

Welcome to the October edition of our Newsletter. This month's newsletter provides useful tips for improving the quality and turn around time of the work we complete for you. Let's get it right the first time round so that we can help reduce costs and complete work in a timely and effective manner.

Reminder Tip for Tax Time

Please note that it is important you provide us at the start with all information necessary to complete your tax. This will ensure a faster turnaround time and will help avoid the need for us to request additional information once we have commenced work. If you are unsure about whether you need to supply us with something, please contact us for clarification.

For individuals, the following is a brief list of common information we require:

1. Payment summary from employer.
2. Details of interest and dividend income, including supporting statements.
3. Details and documentation for tax deductions, including car and travel expenses, self education claims, protective clothing or uniform expenses and any other work related expenses.
4. Annual health insurance statement from your fund if you are covered.
5. If you have an investment property, we need the annual summary statement of income and expenses that will be prepared by the estate agent who manages your property. We also need details of any other expenses you pay directly. If you have a loan on the property, please provide us with the loan statements so that we may summarise the loan interest to claim as a deduction.
6. If you conduct a business, we need details of all income and expenses for the relevant financial year.
7. If you have sold any shares, we need the details and supporting documentation to calculate the capital gain/loss. We require the following information:
 - Date shares originally acquired along with number of shares and purchase cost.
 - Date shares sold, together with number of shares and sale proceeds.
8. If you have any trust investments, we require the annual tax statements which are issued shortly after year end by the trust to investors shortly after year end.
9. If you and your family have total out of pocket medical expenses greater than \$1,500, please provide us with a summary and/or the supporting statements as you may be entitled to the medical expense tax offset.

October 2009 Case Updates

Victory for Sham Victim

Willersdorf-Greene and Commissioner of Taxation [2009] AATA 649

The Administrative Appeals Tribunal (AAT) has held that a taxpayer who was the victim of a sham was entitled to deduct interest and bank charges associated with loans obtained by the taxpayer to meet his obligations under a guarantee.

This was despite the fact that the loan was taken out after the relevant income producing activities had ceased and it was apparent that the investment failed to produce any assessable income (as the taxpayer was a victim of a sham). The tribunal allowed the deduction on the basis that the interest on the loan had a sufficient connection to the production of assessable income as the guarantee had been integral to the establishment of the purported income producing activities.

Deductions Disallowed at Experimental Stage

Confidential and Commissioner of Taxation [2009] AATA 627

The Commissioner's decision to disallow deductions claimed by a taxpayer conducting a 'biotechnology' project from his home unit was confirmed by the AAT in respect of project pool and depreciation expenses. As the project was at an experimental stage, it was held that it failed the taxable purpose tests. Associated work-related expenses were also found not to be deductible.

Tax Office Compliance Program 2009/10

The Tax Office has released its compliance activities for 2009/10. The key activities for the different taxpayer segments are discussed:

Individuals

The key compliance activities the Tax Office will focus on include:

- capital gains from the sale of shares and properties;
- deductions for investment products;
- work-related expense claims. In particular, claims made by truck drivers, sales and marketing managers, sales representatives and electricians.

Micro enterprises

Micro enterprises are businesses with an annual turnover of less than \$2 million and self-managed superannuation funds (SMSFs).

Key compliance issues include:

- GST and CGT compliance risks associated with property transactions;
- losses on the disposal of shares;
- claims for GST refunds and the research and development tax offset, which will be subject to credibility checks;
- correct disclosure of distributions from trusts and partnerships in beneficiaries' tax returns;
- early warning to participants of the potential tax issues involved in tax exploitation schemes.

Small-to-medium enterprises

Small-to-medium enterprises are businesses with an annual turnover of between \$2 million and \$250 million. This segment includes highly wealthy people who, with their associates, control \$30 million or more in net wealth.

Key focus areas include:

- private company loans and payments to shareholders (or associates) to ensure compliance with the taxation laws;
- correct FBT treatment of motor vehicles;
- superannuation guarantee issues such as late payments and incorrect calculations;
- CGT, in particular to ensure capital losses are not offset against income;
- claims for GST refunds, which will be subject to credibility checks;
- GST and property transactions;
- remuneration of highly paid company directors and executives.

Self-managed superannuation funds

Key compliance activities include:

- adherence to superannuation regulations;
- satisfaction of the definition of an 'Australian superannuation fund';
- illegal early access to superannuation.

International dealings

International dealings of taxpayers will be a focus of the Tax Office. Data matching programs will be carried out to identify unreported foreign income such as bank interest and dividends.

Hot Topic: Tax Planning for Christmas Time

Christmas is fast approaching and now is the time to be planning. Below are some of the rules relating to Fringe Benefits Tax and work Christmas parties and Christmas gifts to employees. The tax implications outlined below will help with the decision making.

1. Gifts valued at less than \$300 each

Fringe Benefits Tax (FBT) can be avoided where an employer provides staff with non-entertainment gifts such as a bottle of wine, a voucher to a department store, or a Christmas hamper that is valued at less than \$300. Such gifts will be tax deductible. Furthermore employers that are registered for GST can also claim the GST on the gift in their Business Activity Statement.

This FBT exemption can even apply where the gift is provided in conjunction with a Christmas party and the combined cost is \$300 or more, provided the cost of each benefit is less than \$300 and the other conditions of Section 58P are met.

By contrast, entertainment gifts such as tickets to sporting events or to the theatre, will not be tax effective. The employer cannot claim a tax deduction for such gifts, nor can they claim the GST.

2. Christmas parties held on the employer's business premises

If a Christmas party is held on a working day on the employer's business premises and only employees attend (not spouses), the employer may not be subject to FBT. This FBT exemption is not restricted in terms of cost, and as a result, the employer can spend more than \$300 per employee and still not be subject to FBT.

3. Christmas parties where the cost per benefit is less than \$300

In general, if the cost of the Christmas party per employee is less than \$300 (GST inclusive), the employer will not be subject to FBT.

Where spouses attend, the employer does not need to combine the cost of the employee and spouse to calculate whether the \$300 limit has been exceeded. In this situation, the employer will only be subject to FBT where the cost of the benefit is at least \$300 for each of them.

In effect, employers therefore do not need to differentiate between those employees who bring their spouses and those who don't.

4. Travel costs to attend and leave the Christmas party

If the employer provides the employee with taxi travel to or from the business premises to attend the Christmas party, this is generally an exempt benefit under s.58Z of FBTA.

However, even if this exemption is not available in the circumstances, the taxi travel may alternatively be exempt under the minor benefits exemption.

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