



CLIENT BULLETIN—DECEMBER 2009

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BUSINESS TAX BREAK - REMINDER OF DEADLINE

If you are eligible for the small business tax break, time is fast running out!

Small businesses can claim a 50% tax deduction on the cost of eligible assets bought between 13 December 2008 and 31 December 2009 which are first used or installed by 31 December 2010. Large business are still entitled to 10% tax break for purchases up to 31 December 2009.

Small businesses will only need to spend a minimum of \$1,000 per eligible asset in order to qualify for this special deduction.

Assets eligible for this allowance are new tangible depreciating assets and new expenditure on existing assets used in carrying on your business and for which you can claim a capital allowance deduction.

The preferable form of financing these purchases is via a loan or chattel mortgage rather than a hire purchase arrangement, with the agreement signed before 31 December 2009

SMALL BUSINESS ENTITIES – WHAT CONCESSIONS ARE AVAILABLE?

A reminder of the general concessions available to small businesses with an annual turnover of less than \$2 million are as follows:

- small business tax break;
- capital gains tax (CGT) exemption for assets you have held for at least 15 years;
- CGT 50 per cent active asset reduction;
- CGT retirement exemption;
- CGT roll-over for replacement assets;
- simpler depreciation rules (i.e. generally assets can be “pooled” for the purposes of determining depreciation deductions);
- simpler trading stock rules (i.e. in certain circumstances you can choose whether or not to do an end-of-year stock take);
- immediate deduction for certain prepaid business expenses;
- the entrepreneurs’ tax offset may reduce your tax payable by up to 25% where your business has a turnover of less than \$75,000;

Is my business eligible?

A business will qualify for the above concessions if the “aggregated turnover” is less than \$2 million. Your aggregated turnover is the sum of your turnover and the turnover of any entities you are connected or affiliated with. Turnover includes all income earned in the ordinary course of business.

PAID PARENTAL LEAVE – IMPACT ON EMPLOYERS

Although the Government’s paid parental leave (PPL) scheme will not apply until 1 January 2011, employers should be aware of the impact this scheme will have on them.

The PPL scheme is designed to assist new parents of children born or adopted after 1 January 2011. An eligible person will receive PPL payments at the Federal minimum wage level (which is currently \$543.78 per week) for a maximum period of 18 weeks.

To be eligible for the PPL scheme, a person must be in paid work:

- Have been engaged in work continuously for at least 10 of the 13 months prior to the expected birth or adoption of the child; and
- Have undertaken at least 330 hours of paid work in the 10 month period.

The PPL scheme will be income tested. To be eligible the person's adjusted taxable income in the previous financial year can not exceed \$150,000.

Many employers may think that this scheme will not impact them as it will be Government funded. Although the scheme will be Government funded, employers will be the "paymaster" of the PPL payments (i.e. employees will receive their PPL payments through their employers).

Employers will be responsible for receiving PPL payments from the Government and passing these amounts on to eligible employees where the employee has completed 12 months continuous service prior to the date of birth or adoption.

Not only will employers be the paymasters but they will also be responsible for providing certain information in relation to their employees to the relevant Government agencies. This will place an administrative burden on employers (particular those involved in small businesses). Employers need to be aware of the impacts of the new PPL regime on their businesses.

It should be noted that employers will not be obliged to make superannuation contributions, pay payroll tax or insurance or accrue leave in respect of the PPL payments.

SUPERANNUATION – CONCESSIONAL CONTRIBUTIONS CAP

From 1 July 2009, the concessional contributions cap has been reduced from \$50,000 to \$25,000 per person. Further, the transitional concessional contributions cap until 30 June 2012 for persons aged 50 or over has been reduced from \$100,000 to \$50,000.

To claim a tax deduction for a personal superannuation contribution, you need to be "self employed". This means that where your wage and fringe benefits come to more than 10% of your total assessable income and fringe benefits, you may not pass the self employed test and may not be eligible for a tax deduction for your personal superannuation contributions.

Another recent change also means that Salary Sacrifice superannuation contributions will also be counted as employment income when calculating whether you pass the 10% rule for deductible personal contributions. These salary sacrifice contributions must be reported on the 2010 Payment Summaries.

ATO COMPLIANCE PROGRAM 2009/10 – TARGET AREAS

The ATO recently released its compliance program for 2009/10.

In relation to tax compliance for individuals, the ATO will be focusing on a variety of issues, including the following issues:

Information matching – the ATO will be expanding their information matching capabilities. They will be looking to use such information to mitigate risks in relation to incorrect reporting in relation to employee share schemes, health insurance policies, eligibility for tax offsets and the Medicare levy exemption.

Executives and directors – the ATO will be focusing on income splitting arrangements used by directors and executives.

Work expense claims – the ATO will be focusing on occupations with a pattern of large or increasing claims and returns that are not typical for particular occupations. Specifically, the ATO will be focusing on:

- Truck drivers;
- Sales and marketing managers;
- Sales representatives; and
- Electricians.

Some areas to watch out for when claiming work related expenses include:

- having sufficient documentation to support motor vehicle and travel expenses;
- the eligibility requirements for the living away from home allowance; and
- home offices, mobile phones and interest expenses.

CGT record keeping requirements – the ATO will be focusing on attempts to offset capital losses against other income. There will be a focus on checking property transactions to ensure correct reporting for capital gains.

GST AUDITS

The ATO will continue to review GST returns where large refunds are due. It is essential that you hold tax invoices for all claims and that any unusual transactions are properly recorded. Check with us before lodging your BAS when large refunds are due.

WARNING TAX REFUND EMAIL SCAMS

The Tax Office is warning people about bogus emails circulating that claim to offer refunds from the Tax Office. Anyone who receives this type of email should delete it immediately. The Tax Office never sends emails asking people to provide personal information or credit card details. More information on online security including examples of scam forms and emails is available at the Tax Office website.

YOUTH ALLOWANCE – New Proposed Eligibility Rules

The June 2009 budget announced changes to youth allowance. For students that are seeking to claim “independent youth allowance” the following rules apply:
Students who finished high school in 2008 and are currently on a “gap year” in 2009 have the opportunity to qualify through the old rules for independence by 30 June 2010, if they commence their university course early in 2010

and need to move away from home to do so. Students that finish high school in 2009 will be subject to the new rules. It is proposed that you will be assessed as independent if:

- you have worked full-time (at least 30 hours a week) for at least 18 months in the last 2 years, or
- you have worked part-time (at least 15 hours a week) for at least 2 years since leaving school.

It should be noted that the Youth Allowance changes are currently being debated in Parliament, and the final rules for 2010 and following years may change from these current proposals.

FUEL TAX CREDITS - CHANGES TO CLAIM RATES FOR HEAVY VEHICLES.

Activity/business use	Eligible fuel	From 1/1/2009	From 1/7/ 2009
In a vehicle greater than 4.5 tonne GVM travelling on a public road (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonne GVM).	All taxable fuels – for example, diesel and petrol.	17.143*	16.443*
Emergency vehicles greater than 4.5 tonne GVM travelling on a public road (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonne GVM).	All taxable fuels – for example, diesel and petrol.	17.143*	16.443*
Specified activities eligible since 1 July 2006 in: agriculture fishing forestry mining marine transport rail transport, Nursing, medical.	All taxable fuels for example diesel, petrol and fuel oil. Note: petrol eligible for fuel acquired from 1 July 2008	38.143	38.143

Activity/business use	Eligible fuel	From 1/1/2009	From 1/7/ 2009
All other activities, machinery, plant and equipment are eligible for fuel acquired from 1 July 2008. Examples of activities are: construction manufacturing wholesale/retail property management, landscaping.	All taxable fuels – for example, diesel and petrol.	19.0715*	19.0715**

It is essential that you divide your diesel and petrol use between off road and eligible on road use in your records.

We have found that fuel tax credit claims are a regular audit area for the ATO, so accurate records are essential!

ASSETS OWNED BY COMPANIES and USED BY SHAREHOLDERS

In the June Budget, the Government proposed tightening up the 'deemed dividend' rules, particularly in circumstances where there is usage of company property for free or at less than arm's length value.

Frequently, any adverse taxation consequences could be avoided by having in place appropriately documented terms of use for any relevant assets.

Since the budget changes were announced, the Government has varied the provisions to ensure farms and small businesses are not unintentionally caught up in the changes.

An "otherwise deductible rule" for certain situations has been introduced. Any "business use" assets that are provided to a shareholder under a right-to-use or a license (but not a lease of real property) will be disregarded from the deemed dividend rules.

Example: Farmland that is owned by a private family company and used by a related business

entity to conduct their farming business would be disregarded and would therefore not attract a requirement to pay for the use.

A "residence exemption" has also been allowed. Any residence that is an integral part of the business real property and is owned by a private company but is lived in under a right-to-use or a license as part of the carrying on the business is disregarded from the deemed dividend rules. Homesteads on company owned land would not attract a requirement to pay for the use.

In conclusion, family companies which own farm land or homesteads which are used by the family members in their own farming operation should be exempt from these new rules.

SMALL BUSINESS BENCHMARKS: ATO

The ATO has released an expanded range of [small business benchmarks](#). They provide small businesses with 'a snapshot of what, on average, is happening in businesses operating in a particular industry by providing a measure of various business costs in relation to turnover'. In addition, the ATO says the benchmarks are a useful tool to assist business owners in assessing their business's performance. The [benchmarks will be used by the ATO](#) to identify businesses that may be avoiding their tax obligations by returning business results outside the normal benchmarks for that industry.

CHRISTMAS HOLIDAYS

SRF will be closed for Christmas Holidays from 5 pm, 23rd December 2009 and will reopen on Monday 4th January 2010.

Important: This is not advice. Clients should not act solely on the basis of material contained in this report. Items herein are general comments only and do not constitute or convey advice per se. Also, changes in legislation occur quickly. We therefore recommend that our advice be sought before acting in any of these areas.
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