

**IN THIS ISSUE:**

- Christmas Gifts
- Top 10 Tax Tips
- Directors personal liability
- OHS overhaul
- PPSA – Get on it
- Coaching

**FEATURE ARTICLE:**

- Are you thriving in Business? Action Business Coaching

# hk update

SUMMER | DECEMBER 2011

## Christmas Gifts... get 40% discount from the Tax Man!

**Gifts to employees are generally considered a 'Fringe Benefit' and subject to 'Fringe Benefits Tax' (FBT) at the top marginal tax rate (46.5%) on the "grossed up" value. Additionally gifts that constitute 'entertainment' to either employees or clients are not tax deductible.**

However assuming the provision of the gift is 'infrequent and irregular' and the value of each gift is under \$300 it is deemed to be a 'minor benefit' and **exempt from FBT**. Further, as long as the gift is not classified as 'entertainment' it will be **tax deductible**.

Restaurant meals, movie tickets, sporting events, flights and holidays are examples of 'entertainment'. However department store gift cards (e.g. Myer / Westfield), hampers, gift packs and alcohol are NOT entertainment.

**EXAMPLE: CHRISTMAS GIFTS**

Employer A provides each of his 10 employees, including himself and his spouse, with a \$500 gift voucher for a weekend retreat at the Hyatt Coolum. These vouchers are (non-exempt) fringe benefits and the employer will pay \$4345 in tax. Therefore, Employer A has given a

total gift of \$5000 to his employees and a \$4345 Gift to the tax man!

Employer B provides each of her 10 staff, including herself and her spouse, with a \$299 Myer Gift Voucher and a \$200 bottle of French champagne. **As these gifts are each under \$300 and are not 'entertainment' they will be FBT exempt and tax free for employer B (and she can claim back the GST!)**

**TIP:** Gifts (non 'entertainment') under \$300 purchased by the company for directors are also be FBT exempt and tax deductible as long as provided, 'irregularly and infrequently'. What constitutes 'irregular and infrequent' is a question of fact, however conservatively, company directors could purchase tax free gifts for themselves (and their spouses) a few times a year (e.g. Christmas / Birthdays/EOFY). ☺



## Receive an **HK Gift Pack** worth \$295

Our website contains a link to an article **Optimal Structuring** which contains an invitation for a free, no obligation\* business structure review. If

this invitation is taken up as a result of a referral from you, an existing HK client, **you** will receive an **HK Gift Pack**<sup>†</sup> valued at \$295.

\*Includes meeting with Troy Kelly or Tony Hoffman including detailed review of existing structure and our recommendations to achieve optimal structure based on specific circumstances (absolutely no cost/no obligation).

†Includes a HK wine cooler bag, 2 bottles of wine and a \$200 Westfield Gift Card (www.westfieldgiftcards.com.au).

## Top 10 Tax Tips

Please refer to our website for a link to our "Top Ten Tax Tips". This document provides 10 suggestions to avoid unnecessary tax 'leaks' resulting in the tax man getting (often considerably) more tax than he is legally entitled to. Briefly...

**1. A discretionary (family) Trust should always be a part of your business structure.**

*A trust provides optimal 'asset protection' and by far the best flexibility and overall tax outcomes.*

**2. Consider restructuring the company shareholding to utilise equity in the business.**

*Potential to utilise inherent business goodwill to pay out your private mortgage (and convert non tax deductible mortgage into tax deductible debt!)*

**3. Always pay off non-tax deductible debt first and don't mix investment and personal debt**

*Tax deductible loans (e.g. for rental properties / shareholdings/ business) should be 'interest only' until the home mortgage and any other private loans are completely paid out.*

**4. Leases, Chattel Mortgages and Hire Purchase Agreement are all different.**

*Generally chattel mortgage (or equipment finance) provides tax and GST relief more quickly. Leasing provides particular benefits including simplicity when salary packaging.*

**5. Ensure you are fully utilising all tax effective beneficiaries on your family trust tax return.**

*Did you know that retired parents who are "self-funded" can absorb over \$30K of taxable business income tax free each year? Likewise dependent children 18 years and over can absorb approximately \$16K tax free each year.*

▶ (page 2)

◀ (page 1)

**6. Ensure you are not caught by the 9% superannuation guarantee for your “contractors”.**

*Ensure that contractors are not in fact employees. Getting this wrong could result in substantial PAYG and Superannuation assessments from the ATO.*

**7. Directors Wages**

*Ensure that wages to directors are at tax effective levels. Additionally wages should never exceed retained profits, monies should be offset against a directors loan account or lent to directors (interest free) where no retained profits.*

**8. Avoid paying Land Tax**

*Properties can be held in separate discretionary trusts to avoid, or greatly reduce, land tax liabilities (i.e. trusts are not ‘grouped’ for land tax assessment purposes).*

**9. Consider ‘Dividend Access’ shares for key employees**

*This is a share which inherently has no value (voting rights or return of capital rights) but which allows very tax effective ‘fully franked’ company dividends to be paid to key employees at the absolute discretion of directors. The employee could hold this share in a discretionary trust.*

**10. Manage your Fringe Benefits Tax (FBT) exposure**

*FBT is applied at the highest marginal tax rate (46.5%). This should be proactively managed and avoided where possible. ©*



## Directors Beware! Watch this space...

**One of the fundamental benefits of a private (Pty Ltd) company is “limited liability”, whereby liability to (unsecured) creditors is limited to the net assets of the company. Private equity of directors, including the family home, should not be exposed.**

Until now if a company becomes insolvent (or receives an ATO ‘Director Penalty Notice’), directors can appoint an ‘Administrator/Liquidator’ and essentially walk away from all unsecured creditors, including ATO PAYG withholding and Superannuation Guarantee obligations.

The government believes this statutory ‘safety net’ is being exploited by an increasing number of directors who are essentially using the ATO and employee entitlement to fund working capital, including their own remuneration. When the liabilities are eventually reported (or discovered by the ATO) these directors are simply appointing an ‘Administrator’ and walking away, often “rising from the ashes” in a new company soon thereafter.

In October, the government introduced a draft bill (**now withdrawn to allow further industry consultation**), which aimed to pierce the corporate veil that directors have used to protect themselves from personal liability in instances where companies fail to meet PAYG withholding and superannuation obligations.

Assuming the bill is reintroduced in the new year, these changes (in their current form) could result in directors becoming personally liable for unpaid PAYG Withholding and superannuation. In the draft bill this personal liability arises where these amounts have **not been reported and paid 3 months after the original due date for lodgement. Currently this personal liability is not extinguished, even when an ‘administrator’ is appointed.**

**TIP:** We will be following this issue closely and will post updates on our website. To avoid any potential personal liability, directors should ensure that Business Activity Statements and superannuation contributions are kept up to date and enter a repayment program with the ATO promptly if unable to pay BAS on time. ©

## Financial Planning Update by John Spooner

We have just seen the Reserve Bank board again trim the official cash rate by a further 25 basis points to 4.25%, marking the first consecutive rate cuts since February 2009. The RBA has concluded that in response to lower than expected inflation, there was scope this month to ease financial conditions. If passed on by the banks, repayments on a \$300,000 mortgage will fall by \$48.65 per month.

**What does it all mean?**

- By leaving the beginning of the rate cutting cycle until the last part of the year, the RBA has been unable to help the housing market which has been stalling for most of 2011. 2012 however could prove to be an entirely different story. Leading in to 2012 we have a combination of low rates, falling to flat prices and a tight rental market whilst unemployment continues to remain healthy. All conditions which point to stronger housing demand and subsequently higher prices in 2012.
- Whilst the rate cut has come too late to help the housing market for the remainder of 2011, the retail sector should benefit as a result. Consecutive rate cuts should drive more shoppers into stores in time for the annual Christmas crush and provide some stimulus to the flagging retail sector.
- The Reserve Bank has made it clear that its goal is to have interest rates (those charged by the banks) sit in the “normal” band. Provided that banks pass on the full amount of this most recent reduction, the mortgage rate will reduce to 7.30%, still slightly above the 15 year average of 7.20% leaving scope for further rate cuts should the RBA deem them necessary. Interestingly Commsec has already indicated that they are of the belief that the RBA will again cut rates in February in an effort to “shore up Australia’s economy”.

**Previous Cycles**

- The last rate cutting cycle finished with a low of 3.00% in April 2009. The previous rate cutting cycle the cash rate dropped to 4.25% in December 2001. In the previous two rate cutting cycles, the cash rate reduced to 4.75% on both occasions.
- The RBA now looks more closely at the variable housing rate as a gauge as to how close to “normal” are at present. The average bank variable rate today sits at 7.55%, above the “normal” rate of 7.20%.

Please call on John or Kurt on 3397 7315 to arrange a free meeting to discuss your financial planning needs or objectives. ©

## Occupational Health & Safety 'Harmonisation'

**Occupational Health and Safety (OH&S) laws are about to change significantly. When OH&S "Harmonisation" is brought in next month (1 January 2012), these new national OHS laws will replace all existing state and territory laws.**

The obligations look substantially more onerous on directors and there is certainly a huge increase in the potential fines and penalties. Directors need to understand their (new) obligations and should revise all safety procedures and policies in line with this new legislation.

**TIP:** A good way to stay on top of OH&S is to subscribe to a 'Handbook'. For example the 'OH&S Handbook' is prepared by specialist lawyers, is "loose leaf" and updates are provided as changes occur (for a fee) so that it remains current. These handbooks are generally easy to read, indexed and allow you to pin point answers quickly. They also provide templates for policy documents, required registers and investigation forms etc.

This particular handbook is \$147 upfront and updates are \$77 (approx every 8 weeks). They advertise a 14 day free trial. Visit [www.ohshandbook.net.au](http://www.ohshandbook.net.au)

## The PPSA – Get on it!

The *Personal Property Security Act 2009 (PPSA)* commences on **30 January 2012**. This register will require businesses to register security interests to protect their rights to their assets.

The definition of personal property includes:

- Tangible property (such as goods or other assets); and
- Intangible property (such as intellectual property and licences),

But specifically excludes:

- Land
- Any right, entitlement or authority that is granted by a law and declared by that law not to be personal property for the purposes of the PPSA.

The PPS will replace a myriad of over 70 pieces of existing legislation in Australia and will regulate company charges, bills of sale, motor vehicle securities and other securities.

The government hopes that this register will mean that when buying or selling 'personal property', or taking security over 'personal property' entities will be able to transact with much more confidence because the register will show if the property is subject to any third party interests.

**Critically, all business owners need to ensure that their interests are registered.** While some existing security interests will be electronically migrated to the PPSA Register others, including those that were not required to be registered under current regimes, need to be added to the register in order to protect legal title to the interest.

For example, if you supply goods to customers on 'retention of title' terms or lease goods to customers you are likely to have a security interest that needs to be registered. If the goods are not on the register, legal ownership may not be identified and, in some cases, could be lost.

For detailed information, including links to the register and registration instructions, visit: [www.ag.gov.au/pps](http://www.ag.gov.au/pps)

## Coaching... not just for athletes!

**From time to time we meet people who we believe add value to our client's businesses.**

In recent months we have met Faye and Rob Caughey from Kaizen Coaching Queensland. A few of our clients are already working with them and the feedback to date has been excellent.

**Kaizen Business Coaching** is Queensland's number one **ActionCOACH** Business Coaching team. ActionCOACH is the world's number one Business Coaching business.

Their team of coaches, who have a range of skills and qualifications, can help you work **on your business** and **not just in it!** In 2007, their firm won 'Global Firm of the Year' and several of their coaches have personally won awards for outstanding coaching results.

**Why do we believe a business coach may help you in your business?**

Every elite performer, whether they are an athlete, business legend or performing artist is surrounded by coaches and advisors.

Just like great athletes who find success by following the lead of a coach, more business owners than ever before are turning to Business coaches to help develop a winning game plan for their businesses.

**Why?**

First of all, it's very difficult to be truly objective about yourself. A Business Coach can be objective for you and can see the "forest for the trees".

A good Business coach will make you focus on the game and will have you "run more laps" than you feel like. They will tell it like it is, give you small pointers about the game and will listen and guide you to success. They will hold you accountable to the things you should do and to where you want your business to be.

A business coach will observe how you are playing the game from "up in the box". They will analyse and discuss your competitors strategies, identify the challenges you are facing and keep an eye on how the team members are performing and develop plans and strategies for how you can improve your game (and your score!)

Faye, Rob and the Kaizen team's goal is simple - to help fellow business owners get where they want to go, work fewer hours and earn more money!

**What coaching can offer you...**

Business Coaching is an industry that many businesses are still becoming familiar with. We understand that you may be unsure or even just unclear how they can help you or what it is that you need help with.

To help explain, Faye and Rob are offering all HK clients a **COMPLIMENTARY copy of the book "The Business Coach"** by Brad Sugars (Founder of ActionCOACH Business Coaching).

**In addition, Faye and Rob have offered to pay one of their coaches to come and talk to you specifically about your business for one hour.**

A Business Consultation is the vital first step in getting maximum value from your business. You can sit down with a coach and talk through with them what is happening in your business.

Tell them about your goals, your challenges and where you see yourself and the business in 10 years. The Business Coach will provide you with real advice about areas of untapped potential, training you may need and the support you will require.

**Please call Faye or Rob directly on Ph 3395 8840 or email [fayecaughey@actioncoach.com](mailto:fayecaughey@actioncoach.com) to book in the free, no obligation meeting (just advise you are a client of Hoffman Kelly)**

Lastly, please take the time to read the attached feature article written by Faye about how to thrive in business even though the world's economy is struggling. ☺

# Are you thriving in business? by Faye Caughey



The Australian economy has recently been defined as a “patchwork economy”. Some industries are in boom and others are in rapid decline. Certainly for a large number of Australian businesses, times are more difficult than they were a couple of years ago.

It is still possible for your business to thrive in the ANY economic condition, by sticking to some golden rules.

First and foremost it is essential to have a clearly defined vision and goals for your business. If you don't know where you're going how are you going to get there?

Start with the end in mind... Set your goals, your personal vision and business vision and learn how to build a great business by having a great plan and taking control of your time.

It has been said that we should spend 20% of our time planning. If that seems excessive, spend a little time calculating how much time it has cost you over the years fixing errors, redoing things, or simply muddling your way around, and 20% will start to look like a small amount of time.

Using sport as an example, teams often train for hours and days before a match. Swimmers (such as Stephanie Rice) spend days, weeks – and years training and working out a plan before they get to “play the game”, and as we all know that is over in a minute or two...and they win or lose by a millisecond!

Abraham Lincoln said... **“Ask me to chop down a tree in 6 hours, and I'd spend 4 hours sharpening my axe.”**

So let's start sharpening... Develop a plan that is a living breathing document, giving you direction, guidance and a focus even when times are tough!!

There's no point in slavishly continuing to do what you've always done in the vague hope that conditions will pick up when the economy picks up, you must be permanently reviewing your marketing strategy.

The core of the ActionCOACH Business Coaching approach to growing a business is to “test and measure” all of the marketing strategies that your business uses, discard the ones that don't work, and discover and focus on the ones that do work.

Current economic conditions have changed the way that customers behave, and so you may need to take a completely different approach to the one that has worked for you up to now.

Do not commit a big budget to any one marketing strategy, rather “test” a new strategy on a small scale and then you have not wasted a lot of money if it doesn't work. On the other hand, if it is successful, you can be reasonably certain it will work just as well if you scale it up. To thrive you need to be reviewing your marketing strategy on an ongoing basis.

Many people go into business having had absolutely no experience of sales. Unfortunately (or fortunately for experienced sales professionals!) products and services do not walk off the shelf on their own - they need to be sold.

What works in sales changes from time to time and from industry to industry, however, business owners who have not had any experience or training in sales must recognise that this is needed, or they need to employ the service of someone who knows how to sell.

The business world is littered with failed companies that had a great product, but that were outsold by their inferior competitors.

In the current environment cashflow is king. Actually, cashflow is king whatever the environment. This means keeping a tight rein on people who owe you money, and controlling when you need to pay your debts.

## Tight control of cashflow is vital to business survival and success.

Whatever market you are in, the range of competitive products and services is constantly changing and improving. If you are standing still, you're really going backwards relative to everyone else, so you must make a point of continually reviewing your products and services.

One way of checking to see how you can improve your product is to ask your customers. You can do this with a survey or you can just arrange to meet up with them and ask them what they need. Don't try to sell them anything, just ask them about their business and what is working and what isn't - you'll be amazed how much information you can glean this way.

Also it's a good idea to keep an eye on your competitors, but bear in mind that competitors can come out of left field. Remember that ten years ago very few people had even heard of Google!

Warren Buffet, the world's wealthiest man was recently asked, “in these difficult times what's the greatest investment you can make?” He responded “an investment in yourself.”

ActionCOACH Business Coaching founder Brad Sugars says, you have to ‘learn before you earn’, and, for successful business owners, this needs to be an ongoing commitment.

When you decide to go into business, you start off with a particular skill set, and this is often an ‘operational’ skill set, that is, you know how to do a particular job, say bookkeeping or flower arranging or car mechanics.

But growing a business needs multiple skill sets, not just operational ones - a business owner needs to wear a number of ‘hats’ - a sales hat, a marketing hat, a team building hat and a finance hat as well as the operational hat.

As the business grows, you need to be learning continually, as the skills and knowledge that got you to where you are now may not be enough to take you where you want to go!

What I have found as a coach is business owners aren't always equipped with all the skills and knowledge they need to achieve optimal business growth nor are they aware of the toll this may be taking on them personally and professionally.

Recent studies have confirmed that business owners and families have repeatedly demonstrated that poor financial performance is one of the leading causes of business failure or underperformance, family relationship breakdown and poor health.

I propose that every business needs a coach. The sporting world has known for years how essential a coach is to achieve peak performance – the business world has been a bit slower to catch on!! ☺

## BUSINESS SERVICES – BRISBANE

Partner..... Anthony Hoffman  
Partner..... Troy Kelly  
Partner..... Greg Roberts  
Partner..... Thomas Aitkenhead  
Manager..... Michael Kerwin  
Manager..... Claire Waterhouse  
Senior Accountant..... Lauren Sarolis  
Senior Accountant..... Michelle Goding  
Accountant..... Gervais Morton  
Accountant..... Rhiane Sherriff

Accountant..... Matthew Yarrow  
Accountant..... Hana Gibson  
Accountant..... Vicky Lai  
Accountant..... Jasmine Sue  
Accountant..... Frederik van Kernbeek  
Office Manager..... Lisa Cronin  
PA..... Megan Cowan  
PA..... Sarra Best  
Receptionist..... Natalie Novic

## BUSINESS SERVICES – HERVEY BAY

Manager..... Beshara Smith  
Receptionist..... Christie Seng

## FINANCIAL PLANNING

Financial Planner..... John Spooner  
Financial Planner..... Kurt Grainger  
Para Planner..... John Rose  
Office Manager..... Maria White  
Receptionist..... Sepi Fakhra

**DISCLAIMER NOTICE:** The content of this newsletter is general in nature and is based on legislation at the time of writing. Hoffman Kelly takes no responsibility for reliance on the content herein without a thorough review of specific individual circumstances. This newsletter is the property of Hoffman Kelly Pty Ltd. The information in this newsletter is confidential and may be legally privileged. It is intended solely for the addressee. Access to this by anyone else is unauthorised.

Liability limited by a scheme approved by Professional Standards Legislation.



Hoffman Kelly | Chartered Accountants & Business Advisors

A: Cnr Harries Road & Holdsworth Street PO Box 26 Coorparoo Q 4151

P: 07 3394 2311 F: 07 3397 8362 E: mail@hoffmankelly.com.au W: hoffmankelly.com.au

newsletter by designbylook  
w: designbylook.com.au



Summer | December 2011 4