Orr, Martin & Waters
CHARTERED ACCOUNTANTS

Quarterly Newsletter
June 2012
Volume 78

TAXATION NEWS

2012/2013 Federal Budget Highlights

Personal Tax

Personal tax rates will be affected by the following changes:

* the flood levy ceases from 1st July, 2012.
* the Dependant Spouse Tax Offset will not be available to taxpayers born after 1st July, 1952.
* the Private Health Insurance Rebate will be means tested (see separate article).
* the Net Medical Expense Offset will also be means tested.

Taxpayers receiving an Eligible Termination Payment (ETP) will be subject to tax at marginal rates where the individual's taxable income, including the ETP, exceeds $180,000. The ETP tax offset will only be available on amounts that are under this cap. (Note - redundancy payments will not be affected).

From 1st January, 2013, the Education Tax Refund will be replaced by a Schoolkids Bonus of $410.00 for primary school aged children and $820.00 for each child at high school.

Non-residents who sell Australian assets subject to CGT will lose the 50% discount exemption from 8th May, 2012.

The Government has abandoned the implementation of the 50% discount for interest income and the standard deduction for work related expenses.

Business Tax

Businesses with turnover less than $2 million can write off new assets costing up to $6,500 each and, for motor vehicles, an up- front deduction of the first $5,000 of a new or second-hand motor vehicle purchased after 1st July, 2012. (Note – This is accelerated depreciation. It is **not** an additional deduction like the recent investment allowance.)

Companies will be able to obtain a refund for tax paid in a prior year by "carrying back" current year losses of up to one million dollars. The measure will commence with losses incurred from the 2012-13 year onwards.

The Government will not proceed with the planned 1% reduction in company income tax.

The final withholding tax rate for managed investment trusts will increase from 7.5 per cent to 15 per cent.

The planned bonus tax deductions for energy efficiency improvements to buildings have been scrapped.

Superannuation

Individuals earning more than $300,000 in *adjusted taxable income* will pay an additional 15% contributions tax on some or all of their annual concessional contributions to their super fund. (see article)

From 1st July, this year, the maximum concessional contributions for **all** individuals will be $25,000. The proposed $50,000 amount for persons aged over 50 with a fund balance of less than $500,000 will not commence until **1st July 2014.**

Residency still a problem for some

A businessman has been unsuccessful before the AAT in arguing that he was not a resident of Australia for tax purposes because he had spent most of his time overseas. The businessman was a director of a company incorporated in NSW and he worked for that company as a sales agent on commission, selling Australian residential property to overseas investors mainly in Indonesia. However, the Tribunal noted, among other things, the businessman's family home in Australia and confirmed the tax assessments and penalties issued by the Commissioner of Taxation for the 2002, 2003, 2005 and 2006 income years. The Tribunal concluded the businessman had his home, or "settled place of abode", in Australia and was therefore a resident of Australia for tax purposes.

A taxpayer's country of residence and the source of income are important issues. As a general principle, an Australian resident is subject to tax in Australia on income derived from all (worldwide) sources, whereas a foreign resident is only subject to tax in Australia on income from Australian sources. There are a number of tests under the tax law. If an individual passes any of the tests, the individual will be considered a "resident of Australia" for Australian domestic tax purposes.

Data Matching hits Building Industry again

Data matching is now a common tool of the ATO for detecting unreported income and over-claiming of expenses in taxpayers returns.

Most recently, the ATO has obtained details of individuals or businesses that hold a trade account with purchases between $10,000 and $3m in the 2009–10 financial year from Wesfarmers Limited (Bunnings Group Ltd). Individuals and businesses in the program will have data purchases cross-checked with reported income.

The ATO has also obtained data on complaints and licensing information for the 2009–10 and 2010–11 financial years from NSW Fair Trading, Qld Building Services Authority and Government of SA Consumer and Business Services. The data will be used to identify those in the building industry who use cash transactions to avoid tax or fail to report correctly.

If you believe these programs may affect you or your business, please contact our office today.

Tax Planning Time

Now that June is upon us, there is very little time left for you to get your tax affairs in order. For businesses and super fund members, there are some tax planning opportunities that you must put in place **BEFORE** 30th June.

For many of those over the age of 50, this will be the last year that you can make super contributions up to $50,000.

For others, it might be a matter of ensuring that you haven't exceeded the $25,000 threshold!

More recently, the ATO has made changes to the treatment of family trust distributions. In addition, the use of adjusted taxable income and family income definitions have reduced some individuals access to certain offsets and rebates. This is why it is becoming more important to see your accountant before year-end to explore planning opportunities to ensure you don't pay any more tax than is necessary. Call us today!

BUSINESS NEWS

Personal Properties

Securities Register - Part 3

In our last issue, we updated you on issues regarding the commencement of a new national database of interests in property other than land a buildings. Here are a few helpful tips for businesses that supply goods on credit:

1. Review the terms of trade (in particular, Retention of Title clauses) to ensure you are fully protected .

2. Where assets are provided by a holding entity to a trading entity, ensure that the assets cannot be taken by any creditor of that trading entity.

3. If assets are subject to an existing charge, ensure that this has been transferred to the new register from ASIC.

4. When buying or selling a business, check the register for the security status of the assets.

Private Health Insurance Rebate Changes - the details revealed!

A package of Bills to means test the 30% private health insurance rebate has made its way through Parliament. The changes will mean the amount of rebate available will depend on an income test for each financial year for individuals and families. The changes will apply from 1 July 2012 and will introduce three new "Private Health Insurance Incentive Tiers". "Income" for Medicare Surcharge purposes is taxable income plus reportable fringe benefits, reportable super contributions and net investment losses.Taxpayers who take an up front premium reduction are being encouraged to contact their Health Fund and nominate a tier based on their estimated adjusted income. If you nominate a tier that results in a higher rebate than your income entitles you to, you will incur an additional tax liability.

Health Funds are advising their members to pay their 2012/2013 premium before 30th June, 2012 to take advantage of the rebate before the changes. If you believe these measures will affect your rebate, you should discuss this matter further with your fund.

Table: Private Health Insurance Incentive Tiers from 1 July 2012

Tier	Income ($)		Private health insurance rebate			Medicare levy surcharge
	Singles	Families	Under 65 yrs old	65 – 69 years old	70 years or over	
	0 - 84,000	0 - 168,000	30%	35%	40%	Nil
1	84,001 - 97,000	168,001 - 194,000	20%	25%	30%	1%
2	97,001 - 130,000	194,001 - 260,000	10%	15%	20%	1.25%
3	130,001+	260,001 +	0%	0%	0%	1.5%

Note: The thresholds will increase annually, based on growth in Average Weekly Ordinary Time Earnings (AWOTE). Single parents and couples (including de facto couples) are subject to the family tiers. For families with children, the thresholds are increased by $1,500 for each child after the

SUPERANNUATION NEWS

The Super Surcharge Rides Again!!

The government's announced increase in the contributions tax rate to 30% for higher earning individuals is almost a return to the dreaded Superannuation Surcharge which operated during the last decade.

The proposed taxing measure will assess all contributors with adjusted taxable income (ATI) greater than $300,000. Broadly, ATI includes all super contributions, adjusted fringe benefits, total net investment losses, tax free pensions and some foreign income which are added to taxable income.

Where the $300,000 limit has been exceeded only by the contributions, then the increased tax rate will only apply to the contribution amount in excess of the $300,000.

For example, if an individual has taxable income of $290,000 and makes a $25,000 concessional super contribution, then the 30% tax will apply to $15,000 of the total contributed.

Whilst there have been no details given as to how the ATO proposes to administer this measure, it is difficult to see how it will differ greatly to the system that operated with the Superannuation Surcharge. This involved the ATO issuing assessments to the fund sometimes up to two years after the lodging of both individual and fund tax returns. The system was plagued by constant amendments and corrections resulting from members changing funds, rollovers, individual tax return amendments and fund misstatements, just to name a few. It will be interesting to see whether the ATO can create a better system this time around to relieve tax agents and their clients the extra agony and the workload!

Investment in related entities sinks fund

The AAT has affirmed a non-compliance notice issued to a self-managed superannuation fund (SMSF). The Commissioner of Taxation had issued the notice for regulatory breaches in respect of "book entry" loans made via a related party trust. Broadly, the case concerned members of an SMSF who were also directors of the corporate trustee of the fund and other related trusts, including one which operated a family business. The SMSF had invested in a related unit trust which in turn had financial dealings with the family business. The Tribunal confirmed the non-compliance notice after finding there were breaches of the "sole purpose test" and "in-house asset rules" under the superannuation law.

Broadly, the "sole purpose test" seeks to ensure that superannuation money is set aside and only applied to fund members' benefits in retirement, whereas the "in-house asset rules" generally restrict an SMSF from having more than 5% of its total assets invested in "in-house assets". An "in-house asset" can include a loan to, or investment in, a "related party" of the fund. The rules can be complex, so it is important for trustees to carefully consider their investments to avoid falling foul of the rules.

CALENDAR

2nd June

All income tax returns for 2011 to be lodged.

21st June

Business Activity Statement - May (monthly payers)

30th June

End of Financial Year

14th July

PAYG Withholding Statements issued to employees

21st July

Business Activity Statement - June (monthly payers)

28th July

Business Activity Statement - June Quarter

21st August

Business Activity Statement – July (monthly payers)

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OMW
Orr, Martin & Waters
CHARTERED ACCOUNTANTS

461 Whitehorse Road
BALWYN VIC 3103
Ph: +61 3 9836 8222
Fax: +61 3 9836 8331
enquiries@omw.com.au