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2011 In Review

There is no doubt that 2011 was a difficult year for many businesses. When you consider the issues that have affected business in Australia, you gain an appreciation of the problems that confronted every business and the government including natural disasters such as the Christchurch earthquake, Japanese tsunami, floods in Queensland, Victoria, NSW, SA and WA.

These external matters, when combined with continuing political uncertainty in Australia and the drop in business activity, all contributed to a difficult year. Interest rates did drop a little, but unemployment has increased to around 5.5%. The Australian currency has had a mixed result. The rates of the A\$ -vs- US\$ ranged from 90 cents to A\$1.10 and is currently about \$1.02. When this score card is examined, in conjunction with what is happening in Europe, USA and, to some extent, Japan, it highlights the necessity for small business operators to be very diligent in their business management in 2012.



Getting Ready For 2012

Some of the headlines in TV news bulletins have issued grim warnings as to what might occur in 2012 with some commentators claiming that the emerging financial positions are the worst in 25 years.

Australia will not be able to totally escape problems from the ongoing mess in Europe which, when coupled with continuing problems in America and the “two-speed” economy in Australia, highlights the necessity for all businesses to be doing some planning now, to ensure business survival in 2012.

Some of the things to consider:

- Have you “stress tested” your business (refer article in November issue)? You should review your cash management control procedures, particularly relating to: debtors, work in progress and compliance with bank covenants on any financial facility that the bank has made available to you.
- Be careful about an over-reliance on bank overdraft because banks have been known to suddenly withdraw overdraft facilities with little warning to the small business. If it is possible to arrange for a loan to incorporate a bank overdraft facility then this might be a better approach to securing ongoing bank facilities.
- Have you thought about the carbon tax? The effects of this on your business and the changes you need to make to minimise the effect of the flow through from the carbon tax.
- It is a good time to undertake a wastage review – could costs be reduced relative to electricity, gas usage, travel expenses and telephone?
- Difficult trading conditions should not stop small business operators from maintaining a good relationship with their team. To survive in difficult times, small businesses need the best possible team they can employ.

Our recommendation is for all businesses to prepare Budgets and Cashflow Forecasts for the likely trading scenario in 2012 and have a meeting with your bank in relation to the facilities required.



Quality Assurance/Theft/Wastage – Questions to consider:

- Does the business have a Quality Assurance System?
- Have systems' manuals been developed?
- Are the manuals regularly updated?
- Does the business record theft and pilfering?
- Has the business developed strategies to reduce theft and pilfering?
- Have the areas that contribute to wastage loss in the business been identified?
- Have strategies been introduced to reduce wastage?



Commences on 1st January 2012

The new Work Health and Safety Laws which commence on 1st January 2012 introduce a due diligence requirement. “Due diligence” requires officers to be proactive in ensuring that the corporation, club or association complies with its duty of care. In demonstrating due diligence, officers will need to show and ensure that:

- they have taken reasonable steps to acquire and update their knowledge of Health and Safety matters;
- they understand the operations being carried out by the person conducting the business or undertaking, in which they are employed;
- they understand the hazards and risks associated with the operation;
- the person conducting the business or undertaking has and uses appropriate resources and processes to eliminate or minimise health and safety risks arising from the work being undertaken;
- the person conducting the business undertaking has appropriate processes in place to receive and respond promptly to information regarding incidents, hazards and risks; and
- the person conducting the business or undertaking has and uses processes for complying with duties or obligations under the WHS Act.

The new laws require the person conducting the business or undertaking to ensure, so far as is reasonably practical:

- the provision and safety of a working environment without risks to Health and Safety;
- the provision and maintenance of safe plant structures;
- the provision and maintenance of safe systems of work;
- the safe use, handling, storage and transport of plant structures and substances;
- the provision of adequate facilities for the welfare of workers in carrying out work for the business or undertaking including ensuring access to those facilities;
- the provision of any information, training and structural supervision that is necessary to protect all persons from risks to their Health and Safety arising from work carried out as part of the conduct of the business or undertaking; and
- that the health of workers and the conditions at the workplace are monitored, for the purpose of any illness or injury of workers arising from the conduct of the business or undertaking.

In particular the new laws impose a specific duty on officers of corporations and unincorporated bodies, such as clubs and associations, to exercise due diligence to ensure that the corporation, club or association meets its Work Health and Safety obligations.

This requires officers to be proactive in ensuring that the corporation, club or association complies with requirements of the Work Health and Safety Laws.



A Segment Of The Tourism Industry Now Eligible For Enterprise Connect Grants

The Australian government has announced that a sector of the Tourism Industry is now eligible to seek assistance from Enterprise Connect. To be eligible, the Tourism sector must derive a significant portion of its turnover from tourist accommodation, tourist attractions, wineries, tour operations and travel agency services.

To be eligible for support under the Enterprise Connect programme, businesses must derive a significant portion of their revenue from tourists who are defined as “people who have travelled for a round trip distance of at least 50km from home” and would either cease to exist in its present form, or would be significantly affected if tourism were to cease. Grants from Enterprise Connect are not available to those businesses whose primary trade is retail, cafe/restaurants or take away food suppliers. An eligible business must have a minimum turnover of \$1M. The maximum turnover allowed for an applicant is \$100M. The business must have filed Business Activity Statements for at least 3 consecutive years, must be solvent and not have previously received a Business Review under the Enterprise Connect programme. Assistance can be given by Enterprise Connect for a range of activities including:

- strategic business reviews
- human resources reviews
- internal systems
- production/operational
- advertising and marketing
- financial management issues
- exploring new markets
- product and service development.

An eligible business can submit an application to Enterprise Connect. If the application is approved by Enterprise Connect you will then be offered a “business review”, which is undertaken by an Enterprise Connect Business Adviser and, at the conclusion of the free business review, (which can take 2 to 3 days) Enterprise Connect will then advise whether the business is eligible for a Tailored Advisory Service programme which covers the abovementioned activities with subsidy of up to \$20,000, on a 50/50 basis..



Mini Budget – Effects on SMEs

The newspaper headlines really told the story. The Federal government’s budget deficit forecast for 2011/12 has blown out by nearly \$15B, from a deficit of \$22.6B to \$37.18B. The government is now forecasting a surplus of \$1.3B in 2012/13. The government has made some changes which may affect some small businesses by firstly bringing forward expenditure originally planned for 2012/13 into 2011/12 which could benefit SMEs involved in road infrastructure or natural disaster relief programmes.

The other changes worth noting are as follows:

- The government has delayed the introduction of the instant “*deduction for work related expenses*” of \$500 without having to produce any receipts until the 2013/14 financial year.
- There are changes being made to the living away from home allowance rules which will mean that recipients will need to substantiate expenditure claims beyond a statutory amount.
- The superannuation co-contribution from the federal government will fall from \$1,000 to \$250 in the 2012/13 financial year.
- Contribution caps for superannuation will not be indexed until 2014/15. This means that the contribution caps remain at:
 - employees under 50 years of age - \$25,000
 - employees over 50 years of age - \$50,000

If you have any specific concerns relative to the Federal government’s Mini Budget please do not hesitate to contact us.



Personal Property Securities Act

The Personal Property Securities Act (PPS Act) commences on February 1st, 2012. The legislation applies to transactions involving personal property, some of which are not currently “security transactions” but which, under the PPS Act, are deemed to be subject to the legislation including:

- the supply of goods under a Retention of Title Clause eg. Romalpa Clause (a Retention of Title Clause which is a provision in a contract for the sale of goods, that the title to the goods remains vested in the seller until certain obligations (usually payment of the purchase price) are fulfilled by the buyer. No matter how sophisticated the Retention of Title Clause is, security would be void if the assets are not recorded in the Register of Personal Properties Securities.
- the delivery of goods to a consignee under a commercial consignment (a business supplying goods such as computing equipment, books, jewellery, watches etc., on consignment to retailers) will need to register their interests in assets held by the retailer.
- a Payment Retention Clause under a construction contract.
- an agent's right, under an Agency Agreement to retain property until the agent has been paid their fees and expenses.
- a security deposit under a Supply Agreement.

The legislation requires businesses to register their security interest in customer assets in a National Personal Property Register. Registration is critical to ensure that businesses have valid and enforceable claims over assets in the event that their customer became insolvent or enters into administration.

If you would like us to review your situation relative to this new legislation, please don't hesitate to contact us.



What's It Mean?

Large Proprietary Companies

A proprietary company is defined as “large” for a financial year if it satisfies at least two items under the following statements:

- the consolidated revenue of the company and any entities it controls for the financial year is \$25M or more;
- the value of the consolidated gross assets of the company and any entities it controls at the end of the financial year is \$12.5M or more; and
- the company and any entities it controls have 50 or more employees at the end of the financial year.

A Large proprietary company must lodge audited financial reports with ASIC within four months of the end of the financial year. An exemption is available in limited circumstances.

Do you have a Higher Education Loan Program (HELP) debt?

From 1 January 2012, the government is changing the HELP voluntary repayment bonus, applied to payments of \$500 or more, from **10% to 5%**.

To take advantage of the 10% bonus, you will need to ensure voluntary repayments are received by the ATO on or before **31 December 2011**.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential.