



The Square Orange

June 2005

New OTS Management website

Our website has been redesigned.

Why not visit it at www.otsmanagement.com.au to view the changes?

You will find two helpful tools - Zest Test Your Sales Generation, and Zest Test Your Profitability and Performance.

“Zest Test Your Sales Generation” is a helpful what-if tool that calculates how to increase your sales exponentially by taking three small steps.

“Zest Test Your Profitability and Performance”

provides an easy to complete ratio analysis of your business.

You will also find a comprehensive list of our Business Development products. These are the products specially designed by OTS Management’s Director, Teik Oh, for application in Small-Medium Enterprises (SME’s).

As more of these are developed they will be put on our website, so make sure you are a regular visitor.

Other new features are the Square Orange archives and the FAQ’s.

Future developments for the website will include:-

- More Zest Tests - online tools for your business
- Online pay-per-use products, for example, prepare your Strategic Plan online for a fraction of the regular cost
- Surveys and competitions with prizes
- Staff and Client login sections.

Visit regularly so you don’t miss out - put it on your list of “favourites”!

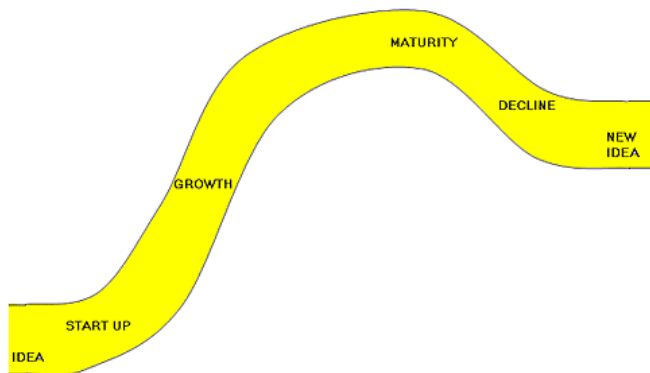
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The business life cycle

The Business Life Cycle is part of every organisation.

You start with an idea in your Start Up phase. Then, there is a period of Growth. After some time you enter the Maturity phase. Then, invariably, Decline. What you do then and how quickly will result in continued Decline, or a new idea and hence a virtual Start



THE DEVELOPING ORGANISATION'S LIFE CYCLE

Up phase again. Each phase has it’s own symptoms, In Start Up you will be short of capital & resources. During Growth, cash flow and

management are desperate issues. At maturity, it becomes increasingly harder to find new customers and retain old ones. In Decline, margins reduce dra-

matically.

What you do to fix the symptoms of each stage is crucial to your moving on to the next stage.

Last Mailed Issue!

This will be the last issue that is mailed to you through snail-mail.

Many of our clients already receive email copies.

If you receive a copy of this through the mail and you want to continue receiving these newsletters, please email us with your email address. Your future issues will be emailed to you.

Compensation payments

In a recent case, the Administrative Appeals Tribunal (AAT) has confirmed that compensation payments received by a taxpayer after turning age 65 were assessable income even though the taxpayer argued that they were capital in nature.

The taxpayer was unable to work due to ill health and received fortnightly compensation payments. Upon turning age 65 in



Compensation payments ordinary income regardless of age

March 1994, the taxpayer's payments continued to be taxed as income. The taxpayer objected on the grounds that the receipts represented payment of a capital sum for loss of earning capacity.

In response, the Tax Office argued that the payments were ordinary income in the hands of the tax-

payer regardless of age and should therefore be included in assessable income. The Tax Office argued that payments were ordinary income because they were received periodically, on a regular basis, and they supplemented income.

The AAT agreed with the Tax Office's arguments and held that the payments were assessable income. The AAT held that the amount could not be capital as it was not a fixed sum and it was unable to be redeemed (i.e. received as a capital lump sum).

Small Business CGT concessions

Certain small business taxpayers may be entitled to CGT concessions on disposal of their CGT assets.

In order to apply the small business CGT concessions, the asset disposed of must have satisfied the active asset test. The test requires that the asset must have been an active asset in the taxpayer's business just before the earlier of:

- its disposal;
- and the cessation of the relevant business (if the relevant business has ceased in the previous 12 months before the disposal).

In regard to the second requirement, the Tax Office has declared in a recent Interpretative Decision (ID) that the sale of shares in the relevant business is not a *cessation* of that business.

The ID examines a case where the

"The sale of shares did not constitute a cessation of business - not entitled to CGT concessions"

taxpayer owned premises that were used in the business of a partnership. One of the partnership entities was connected to the taxpayer through a common controller. As a result, the premises were an active asset of the taxpayer even though the taxpayer did not use the premises in the course of carrying on its own business.

At a later date, the partnership entity ceased being connected to the taxpayer when the common controller sold its shares. However, the entity continued to carry on the same business.

Subsequently, the taxpayer sold the premises and made a capital gain. The taxpayer argued that the premises were an active asset just before the cessation of the partnership business, which occurred on disposal of its shares.

Therefore, the active asset test would be satisfied and the concessions would be available to reduce the capital gain.

The Tax Office rejected this argument and emphasised that the sale of shares did not constitute a cessation of business. As such, the taxpayer was not entitled to the CGT concessions, as the active asset test could not be satisfied.

TIP: Small businesses should carefully consider their entitlement to small business CGT concessions whenever an asset is sold.

Evidence for Expenses - Substantiation

The Tax Office has recently released a Practice Statement (PS) providing guidance to individual taxpayers as to generally accepted documentation that may be used to substantiate deductions in the tax return.

The PS outlines that individuals without a receipt for work-related expenses may still be able to claim a deduction by maintaining other records, which include:

- online banking and credit

card statements;

- online, email and photocopied receipts; and
- BPay records.

Deductibility of legal fees

The Administrative Appeals Tribunal (AAT) has recently held that a taxpayer company was entitled to deduct legal expenses incurred in settling a damages claim even though it had not produced any income.

The taxpayer owned a large rural property that had a leased dwelling situated on it.

In lieu of rental payments, the tenant agreed to provide certain services on the property with the tax-

payer's agent being responsible for maintenance on the dwelling.

A legal dispute arose following the tenant's injury in connection with maintenance of the property.

In settling the dispute, the taxpayer and its agent incurred approximately \$39,780 in legal fees.

The Tax Office disallowed the legal expense deduction on the basis that there was no nexus between incurring the legal expenses and the tax-payer's in-

come producing activities.

However, the AAT accepted that the taxpayer held the dwelling separately for the purposes of producing assessable income and that the function of maintaining the property by the agent was incidental and relevant to that purpose.

Consequently, even though no rental income was derived, the AAT found that the legal expenses incurred by the taxpayer were an allowable deduction.

Changes to GST laws on property sales

The Federal Government has recently introduced a number of important changes to the GST laws, which will impact the sale and purchase of real property.

The new laws are, in part, designed to stop arrangements whereby entities reduce or eliminate GST on

Caution: GST needs to be carefully considered prior to completing any sales or purchases of real property

supplies of real property through the use of the going concern, GST

group and GST joint venture provisions.

It is very important that sellers of residential properties undertake a review of their structures and operations in order to ensure that there are no adverse GST implications or 'hidden' GST costs.

Foreign Rental Income

The Tax Office has recently released an Interpretative Decision (ID), which considers whether rental income from property outside of Australia is assessable income of Australian tax residents.

The assessable income of an Australian resident includes income from all sources, whether in or outside of Australia. However, in relation to foreign-sourced income, a Double Tax Agreement (DTA) between Australia and the contracting nation must be considered, as the DTA typically takes precedence.

This ID reviews the assessability of income derived by an Australian



resident taxpayer from a rental property in Switzerland.

Under the DTA between Australia and Switzerland, rental income derived by an Australian tax resident from real property in Switzerland

may be taxed in Switzerland.

The Tax Office considers that the phrase 'may be taxed' indicates that Switzerland has a non-exclusive taxing right. Accordingly, the rental income may potentially be taxed in both countries.

Where foreign tax has been paid on income subject to Australian tax, a foreign tax credit is typically available against the Australian tax payable.

CAUTION: It is critical to receive professional taxation advice when dealing with foreign income to ensure that correct tax is paid and any available foreign tax credit is claimed.



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Important: This is not advice. Clients should not act solely on the basis of the material contained in this Newsletter. 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. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.

OTS Management is a quality and value driven boutique consulting and accounting company that provides organisational development services to commercial, growth-oriented Small and Medium Enterprises who require business services, advice and coaching.

We give our clients comfort in their decision-making by providing them with our experience and independent advice that saves them time and helps them grow. Unlike other accounting services companies, our clients have significant contact with our senior people.

We meet our own high expectations in order to exceed the expectations of clients.

Our services include:

- *Change Management consulting*
- *The Zest Factor - find the zest in your organisation*
- *Strategic & Business Planning*
- *SMART Marketing workshops*
- *Team Development workshops*
- *Performance Management Systems*
- *Zest Tests - Business Diagnostics on your organisation*

The Juice

Have you ever wished for one small thing you could do that could change your life and your business?

We'll give you two!

The first is the Power of Focus.

Think about your average day. As you go through your day do you focus on what went wrong or what went right?

If you are like most of us, you will be stressed and worried about what went wrong, what else could go wrong - you focus on the negative.

What you focus on is what you get! Remember when you were taught to drive? Remember mum or dad saying "don't drive towards the kerb"? Guess what you did as a result! You probably hit the



Use turn-key systems

kerb!

Tomorrow, try setting yourself up for success - focus on what you want, not what you don't want. Be clear on what you want, describe it to yourself. Each time you drift away remind yourself what your desire feels like and looks like.

The second small thing you can do is to use the Turn-Key approach in your business. This is the approach that says you should equip your people with the tools so that they just turn the key and everything works.

In practical life, this means checklists, systems and procedures.

Take some time to work on your business - design checklists for all the simple things you do, then teach your team and allow them to turn the key.

That way even new recruits learn faster and there is always a solution.

If you want to know more about designing workable, measurable checklists and procedures, give us a call.