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CHARTERED ACCOUNTANTS

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hk update

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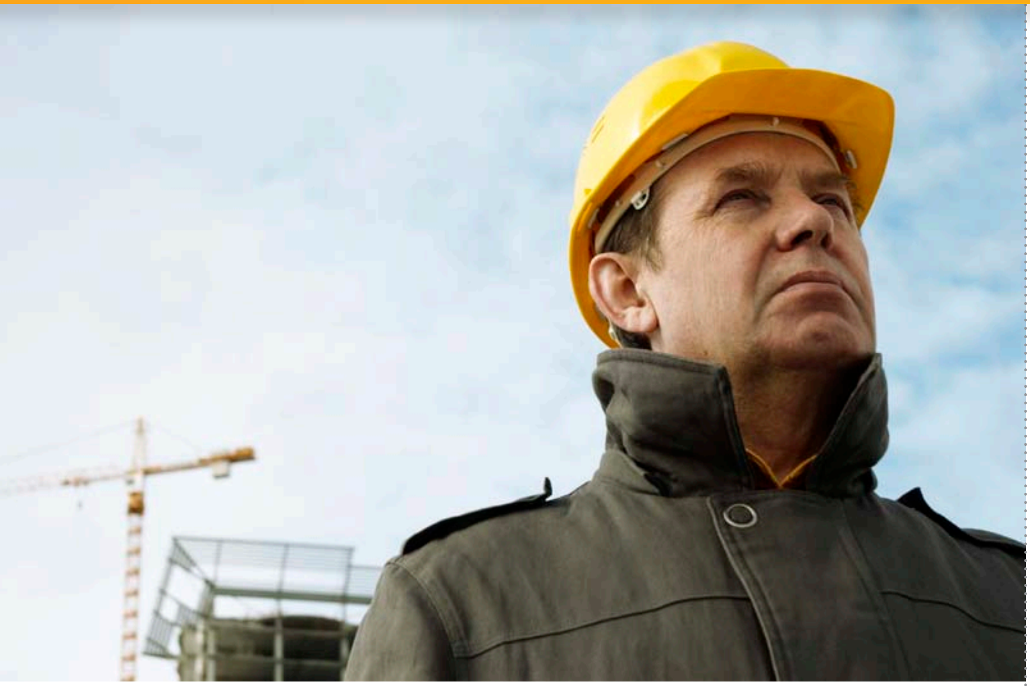

Workcover Qld

From 1 July 2013, the definition of a 'worker' for the purposes of the workers' compensation legislation in Queensland has been narrowed which means that fewer independent contractors will be required to be covered under a principal's (eg employer's) workers' compensation policy. The changes will affect all industries, however the largest impact is likely for contractors in the construction and transport industries who previously were required to be covered.

The new definition of a "worker" now includes:

(a) A person who works under a contract; AND

(b) In relation to that work, is an employee for the purposes of assessment for PAYG withholding under the *Taxation Administration Act 1953* (Cth).

The change means that business owners will only be required to include an individual contractor under their workers' compensation policy if the contractor works under a contract and is an employee for PAYG taxation purposes.

We understand that Workcover Queensland will be using the ATO tools to determine who is a worker for worker's compensation purposes. The main tool which is available on the ATO website is the "Employee/Contractor Decision Tool" which can be located at:

http://www.ato.gov.au/Calculators-and-tools/Employee-or-contractor/

Workcover Queensland encourages employers to use the tool and then print and keep a copy of the ATO determination on file for future reference. This tool will be a very good indication as to whether or not the individual contractor needs to be covered for Workcover in Queensland.

New Government – the Coalition's Tax Plans

With a new government there are bound to be changes to tax legislation. Some of the coalition's stated policies which may come into effect are:

- Reduce the company tax rate from 30% to 28.5% from 1 July 2015
- Impose a 1.5% paid parental leave levy on companies with taxable income exceeding $5 million
- Scrap the immediate depreciation claim for small businesses purchasing assets with a cost of $6,500 or less (will revert to immediate claims for assets costing $1,000 or less)
- Scrap the upfront $5,000 depreciation claim on purchase of vehicles
- Scrap the loss carry-back rules under which a company that makes a loss can claim back tax it has paid from prior years when it made a profit
- No change to the FBT rules on vehicles (Labor had proposed to abolish the 'statutory formula' method)
- No change to self-education expenses (Labor had proposed to limit annual deductions to $2,000)
- Defer by two years the increase in compulsory employer superannuation (so will remain at 9.25% until 1 July 2015)
- Abolish the carbon and mining taxes

Some of the changes will have favourable tax consequences and some negative for businesses and superannuation funds. As so many rules have changed over the last few years, we recommend discussing major business decisions with our team before entering into transactions in order to ensure the tax consequences are understood.

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Contractor or Employee?

This is the question which is plaguing businesses across Australia and if they get the question wrong, it could lead to significant costs that could be fatal to the business.

Generally an employee is someone who is employed by a business to provide their labour and an independent contractor is a person who contracts to others to provide services and to achieve a particular result or complete a particular project.

If a business engages a person who they believe is a contractor (because they have an ABN and provide Tax Invoices) but turns out to be an employee under the below guidelines, the business could be liable for;

- Back-pay due to minimum pay rates, working conditions & leave entitlements
- Superannuation entitlements
- Unfair dismissal

Unfortunately, there is no black and white definition of employee or independent contractor. Instead, the courts have provided the following main factors to consider:

- **CONTROL TEST:**
  A person is an employee if they are subject to the employer's commands such as hours, place of work and how the work is to be performed.
- **RISK TEST:**
  The more commercial risk assumed by the person, the more likely that person is an independent contractor. Generally, independent contractors are liable for any injury or defect arising from the work.
- **DELEGATION TEST:**
  Contractors who are prevented from delegating their work to others are more likely to be an employee.
- **CONTRACTS FOR TASKS VERSUS CONTRACTS FOR LABOUR:**
  Independent Contractors complete a specified task, whilst employees are more likely to be engaged on an ongoing basis even if it's a fixed term.

If you are unsure whether your contractor is actually an independent contractor, we recommend you use the ATO's Employee/Contractor Decision Tool at http://www.ato.gov.au/Calculators-and-tools/Employee-or-contractor/ or contact our office.

hk comment:

To provide the best protection against Contractors being classified as Employees, we recommend Contractors operate via a Company, Trust or Partnership and the Contracting Agreement does not specify a particular individual to complete the Task.

2014 Diaries

For the first time in 15 years Hoffman Kelly will not be mailing out diaries to our clients this Christmas due to all the technological replacements. However, we have ordered a few boxes of diaries for all those clients who still use them. If you do want a diary, please contact our office and we'll mail it out.

Director Penalty Notices

In our last newsletter we covered the changes to the Director Penalty Notice regime that were introduced on the 29th June 2012. These changes affect all directors of companies and associates (including spouses) of directors. Due to the seriousness of the changes and the widespread use by the ATO we have summarised the changes.

THE MAIN CHANGES

1. Directors can be made personally liable for not only unpaid PAYG withholding tax (ie tax withheld on employee wages) but now also unpaid employees' superannuation;
2. Directors can no longer remove their personal liability by placing the company into administration where the PAYG or superannuation guarantee remains unpaid and unreported for three (3) months after the due date;
3. In some cases a director and associate (including a spouse) will not be able to claim PAYG credits listed on their PAYG summaries in their personal tax return where the company has failed to remit those amounts withheld;
4. Associates (including spouses) can now be held personally liable for a company's unpaid PAYG and super where the ATO is satisfied that, due to the relationship with the director, the associate knew or could reasonably be expected to have known, that the company failed to pay the amounts to the ATO and also, then having that knowledge, the associate (spouse) did not take reasonable steps to influence the director to cause the company to act or, alternatively actually report the director themselves to a relevant authority (ie ATO, ASIC or the police!).

WHAT TO DO?

1. All outstanding BAS and superannuation guarantee returns MUST be lodged and brought up to date regardless of whether they can be paid or not.
2. It is CRITICAL to ensure that ALL future returns are lodged within three months of the due dates.
3. If the returns are prepared and lodged but not paid then at least the ATO will know of the debt for the company and therefore the ATO must issue a formal Director Penalty Notice BEFORE any personal liability can apply. Therefore, if a company is placed into administration before the Director Penalty Notice expires, personal liability will be avoided.

If you have any concerns about the above or require any further information, please contact our office.

HKS Financial Planning Update

What keeps our clients awake at night? One million? Two million? Five hundred thousand?

The most common question we are asked as Financial Planners is "how much do I need to retire?". Of course there is not one answer that is applicable for every situation, as quite clearly, expectations of what retirement will look like for every individual is different.

The main factors to consider when discussing the amount of capital required to fund a person's retirement are;

- At what age are you hoping to retire?
- How long do you need the income to last?
- What income do you require to fund your lifestyle needs?
- And what are the expected investment returns during the retirement years?

The answers to the questions always have some variation within, however we know that the most common answer to the age of retirement is 65 (In line with the eligibility to the Age Pension) and that there is an expectation that the income is required to last so long as that person is alive. However when it comes to determining the income required, most people have little idea as to what they require, other than to say that they wish to at least maintain their current standard of living.

A common rule of thumb when calculating your desired income is to say that you need at a minimum 65% of your pre retirement income in retirement. That is if your pre retirement income is $100,000, then you probably need at least $65,000 per year in retirement to be able to maintain your current lifestyle.

In March of this year, the 'ASFA Retirement Standard' released the latest findings into what income is required for a modest and comfortable lifestyle. The vast majority of our clients would fall into the category of wanting to achieve at least a comfortable lifestyle, and quite often are hoping for slightly more. However, we too often see clients leaving retirement planning advice too late, resulting in them having no other option than to live what AFSA categorise as a modest lifestyle.

MODEST LIFESTYLE

A modest lifestyle, according to ASFA is considered slightly better than relying solely on the Age Pension, but still only able to afford fairly basic living standards. Living modestly would allow a retiree to have better internet or phone access, maybe a basic level of private health care and possibly a few weekends away in fairly close by areas. ASFA have stated that the income required for a modest lifestyle is $22,641 per year ($435 per week) for singles and $32,603 ($626 per week) for a couple.

COMFORTABLE LIFESTYLE

In order to lead a comfortable lifestyle in retirement, according to AFSAA, an income of $41,169 ($791 per week) for singles and $56,317 ($1,083 per week) for couples is required. ASFA suggest that the comfortable lifestyle includes items such as being able to update the kitchen or bathroom at some stage, some wine, eating out from time to time, being able to entertain family or friends at home, private health insurance at the top rate, purchasing magazines and CDs and the occasional economy overseas or domestic holiday. A retiree with a comfortable lifestyle can enjoy more leisure and recreational activities and have a good standard of living, whilst being far from outlandish.

When we have determined the level of income our clients are seeking, we next turn to the capital required and the expected investment returns our clients should achieve based on their personal level of risk tolerance.

Take as an example a 45 year old couple who have recently sought our advice – Jack and Jill (real names withheld). At our initial meeting, Jack and Jill confessed to having put little thought into their retirement but given their ages thought best to have a checkup to determine their progress. At the meeting Jack and Jill decided that their desired income in retirement was $65,000 after tax. Jack and Jill stated that they do not intend to work beyond 65 and following the completion of our risk tolerance assessment, we were able to determine that Jack and Jill are growth investors.

At first glance, it is very apparent that the clients are short of their retirement goals and we need to make some adjustments to allow Jack and Jill to achieve their retirement goals. We have determined that Jack and Jill require a nest egg of just over $1,000,000 and are on track to having approximately $630,000.

Jack and Jill could lower their income expectations or we could put in place strategies that are designed to help the clients achieve their goals. Fortunately for Jack and Jill, time is on their side and we have since implemented strategic advice that has provided a pathway for them to have the retirement they desire. With continual monitoring and regular financial health checks, Jack and Jill are confident about their future.

There is not one solution that is a perfect fit for every situation, it is a fact that we do not take lightly at HKS Financial Planning; we understand that your situation is unique and needs to be addressed in a manner that is suited to you and your circumstances. We provide help to our clients by offering not only immediate solutions to any problems, but a lifetime of help and advice to ensure you achieve the results you are after. To discuss and plan your retirement goals, contact a member of our staff on 3397 7315.

Our Purpose

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Hoffman Kelly are no ordinary bean counters! We strive to provide world class business advisory services to enable clients to accomplish their goals and maximise their wealth. To achieve these objectives, we focus on 8 key areas; Tax Minimisation, Asset Protection, Succession Planning, Financial Retirement & Superannuation, Growth, Profit, Cashflow and Legacy.

Hoffman Kelly has been a local firm in Coorparoo for around 40 years. Since 1998, when Tony Hoffman and Troy Kelly started to lead the firm, our business has grown over 1000% and our staff have increased from six to 25! As we do not advertise, this growth has been driven entirely by you, our clients and we would like to thank you for your continued support.

Our Firm's greatest strength is our team. We recruit the brightest candidates and spend more on professional development than any of our peers to ensure we're all at the cutting-edge. All our accountants are CA/CPA qualified or on their way to be and our PA's have just completed their Diploma of Management. Our Directors have between 12 and 18 years' experience assisting small to medium size businesses and self-managed super funds and are all accredited SPAA SMSF Specialist Advisors™, and ASIC registered SMSF Auditors.

As we have just added an additional three members to our team, we find ourselves in a desirable position of having excess capacity. If there are any matters which you believe we may assist you with, please don't hesitate to contact us. Furthermore, if you are happy with our service we would appreciate you recommending us to your friends and associates. We provide a free one hour no obligation structure and tax review for client referrals.

Profit Focus: BUSINESS BUDGETING

(Part of HK's 8 Key Areas)

One of your main goals as a business owner will be to make profits. However, it is surprising how many businesses have no system to track or improve profitability. We often hear from clients that they are too busy 'working in the business' to be able to take a step back and 'work on the business'.

Another issue we find that people face is that when they do make time to take a step back and look at their business from a management perspective, they don't know where to start.

As advisors, we have found that breaking the process into a few steps has been manageable and extremely helpful for businesses in this position.

STEP 1 Review past and current figures. Ensure you know what you past and current costs are, the margin / profitability you are earning on your sales, and the number of sales you currently have.

STEP 2 Set budgets for the future. These will often be sales and profitability budgets. For example, if you know your margins and have a desired profit in mind, you will know the level of sales you need to achieve.

STEP 3 Develop and implement strategies to achieve your budgets. Once you understand where the profit in your business comes from and how it is generated, you can take action to ensure you meet your targets.

Hoffman Kelly is able to assist you in this process. We will have the past and current figures in your financial reports and record-keeping software, and can develop budgets with you, by discussing your goals and desires for your business. While every business is different, the process of budgeting and focussing on profits should be explored and will result in improvements in almost every case.

Meet the team

BUSINESS SERVICES – BRISBANE

Director	Anthony Hoffman
Director	Troy Kelly
Director	Greg Roberts
Director	Thomas Aitkenhead
Senior Manager	Michael Kerwin
Senior Manager	Claire Waterhouse
Manager	Michelle Goding
Assistant Manager	Megan Schmidt
Senior Accountant	Hana Gibson
Senior Accountant	Gervais Morton
Accountant	Lauren Sarolis
Accountant	Rhiane Sherriff
Accountant	Matthew Yarrow
Accountant	Vicky Lai
Accountant	Angela Ma
Accountant	Frederik van Kernbeek
Accountant	Angela Breen
Accountant	Yumi Nishino
Office Manager	Lisa Cronin
PA	Megan Cowan
PA	Sarra Best
PA	Emma Hagley
Receptionist	Madeline Hillas
Receptionist	Georgie Best

FINANCIAL PLANNING

Financial Planner	John Spooner
Financial Planner	Kurt Grainger
Financial Planner	Maria White
Para Planner	Suzanna Mitrovic
Office Manager	Sepi Fakhra
Receptionist	Louise Kong

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