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**March 2013****What Will 2013 Bring?**

What a start to a new year! Bushfires, floods, and tornadoes causing immense problems to primary producers, small business operators and residences all around Australia. The Prime Minister has announced an election will be held on the 14<sup>th</sup> September 2013. It will be interesting to see what the unprecedented advance notice for a Federal Election has on the business community during the next 8 months. What is likely to happen during 2013? Various economists have had their say on the key economic data, as follows:

**2013 Figures:-**

- Growth in 2013: 2.4-2.8%
- Business investment in 2013 – 10-10.5%
- Budget deficit 2013 – \$12billion
- Cash rate 30/6/13 – around 3-3.25%
- CPI growth during 2013 – 2.5-3.25%

**2014 Forecast Figures:-**

- Growth – around 4%
- Business investment – around 9.5%
- Budget forecast – \$25billion
- Cash rate 30/6/14 – 5.25%
- CPI growth to December 2014 – 3-3.5%

These figures will be significantly distorted if there are continued uncertainties on the European debt situation and/if The Federal Election does not give a majority to either the Coalition or ALP and we end up with another hung parliament.

Unemployment is expected to be around 5.5% nationally, but in some States, will be over 6%. Currency rates between \$AUD and \$US is expected to remain around \$AUD.95 to \$AUD1.05.

Whilst there have been some questions in relation to the Chinese economy, most economists believe that China will continue to purchase large quantities of product, primarily iron ore and coal, from Australia.

Many of these items are outside the direct control of small medium enterprise operators but the market uncertainties dictate the need for continuing planning of business operations, the monitoring of interest and exchange rates, and changes in Government policies. It is a good idea to prepare a calendar year budget and to ensure that you then receive departmentalised management accounts monthly or quarterly (at the most), so you can check actual performance against your budget. There is still a high priority to monitor debtors, stock and work in progress, as these are the key ingredients for effective cashflow control within a business.

## Natural Disaster Grants

If you have been affected by the fires, floods or tornadoes, there are Federal and State government funds available to assist eligible primary producers and small business operators to recover the costs of cleanup and immediate restoration of business costs, but not providing compensation for losses. Assistance is currently available for eligible primary producers and small businesses in Tasmania, New South Wales, Queensland and Victoria.

## Enterprise Connect Program Expands

The Federal government's Enterprise Connect program has expanded and now includes support for eligible companies operating in the printing and publishing industries.

Enterprise Connect has reported that, up to the 30<sup>th</sup> June 2012, 17,000 businesses nationally have accessed Enterprise Connect's services, and that Enterprise Connect has funded over 3,000 Tailored Advisory Services grants worth over \$33M to eligible small medium enterprises.

Enterprise Connect offers assistance to companies operating in the manufacturing, clean energy, resources (mining, gas and oil), creative industries, defence, tourism sector (tourist accommodation, tourist attractions, wineries, operations of tours, travel agency services), printing and publishing industries. Enterprise Connect has a special support program for businesses with turnovers in excess of \$750,000, operating in the remote and very remote area of Australia.

## Director's Duties Update

- Some recent court cases have reconfirmed that directors and senior managers, irrespective of the size of the company, can face heavy penalties if they have breached their duty of care and diligence in the company's operations. The court cases also confirm that officers, under the definition contained within the Corporations Code, includes directors and the company secretary and can include senior management, such as the executive management team or other people who contribute to making decisions.
- The cases have also emphasised the necessity for the accurate preparation of the minutes for the Board of Director meetings and, in particular, highlighting the names of any directors who vote against a motion.
- Another company's directors were severely criticised for approving misleading financial accounts which related to misclassification of liabilities in the company's financial accounts. Liabilities which should have been treated as current liabilities (i.e. debts repayable in the next 12 months) were treated as long term liabilities. The court decided "*the directors have a responsibility to read, understand and focus on the financial statements before approving:-*"
  - *Directors should be financially literate and ask appropriate questions to satisfy themselves on the accuracy of financial accounts.*
  - *That the directors cannot uncritically rely on other people".*

The court also emphasised that the directors need to read management reports and make their own decisions.

Another very important issue that relates to small medium enterprise companies is that each director has the same legal responsibilities and that one director cannot safely opt out of their responsibilities. A court, in all probability, will assess that an "opt out" director is equally liable with the director who has been performing the director's duties.

It is now an appropriate time to revisit risks of "trading whilst insolvent". Directors have to ensure that the company is not incurring debts that the company cannot pay for in the normal course of business.

Taxation laws have also been updated whereby directors can now be responsible for paying PAYG tax deducted from a company's employees' wages and superannuation payments on a personal basis.

There is also onerous responsibilities under the Workplace Health and Safety laws. Directors and officers need to satisfy themselves that there are no inherent risks in the workplace to employees or visitors. Directors cannot delegate this responsibility; directors need to physically inspect premises to ensure that risks have been eliminated.

## Pricing Strategies - Do You Have Procedures?

Some of the areas to consider relative to setting prices include:-

- "Gut instinct". When people set their prices based on gut instinct, sometimes it works out OK, but it is far better to try to institutionalise a process of gathering customer feedback and analysing historical sales patterns and requests for the products from customers and prospects, analysing the hard numbers, knowing the gross profit margins on various products, knowing which ones are being sought by your customers, preparing a stock matrix, knowing the "Stars", the "Cash Cows" and the "Problem" lines.
- "Changing prices at regular intervals" e.g. 1st January, 1st September. This is a very methodical approach to changing prices. The better practise is to change prices based on marketplace changes. What new patterns are occurring? It is best to set your price strategies as being responsive to market conditions.
- "Scenario Modelling". Don't be too mechanical in your approach to setting prices. Whilst scenario modelling can assist, don't be a slave to a mechanical pricing calculation. You need to have undertaken real market due diligence, rather than just having all of your calculations determined on a "set formula" approach.
- Price change might be "unfair to customers". It's your business, not the customers. Customers are free to purchase from someone else. You need to worry about your bottom line and concentrate on the extra values that you deliver to your customers through the pricing differentiation policies already mentioned.

It's far better to link your pricing to changes in marketplace conditions and fantastic customer service. This is differentiation that encourages customers to come back, even though you've effected some price changes. Setting a price strategy is scary for many businesses because there is no set methodology on how pricing changes should be made. Why not establish your pricing strategy reliant on the marketplace differentiation you have for your products highlighting your emphasis on customer service, rather than setting pricing on an internal cost recovery basis? Have you considered that the problem you might be experiencing in your business is being caused by an incorrect pricing strategy rather than a marketing problem?

## What' It Mean - Sales Mix

The dissection of the sales income for a business into independent departments is known as "Sales Mix". Departmental Sales Mix measure the income being contributed from each product group. Factors affecting the Sales Mix include:

- the demands of the customer market base
- product and service promotions
- trading space
- business design/presentation and layout
- pricing policies
- staff experience and training

## Business Plans

### Succession Planning:

Some of the questions to be considered in the business planning review relating to Succession Planning include:-

- Have you considered what would happen if directors/executives/staff were "hit by a bus" and were no longer involved? Who would take their places?
- Do you have sufficient key man insurance cover (if any). Would it be sufficient to give the business the funds to pay key suppliers, reduce debts on assets (that might no longer be available) as security, hire new staff?
- Has your business developed a contingency plan?
- Have you identified team members who could be promoted in the event of the unavailability of key executives?

These are some of the questions to be considered in the review of Succession Planning for a business.

## Safeguarding Your Intellectual Property (IP)

If you have reasonable concerns about whether someone has illegally obtained copies of your intellectual property, it's best to consult your solicitors and see if they can obtain a "search order". A "search order" is applied for at a closed Court Hearing attended only by the applicant and the applicant's lawyers. The benefit of a "search order" is that the Court grants an order to be supervised by independent people who are entrusted with overseeing the process to conduct searches at specified premises, which could include homes, business premises and other locations to identify whether there are any documents in hard copy or data format which have originated from your business.

If you have any concerns in relation to Intellectual Property being stolen from your business, we recommend that you contact your solicitor.

## Find Mentors To Help You Grow Your Business

Try and "learn from other people". Use them as mentors and coaches to help you in your business operations. Remember that a CEO of a public company has the benefit of having input from a range of individual experts including:

- marketing
- sales
- product development
- international markets
- chief financial officers
- information technology professionals

Small business people do not have this luxury, but you'll still need the input from these types of people. Identify experts in your community and come to some type of business arrangements with them whereby you can "learn from them".

Employ people who are very capable and maybe smarter than you, especially in areas of particular specialities. You don't have to be the "expert" in everything. The owner's or CEO's role is to provide overall leadership, mentoring and coaching for the team. It's a bit like being the conductor of an orchestra... every musician has their own individual skills and talents; the conductor's role is to bring them altogether to produce outstanding music. That's a CEO's/owner's role in a small business. Know what you're doing and where you're headed in the market. Be humble and patient and realise that a business is not a sprint.... it's a marathon.

## "BEWARE" "ATO" Email And Phishing Scams

A new year, a new "Australian Taxation Office" apparently as the "ATO" has suddenly become big believers in sending emails and text messages to taxpayers and tax agents, or so you would believe by the number of phishing emails and text messages being sent out. Significant numbers of tax agents and their clients are receiving emails that look very similar to the normal business and tax newsletters and email correspondence from the ATO, even so far as the ato.gov.au email address and letterhead.

Currently what appears to be the "majority email scam to tax agents" is an email that contains a list of "delayed tax returns". This email appears to be exactly the same as the majority of ATO automatically generated correspondence from an apparent seeming to be ato.gov.au email address. This email also includes a zip file which the email states contains a list of clients that have had the lodgement or processing of their tax returns delayed. The emails even include the warning to be aware of email and phishing scams and that the Australian Taxation Office will not send sensitive information via email.

The other email which is being sent to taxpayers is an "increase and recalculation of your tax refund" email scam which has a form attached to it asking for personal details. The forms are often copies of electronic tax returns which have been modified to include additional information specifically credit card details. These forms are looking quite sophisticated.

The Australian Taxation Office is aware of these email scams and is attempting to educate the public via the media and a list of current ATO SMS and email activities, however many taxpayers are not even aware that these events are occurring at all. The old adage applies that if it looks too good to be true, it usually is.

If you have any concern about the legitimacy of emails claimed to be originating from the ATO please contact us urgently.

*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*