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In the Loop

December 2015

**Merry
Christmas**

OFFICE CLOSURE

We will be **closed** for the Christmas period from:

- 12:30pm **24 December** – reopening on **11 January 2016**.

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An important message

While every effort has been made to provide valuable, useful information in this publication, this firm and any related suppliers or associated companies accept no responsibility or any form of liability from reliance upon or use of its contents. Any suggestions should be considered carefully within your own particular circumstances, as they are intended as general information only.

News From Our Office



A big congratulations to Brad Goyne of our office who recently won The Corowa Rutherglen Football Club's Under 18's Best and Fairest Vote Count . Brad just pipped Sam Harvey, son of Beverly Harvey who also works in our office.

We would like to congratulate Grant Steed who has played 295 seniors and reserves games for Rutherglen Cats. Grant's reserves team reached the semi-finals.

Kilara would also like to congratulate the Corowa Rutherglen United Hockey Club on a very successful season. The club won 7 out of 14 grand finals that they competed in. Kylie Heagney and her children Bella and Ryan all played in grand finals.

Mareeta Corcoran played off in the Tallangatta League's B Grade netball Grand final but unfortunately was beaten in a very hard fought game by 2 goals from Chiltern.

Jac Holmes son of Andrew has been chosen to attend Basketball Australia's internationally acclaimed National Intensive Training Program (NITP) which provides Australia's promising young basketballers with a proven pathway to success in their chosen sport. The aim of the NITP is to identify and select outstanding basketball athletes between the ages of 14-17 to an NITP squad and develop their mental skills, individual skills and team concepts which will aid them in competing successfully at a National and International level.

We welcome Karen Logie who has joined our team as Bookkeeper/Accounting Clerk. Karen is a well know member of the community who brings a wealth of experience to our team. Karen will be assisting clients with their computerised accounting records including MYOB, Xero and Intuit (Quickbooks).

SuperStream Compliance

The way employers pay superannuation Contributions is set to change this year with the introduction of **SuperStream**. Businesses that aren't already familiar with what the Superstream changes will mean for them, need to take steps now to ensure they are compliant with the new rules.

What is SuperStream?

SuperStream is a government initiative designed to streamline the payment of employer superannuation contributions. The system will, in effect, replace cheques, letters and forms. Under SuperStream, employer contributions and super fund benefit rollovers and transfers must be made electronically to Superannuation funds. Information about these transfers must then be provided electronically to the super fund in a set format. This format includes an electronic service address (ESA) for the super fund, which Employers will need to obtain in advance. The ATO has provided a "look up" register of e-commerce information for large super funds (known as the Fund Validation Service). However no such service will be available for SMSFs and therefore employers contributing to SMSFs will need to request this information from the relevant employee.

When does it start?

The official start date for SuperStream was 1 July 2014; however the ATO provided an extension of 12 months to allow employers and super funds time to comply with the new standards.

Who is affected?

SuperStream will have the most impact on employers and SMSFs, and in particular small businesses who may still use cheques or their own personal system for paying superannuation contributions. As often is the case, it is the employers that will carry most of the compliance burden of this new system.

For businesses with 20 or more employees, contributions will need to be made using the new standard from 1 July 2015. However employers with 19 or fewer employees have until 1 July 2016 to comply.

To comply with the new standards, employers will need to use software that conforms to the standard. Alternatively they can use a service provider, outsourced payroll, or a commercial

clearing house to handle compliance with the system.

Small employers can also use the free services offered by the Small Business Superannuation Clearing House to assist.

Are there any exemptions?

Small family businesses that contribute solely to an SMSF may be exempt from the new system. This is because they may fall under the definition of a “related party employer”, who is generally defined as an employer that is controlled by one or more members of the SMSF or their related parties.

In addition, SuperStream only applies to employer contributions and member benefit rollovers between large super funds and rollovers from a large super fund to an SMSF.

Also, personal contributions, super fund pension (and lump sum) payments are exempt from the new system.

Therefore if an SMSF is not receiving employer contributions it does not need to comply with SuperStream.

Being Superstream Ready

The ATO has advised that during the initial stages of SuperStream compliance, their focus will be on education and support for employers and super funds.

However employers and super fund trustees, especially SMSFs, should take steps as soon as possible to ensure they are ready for SuperStream, so that the payment of employer super contributions are able to be made under the new standard.

Furthermore a lack of care or diligence in compliance may leave employers or super funds exposed to significant ATO penalties.

If clients are unsure if they are compliant please contact our office.

ATO Focus On Rental Property Deductions

The ATO has announced that it is increasing its focus on rental property deductions and is encouraging all rental owners to double-check their claims before lodging their tax return.

The ATO is paying particular attention to excessive deductions claimed for rental

properties, especially those located in popular holiday destinations around Australia.

It has reminded taxpayers to only claim the deductions they are entitled to, for the periods the holiday home is rented out or is genuinely available for rent.

Phoenix Activity

“A context but is it a crime”

Please Explain

There are three things that everyone knows about phoenix activity.

- There is no accepted definition of phoenix activity,
- There is no express phoenix offence,
- It allows people to fail at one business and start another one, minus the debts of the first.

Do all of these provide enough legitimate opportunities, or legislative loopholes depending on your perspective, to advise clients that phoenix activity is okay? **NO WRONG.**

It is accepted that a separate legal entity may provide investors and shareholders of a failed business protection from its debts; however, the corporate veil does not provide the directors of failed companies’ protection from the consequences of their own improper behaviour.

Any actions of a failed company’s director that are not in the best interest of the Company are a breach of their director duties, For example, the deliberate transfer of undervalued assets to a related company is one such breach and can see the directors exposed to a civil penalty or criminal prosecution (i.e. Max penalty 5 years imprisonment and \$340,000 fine).

In addition not only is the Director of the failed entity subject to the Liquidator and ASIC’s scrutiny, the ATO lockdown provisions (i.e. Director Penalty Notices) in respect to unremitted and unreported withholding taxes is also making it extremely difficult for directors to escape their obligations (P.S those notices are on the rise).

There is also Fair Work Act penalties associated where such actions see breaches to employee entitlements.

Cross Agency Phoenix Watch List

There has now been a task force set up between regulators to monitor phoenix activity with the ATO the host of the Cross Agency Phoenix Watch list which began operation in January 2015.

In summary phoenix activity is wrong and the regulators are now armed and motivated to target this wrongful behaviour.

<https://www.fairwork.gov.au>

Don't Fence In Deductions for a Farm

During the recent May 2015 budget, the federal government announced that farmers will be able to make additional claims from 7:30pm on the 12th of May 2015 in the form of instant deductions for fencing and water facilities, and a three year write off for fodder storage assets. Previously, fences depreciated over a period of thirty years, while water facilities depreciated over three years and fodder storage assets over a period of up to fifty years.

Primary producers will now be able to immediately deduct the cost of fencing and water facilities such as dams, tanks, bores, irrigation channels, pumps, water towers and windmills. Fodder storage assets such as silos and tanks used to store grain and other animal feed will now depreciate over three years. Many smaller farm businesses with an aggregated turnover of less than \$2 million can also benefit from the budget's broader small business initiatives. Their owners can choose to use either the accelerated depreciation for primary producers or the accelerated depreciation for small businesses for each depreciating asset. For example, if a sheep farmer (turnover less than \$2 million.) was to invest \$19,500 on a new silo to store feed, the farmer could choose to claim an immediate deduction of \$19,500 for the silo under the small business rules, rather than choosing to depreciate the asset over three years under the new rules for primary producers.

To examine the difference the recent budgetary measures will have on the depreciation deductions for a farm that qualifies as a small business, below is a comparison table of the

first full financial year's deductions found for common farming assets:

Asset	Depreciable value	First year deductions (prior to 2015 budget changes)	First year deductions (after to 2015 budget changes)
Fences	*\$72,000	\$10,800	\$72,000
Tractor	\$92,000	\$13,800	\$13,800
Pumps	*\$4,600	\$690	\$4,600
Water troughs	**\$1,250	\$188	\$1,250
Irrigation assets	*\$16,300	\$2,445	\$16,300
Silos (used for fodder storage)	**\$19,500	\$2,925	\$19,500
Horse shelter	\$48,500	\$7,275	\$7,275
Livestock grids	\$27,600	\$4,140	\$4,140
Barn	\$75,500	\$11,325	\$11,325
Forage harvester	\$105,000	\$15,750	\$15,750
Chemical spraying assets	**\$3,600	\$540	\$3,600
Dams	*\$63,500	\$9,525	*\$63,500
TOTAL	\$529,350	\$79,403	\$233,040

The depreciation deductions in the above scenario have been calculated using the diminishing value method and are based on a property with an aggregated turnover of less than \$2 million. *Fences, dams, pumps, irrigation assets and windmills can now be applied as an immediate write-off if the asset was acquired after 7:30pm on the 12th of May 2015. **Assets with a depreciable value of less than \$20,000 for a farm business with an aggregated turnover of less than \$2 million can now be applied as an immediate write-off if the asset was acquired after 7:30pm on the 12th of May 2015 until the 30th June 2007

As the table demonstrates, if a farmer acquires all of the above assets after the 12th of May 2015, they will be able to claim an additional \$153,637 in depreciation deductions. For further advice on how the recent federal budget changes have impacted the depreciation deductions for assets in properties used for primary production, do not hesitate to contact our office.

www.ato.com.au



Accepting and Planning for the Inevitable

The first issue is having a will. Nobody likes to contemplate their own mortality but not recognising the inevitable means it is unlikely people will develop a sensible estate plan. Without estate planning, the likelihood is that your hard-earned wealth won't pass into the right hands once you're gone. Inadequate estate planning can also be a heavy burden and cost for family members, at an already distressing time.

A will is the critical first step to ensuring your estate is distributed according to your wishes. Without one, the law sets out who receives the estate and the court controls distribution.

A well-structured will is therefore the best safeguard to ensure the wealth you have built is transferred smoothly.

There are some key points to consider when preparing a will. These include:

- Nominate executors who are likely to survive you, who have an understanding of financial affairs, and understand your wishes clearly. To be on the safe side, alternative executors should also be nominated in case the first executor dies before you. Nominate beneficiaries for your estate and again, nominate second choice beneficiaries in case something happens to the original beneficiaries.
- Understand what assets are covered by your will. As discussed below, assets owned by a family trust or your superannuation fund require separate documentation.
- Leave bequests as a sum of money or a percentage of your estate rather than specific assets, as there is no risk that some will no longer be owned when the estate is distributed.
- Nominate money to be held for beneficiaries under 18, like funds for children's or grandchildren's education in testamentary trusts.

It should also be noted that the rules governing wills and estates vary from state to state and territory and overseas assets may need a separate will.

Tax Effective Distribution

A will can also establish a testamentary trust that becomes active on death and which can be a tax effective tool for distributing your estate. A discretionary testamentary trust enables a trustee to decide the best distribution of capital and income to beneficiaries, taking into account their tax situations.

Power of Attorney

While discussing a will it is also important to address the issue of Power of Attorney. This can allow affairs to be conducted in an appropriate way when you can no longer make sound decisions.

Attorneys are not permitted to do anything illegal while operating under a Power of Attorney. Nor can they prepare a will on your behalf, or transfer the Power of Attorney to someone else unless they have been granted that right under the Original Power of Attorney.

There are three types of Power of Attorney to consider:

1. General Power of Attorney

Provides restricted or unrestricted authority over financial affairs, except when they apply to health care, but the power of attorney lapses when you lose mental capacity.

2. Enduring Power of Attorney

Provides restricted or unrestricted authority over financial affairs until you die, except concerning health care. It continues even if mental capacity is lost.

3. Enduring Medical Power of Attorney

Provides authority to make decisions about medical and other needs if you are unable to make those decisions. It can also be known as Advance Care Directive or Advance Care Plan.

What about Superannuation?

Superannuation generally does not form part of an estate because the superannuation trustee must distribute funds according to the fund's Trust Deed.

These funds, known as a death benefit, include the withdrawal value of the superannuation account and any life insurance payable from the fund.

To control the distribution of the death benefit, A Death Benefit Nomination must be made. These are instructions on how and to whom benefits should be paid.

There are two forms of Death Benefit Nominations – binding and non-binding. For both, a death benefit may only be paid to a dependant as defined in superannuation legislation, or to a legal personal representative – the executor or administrator of an estate.

Reversionary Pension

Those receiving a pension from their superannuation fund may wish to have this pension converted to a reversionary pension in favour of a surviving spouse.

www.hlb.com.au

SUPERANNUATION PROCEEDS TRUSTS

If you have life insurance or a large balance in your superannuation fund and also have young children that you wish to benefit from some of the proceeds upon your death, you may consider including a Superannuation Proceeds Trust (SPT) in your Will.

A SPT is a trust that is set up to receive superannuation death benefits of the Will maker following their death. Generally the trust is similar to a testamentary discretionary trust, however beneficiaries are limited to persons who were death benefit dependants (as defined by the *Income Tax Assessment Act 1997* (Cth)) of the will maker at his or her death. If the only beneficiaries are death benefit dependants, then no tax is payable by the estate on the receipt of the death benefit.

The income earned by the SPT is taxed at normal adult rates of tax in the hands of the beneficiaries, and capital distributions may be made, provided the deed allows this.

This is one method for providing income and capital to support minor beneficiaries in a low tax environment.

TRUSTS IN WILLS

The modern will can consist of a number of trusts established for a variety of purposes.

If you wish to maintain assets for a future purpose, creating one of these trusts within your Will may suit your family needs.

A Testamentary Trust may be established with certain provisions, such as an age restriction or

purpose of withdrawals for protective measures in the event of disabled beneficiaries.

A Testamentary Discretionary Trust gives the trustees a range of discretions, such as how assets are invested, when distributions are made etc. These trusts take many forms and confer a wider or narrower range of discretions on the trustee.

A Right of Residence Trust allows a specific beneficiary or even class of beneficiaries to reside at a specific property for a period following the death of the Will maker. Often the trustee has the power to sell the property and purchase a replacement residence.

A Protected Trust enables the Will maker to quarantine all or part of their estate in a separate trust for the benefit of a specific “protected” beneficiary, class of beneficiaries or future generations. May be suitable where a beneficiary has a disability, is vulnerable or unable to manage their financial affairs.

A Life Interest Trust directs income to beneficiaries from the trust for their lifetime or a defined period of time. Unlike some testamentary trusts, a beneficiary generally does not have access to the capital of the trust. On the beneficiary’s death, the life interest trust is generally wound up and the assets distributed to the remaining beneficiaries.

Your estate planning should commence earlier rather than later. Your Will should be reviewed regularly and tested to see that it will achieve distributions of your assets and the subsequent income to the beneficiaries as and when they need it.

As you can see, estate planning is a complex area. It’s a good idea to discuss your situation with advisers who can provide financial, taxation and legal advice, who understand current legislation and how it will affect the treatment of your estate.

“There are only two things certain in life.....

Taxes and death.”

Benjamin Franklin

Share Market Update

Looking Forward To More Optimism

I am sure we have all felt, **Denial/Regret/Fear/Panic/Despair** in the last little while..... Looking forward to more Optimism.



Source: Westcore Funds/Denver Investment Advisors LLC, 1998

Victorian WorkCover Authority Guidelines Treatment of Profit Distributions, Trust Distributions, Company Dividends and Loans

WorkCover premiums are based on the Industry rate and Employer remuneration.

The definition of remuneration includes any wages, remuneration, salary, commission, bonuses, allowances, fringe benefits and employer superannuation contributions paid or payable to, or in relation to, a worker.

A question may arise as to whether payments such as distributions of profit and loans made to the proprietor of a business, who is also an employee of that business, are to be included as rateable remuneration for the purpose of calculating an employer's WorkCover Premium (premium).

This question may also arise in respect of payments made to the employee of a business which is conducted by the trustee of a trust, or by a corporation, where that employee is also a

beneficiary of the trust or a shareholder of the corporation (whether or not the employee is also a proprietor of the business).

GUIDELINES

For a payment to constitute rateable remuneration for premium purposes, the payment must be made to, or in relation to, a worker (or deemed worker) in his/her capacity as a worker and not in any other capacity (e.g. shareholder).

Distributions of Profit

As a general rule, payments which represent distributions of profit (i.e. the amount of surplus after deducting all expenses) to persons who are both proprietors and employees of the business do not constitute rateable remuneration under the Act. These payments must be clearly shown in the books of account of the business as profit distributions, and not expenses, of the business.

Distributions of profit will however, constitute rateable remuneration where their true character is payment for work performed or services provided by an employee and are paid in lieu of wages (either wholly or in part).

Trust distributions and company dividends

As a general rule, trust distributions (whether income or capital) and company dividends do not constitute rateable remuneration for premium purposes when paid to beneficiaries or shareholders, even if they are also employees of the business.

Trust distributions and company dividends will however, constitute rateable remuneration where their true character is payment for work performed or services provided by an employee and are paid in lieu of wages (either wholly or in part).

Loans

Where a loan is made by the business to a beneficiary or shareholder who is also an employee of the business, the question arises as to whether an amount is to be included as rateable remuneration for premium purposes. This will depend on how the loan is regarded under the Income Tax Assessment Act 1936 (ITAA) and the Fringe Benefits Tax Assessment Act 1986 (the FBT Act). If the loan is regarded as income to the shareholder or beneficiary under the ITAA, it does not constitute rateable remuneration for premium purposes. In contrast, if it is regarded as a loan benefit under the FBT Act, the taxable value for FBT purposes does constitute rateable remuneration.

Where a loan is made by the business to a beneficiary or shareholder who is also an employee of the business, and the loan repayment is offset against the beneficiary's or shareholder's remuneration, the amount of the Remuneration offset will be the amount that is included as rateable remuneration.

Where the loan repayment is offset against trust distributions to the beneficiary or dividends to the shareholder, the amount off set is not included as rateable remuneration.

A partnership is not a legal entity which is separate and distinct from the partners. Therefore, any payments to the partners (whether the payments are expressed as remuneration or loans) are regarded as payments or drawings in respect of partnership profits and are not included as rateable remuneration.

www.worksafe.vic.gov.au

Opportunities



Kilara prides itself on identifying opportunities before others in the market.

Do you know people that hear about opportunities after the horse has bolted?

By the time you have heard about it, the opportunity has closed?

Refer them to the team at Kilara and make sure they take their opportunities as they arise.

Whether it be the new Accelerating Commercialisation Grants, the Farm Innovation Fund or the latest tax anomaly you can rely on Kilara to be ahead of the game.



The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.

Women and Superannuation

On average, women retire with 43% less in superannuation than men.

Make an appointment with KFS to discuss ways to close this gap

If you have switched to part-time work or are on a child-rearing break, you should come and discuss your options, so that your superannuation keeps track with your retirement needs.

Is the Sale of Your Business Your Retirement Plan?

An interesting article came across our desk in respect of if you sold your business tomorrow would you get the maximum value for your business? The article was published in an update circulated by HLB Mann Judd Accountants, written by Simon James, Corporate Advisor and partner in Sydney, and is reproduced below.

Many business owners rely on the sale of their business to fund their retirement. With limited superannuation requirement for the self-employed, owners often depend on the proceeds from selling their business to support themselves later in life.

However despite this, many business owners do not have an exit plan in place to ensure they maximise their business' sale value and their finances for retirement.

ABS data indicates that many Australian business owners are approaching retirement age with the 2011 Census and 2012 Employment Survey showing that the median age of business owners was 47 years and that almost 30% of business owners are 55 and over. Even if you have no intention to sell or retire from your business in the short term, getting exit ready takes time and there are actions you need to take now to maximise the value of your business when you do decide to sell.

Our experience has shown there are a number of factors that contribute to exit readiness. The owners who are best equipped to sell their business and maximise their return on investment

have businesses that are profitable, transferable, sustainable and visible.

Profitability

- Has the decision to sell or retire from your business distracted you from running it? To maximise value, your focus needs to be on business performance and profitability. The distraction of a business sale can cause sales and profit to decline. Ensure the profitability in the years leading up to your exit by maintaining your focus on the business.
- Do you have a strategic plan in place for your business? Maintain your attention on the core business operations and the success of your business through a strong strategic plan.
- Have you engaged a professional transaction advisor to plan and manage the sale process? Engaging a professional transaction advisor enables your focus to remain on the business.

Transferability

Consider the existing legal agreements in your business – leases, customer contracts and so on. Do these agreements have a clause that allows them to be transferred to another entity? Only a business that is fully transferable is truly exit ready and able to maximise sale price when the owner decides to sell. Non-transferable legal agreements are not 'sale friendly', so act early to ensure any existing legal agreements won't create problems once you begin discussions with potential purchasers.

- Have you formalised arrangements with key customers and the related contracts?
- Are all your legal agreements, including customer contracts and leases, transferable should your business be sold?

Sustainability

The sustainability of your business post your exit is a major consideration for a potential acquirer. A business that relies heavily on the owner to operate is far less sought after than a business with experienced management in place. Ensuring you have the right staff members and management in place, will aid the success and

sustainability of the business.

- Have you considered your key staff members' commitment? How will you keep them loyal to the business?
- Have you included effective post-employment restraint clauses in your employment agreements to protect the business' interests should employees leave?

Visibility

Inadequate reporting systems and incomplete financial information can frustrate the due diligence process and harm your negotiations with a potential purchaser. Poor financial information does not instil confidence in a potential purchaser. It can prolong the due diligence process and even put completion of the transaction at risk. Quality monthly management reports and forecasts supported by detailed assumptions provide visibility over performance and the overall operations to potential purchasers.

- Consider your monthly management accounts, are they of a high quality and prepared promptly after month end?
- Do you regularly prepare budgets and forecasts supported with documented assumptions?

Professional advice should be sought early on to ensure your business is exit ready so you can maximise the value in your business.



Tradie Corner

We have been reviewing the work of TradiePad, a company that works with the Construction and Services Industries.

They are specialist in finding the combinations of Mobile Apps which allow virtual paperless running of these types of businesses.

This mainly occurs through elimination of duplication of information throughout the business operations and financial record keeping. Many Apps can share information, to streamline customer information, billing and back office.

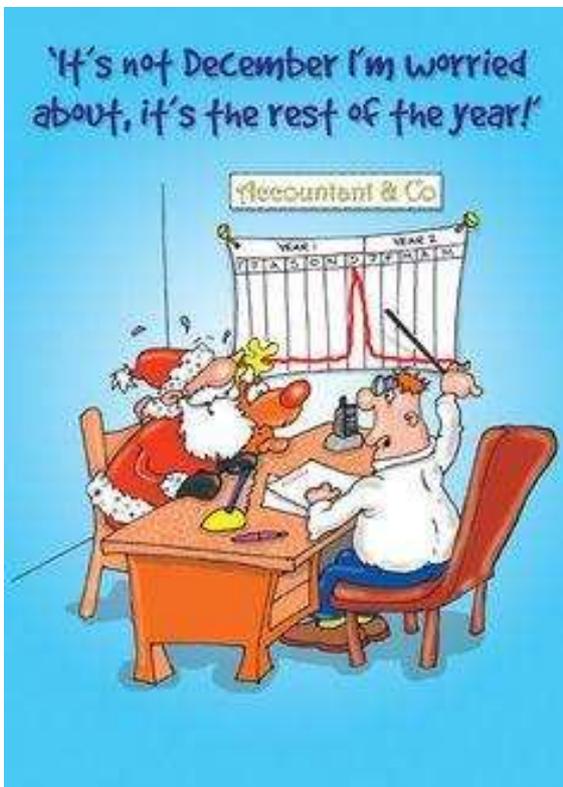
Check out their website www.tradiepad.com.au

TradiePad can help with your business efficiency and we can assist with accounting support.

Call Kilara to organise a demonstration of this exciting technology.

Christmas Wishes

Malcolm, Andrew, Neil and staff would like to wish all their clients and families a very Merry Christmas and a safe and healthy new year.



Christmas Recipe

Salted Caramel and Dark Rum Balls



INGREDIENTS

315g Coles brand chocolate madeira cake

395g can NESTLE Sweetened condensed milk

50g salted butter, chopped

¼ cup (55g) firmly packed brown sugar

1 teaspoon sea salt flakes

2 teaspoons rum essence or rum if you wish

2 x 200g pkts premium dark chocolate

Sea salt flakes, extra to serve

Premium cocoa, to dust

METHOD

Step 1 Remove icing from the cake and discard. Process the cake in a food processor until coarse crumbs form.

Step 2 Place condensed milk, butter, sugar and salt in a saucepan over medium heat. Cook, stirring, for 10 mins or until mixture thickens. Stir in cake crumbs and essence. Place in fridge for 30 mins to chill. Roll 2 teaspoons of mixture into balls and place on lined trays. Freeze for 15 mins.

Step 3 Melt the chocolate in the microwave on High for 2 mins, stirring every 30 secs, or until smooth. Use two forks to dip balls into the chocolate. Place on trays lined with baking paper. Set aside for 1 min, and then sprinkle with salt. Stand for 30 mins or until set. Dust with cocoa.

www.taste.com.au