



hanrickcurran

ACCOUNTANTS. STRATEGISTS

experience. new thinking

Please read this update and contact our office if you have any queries

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FBT tip for Xmas time

When holding Christmas parties, employers are generally liable to pay fringe benefits tax (FBT) on the cost of food and drink (meal entertainment) which is provided to employees and their families*.

Note (): FBT does not apply to meal entertainment provided to clients and suppliers.*

However, if the employer calculates its FBT on the 'actual' basis (i.e., rather than the 50/50 formula method), then it may be able to **completely eliminate** this FBT liability using the 'minor benefits exemption'. Please refer to the separate FBT & Christmas Party Fact Sheet on our website for more details.

ATO and the Global Financial Crisis

Many individuals and businesses have been hit hard by the Global Financial Crisis.

The Commissioner of Taxation recently spoke about the ATO's attitude in the current Global Financial Crisis. They are aware that taxpayers are hurting and are willing to assist taxpayers in relation to any tax related debts.

Successfully negotiating with the ATO in relation to debt strategies depends upon early intervention. If taxpayers are having trouble paying debts, the ATO should be contacted early to strike a repayment plan.

Ideally, this should be done before a particular tax debt becomes overdue. The ATO have a process of dealing with debts, the final step of which involves the legal team who will send out statutory demands and in a worse case wind up action.

By getting on the front foot and contacting with the ATO before any debt becomes payable, taxpayers are usually able to negotiate a payment plan over a time period (generally up to 12 months). While a high rate of interest is payable, the interest is deductible. In certain circumstances, in times of financial hardship the interest may be able to be negotiated down or remitted altogether.

When negotiating a repayment plan, taxpayers need to be realistic in what they can afford and stick to the agreed repayments.

While the ATO can be agreeable to helping taxpayers repay their tax debts, they are very aware that taxpayers may be trying to be aggressive in relation to tax minimisation to reduce their tax burden in these times.

With the ATO's data matching and other risk mitigation systems becoming more advanced, taxpayer's should be very wary about any aggressive tax minimisation schemes that they may be contemplating.

ATO and taxpayers affected by South East Queensland's Storms

The ATO have released a fact sheet entitled "Tax help for those affected by the storms in South East Queensland".

The ATO recognises that many taxpayers have received emergency assistance from the Australian and Queensland Governments such as:

- Australian Government Disaster Recovery Payment
- Queensland Government Emergency Assistance Grant

- Queensland Government Household Contents grant

The ATO have confirmed that taxpayers are not required to include those amounts in their tax return unless they were received as business income.

Taxpayer's legal expenses for employment dismissal deductible

The Federal Court has held that a taxpayer was entitled to deductions for the legal expenses he incurred in proceedings before the Industrial Relations Commission to recover income contractually due to him when his employment was terminated.

The Tax Office argued that the taxpayer was pursuing a lump sum payment as relief for termination of his employment contract (which would be a capital payment, making the legal expenses non-deductible), and not recovery of lost income, but the Court rejected this argument:

"The payment in a lump sum of the sum which would otherwise be income received by way of regular payments, does not of itself, in my view change the character of the payment."

Changes to tax law increase costs

The Assistant Treasurer has released the Board of Taxation's study on small business tax compliance costs which confirms that smaller businesses have proportionately greater compliance costs than larger ones.

The study also found that changes to tax laws, even beneficial ones, still impose compliance costs in understanding those changes.

Hopefully, the study will lead to less red tape for small businesses (and others) as, among the 31 findings, it is recommending:

- ◆ changes to inconsistent definitions and thresholds for concepts such as 'employee' and 'salary and wages'; and
- ◆ reducing complexity for businesses that have to cope with regulations imposed where they operate across state and territory borders.

Medicare levy surcharge update

Editor: The Government has compromised to get its Medicare levy surcharge thresholds Bill passed, which finally became law on 31 October 2008.

The Government has increased the Medicare levy surcharge threshold to \$70,000 for individuals (with annual indexation) and to

\$140,000 for families (to be twice the individual rate in future years).

Editor: Taxpayers whose income exceeds the threshold normally only have to pay the Medicare levy surcharge if they (and their dependants) do not have private patient hospital cover for the full year.

However, transitional arrangements will apply so that taxpayers who obtain private health cover before 1 January 2009 can avoid the surcharge for the period 1 July to 31 December 2008.

Claiming a rebate for a dependant receiving a super pension

A taxpayer who contributes to the maintenance of a dependant (e.g., a spouse) may be entitled to a dependant tax offset or rebate. However, the amount of the rebate may be reduced depending on the separate net income (SNI) of the dependant.

Broadly, SNI is the ordinary income of the dependant, less expenses which are regarded, according to ordinary accountancy and commercial principles, as a direct charge against the income.

The ATO has confirmed that, when calculating the SNI of a dependant who is receiving an account-based pension (ABP), the SNI can be reduced by a proportionate amount of the personal superannuation contributions made during the accumulation phase of the pension.

Tax return processing delays

The Tax Office has advised that, since they are currently receiving a greater number of income tax returns than usual for this time of year, they are experiencing some processing delays.

Their focus is on finalising original income tax returns, so there will be delays in the processing of amendment requests and in returning calls about the progress of returns during this time.

They will action original returns in the order they are received, unless there is genuine hardship.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.