WMC accounting

YOUR Knowledge

Losing it! How to make the most of your losses

No one in business likes a loss at the end of the financial year. Most of us have grown up on the mantra 'brackets are bad.' Recent changes however might soften the blow by giving you access to a cash refund from the Australian Tax Office (ATO).

Australia might have been a shining economic light in the global community maintaining an average growth rate of around 3% during the financial crisis, but for many businesses the resource boom boosted GDP headline was hiding a different picture. This year has seen a record number of business bankruptcies and a higher than usual level of debtors reaching a business related debt agreement.

For others, the brackets around the bottom line number are a result of high growth.

Whatever the reason for the loss, new rules offer a way for many businesses to offset tax they have paid in previous years against current year losses. In effect, you can carry-back your losses.

How do the loss carry-back rules work?
Prior to the introduction of the loss carry-back rules, companies could only carry forward their tax losses to deduct against taxable profits made in future income years, subject to meeting a few tests. The new rules give companies the ability to choose to carry-back up to $1m of certain tax losses rather than carrying them forward (limited to the company's franking account balance for that year).

In most cases, the rules apply when a company carries-back a tax loss that is made in the current income year. From the 2014 income year onwards, losses can be claimed against tax liabilities of either of the two previous income years. However, in the 2013 income year it will only be possible to claim current year losses against the company's tax liability for the 2012 income year.

So, if your company is likely to be in a loss position for the 2013 income year and paid tax in the 2012 income year, we encourage you to send in your tax return information as soon as possible as the company may be entitled to a cash refund from the ATO.

Let's look at an example....

Company A is eligible to access the loss carry-back rules. In 2013/2014 they make $500,000 and pay tax of $150,000. In 2014/2015 they make $2m and pay tax of $600,000. In 2015/2016, they make a loss of $5m.

Company A can choose to carry-back $1m of the tax loss incurred in 2016. This equates to $300,000 of tax payable. While there are a number of options for carrying back the loss, the most likely approach is to carry-back $500,000 of losses to each of the 2014 and 2015 income years. This would produce a refundable offset of $300,000 and the company would still carry forward $4m of losses to future income years. A much better cash flow position for the company with $300,000 extra to use.

The losses are claimed in the company's tax return.

Do I have to carry-back losses?
The loss carry-back rules are not compulsory and don't automatically apply. You can choose whether to carry-back losses to prior income years as you see fit. This means there is no requirement for losses to be carried back to the earliest eligible income year or for the earliest losses to be carried back first. For example, you might want to limit the amount of a tax loss you carry back because of the impact this will have on the company's franking account balance. You might prefer to retain franking credits to enable franked dividends to be paid to shareholders. *Continued over....*

Quarterly Super – important

Don't forget, before you complete your quarterly reporting and payments for your team's superannuation guarantee (SG) contributions, make sure you have included the increase in SG to 9.25% from 1 July 2013. Plus, if you have any team members aged 70 and over, eligible employees should now receive SG as well.

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Gone phishing – the top scams

Every year, thousands of people are caught by scams. A recent Australian Competition & Consumer Commission report stated that in 2012, Australians reported losing over $93m – that's just the people who reported the scam.

From the ATO

The ATO has issued a warning about a new phishing email scam.

Pretending to be from the ATO, the email claims that the recipient is entitled to a tax refund and states they should click the embedded link and complete the online form. The link however takes users to a fake webpage that attempts to obtain your tax file number.

The ATO will never email you asking for personal or credit card details.

This latest scam is just one of many. In another scam, an email purporting to be from the ATO asks the recipient to complete a form attached to the email to receive a tax refund. If opened, the attached zip file releases a virus.

Not the Yellow Pages

An old scam has resurfaced recently asking business operators to confirm Yellow Page Australia (notice it's not Yellow Pages) and Open Business Directory listings. What appears to be a confirmation of contact details from Sensis Yellow Pages is actually an agreement to sign up to the directory for $99 per month for a minimum of 2 years.

In 2011, the Federal Court imposed penalties totalling $2.7m on two overseas companies, Yellow Page Marketing and Yellow Publishing Limited for misleading thousands of businesses into thinking they were dealing with real Sensis Yellow Pages.

Money mules – fake jobs and romance

Money mules are middlemen for stolen funds and usually receive a small commission on the transferred funds. They receive the funds into their account and then transfer them to another account.

Money mules are generally recruited through job advertisements offering quick commissions, or through romance scams where singles are asked to receive money with the promise of romance.

Not your bank

A phone call from the Australian Bankers Association might be following through to refund overcharged bank fees or completing a customer satisfaction survey. Both are scams starting with a few basic questions before delving into collect your personal information.

Quote of the month

"I'm spending a year dead for tax reasons."

Douglas Adams

Losing it! How to make the most of your losses *continued*

So, companies can choose:

- Whether to claim a tax offset under the carry-back rules;
- How much of the losses from the current year or prior year to carry-back; and
- Which year or years to carry a loss back to.

Who can access the new rules?

Like with most tax benefits, there are a number of conditions that need to be satisfied. These are:

- You need to be a corporate tax entity - generally, a company, corporate limited partnership, corporate unit trust, or public trading trust;
- You have a tax loss from the current year or carried forward from the preceding income year;
- You have an unutilised tax liability for the preceding income year or the year before that;
- You have lodged all your tax returns for the current year and each of the previous five income years;
- You have a positive franking account balance at the end of the current year; and
- You do not fail the specific loss carry-back integrity rule – basically where there has been a change in control of the voting power of the company and someone connected with the change in control had the intention of benefiting from the loss carry back rules.

Also, there are a few types of losses that are not eligible such as capital losses, losses created by excess franking credits, and some types of losses transferred between companies.

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