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Esdale Sinclair and Associates Quarterly Newsletter March 2015

Welcome to our March Newsletter

We trust those clients who were effected by cyclone Marcia are well on the road to recovery. The Team at Esdale Sinclair have decided to once again support two very worthy causes with donations of $2,000 to the Capricorn Helicopter Rescue Service and $500 to the Red Shield Appeal. We have a couple of clients who have benefited from the services of the Helicopter Rescue Service and we all know what a tremendous effort both organisations made in assisting people effected by cyclone Marcia.

In this newsletter we look at what is [salary sacrifice] and how this can work as part of a salary package. We focus on an important part of any business being [cash flow and what strategies need to be in place to collect debtors]. We also look at how companies need to [protect themselves from clawback of debtors] paid by registering their interest on the Property Securities Register and we also examine [what the latest round of rate cuts means.]

We provide a range of finance facilities including:

- **Asset finance**
- **Debtor finance**
- **Insurance funding**
- **Escrow funding**
- **Commercial property loans**
- **Cash Flow Funding**

Enjoy the read!

Salary Sacrifice – Is this an option for you?

Many employees do not realise that they may be able to salary package such items as motor vehicles, insurance, computers, trade tools, childcare, mobile phones or airline lounge memberships.

These costs are deducted from the salary before tax is deducted, resulting in less tax on income being paid.
One of the most popular choices for salary packaging is superannuation. If you are classed as an employee your employer already has to pay 9.5% of your salary into your super fund. However, you have the option via salary sacrifice to top up your superannuation with salary sacrificed amounts. This is often used by employees who are approaching retirement to top up their superannuation. The advantage of sacrificing salary into superannuation is a lower rate of tax inside the superannuation environment. Super contributions are taxed at 15% up to certain thresholds, compared too much higher marginal tax rates outside of super.

Depending on your age there is as a general concessional contributions cap. Currently the general cap is $30,000 per year, or $35,000 per year if you were 49 years or older on June 30, 2014. If the concessional contributions cap is breached, the excess contributions are added to assessable income, with a 15% tax offset applied. An interest penalty may also apply. So you need to check with your financial adviser or tax adviser. You can also find out information via the Australian Tax Office website https://www.ato.gov.au/Individuals/Super/

Fringe benefit tax ("FBT")

Generally if you salary package an item that is not directly related to your employment these payments are subject to what is known as Fringe Benefit Tax. As the employer has to pay this Fringe Benefit Tax this is usually passed onto the employee. In terms of any super paid to a complying fund (as discussed above) these are not considered fringe benefits. In addition there are certain benefits that, because they don't generate more tax for your employer, might be more appealing.

FBT-exempt items include tools of your trade, mobile phone, protective clothing. Laptop computers can be exempt within certain limitations, such as a work-only use of the laptop, and that only one per year can be provided.

Your employer will also need to report certain benefits (known as "reportable fringe benefits") on your annual tax payment summary where the total value of the reportable fringe benefits provided to you that year exceeds $2,000. Excluded benefits and certain types of non-excluded benefits don't count. Although it is shown on your income tax return it will not affect your assessable income or Medicare levy. The total will however be used to calculate entitlements to income-tested government support programs or benefits.

If you are looking at tax effective ways to salary sacrifice it is worthwhile finding out whether your employer does offer salary packaging. Of course check with your Financial or Tax Adviser as well.

Business update - How to protect yourself from refunding payments you have received from your debtors.

You or your credit manager do a good job at collecting your debtors. You thought your slow payer had finally caught up and then they go into liquidation. A few months later you receive a preferential payment letter from the liquidator requesting return of the amounts you have received from your debtor. How can you stop this from happening?

Edx Australia who help businesses with the complexities of the Personal Property Securities Act (“PPSA”) (the act is titled Personal Property Securities Act although it does apply to businesses) in their latest newsletter stated that “One National Credit Manager for a large hire company reported that he would receive at least one of these Preferential Payment letters a week. At times he felt like an easy target, but the amounts involved did not make it worthwhile to take the fight to Court. However, this particular Credit Manager has now developed a strategy to shield his business from these claims. He has been registering all customers on the Personal Property Securities Register (“PPSR”) for nearly two years and has not received a single unfair preference claim during that period. The savings from this alone make registration worthwhile

How does the Register protect your rights?

The short answer is that if you register on the PPSR you become a secured creditor and the unfair preference regime applies only to unsecured creditors. We have even heard some lawyers suggest this is a bulletproof defence and for those suppliers who register on the PPSR, unfair preferences are a thing of the past.

While we think it is an excellent first line of defence we do not think it is bulletproof. So let’s have a look at the law and draw some conclusions that may help your business.

Imagine being paid for your goods, then having payment clawed back. What the law says.

The relevant legislation can be found in Section 588 of the Corporations Act. We have paraphrased the Section in plain English. In general terms, it provides that a liquidator will have a claim against a creditor for an 'Unfair Preference' or ‘Preferential Payment' in the following circumstances:

- The insolvent company made a payment to the creditor within six months of the appointment of an administrator or liquidator, and
- The creditor was unsecured, and
- At the time the payment was made, the company was insolvent (or became insolvent as a result of making the payment), and protect themselves, and the creditor received more than it would have done as an unsecured creditor in the winding up.

It is easy to see where the argument comes from, since it is quite clear that unfair preferences only apply to unsecured creditors. However, it is equally clear that under the Personal Property Securities Act (PPSA), compliant creditors who register on the PPSR become secured creditors.

The flaw in this argument is that if the value of the security at the date of the payment is less than the amount paid, there may be an unsecured portion that is exposed to a liquidator’s claim.

In some instances, this may be clear-cut, but in the majority of cases it will be very difficult for anyone to accurately value the security at the time of the payment. As long as the creditor has registered on the PPSR they are, at the very least, in an excellent negotiating position. If they have not registered, they are unsecured and fully exposed to the liquidator”

For more information speak with us or you can contact Andrew McLellan of EDX Australia on (03) 9866 4559 or AndrewM@edxppsr.co.au

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What business assets can I finance?

We often have business clients asking whether they can finance any of the following; GPS units in trucks (even those trucks under finance to other financiers)

- Telephone systems
- Solar Equipment
- Security Systems (CCTV's)
- Commercial LCD display panels & audio visual
- LED Lighting
- POS (point of sale) systems
- Commercial equipment for restaurants
- IT equipment
- Printers
- Gym Equipment
- Software
- Catering Equipment
- Office Furniture
- Commercial Cleaning Equipment
- Digital Photo Processing Equipment
- Electronics
- Portable Buildings
- Music Equipment
- Lighting Towers
- DVT Pumps
- Warehouse Racking, etc.

These assets would generally not be financed by some financiers without additional security being held (such as cash or property) or perhaps they would not be financed at all!

Due to our access to a wide range of financiers we now have finance solutions available that subject to credit approval no additional security such as cash or property security is required.
Whatever type of equipment you are financing make sure you talk to us about your requirements.

Risk management strategies for cash flow

Cash flow is the lifeblood of any company, and so it stands that irregular flows of finance can spell potential disaster for a company that fails to implement the systems and processes necessary to maintain a healthy flow of funds.

If you have an effective system in place to collect your customer's payments this ensures that your clients and your staff are aware of how the process works.

The below is a handy checklist to implementing or adding to a current system that you may have in place:

- **Always credit check new customers –** Make sure they are credit worthy before you commit time and resources to working with them.
- **Agree terms in advance –** Agree terms of payment with new customers as part of the sales process. Make sure they understand that the price of goods is linked to the credit terms you offer and make it crystal clear that you have a legal right to claim interest
- **Inform your debtors –** If you have habitual late payers, contact them and discuss better payment options. In addition, foster good working relationships with your customers and suppliers so

that it is easier to resolve payment problems when they arrive

- **Send out invoices as you dispatch goods –** Don’t delay sending statements and invoices out of time
- **Keep clear documentation** - make sure you send accurate invoices/statements to the right person at the right place and state clearly when payment is due. Preferably via email asking for a return confirmation that your correspondence has been received.
- **Communicate effectively** – Ensure existing customers are quickly made aware of any due invoices that haven’t been paid. Re-check the credit worthiness of any customer who continues to withhold payment.
- **Have the right attitude** – Don’t be embarrassed about discussing money
- **Ensure you have protected yourself** – Make sure that your interest in the customer’s debtors is lodged on the Property Securities Register.

If you have a cash flow requirement make sure you talk with us.

Interest rates remain at a historic low

The Reserve Bank of Australia in February offered an increased boost to homeowners and businesses when it chose to lower interest rates by 0.25%. At their meeting in early March the speculation in some quarters of the market with a further interest rate cut did not eventuate with the cash rate remaining at the all-time low of 2.25%. Last month's cut was a welcome boost to the Australian economy. As mortgage holders see a drop in their minimum monthly repayment, many are choosing to use this time to their advantage by paying more, effectively shortening the term of their loan.

In fact, AMP Chief Economist Shane Oliver says that the average person who "...already (has) a mortgage are choosing to pay it off as quickly as they can." Australian home loan customers are, on average, 24 months ahead on their mortgage repayments.

As well as current mortgage holders, investors are also cashing in on last month's cut. In February, Westpac recorded a 10% lift in home loan applications since the last rate cut.

While the continuing low interest rates may have mortgage holders celebrating, there are also other reasons for cheer, including signs that the Australian economy is steady and the housing market is booming, particularly in capital cities.

"Home prices are at record highs across Australia and annual price growth of 8 per cent remains well above the long-term average growth rate of 4.8 per cent." Says CommSec's chief economist Craig James.

Adding to this, the recent update that Australian consumer confidence has risen 2.4% in the past fortnight. So it seems that 2015 is set to be a bumper year.

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