mortgagee in Possession Sales, Voluntary Administrations and Liquidations.

Picture Gallery



Peter brings twelve years experience in the reconstruction sector, and prior to joining Lawler Partners was a reconstruction specialist in large accounting firms and a Sydney based boutique insolvency practice.

Peter's specialty is in the property and construction industry and ensuring that recovery prospects for all stakeholders are maximised.

More specifically, Peter has acted for banks and financial institutions in completing distressed building projects and selling projects at various stages of completion. His expertise also includes acting in property realisations involving disputes between beneficiaries or joint venture ownership disputes.

Pictured at the Lawler Partners 1920's themed End of Financial Year Ball were:



Samantha Budden and Steve Pumbah



Jacquie and Shane Mackley



Leisa and Simon Rutherford



Betty and George Anderson



Michelle McGlashan and Michael Randall



From Left: Trudy Masters, Alison Sinderberry, Tina Nicolas

FINANCIAL OUTSOURCING

AND Accounting

Accounting and financial outsourcing provides significant operational and management advantages including greater cost effectiveness and enhanced risk management.

The structure of a business's finance function is usually determined by the size of the business, cash flow constraints and the focus of the business's management.

In the early stages of growing a business, managers and entrepreneurs need to focus on managing cash flow, building relationships and establishing revenue. Accordingly, a very simplistic and in some cases a part time accounting function is adopted.

As revenue grows and the business reaches a certain level of profitability, the analysis of financial information and the implementation of compliance controls is imperative to a successful operation. It is at this point that many businesses require someone to specifically control the finance function of the business.

Given the difficulty and cost of employing someone of this level and the ever evolving compliance laws, Lawler Partners has been able to add significant value to its clients by undertaking this role for them. We ensure an intricate knowledge of the requirements for an efficient accounting function and can offer a cost effective alternative to businesses facing the employment conundrum.

In businesses where the Financial Controller function exists, there may be a tendency to include in the role certain duties that would normally be considered ineffective to outsource based on cost consideration alone. However, after close examination of processes we often find that inefficiencies are common. Business can resolve these inefficiencies to ensure that all functions within the organisation are being carried out by the appropriate person and cost efficiency is achieved.

Some examples of tasks that Financial Controllers often find themselves involved in to get the job done, which result in the inefficient allocation of resources include:

- Attending to data entry
- Chasing debtors
- Responding to creditors
- Payroll
- IT maintenance
- Human Resource Requirements

Given the cost of employing accountants with extended experience it is imperative that their skills are utilised and not wasted on non value add tasks.

Taking the time to employ the right people at the right stage of your business's progression will result in superior and more cost effective results.

It is a common problem for business owners and managers to over estimate the level of employee that is required in anticipation of future growth. This can result in inefficiencies which often stifle the growth rates that would have otherwise been allowed.

LAWLER PARTNERS CAN ASSIST WITH:

- Preparation of month and year end management accounts.
- Preparation of full operating budgets, including budgeted statement of financial performance, statement of financial position, cash flow and funds flow.
- Assurance that all compliance requirements are met, including Business Activity Statement reporting, Fringe Benefits Tax reporting, Income Tax reporting, State Tax compliance (Payroll Tax and Stamp Duty), Financial reporting requirements including compliance with all relevant accounting standards.
- Attendance at monthly management meetings and/or board meetings.
- Corporate governance guidance.
- Assurance that both internal and external reporting timetables are met.
- Ensuring appropriate and cost effective financing options for working capital and business expansion through industry contacts.

Outsourcing your financial reporting and accounting responsibilities adds value far beyond cost savings. Our clients also have access to the firm's other business advisory specialists who can provide them with services which give them a distinct competitive advantage.

For further information contact:
 Glenn Harris in our Sydney office via
gharris@lawlerpartners.com
 or phone 02 8346 6000
 Steve Meyn in our Newcastle office via
smeyn@lawlerpartners.com.au
 or phone 02 4935 6199

Employee Share OWNERSHIP PLANS



IS AN EMPLOYEE SHARE OWNERSHIP PLAN APPROPRIATE FOR YOUR BUSINESS?

KYLEE DARE

This is the first in a series of articles brought to you by the Lawler Partners Business Services Team which will tackle topical issues regarding Human Resources Management.

Employee Share Ownership Plan (ESOP) is a generic term used to describe a range of employee equity participation arrangements commonly used in Australia.

Employee Share Ownership Plans are used to encourage employees to invest in the business they work in and to more closely align employees performance with company financial and business objectives. Equity participation plans can take the form of shares or options to acquire shares at a point in time in the future.

The benefits to employers of establishing and maintaining an ESOP may include retention of key staff, motivation to improve business performance, encouragement of a closer affinity between the business and its employees and a clear alignment of interests between shareholders and employees.

To decide whether an ESOP is appropriate for your business, a business needs to consider its remuneration strategy.

An ESOP is a long term remuneration strategy. If your business is trying to achieve a result in a relatively short period of time, a short term strategy may be more appropriate. A short term strategy could include annual bonuses linked to business unit performance. ESOP's and short term strategies do not need to be exclusive.

ESOP DESIGN

ESOP design is critical to the success of any plan. The key design questions that need to be answered include;

- Who should participate in the plan?
- How many shares/options should each participant receive?
- What performance or vesting restrictions should be imposed, if any?

- How often will offers be made?
- How should the plan be designed to achieve anticipated taxation implications or avoid unintended taxation consequences for the employer or employee?

Lawler Partners can assist you to work through your design options and decide on the most appropriate ESOP for your business.

There are legal, tax and other regulatory issues to consider when implementing an ESOP. Lawler Partners along with their business partners have the skills and the precedents to assist you in this area.

What are the steps in establishing an effective ESOP?

1. Remuneration strategy and ESOP design.

2. Plan documentation.

3. Approval and compliance - referable to taxation, Corporations Act and Stock Exchange rules (if applicable).

4. Communication to participants and implementation.

5. Ongoing plan management and administration.

The Australian Government has released a “getting started” pack. This pack is a starting point and depending on plan design can assist in implementing your ESOP. Professional advice however is critical to ensure the success of your plan.

Kylee Dare is a Director of Lawler Partners and can be contacted for further information regarding Employee Share Plans via kdare@lawlerpartners.com.au or phone 02 4935 6104

Tax Calendar

September 2005

- 21 Due date for lodgement and payment of August 2005 monthly BAS and IAS.

October 2005

- 21 Due date for lodgement and payment of September 2005 monthly BAS and IAS.
- 21 Due date for lodgement and payment or variation of Annual PAYG Instalment Notice for the 2004-2005 Income Year.
- 28 Due date for lodgement and payment of September 2005 quarterly BAS and IAS.
- 28 Last day for payment of September 2005 quarter employee superannuation

November 2005

- 21 Due date for lodgement and payment of October 2005 monthly BAS and IAS.
- contributions to avoid liability for the Super Guarantee Charge
- 31 Due date for the lodgement of company and superannuation fund returns with two or more returns outstanding.
- 31 Due date for lodgement of self prepared individual, partnership and trust tax returns. Extensions apply to these returns if lodged by tax agents.

ABBIE'S DAY With The Premier

Lawler Partners Maintenance and Operations Assistant, Michael Bellears and his family, were delighted when they received news that five year old daughter Abbie, who has bilateral perisylvian atrophy, would receive a \$12,000 special computer device from a recent \$ 330,000 government grant. The grant was provided to the Spastic Centre of NSW from the State Government.

Abbie's condition is a throat and muscle disorder which prevents her from speaking and she has been attending The Spastic Centre, Valentine for therapy since she was nine months of age. Normally it would take 12-18 months of fundraising to gather funds to purchase this type of device, which would have meant that Abbie would not have had it in time to start Kindergarten next year at mainstream school, Wallsend South Public, in Newcastle. This device, called The Vantage Plus will now enable her to communicate with both her peers and teachers.



Michael, Abbie and Naomi Bellears

On the 8th August the family travelled to Ryde Spastic Centre for an official presentation from NSW Premier Morris Iemma.

Both Michael and wife Naomi are thrilled, "Having the device now means Abbie will have six months of learning how to use it so she will be ready for kindergarten next year," says Naomi.

According to proud dad Michael "It means the world to us that Abbie will be able to interact and communicate with her friends. The most important thing for us as parents is for our daughter to be happy and this device will enable that."

CONTACTS

AUDIT

Jeff Abela
T 02 8346 6064

BUSINESS RECOVERY & INSOLVENCY

Sydney: Rob Whitton
T 02 8346 6000
Newcastle: Paul Gidley
T 02 4935 6184

BUSINESS SERVICES

Sydney: Glenn Harris
T 02 8346 6000
Newcastle: Simon Rutherford
T 02 4935 6109

HOSPITALITY & GAMING

Todd Peate
T 02 4928 7009

CORPORATE ADVISORY

Simon Rutherford & Terry Lawler
T 02 4935 6109 T 02 4935 6115

EQUIPMENT FINANCE, INSURANCE PREMIUM FUNDING & MORTGAGE BROKING

Brett Derwin
T 02 4927 5799

FINANCIAL PLANNING & INVESTMENT ADVICE

Mark Arnold
T 02 4928 7000

FIRM & STRATEGY MATTERS

Terry Lawler
T 02 4935 6115

FORENSIC ACCOUNTING & LITIGATION SUPPORT

Ray Tolcher
T 02 4935 6112

INFORMATION TECHNOLOGY

Steve Meyn
T 02 4935 6199

MANAGEMENT CONSULTING - GOVERNMENT

Keith Rogers
T 02 4969 6610

SUPERANNUATION

Damien Passmore
T 02 4935 6157

SMALL BUSINESS

Peter Coughlan
T 02 4935 6113

TAXATION

Ian Rodrigues
T 02 4935 6114

SYDNEY

Level 7, 1 Margaret Street
Sydney NSW 2000 Australia
PO Box 5446 Sydney 2001
T 02 8346 6000 F 02 8346 6099
E info@lawlerpartners.com

NEWCASTLE

763 Hunter Street
Newcastle West NSW 2302 Australia
PO BOX 2368 Dangar 2309
T 02 4962 2688 F 02 4962 3245 DX 4303
E mail@lawlerpartners.com.au

www.lawlerpartners.com.au



"Liability limited by a scheme approved under Professional Standards Legislation"