

Dear Client,

We are pleased to supply you with the July 2009 edition of **The Report**, which contains information on a number of important developments in taxation including:

- **Tax Law Amendments** — A Bill to set the PAYG instalment rate for 2009/10 and to allow taxpayers who voluntarily registered for GST to report their PAYG instalments annually.
- **Small Business and General Business Tax Break** — Changes to the one-off bonus deduction available to business that purchase eligible assets
- **2009 Federal Budget Follow-up** — A Bill introducing three measures announced in the 2009/10 Federal Budget, including the proposed reduction to the superannuation concessional contributions cap.
- **Medicare Levy Thresholds 2008/09** — Proposed increases to the Medicare levy and Medicare levy surcharge low-income thresholds for 2008/09.
- **Superannuation Guarantee Ruling** — A ruling setting out the Commissioner's view on the treatment of payments, such as overtime payments and Christmas bonuses, made to employees for the purposes of superannuation guarantee.
- **Taxpayer Alerts** — Five alerts issued by the Tax Office warning taxpayers of arrangements under review, including treatment of losses from the disposal of shares.
- **Deductibility of Self-education Expenses** — The Tax Office's treatment of the deductibility of self-education expenses against Commonwealth educational payments.
- **WorkCover Data Matching Project** — A data matching project that the Tax Office will be conducting to ensure compliance with the tax law by businesses.

Please contact us if you wish to discuss how the points raised in **The Report** specifically affect you.

Yours sincerely,

GUESTS ACCOUNTING

P.S.

ELECTRONIC VERSION OF THE REPORT

If you wish to receive an electronic version of **The Report** please let us know. Please send your request to vn@guests.com.au or fax to 8508 – 8577.

the report

tax news | views | clues

Tax Law Amendments

The Federal Government has introduced a Bill into Parliament which seeks to:

- set the PAYG instalment factor at 2% for the 2009/10 income year; and
- allow taxpayers who are voluntarily registered for GST and choose to remit GST annually to also remit their PAYG instalments annually.

Small Business and General Business Tax Break

The *Tax Laws Amendment (Small Business and General Business Tax Break) Act 2009* provided a one-off bonus deduction for businesses that purchase eligible assets. It received Royal Assent in May 2009.

The Act incorporates various amendments, which include:

- increasing the rate of the bonus deduction for small business entities to 50%;
- clarifying the rate of the bonus deduction to be used on a batch/set of identical assets where a taxpayer is a general business; and
- clarifying that a taxpayer who chooses to self-construct an eligible asset is not precluded from the bonus deduction.

The rate of the bonus deduction remains unchanged for general businesses. That is, either 30% or

10% depending on the acquisition time of an eligible asset.

2009 Federal Budget Follow-up

The Government has introduced a Bill into Parliament seeking to implement three measures announced in the 2009/10 Federal Budget. The Bill will:

- amend the provisions relating to the income tax exemption on foreign employment income;
- temporarily reduce the matching rate and maximum co-contribution for the superannuation government co-contribution; and
- reduce the superannuation concessional contributions cap.

Foreign employment income

Foreign employment income derived by a taxpayer engaged in continuous foreign service for 91 days or more will only be exempted from income tax if the service is attributed to specific activities. For example, the delivery of Australia's overseas aid program by the taxpayer's employer.

Superannuation co-contribution

The Bill will temporarily reduce the matching rates and maximum co-contribution for the government co-contribution as below:

- for the 2009/10 to 2011/12 income years, \$1 for each

dollar of contribution, up to a maximum of \$1,000 per annum;

- for the 2012/13 and 2013/14 income years, the rate is \$1.25 for each dollar of contribution, up to a maximum of \$1,250 per annum; and
- for 2014/15 and later income years, the rate is \$1.50 for each dollar of contribution, up to a maximum of \$1,500 per annum.

Superannuation concessional contributions cap

The Bill will reduce the concessional contributions cap to \$25,000 per annum from 1 July 2009.

The Bill will also reduce the transitional concessional contributions cap, which applies until the 2011/12 income year for individuals aged 50 to 74, to \$50,000 per annum.

The non-concessional contributions cap will remain at \$150,000 for the 2009/10 income year.

Medicare Levy Thresholds 2008/09

The Federal Government has introduced a Bill into Parliament seeking to increase the Medicare levy and Medicare levy surcharge low-income threshold amounts for individuals, families and pensioners below age pension age for the 2008/09 income year.

The proposed threshold for singles is \$17,794 and \$25,299 for pensioners under age pension age.

The proposed threshold for families with no dependants is \$30,025. The additional amount to the threshold for each dependant child or student will be \$2,757.

Superannuation Guarantee Ruling

The Tax Office has issued a ruling in which the Commissioner states his view regarding the treatment of payments made to employees for the purposes of the superannuation guarantee (SG).

The ruling has been modified from the draft ruling previously released to include several important changes. These changes include:

- Christmas bonuses are now considered to be ordinary time earnings (OTE) and to be included when determining the minimum SG payable for an employee; and

- regular overtime payments made outside an employee's ordinary hours of work will generally not be included in OTE and, therefore, not included in calculating the required level of SG for the employee.

The ruling does not discuss whether parental leave and ancillary leave (eg jury duty leave) are taken into account when calculating the minimum SG for an employee.

Taxpayer Alerts

The Tax Office has issued five Taxpayer Alerts warning taxpayers of arrangements that it is currently reviewing. These alerts relate to:

1. the non-commercial use of negotiable instruments to pay a benefit from a self-managed superannuation fund (SMSF) or make a contribution to the SMSF;
2. the advice provided by a company to its shareholders that monies received in relation to unexercised entitlements for a share offer should be treated as a capital gain and the CGT discount may potentially apply;
3. the re-characterising of capital losses as revenue losses on the disposal of shares by individuals where previously they claimed to be long-term investors eligible for the CGT 50% discount;
4. the selling of interests in managed investments schemes (MIS) by promoters to groups of individual investors on the basis that they will be 'partners' in a partnership and will be able to claim upfront deductions for their interests in a MIS; and

5. the attempts by a taxpayer to create or claim a capital loss arising from the artificial receipt and surrender of an interest in a discretionary trust as a default beneficiary.

The Tax Office says these arrangements may give rise to taxation issues, including the application of the general anti-avoidance provisions.

Additionally, the Tax Office says the arrangements described in the first alert in the above list may breach the provisions of the superannuation legislation.

Deductibility of Self-education Expenses

The Tax Office has issued a notice following the recent decision of the Federal Court that a taxpayer who was receiving the Youth Allowance was entitled to a deduction for self-education expenses incurred.

The Tax Office says that it will continue to apply the Commissioner's established view that self-education expenses are not deductible against various Commonwealth educational assistance schemes.

WorkCover Data Matching Project

The Tax Office has announced that it will request and collect business names and addresses from each state's and territory's WorkCover Authority for the 2007 and 2008 calendar years.

The information collected from the projects will be electronically matched with the Tax Office's data holdings to identify non-compliance with registration, lodgment and payment obligations.

Important: 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. 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.

SPECIAL BULLETIN

ODOMETER READINGS

Clients who are claiming deductions for motor vehicle expenses should take an odometer reading at the 30th June 2009 and note it in their log books.

STOCKTAKE

Please remember to do a stocktake of your trading stock as at 30th June 2009. Please keep the stocktake sheets with the other records for 2008/2009.

BAD DEBTS TO BE WRITTEN OFF

If you intend to claim deduction for Bad Debts for the year ended 30th June 2009 you must ascertain that the debt is indeed not recoverable.

In addition to be able to claim the deduction the debt must be written off in the Debtors Ledger.

SUPERANNUATION CONTRIBUTIONS

To be eligible for a deduction for contributions to Superannuation Fund the contribution must be paid to the fund before 30th June 2009.

Please note that the maximum deductible contributions for the 2009 financial year is \$100,000 for people age 50 and over. For persons below the age of 50, the maximum deductible contribution is \$50,000. These maximums cover all deductible contributions i.e. contributions to Self Managed Superannuation Funds, contributions, if any, to other employer sponsored funds or any other funds of which you are a member.

They also cover payments for insurance cover that is provided as life insurance or term insurance and are paid through a Superannuation Fund.

YEAR END TAX PLANNING

As we approach the end of the financial year, we would like to remind you that should you wish to discuss the following tax planning matters, please make an appointment to see the partner before it is too late.

A checklist of issues you need to look out for are as follows:

1. DERIVATION OF INCOME - TIMING

- taking advantage of different tax thresholds

2. CAPITAL GAINS

- Offset by Capital Losses
- Timing of Capital Gains and Losses

3. SMALL BUSINESS CONCESSIONS

e.g. capital gains concessions

4. BAD DEBTS

- To be written off in financial period; Company Bad Debts - conditions that apply

5. TRADING STOCK

- Noting obsolete stock
- Lower of cost or Market value; method valuation – full absorption costing

6. DIRECTORS FEES – STAFF BONUSES

- To be determined before end of Financial Year

7. CAPITAL WORKS

- Building amortisation
- Dependant on the nature of the building and when construction first commenced
- Surveyor report where appropriate

8. TREATMENT BY INDIVIDUALS OF NON COMMERCIAL BUSINESS LOSSES

- Conditions to be satisfied

9. PREPAYMENTS

- Different rules for claiming prepayments of Expenses

10. DIVIDEND PAYMENTS: USE OF FRANKING CREDITS

11. FRINGE BENEFITS – SMALL ITEM EXEMPTIONS

12. ENSURE CORRECT AMOUNTS OF PENSION IS WITHDRAWN FROM SMSF IF IN PENSION MODE.

13. LOANS FROM COMPANIES, LOAN AGREEMENTS, MINIMUM REPAYMENTS AND INTEREST

14. PLANT & EQUIPMENT

- Review asset register for obsolete plant

15. SUPERANNUATION CONTRIBUTIONS

- Different Criteria - up to 65 Years
 - Work Tests 65 → 75
- a) Spouse Contribution (Non Concessional)
 - b) Employee Contribution (Concessional)
 - c) Personal (Non-Concessional)
 - d) Personal (Entitled to Co-Contributions)
(Non Concessional)

PENSION BONUS SCHEME

1. Is a Voluntary Scheme to encourage older Australians to stay in the work force. Under the Scheme eligible persons receive a one off tax free lump sum bonus.
2. To qualify, a person who is eligible for the Age Pension must delay retirement and continue working for at least 12 months (work at least 960 hrs per year i.e. Average 20 Hrs per week for 48 weeks per annum)
3. The Amount of the bonus depends on -
 - a. The Amount of Age Pension you are entitled to when you eventually claim.
 - b. The length of time (i.e. years worked post Aged Pension Age) you have been an accruing member of the Pension Bonus Scheme.
 - c. Whether you were single or partnered during the time you deferred your Age Pension.
- Note: if you do not work and your partner does; their work may still earn you a bonus
4. Very Important
Pension Bonus Scheme is closed to new entrants from 20th September 2009 (will be replaced by an Income Test Concession)

Registration must be before 20th September 2009.
5. Note: if you will not be eligible for the Age Pension at the time of your retirement you will not receive the Pension Bonus.

Registration is made directly through Centrelink.

Speak to your Accounting Partner if any forward planning is required.