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Welcome to the Summer 2020/21 issue of Client Alert.

It had been said many times that 2020 was a year many of us were really looking forward to, either because it was the start of a new decade or whether it had connotations of 20/20 vision. It seemed that it was primed to be a big year for everyone.

Of course, 2020 became a year that many would prefer to forget. As the year closes with the COVID-19 situation in Australia improving, we now turn our minds to the lessons learned from the numerous challenges that the pandemic threw at us, and what we need to do to prepare for any similar situations in future. In business, there have been many positives that have come from the pandemic, and I think it's important that we focus on these instead of bemoaning the many "inconveniences" (like hand sanitising or social distancing) that we've all faced. I'd like to draw on the positives that we've experienced at HLB Mann Judd.

When we first learned of the pandemic, the firm's Partners realised that we needed to act quickly as things evolved rapidly. We formed a

wonderful COVID-19 team comprising the firm's managing partner at the time, Norman Neill, and our support services managers Matt Rowston (Information Technology), Teresa De Abreu (Human Resources), Richard Calautti (Marketing) and Lynley Mainland (Finance), who assessed and devised appropriate courses of action to ensure that we were able to cope with the pandemic's challenges.

From an **Information Technology** perspective, we ensured that staff had the appropriate IT equipment to work from home, and could access our systems to continue client work uninterrupted and receive communications from the firm. We also made certain that our systems were sufficiently robust to be able to withstand increases in cyber crime.

Regarding **Human Resources**, key focus areas were that staff set-ups at home met all workplace health and safety standards, and the firm's leaders were in regular contact with all staff to check on their wellbeing. We also prioritised staff use of the firm's Employee Assistance Programme if they needed guidance and counselling.

The **Marketing** efforts focused on keeping clients informed of Government stimulus packages available as well as important updates impacting their businesses. We also moved our informational events into webinar format via Zoom, ensuring

clients and contacts had access to our senior leaders and their expertise.

Our **Finance** team closely followed our billings and collections to manage our finances, and worked with clients who were struggling in their businesses to ensure they were coping with their financial commitments.

Overall, we ensured that communications to clients and staff were regular and current in the face of ever-changing restrictions and prevention measures. The feedback received from our HLB "family" (staff and clients) regarding our efforts during these months was exceptional which confirmed that the best way for businesses to cope was via a coordinated approach by a dedicated, nimble team, who could make decisions quickly and efficiently, and communicate with clients and staff regularly and clearly.

We remain available to assist clients as we work our way out of the pandemic. Businesses still face many challenges, which will continue as stimulus packages start coming to an end however, with proper planning and foresight, we can continue achieving our business and financial goals.

As we reflect back on the year's challenges, we thank you for your business and support through 2020, and wish you and your family a Happy Christmas and a New Year filled with health, wealth and happiness.



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Home truths change the IT landscape for WA business

The radical and unexpected 2020 pandemic has likely forever changed the IT and data security requirements for WA businesses, particularly small to medium enterprises and not-for-profits, as the rush for companies in 2020 to adapt to all or most of their employees working from home during the initial COVID-19 lockdown had caught business by surprise.

In the early days, and even now, organisations which did not have

their own stock of laptops and other hardware had to rely on their employees to make a judgement call on whether their home computers were adequately protected. It was like a reverse hard border for IT. The firewall was down for businesses, with heightened exposure to computer viruses and an increased reliance on public data sharing apps and tools to distribute company information.

The COVID experience has also resulted in long term behavioural change with employers and employees embracing the flexibility of a work from home workforce. Businesses have had to change the way they design their IT systems to make them both accessible and more secure.

Now, more than ever, it was important for organisations to have a robust password policy, two factor logins

when working from home, secure file transfer systems and carry out regular cyber awareness training with their staff. Employees are an organisation's greatest asset but when it comes to IT security their behaviour is the most likely cause of a hack.

The pandemic had also provided fertile ground for scammers and hackers trying to capitalise on community anxiety and disguising their attacks in fake COVID-19 updates and information on hot button issues like a potential vaccine. Businesses need to regularly test the threat level they face and should look at tools such as ethical phishing to identify the susceptibility of their employees.

For more information, please contact Matt Rowston on (08) 9227 7500.



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Estate Administration Challenges

Although a morbid issue to deal with, it is imperative to have a will in place just in case something unforeseen happens.

Most wills are relatively uncomplicated, with the spouse commonly appointed as the executor to deal with the estate. However, issues can arise if the spouse is not financially literate or has limited understanding of the deceased's financial position.

The executor is also legally obliged to deal with the assets of the estate fairly and ensure that the distribution of assets occurs in accordance with the will.

That said, the administration required to deal with an estate is the last thing that a loved one or spouse wants to deal with, especially as they are grieving the loss at the same time.

Regardless, a number of areas require immediate attention at this time – bills need to be paid and living costs for the spouse continue as normal yet, if all the bank accounts are in the name of the deceased, the accounts are normally frozen by the bank. This means that any direct debits against that account will be stopped, no transfer of money can take place, and direct debit/credit cards are cancelled.

Working with your bank can sometimes prove difficult especially where affected family members do not have a relationship with a personal banker. The majority of Australian banks have a protocol of what must happen when someone dies, which often begins with family members advising the bank that a death has occurred. This may involve either contacting by phone or sending an email to a support services team. Banks will require documents such as a certified death certificate or, where someone is an executor, a certified copy of the will or grant of probate. In instances where the executor has multiple queries, they may be speaking to, or emailing, various bank personnel across numerous departments within the same bank trying to obtain access to accounts.

However, the good news is that any bank accounts in joint names will automatically revert to the survivor so you can still access and operate the account.

Joint home loans can also prove problematic. If the home loan is not going to be paid off with the deceased's superannuation or life insurance, then the bank may be able to transfer the certificate of title to the surviving spouse once the estate is administered or, alternatively, once the loan is refinanced to the surviving spouse.

The above points are only the tip of the iceberg of financial issues that need to be considered to administer an estate properly. One way of removing the burden from the executor is to have a conversation with your accountant to see where they can assist – your accountant can help with understanding the financial issues, and possibly deal with the banking issues and paperwork required to administer the estate. They will also be able to assist with any tax issues associated with the disposal of assets.

For more information, please contact Litsa Christodoulou on (08) 9227 7500.



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RADS simplified in 4 points

One of the first things you come across when moving into residential care is the need to pay for your room. With quoted prices of up to \$2 million, the numbers may send families into panic. However, they can be less frightening if you understand how these fees work and what choices you have. So, what are the four key points that you need to know?

1. The money will be refunded

Let's start with the fee's name – refundable accommodation deposit (RAD). This might help you breathe a sigh of relief, because the name is descriptive and highlights that at some point you will get the money back.

For example, if you pay a RAD of \$400,000 when you leave, the \$400,000 is paid back to you or your estate. Only if you allowed the care provider to deduct other fees from this money instead of paying those fees from your bank account,

will the amount refunded to you be lower, as you are essentially spending some along the way. This means you will still be able to pass on an inheritance to your family.

2. Your money is not at risk

If you paid the RAD to an approved provider, the Federal Government will guarantee the repayment of your money. This takes away the risk that your money could be lost.

3. You have time to make choices

When you move in you don't need all the money upfront. You have a choice to pay the lump sum (to "buy" the room) or pay a daily fee (to "rent" the room) or a combination. And you will have 28 days after moving into care to tell the provider which choice you want to make.

If you choose to start with a daily fee you can change your mind at any time and pay all or some of the RAD. If you choose to pay the RAD, you need to stick with this option but the provider needs to give you at least six months to organise your finances to make the payment.

Example: Lorna moves into care in July 2020 and agrees to pay \$300,000 for her room. She could instead choose to pay a daily fee of \$33.70 (at the current interest rate of 4.1%).

4. Your age pension may go up

The money you pay as a RAD won't count in your age pension assets test or in your income test. This means that you might be able to keep or increase the amount of age pension payable to you, especially if you have decided to sell your former home.

Advice is key

Everyone's situation is unique so advice from an adviser accredited in aged care advice is key. The advice needs to look at the full impact on your financial situation as well as map out the flow of money to understand how you and your family may be impacted.

For more information, please contact Peter Speechley on (08) 9227 7500.

Peter Speechley is an ASC Accredited Aged Care Professional. Peter Speechley and HLB Wealth are an Authorised Representative of Paragem Pty Ltd ABN 16 108 571 875, AFSL 297276.

Disclaimer: The information in this article is general and does not take into account your particular circumstances. We recommend specific tax or legal advice be sought before any action is taken and refer to the relevant Product Disclosure Statement before investing in any product. Current at 1 November 2020.



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2020: A Testing Time for Taxation

It has been an extraordinarily busy time since the beginning of 2020 and we're now able to reflect on both what happened, as well as the impacts, of 2020.

In our role as tax consultants (and a big thank you to my colleagues that have assisted in the matters referred to below), we have been asked to review a number of matters through 2020, which at first blush are diverse, but when reviewed together have similar themes. Do any of these sound familiar?

- *This is how I have always done it.*
- *This is how my friends/colleagues did it.*
- *This is my understanding of the law/that is not my understanding of the law.*
- *I had to do it in a hurry, cheaply.*
- *I just had to (get the deal done/ make a commercial decision), now please sort out the tax issues.*
- *I did not think we would get so big, so quickly.*
- *What do you mean I cannot use my losses?*
- *What do you mean I cannot access those concessions?*
- *It is my money, why cannot I use it like that?*

Some of the key issues that have been raised by clients within the tax arena through 2020 have included:

- When the acquisition of new performance rights of a director fails the 10% limit on shareholding and voting power in respect of Division 83A of the *Income Tax Assessment Act 1997*.

Failing this test will disqualify those performance rights (also options and shares), from accessing the 'start-up', 'real risk of forfeiture', and 'Subdivision 83A-C scheme' concessions. This can be a complex area of the law and often overlooked.

- When the loss of employment/directorship is a real possibility when receiving an employee share scheme interest under Division 83A.

The loss of employment/directorship in a company usually causes a deferred taxing point and depending on the terms and conditions of the interest, an individual may not have sufficient funds to meet an unexpected tax liability. Were there other mechanisms that could have been used to compensate when initial discussions were being held?

- Whether an Australian company lending funds overseas to a USA LLC triggers Division 7A of the *Income Tax Assessment Act 1936*?

To the extent Division 7A has been triggered, how to manage the 'minimum yearly repayments', especially when the funds have been used to finance a long-term, illiquid asset.

- Whether a supply of a commercial building was a supply of a going concern Subdivision 38-J of the *A New Tax System (Goods and Services Tax) Act 1999*?

The initial view taken by many that the supply of a commercial building will be a supply of a going concern, this is not always correct.

- Getting too big too early (to the extent cash flow supports this) is generally seen to be a good thing. However, if the business was not set up in an appropriate structure in the first instance, then unexpected tax issues may ensue. This is not just for start-up businesses. There have been occasions when companies with established businesses create a new business within that company. The difficulty comes from how to deal with incentivising directors/employees that have greater involvement in one business over another. Furthermore, should one of the businesses become attractive to outside buyers, how to complete the deal may be limited or not as attractive as it may have otherwise been should the new business commenced in another entity (from a federal and, possibly, state tax perspective).

In summary:

- It is not just income tax and capital gains tax that needs to be reviewed. There are few situations that there is relief from, or concessional treatment for, income tax and capital gains tax (when correctly structured), but no such relief may be available from transfer duty, landholder duty, pay-roll tax grouping, goods and services tax etc.

- When restructuring is being considered, a deep dive into the tax issues after an initial review should be deferred until a review of external circumstances is made and discussions had with external parties. There have been several occasions where discussions with financiers, landlords, and insurers have caused a restructure not to go ahead or have been materially altered.

- Another sleeper is the *Personal Property Securities Register*, especially for those entities that have equipment at external sites. Also, consideration should be had to whether the registrations under the *PPSR* has been correctly completed when some of the equipment is held in a separate entity away from the entity that is contracted to provide the services.

- Take advice as early as possible in the process. The earlier in the process advice is taken, opportunities may present to restructure the commercial deal (if required) and achieve an improved outcome.

- Remember to revisit the tax advice when the deal that has been struck has changed or there has been a time lag between the advice and the deal. The deal may have changed from the initial tax advice received and it may no longer be materially correct. Furthermore, there may be a change in valuation(s) which may change the tax liability or, worse still, cause the inability to access certain tax concessions (e.g. Division 152 small business CGT concessions of the *Income Tax Assessment Act 1997*).

- Better still, bring your tax advisor along the journey. People forget many tax advisors have significant commercial experience outside of the tax sphere and can be an asset in the overall process.

For more information, please contact Guy Brandon on (08) 9227 7500.



IMPORTANT DATES

Important Tax Dates during the period 1 December 2020 to 31 March 2021

Large taxable taxpayers (total income > \$10m) final payment of 2020 tax due to the Australian Taxation Office (tax return due 15/01/21)	1/12/20
November monthly BAS & IAS (PAYG Withholding)	21/12/20
Large taxable taxpayers last year (total income > \$10m) 2020 income tax return due for lodgement with the Australian Taxation Office (balance of tax previously due on 1/12/20)	15/01/21
December monthly BAS & IAS (PAYG Withholding)	21/01/21
Deadline for making superannuation contributions for the quarter ending 31 December 2020 to avoid incurring penalties	28/01/21
January monthly BAS & IAS (PAYG Withholding)	21/02/21
October to December quarterly BAS & IAS due for lodgement	28/02/21
New superannuation funds registered with no previous lodgement history, 2020 income tax return and final payment of tax due to the ATO	28/02/21
Large non-taxable taxpayers last year (total income > \$10m), 2020 income tax return and final payment of tax due to the ATO	28/02/21
February monthly BAS & IAS (PAYG Withholding)	21/03/21
Companies and superannuation funds last year with total income > \$2m but < \$10m, 2020 income tax return and final payment of tax due to the ATO	31/03/21
Individuals and trusts with final tax payable last year > \$20,000, 2020 income tax return due to the ATO	31/03/21
End of the fringe benefits tax year	31/03/21

When a due date falls on a weekend or public holiday, you can lodge and pay on the next business day.

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Important Reporting Dates for Listed Public Companies during the period 1 December 2020 to 31 March 2021 (original reporting dates*)

Quarterly Reports	29/01/21
Half Yearly Reports (Reviewed)	26/02/21
Preliminary Final Reports (December Year End)	26/02/21
Half Yearly Reports (Explorers only - Reviewed)	16/03/21
Annual Financial Report (December Year End - Audited)	31/03/21

**For entities with 31 December 2020 balance dates, the Australian Securities and Investments Commission (ASIC) has granted lodgement relief. Listed and unlisted entities with balance dates up to and including 7 January 2021 that report under Chapters 2M and 7 of the Corporations Act, will have an additional one month to lodge their full year and half-year financial reports. Listed entities that make use of the extended lodgement period must inform the market of this. ASIC suggests that the reasons for doing so be explained.*

Important Reporting Dates for Other Entities during the period 1 December 2020 to 31 March 2021

Real Estate Agents Trust Account (Audited)	31/03/21
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Christmas Closing Dates

Our office will close from 12.00pm on
Wednesday 23 December 2020
and reopen on
Monday 4 January 2021.

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