

## A New Year and New Business Opportunities

The turbulence and uncertainty of recent years is unfortunately still with us as we enter 2012. The new year will no doubt hold challenges for businesses in what are expected to be difficult trading conditions, however, similarly new opportunities will present themselves and businesses need to be in a position to identify those opportunities and act swiftly to take advantage.

To help business owners review their position objectively, we have developed a Business Direction Model.

The Business Direction Model has been developed on the back of many years of experience by our team of business advisers. It is specifically designed for small to medium size businesses to help owners review their business and assist with its development and growth. The model prompts you to answer questions on the following areas of your business:

- Financial management
- Business systems
- HR management
- Succession planning
- Investment and retirement planning
- Marketing
- Risk management
- Business compliance
- Tax planning

If you would like to receive a copy, email [kateburls@farrowwyatt.com.au](mailto:kateburls@farrowwyatt.com.au).



Wayne Russell, Chairman of the Greater Building Society

## New Chairman for Greater Building Society

Wayne Russell, partner at Farrow Wyatt, has been appointed chairman of the Greater Building Society.

Wayne has taken over from retired solicitor and former Mayor of Lake Macquarie John Kilpatrick who served as chairman for three years and as a director for 13 years.

Wayne joined the Greater's Board in May 2011. He leads Farrow Wyatt's audit division and is a member of the executive and immediate past president of the Australian Financial Institutions Auditors Association. He is a graduate and member of the Australian Institute of Company Directors, a registered company auditor and approved financial institution auditor.

## Meet the new staff at Farrow Wyatt

We have been fortunate to secure a number of high calibre staff joining us this year.

Jonathan Rees has recently relocated from New Zealand and joined us as a Senior Accountant. He is a qualified NZ Chartered Accountant.

Jane Daffy is qualified Chartered Accountant and joins the team after time in the commercial environment as an Intermediate 1.

Nicole Day is a commerce graduate and is joining us as a full time graduate trainee.

Tim Piper and Abbey Sams joined us as full time accounting trainees. They completed their HSC last year and will be commencing their commerce degrees this year.



from left to right: Tim Piper, Abbey Sams, Nicole Day, Jonathan Rees and Jane Daffy

# The Personal Property Securities Act – it can affect you

Does your business:

- Borrow or lend money?
- Purchase or sell goods on agreement, assignment or credit?
- Grow crops or raise livestock?
- Own/lease machinery or vehicles?

If so, the PPSA will affect you.

The Personal Property Securities Act 2009 (PPSA) is new legislation which will extensively change the way in which security interests in personal property are dealt with across Australia. The Act will come into effect on 30 January 2012 and will have a wide-ranging impact on Australian businesses. The legislation will also lead to the creation of an online Personal Property Securities Register (PPSR).

The PPSA will change the way businesses and individuals deal with personal property (ie essentially all property except land). The PPSA will introduce a new national system for registering security interests, and also changes what is considered a “registrable” security interest. If you own, lease, buy or sell personal property, then you need to be aware that the game is changing.

Because the PPSA will apply to most security interests in personal property, even businesses that have never had to register security interests before will now need to take care to protect their rights. In addition, anyone who has been granted a security interest or has entered into any form of arrangement that may be regulated by the PPSA will need to review their documents and consider what steps they need to take before the PPSA commences.

Existing security interests (eg ASIC debentures) will be migrated to the PPSR. However any security interests which are not currently required to be registrable and are therefore unregistered cannot be migrated. So if you are the owners of, or have retention of title (ROT), on leased or bailed goods and want to protect your interests, you must register this interest during the proposed 2 year transition period.

If you have any concerns we recommend you obtain independent legal advice on how the Personal Property Security Register (PPSR) will affect your business.

Here are some items that you might consider when preparing for the PPSR:

- 1. Review and amend your documents** - this includes your contracts, terms and conditions and any marketing materials for privacy and other consents.
- 2. Evaluate your current credit policies and processes** - this could be an opportunity to streamline processes to improve efficiencies.
- 3. Train your staff** so they are ready to work with the PPSR.

#### 4. Get your IT systems ready:

- Ensure your systems enable collection and storage of information required for PPSR such as party details, collateral descriptions and other data you might require for registering and maintaining security interests on the PPSR.
- How will you connect/interact with the PPSR? Consider whether you will manage registrations or use the services of a third party.
- Establish a process around the transition to the PPSR:
  - Create a picture of your current security interests, registered and unregistered, and a way of identifying which of these require action on PPSR commencement.
  - Monitor the migration of your existing security interests such as ASIC charges and REVs registrations.
- Arrange registration of security interests previously not registered. Understand the priority consequences of transitional security interest provisions.
- Where security interests have not been previously registered, ensure you capture all required information when entering into new arrangements to help you better manage those interests on the PPSR.
- Review and verify the accuracy of your existing registered interests being transferred from existing registers.
- Collect information on customers who are individuals or sole traders, e.g. name and date of birth as recorded on their driver's licence.

**5. Check the information you currently have about customers is correct.** Inaccurate data can mean your registrations have no value in the event of insolvency.

If this affects you, you need to decide your strategy now. We recommend that you review your position and contact us should you require advice.

For more information regarding the PPSR visit [www.ppsr.gov.au](http://www.ppsr.gov.au).

## Alerts

### Superannuation guarantee to be increased to 12%

Legislation has been introduced into Parliament which proposes to increase the superannuation guarantee (SG) rate from 9% to 12%, phasing in from 1 July 2013.

The Government also announced that it would abolish the age limit for which employers no longer need to make superannuation guarantee payments for employees.

*TIP: If the SG age limit is to be abolished, then from 1 July 2013, employers will be required to make SG contributions for employees regardless of an employee's age.*

### Tax changes for small businesses introduced

The Government has introduced legislation into Parliament which proposes to increase the small business instant asset write-off threshold from \$1,000 to \$6,500, and create a single depreciation pool to write-off assets at a rate of 30% (15% in the first year). The changes are proposed to commence from the 2012–2013 year; however, their formal enactment would first require the commencement of the Government's carbon tax scheme (which will start on 1 July 2012) and the proposed Minerals Resource Rent Tax (MRRT). The changes also propose to allow an immediate write-off of up to \$5,000 for motor vehicles from the 2012–2013 income year. The Assistant Treasurer, Bill Shorten, said under the changes small businesses would benefit from improved cash flow and reduced compliance costs.

### ATO issuing default assessments to non-lodgers

In December 2011, the Australian Tax Office announced it will send default assessment warning letters to clients with overdue income tax returns where the Tax Office has evidence these taxpayers received taxable income in the relevant financial years.

These letters are titled 'Default assessment warning' and are part of the Tax Office's ongoing work to address non-lodgment. The Tax Office has indicated that if the overdue returns are not lodged by the date specified, it will issue default assessments to these taxpayers based on the estimated taxable income included in the letter.

Where the Tax Office has issued default assessments, taxpayers can incur both of the following:

- failure to lodge on time penalties, and
- administrative penalties of 75% of the tax related liability from the default assessment, after taking into account any pay as you go (PAYG) credit and any other tax credits available.

### Payroll Tax Threshold - Reminder

The payroll tax threshold for the period 1 July 2011 to 30 June 2012 is \$678,000.

The rate of payroll tax from 1 July 2011 is 5.45%.

Your monthly threshold is calculated using the number of

days in the month, divided by the number of days in the year, multiplied by the threshold.

Days in month	Threshold
29	\$53,721
30	\$55,574
31	\$57,426

### Circumstances affecting the threshold

The following factors may affect a business's threshold entitlement:

Wages are only paid for part of a year:

If a business starts or stops employing in NSW within a financial year it does not get a full threshold entitlement. The business will receive a proportion of the threshold equal to the ratio of the number of days they employ to the number of days in the financial year.

A business pays liable wages in another Australian State or Territory:

When a business pays wages in NSW and interstate, the NSW threshold is determined as a proportion equal to the ratio of the NSW wages to the total Australian wages.

If a payment is not taxable in a jurisdiction as wages, then it is not included in the total Australian wages.

If a business is part of a group:

Grouped employers receive one threshold entitlement between them.

### Land Tax Threshold – Reminder

Land tax is calculated on the combined value of all the taxable land you own above the land tax threshold. The rate of tax is \$100 plus 1.6% of the land value between the base threshold and the premium rate threshold and 2% thereafter.

If land is owned by a trustee of a special trust the land tax threshold does not apply and land tax will be charged at a flat rate of 1.6% of the taxable land value up to the premium threshold of \$2,366,000 and then 2% thereafter.

If the combined value of your land does not exceed the threshold, no land tax is payable.

The land tax threshold for 2012 is \$396,000.

A premium land tax marginal rate of 2% applies on the total taxable land value above the premium threshold (\$2,421,000).

The Valuer General used the following indexed amounts to determine the average of indexed amounts for the 2012 tax year:

Year	Indexed amount
For the 2010 land tax year	\$380,000
For the 2011 land tax year	\$401,000
For the 2012 land tax year	\$408,000
Average	\$396,000

## Transition to retirement strategy

There's no reason to stop working if you're not ready and you don't need to be fully retired to access your super.

If you're over 55 and have some super already, the 'Transition to Retirement' rules could help you boost your super savings significantly without cutting back on your lifestyle. It could even allow you to reduce your hours at work and supplement your reduced salary with payments from your super.

### Who does this suit?

- This strategy generally works best if you:
- are aged 55 or over;
- are still working full-time; and
- have some existing super.

### How does it work?

The 'Transition to Retirement' rules allow people who are 55 or over to access their super while still working. Basically, they allow you to roll some or all of your current super into a 'non-commutable' income stream which pays you a regular income but does not allow you to withdraw a lump sum.

Now that you have more money coming in, the next part is to salary sacrifice your earnings into super. Because salary sacrifice uses before-tax dollars, you can actually contribute more to super than you withdraw, without missing the income.

For example, if you earn \$100 and you are on the highest marginal tax rate (including Medicare levy), you would have to pay \$46.50 to the government in tax. If you salary sacrifice the same amount, you only pay 15% tax on the contribution or \$15. That's an extra \$31.50 going into your super instead of to the government.

### Benefits

You get the best of both worlds – putting more money into super without feeling the pinch. And you'll feel even better later on when you retire and use your super to draw down a tax-effective income.

At any stage, salary sacrifice is one of the most effective strategies there is to boost your super savings. Because it uses pre-tax earnings, you lose less money to tax and get more in your pocket. Think about ways you can cut back in other areas to free-up some cash.

You can take advantage of other government incentives like co-contributions and spouse contributions to boost your super and earn tax offsets.

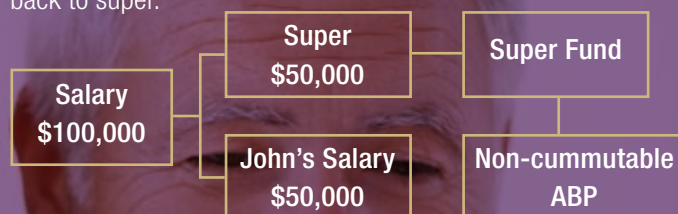
Check the PDS of your superannuation product to see if it offers a non-commutable income stream option.

### Example

#### How John increased his super payout by \$80,425 without feeling the pinch

John is 55 years old, has \$500,000 in super and earns

\$100,000 p.a. He would like to boost his super without affecting his current lifestyle. He decides to sacrifice \$50,000 of his income to super and commence a 'non-commutable' Account Based Pension (ABP), re-contributing any excess back to super.



### Outcome

	Net income year 1	Super balance after 10 years
Earn \$100,000 p.a. and receive Super Guarantee only.	\$71,900	\$1,004,920
Salary sacrifice \$50K (including Super Guarantee), start a 'non-commutable' ABP and re-contribute any excess back to super.	\$71,900	\$1,085,345

### Assumptions

- Resident individual tax rates for 2011/12 inclusive of Medicare levy and Flood levy.
- Individual has private health insurance.
- Investment return of 7.11% p.a. after fees and before taxes.
- Salary indexed to 3% p.a.
- 'Non-commutable' ABP not indexed.
- By doing this, in 10 years John has increased his overall super benefit by over \$100,000 or 10% without sacrificing his lifestyle along the way.

### Recommendation

If this appeals to you, contact our Financial Planner, Jennifer Leslie, to discuss your situation.

*Please note that the information above is of a general nature only and does not take into account your personal financial circumstances and needs. Please seek personal financial advice prior to making any financial decisions.*

*Jennifer Leslie and Farrow Wyatt Financial Services Pty Ltd are authorised representatives of Hillross Financial Services Limited ABN 77 003 323 055 AFSL 232705.*

## ATO Tax Compliance for 2011/2012

The Australian Taxation Office recently released its Compliance Focus for the new financial year. The Compliance program expresses the ATO's particular concerns and their plans to combat them, with a focus on tax and superannuation compliance. A number of their concerns may implicate small business owners, and these are listed below.

### Cash Economy

Some businesses participating in the cash economy are not paying their fair share of tax, and they are becoming more visible to the ATO through increased and more sophisticated data matching. As the ATO continues to visit businesses, and identify and review those misreporting their income they will particularly focus on plastering and coffee shop enterprises.

### Business Activity Statement (BAS) Refund Activity

The ATO has significantly improved techniques for recognising compliance issues with regards to BASs. The government has provided extra funding for the ATO to increase their focus on fraudulent and incorrect BAS refund claims, and they expect to verify over 47,000 claims during the year.

### Employer Obligations

Businesses may be monitored and even visited to ensure that correct amounts of PAYG and appropriate superannuation payments are being made. The ATO expects to review the tax affairs of over 28,000 micro and medium sized businesses to ensure they are reporting the correct amounts. Some of the key industries that they will focus on include cafés and restaurants, real estate services, carpentry services, accommodation, and accounting services.

### Losses

Some businesses may be claiming losses which they are not entitled to use. The ATO will be contacting these businesses and providing them with information about incurring and using losses as well as reviewing the tax affairs of these businesses. This will be done to make sure that the tax payable is not reduced incorrectly.

### Self Managed Super Funds (SMSFs)

The ATO will focus on newly registered funds to ensure they have not been established to provide illegal early release of funds, funds lodging their first annual return, auditor contravention reports, and related-party investments among other things.

## Prevent a Cash Flow Crisis

Cash flow is basically the money that comes in and out of the business in the form of income and expenses. Using cash flow management and forecasting, you can help steady cash flow activity, allowing you to meet your commitments as they fall due and begin planning for spending money in the future on items such as property, plant, and equipment; you will then be able to see when money will be required for investing.

Some preventative methods to potentially overcome a cash flow crisis in your business include:

- Set your credit terms carefully and make sure you and your clients are 100% clear on what they are.
- Make sure your debtors pay quickly and on time. Don't allow them unreasonably long time frames to pay and don't hesitate to ask and apply pressure for what your business is owed.
- Seek extensions on money that your business owes until your cash flow is positive once again.
- Identify and remove any issues that are impacting your cash flow.
- Use finance products effectively, such as low interest loans, business overdrafts and hire purchase agreements.
- Do not incur any penalties. Fulfil your ATO and other business obligations on time to prevent your business having to fork out unnecessary cash.
- Most importantly keep your hands out of the cash register!

Farrow Wyatt is here to help you grow your business. Our highly trained accountants aim to add value every step of the way by providing strategies to reduce expenses, increase revenue and minimise taxation. If this is an area of concern for you please speak with your accountant about improving your business cash flow. Alternatively give Scott Edden, partner, a call on 4931 6000.



## Audits Can be Key to Growth

Audits for SMEs can be an important yearly health check on a business as well as a tool for identifying growth opportunities.

Audits are often viewed as an annoying regulatory burden, however, they should be seen as a highly effective exercise. An audit can offer independent advice and insights into the business. They can also offer advice on how other businesses are doing things differently that you may be able to learn from. For example effective controls and process around debtor and inventory are crucial for SMEs to access the cash potential in their operating cycle.

Often an auditor can be the key to unlocking expansion at the high-growth stage of an SME. They can help you identify opportunities and provide you with processes required for preparing for growth as well as identifying areas of risk that require protection.

Another consideration for an audit is that often banks, particularly in the post-global financial crisis environment are reluctant to guarantee finance without the tick of approval from the auditors. Similarly it is useful to have an audit history if you are a business owner that's considering selling, or that may be forced to sell in an uncertain economy or as a result of an unexpected event. A business that has been audited for a number of years, may attract a higher price and could be more attractive to a broader range of investors.

Wayne Russell, audit partner at Farrow Wyatt is happy to discuss the value of an audit for your business if you have been considering it.

## Self Managed Super Funds Property Borrowing – Draft Ruling

Since the introduction of new legislation in September 2007, superannuation funds have been able to borrow to acquire assets. Whilst changes to this legislation occurred in July 2010 which substantially restricted these arrangements, the Australian Taxation Office (ATO) recently released a draft ruling outlining their view on certain areas of these arrangements which appear to be more generous than their previous views.

The fundamental requirements of the borrowing rules are as follows:

1. A superannuation fund can only borrow to acquire a new asset to the fund. Please note the superannuation fund can only purchase an asset which it is allowed to invest in under superannuation legislation and the fund's investment strategy.
2. The superannuation fund must acquire a beneficial interest in the asset with legal title being transferred on full repayment of the loan.
3. The rights of the lender must be restricted to the asset being acquired under the arrangement. This is commonly referred to as a limited recourse borrowing arrangement.

**Under this new draft ruling (SMSFR 2011 D1), the ATO has provided the following guidance:**

Where the asset being acquired is on more than one

title, the ATO will consider it to be a single acquirable asset where it is reasonable to conclude that the property is distinctly identifiable as a single asset. For example the draft ruling uses the example of a factory complex which covers three separate legal titles to illustrate that the object (the factory) is a single acquirable asset and can be acquired under one limited recourse borrowing arrangement.

The fund is unable to borrow to undertake any improvements with respect to a property, whether it is a property already subject to a borrowing arrangement or a property owned outright by the superannuation fund.

Whilst the fund cannot borrow to undertake improvements, the fund can use its own capital to improve the asset as long as any improvement made does not result in the asset becoming a different asset. For example an addition of a new pool or garage would not fundamentally change the asset that is subject to the borrowing and would therefore be acceptable.

Assuming the above views prevail in the final ruling, it suggests SMSF trustees may have some flexibility in terms of how they can use these borrowing arrangements in their SMSF.

To find out more about borrowing property through your SMSF, contact Michael Minter, partner in charge of the SMSF Division.

## Deductibility of TPD premiums paid by superannuation funds

Total and Permanent Disability (TPD) insurance pays the life insured a lump sum in the event that through illness or injury, they are unlikely to ever work again. The long term financial impact of TPD can be immense, making this type of cover essential. There has been a choice in structuring the ownership of TPD contracts within the superannuation environment to gain a tax deduction for the premium.

Prior to 1 July 2011, superannuation funds could claim a full deduction for premiums on TPD policies containing a range of definitions. Effective 1 July 2011, superannuation funds are only able to claim a full deduction for TPD premiums where a disability superannuation benefit is provided in line with a regulated superannuation condition of release. This is commonly referred to as the 'Any' occupation TPD definition.

Trustees will no longer be able to claim a deduction for premiums relating to TPD benefits that do not align with the regulated condition of release – 'permanent incapacity'.

Where there is uncertainty as to whether the definition of TPD will always be able to meet the superannuation definition of permanent incapacity, it will be necessary to determine the deductible and non-deductible portion of the TPD premiums. Typically, this will be the case for the following TPD definitions:

- Own Occupation
- Inability to perform activities of daily living (or Loss of Independence)
- Home duties
- Loss of sight or limbs (as part of an 'Any' occupation definition).

The extent to the deductibility of TPD premiums, for the different types of TPD definitions have been outlined in the Federal Government's consultation paper on the matter. The use of the deductible percentages proposed in the paper is optional for superannuation fund trustees. If this proposal goes through, trustees will have the choice of:

- Using the deductible part of premiums if specified in an insurance policy
- Obtaining actuarial certification on the deductible portion, or
- Applying the statutory deductible percentage proposed in the paper.

Those with Self Managed Superannuation Funds will need to consider the level of deductibility of TPD cover held by the fund when their annual accounts are being drafted.

For those with TPD cover held under a retail superannuation fund we have consulted with these providers and been advised that they will absorb the cost of the additional tax therefore there will be no effect to the insured party.

### » Effect on tax deductibility of contributions for members:

Superannuation contributions, by law, must go to a complying fund. A complying fund is one that is maintained for a 'core purpose' which generally means that the fund provides for retirement benefits or benefits on the earlier death of its members. Once the core purpose is satisfied, ancillary benefits (such as TPD) may be established within the fund.

A member who makes a concessional contribution to a complying fund is still eligible for a personal tax deduction even if the fund contains TPD benefits that are not 100% deductible to the fund. The Trustee of the fund, however, may not be able to deduct the full premium for insurance cover where the benefits exceed the SIS conditions of release.

In this case, the super fund may pay additional tax which may result in an increased cost to members.

### » Tax implications of TPD benefit payments from Super Funds

Although it is desirable to have 'Any' TPD benefits owned under superannuation (enabling premiums to be tax deductible), it is important to note that there are tax implications in relation to the payment of a TPD benefit from a Superannuation fund. A TPD payment from a super fund is treated as an Eligible Termination Payment (ETP) and taxed accordingly. The tax treatment for ETP's is complex and you should refer to your accountant for assistance in this area.

*Article by Philip Hatherly, AFRM Financial Risk Analysis*



Greg Farrow, Chairman of Maitland Hospital

## Maitland Hospital Foundation

The Maitland Hospital Foundation is a project dear to me as I helped establish and launch it in 2010 with other community orientated business people. I am now proud to announce that the Maitland Hospital Foundation raised a staggering \$138,000 in 2011, its second year of operation.

These funds have been used to purchase four vital pieces of equipment for The Maitland Hospital, including an incubator and we have committed to purchase a further \$38,000 worth of equipment for the Paediatric Ward.

Community support for the Hospital Foundation is growing and we are confident that our fundraising activities for 2012 will assist us to increase our level of financial support to The Maitland Hospital helping to further improve patient care and outcomes.

If you are interested in finding out more about the Maitland Hospital Foundation, I would be happy to talk to you.

*Greg Farrow, Chairman of the Maitland Hospital Foundation.*

## Important Tax Dates

Large taxable business taxpayers last year (total income > \$10m) 2011 income tax return due for lodgement with the Australian Taxation Office (balance of tax previously due on 1/12/11)	15 January
December monthly BAS & IAS (PAYG Withholding)	21 January
Deadline for making superannuation contributions for the quarter ending 31 December 2011 to avoid incurring penalties	28 January
January monthly BAS & IAS (PAYG Withholding)	21 February
October to December quarterly BAS & IAS due for lodgement	28 February
New superannuation funds registered with no previous lodgement history, 2011 income tax return and final payment of tax due to the ATO	28 February
Large non-taxable business taxpayers last year (total income > \$10m), 2011 income tax return and final payment of tax due to the ATO	28 February
February monthly BAS & IAS (PAYG Withholding)	28 February
Companies and superannuation funds last year with total income > \$2m but < \$10m, 2011 income tax return and final payment of tax due to the ATO	31 March
Individuals and trusts with final tax payable last year > \$20,000, 2011 income tax return due to the ATO	31 March
End of the fringe benefits tax year	31 March

## GST financial supply rules to be simplified

GST financial supply laws have always been difficult to apply. In addition, the financial acquisitions threshold has historically been so low so as to deny input tax credits in respect of acquisitions that relate to financial supplies even for businesses for whom financial supplies constitute only a small percentage of their total business.

In recognition of the administrative burden imposed by these rules the Government will, with effect from 1 July 2012, amend the GST financial supply laws to reduce compliance and administrative costs.

Specifically the law will be amended to:

- **Increase the financial acquisitions threshold input tax credit test from \$50,000 to \$150,000.**

This will effectively triple the value of acquisitions (related to the making of financial supplies) that you can make before your input tax credits in respect of the GST on those acquisitions considered not to be for a creditable purpose. The measure is intended to simplify the GST treatment of financial supplies for a range of small businesses that do not make significant supplies of this nature.

- **Allow small businesses that account on a cash basis to access full input tax credits upfront when they enter into hire purchase arrangements.**

At the moment these input tax credits are required to be apportioned over the life of the agreement.

- **Exclude bank deposit accounts from the current special rules for borrowings.**

If you are unsure of how these changes will affect your GST compliance systems, you should consult your Farrow Wyatt tax adviser before the changes come into effect so that you can adequately plan for the changes and update your systems as necessary.