

## TAXATION NEWS

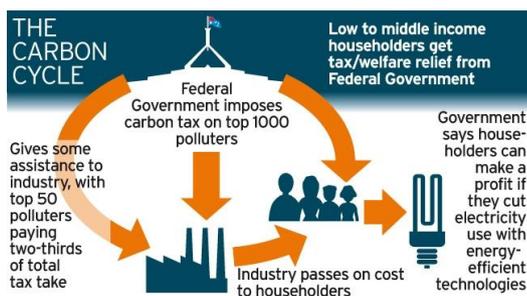
### Tax Discount on Interest Income

### The Carbon Tax is (almost) here!

The carbon tax bills have now been passed in law by both Houses of Parliament and will commence on 1<sup>st</sup> July 2012. The laws set a price of \$23 for each tonne of carbon pollution released into the atmosphere by Australia's biggest polluters. It is estimated that around 500 businesses will be required to pay for their pollution under the carbon pricing mechanism. The Prime Minister also announced tax cuts to assist households and support measures for businesses to assist them in adapting to the new carbon tax, namely:

- Tax free threshold to increase to \$18,200 in 2012-13 and then to \$19,400 from 2015-16.
- Marginal rates to rise from 15% to 19% & 30% to 33%.
- Small business asset write off to increase from \$5,000 to \$6,000.

*Although the carbon tax scheme will not commence until next year, businesses should consider how they may be affected both directly and indirectly by the scheme and whether they are able to access some of the compensation and support measures announced as part of the scheme. Please contact our office for any assistance.*



In the 2010–2011 Budget, the Government announced that from 1<sup>st</sup> July 2011 it would provide individuals with a 50% tax discount on up to \$1,000 of interest earned by individuals, including interest earned on deposits held with any bank, building society or credit union, as well as bonds, debentures or annuity products. In September 2010, the Government then announced a deferral of the start date to 1<sup>st</sup> July 2012 and that the discount will apply on up to \$500 of interest in the first year (2012–2013), and \$1,000 in subsequent years (1<sup>st</sup> July 2013 onwards). In July, the Government released a discussion paper on its approach to implementing the proposed tax discount. There are a couple of points to highlight in regard to the likely operation of this measure:

1. The discount will apply to interest income net of any expenses incurred in earning that income (e.g. bank charges or fund management costs).
2. Companies, incorporated and unincorporated associations, superannuation funds and First Home Saver Account (FHSA) trusts would not be entitled to the discount and would not be able to pass the discount to an individual.
3. The discount would not apply to any interest income that is already taxed concessionally under a separate regime. For example, interest earned from FHSA or superannuation accounts that receive concessional tax treatment would not be eligible.
4. **Annuities** Some components of an annuity would be treated in the same way as interest for the purposes of the tax discount for interest income, however, where the annuity involves the payment of pensions from a foreign superannuation fund or scheme, they

will not be eligible for the discount. Annuities that represent a "superannuation income stream" and receive concessional tax treatment will not be eligible for the interest discount.

5. **Trusts:** A resident individual beneficiary would be able to apply the discount to their proportionate share of the net income of a trust that is attributable to interest income (trust net interest). To ensure beneficiaries can claim the discount against their share of the net income of a trust that is attributable to interest, trustees would need to distinguish net interest from other forms of assessable income of the trust and report this amount separately to beneficiaries.
6. **Partnerships:** The discount would be available for interest received by individuals who are partners in a partnership. Extending the discount to interest income received indirectly via a partnership may require some changes to the way this income is reported to individual partners.

*The measure will not be introduced unless the Mining Tax is also passed by Parliament. We will keep you informed on its success or otherwise in coming months.*

### **Standard Deduction for Work Expenses now Drafted**

Public consultation has closed on the Government's draft legislation which proposes to provide individual taxpayers with a standard tax deduction to cover work-related expenses and the cost of managing their tax affairs. The standard deduction proposed is \$500 for 2012–2013, increasing to \$1,000 for 2013–2014 and thereafter. Taxpayers whose claims exceed the proposed standard deduction will still be allowed to make those claims provided receipts are kept. However, the Government has noted the deduction is dependent on the implementation of the mining tax legislation which is yet to be introduced.

### **Tax Law Changes to tackle Phoenix Activities**

More legislation has been introduced into Parliament which aims to deter company directors from engaging in phoenix activities. Phoenix activities involve the deliberate liquidation of a company to avoid paying tax liabilities and employee superannuation. The business then "rises" again and continues operations controlled by the same person, but under another corporate entity and free of debts. The legislation also aims to encourage director compliance with tax and superannuation obligations.

The proposed tax law changes will make directors personally liable for their company's failure to pay the employees' superannuation guarantee amounts. The changes will also allow the ATO to pursue directors without issuing a "director penalty notice" where the company's pay as you go (PAYG) withholding or superannuation guarantee liability remains unpaid and unreported three months after the due day. In addition, the Government proposes to deny directors (and their associates) entitlement to PAYG withholding credits (through the imposition of a new tax) where the company they are involved in has failed to remit PAYG withholding amounts.

*There are now more reasons why wages and superannuation obligations should be regularly reconciled and payment kept up-to-date. If you are unsure of your current obligations, please contact us for advice.*

### **No Trading, but still in business!**

In an unusual decision, the Administrative Appeals Tribunal held a taxpayer was not a passive investor in relation to share trading activities and was carrying on a business of share trading for the year ended 30 June 2008. The taxpayer was a chief executive of a services company and traded shares in his own name on the share market. The Commissioner argued the taxpayer was not conducting a share trading business as he did not have a formal business plan and did not sell many shares during the relevant period. The taxpayer argued that the only reason he did not sell much of his portfolio during the period was due to the global financial crisis. Whether you are a trader or passive investor depends mainly on the way you conduct your affairs and your genuine intentions when commencing the activity. Clients wishing to claim "trading" status should contact us to discuss their situation.





## **TPD Insurance Update – Deductions inside super not so easy.**

The ATO has issued an exposure draft of legislation to clarify the extent of deductions available for Total and Permanent Disablement (TPD) premiums.

The proposed regulations provide a scale of deduction (from 100% to 67%) depending on how the policy defines TPD.

Back in 2007, the ATO defined TPD as meaning a benefit paid to a person due to ill health as certified by two or more legally qualified medical practitioners and where it was unlikely that the person could ever be gainfully employed. This is known as the “any occupation” definition.

Members with policies containing this definition can claim a full tax deduction for premiums. Some policies allow for payments where an individual merely cannot work in their particular occupation but are still capable of engaging in paid employment. There are also policies that make payments based on loss of limbs or some limited functions. In these cases, a partial deduction will be permitted. Sometimes, policies can be more complex and will need an actuary to determine the tax deductible percentage. It might be a good time to contact your insurance agent to enquire if they will be addressing this issue before June next year, and whether or not they will be providing a statement of tax deductibility.

As we have discussed in previous issues, the deductibility of insurance premiums depends on the components of the cover. It may be necessary to obtain a breakdown of “bundled” policies to any non-deductible items (such as trauma cover).

*Trustees should contact us if they require further information.*

## **New Rules on Collectables now Law**

The new regulations took effect from 1st July, 2011 to prevent SMSF trustees from gaining current day benefits from investments in collectables and personal use assets.

In addition to artworks, antiques and motor vehicles, other assets covered by these rules (s 62A) include bank notes, wine and spirits and sporting and social club memberships.

For each collectable, the trustees must:

- not lease it to a related party.
- not store it at the private residence of a related party.
- keep a record of decisions regarding the purchase and storage.
- take out insurance within seven days of purchase.
- not dispose the asset to a related party at a price other than a market price determined by a qualified independent valuer.

As always, trustees must take into account the sole purpose test when considering an acquisition of a collectable.

The new rules apply to all acquisitions on or after 1st July this year. Collectables purchased before 1st July will not be subject to the regulations until 1st July, 2016.

*It is our experience that trustees often have difficulties even meeting the "old" rules, particularly in regard to storage and valuation. We suggest that trustees familiarise themselves with the new regulations and contact us to discuss the implications of any intended purchase or disposal of such investments.*

## **Minimum Pension Payments Increased**

Retirees receiving pensions from their self-managed superannuation fund are no doubt aware that they must withdraw a minimum percentage of their retirement balance each year. As a result of the global financial crisis in 2008, the government halved the percentages. This was done to reduce the likelihood of trustees having to liquidate assets below cost in order to meet the pension cash requirements. For, 2011-12, the government has increased the minimums by 25%, meaning that pension recipients must withdraw 75% of the original legislated amount. The following table summarises the position:



## Tax Fast Facts

1. Division 7A Loans – the benchmark interest rate applicable for 2011/12 is **7.8%**.
2. The luxury car tax threshold and depreciation limit is \$57,466 and for fuel efficient vehicles is \$75,375.
3. Reasonable Travel and Meal Allowances – overtime meals: \$26.45.

*For example: for employee truck drivers with salary less than \$100,840, the reasonable travel allowance is \$87.00 a day. For a full list, see Tax Determination 2011/17 or call our office for more information.*

Age at 1 <sup>st</sup> July 2010	Minimum withdrawal before 30 <sup>th</sup> June 2012
Under 65	3.00%
65-74	3.75%
75-79	4.50%
80-84	5.25%
85-89	6.75%
90-94	8.25%
95 and over	10.5%

The rates also apply to fund members who are withdrawing payments under a transition to retirement pension arrangement. *If you are unsure of your actual dollar amount to be withdrawn this year, please contact our office.*

# Calendar

Our office will close on:

Thursday 22<sup>nd</sup> December, 2011 and re-open on  
Wednesday 4<sup>th</sup> January, 2012.

The Team at Orr Martin & Waters would like to wish you  
a **Merry Christmas** & a safe and **Happy New Year**.



<b>21st January 2012</b>	<b>Monthly Business Activity Statement – December 2011</b>
<b>21<sup>st</sup> February 2012</b>	<b>Monthly Business Activity Statement - January 2012</b>
<b>28<sup>th</sup> February 2012</b>	<b>Quarterly Business Activity Statement – December 2011</b>

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