



TAXATION NEWS

Government shifts the goalposts on proposed tax measures

The Government has announced its decision to defer the start date of the 50% tax discount on interest income for individuals for 12 months. The proposal is now expected to commence on 1 July 2013. Under the proposal, the discount would apply on up to \$500 (increasing to \$1,000 the following year) of interest earned on deposits held with any bank, building society or credit union, as well as bonds, debentures or annuity products.

In a related move, the Government has also deferred the start date for standard deduction for work-related expenses until 1st July, 2013. Furthermore, the Government will also move to restrict the Dependant Spouse Tax Offset to spouses born before 1st July 1952.

ATO focus on Education Tax Refund - Again!

The ATO has commenced a data-matching program in which it will request and collect from Centrelink the names and addresses of taxpayers eligible for the Family Tax Benefit Part A. The program will cover the 2009, 2010 and 2011 financial years. It is expected the records of approximately two million individuals will be matched. The aim of the data-matching program is to identify potential non-compliance with taxation obligations in relation to taxpayers claiming the education tax refund.

We remind clients that they must have received, or have been eligible to receive the FTB Part A in order to claim the education tax refund. Should they believe that they have made an incorrect claim this year, or in previous years, they should contact our office immediately to arrange for us to prepare an amended return.

Small Business Benchmarks get a grilling!

The Inspector-General of Taxation will review the ATO's use of small business performance benchmarks to determine whether they are an appropriate tool for identifying underreporting of business income. The review will commence later this year.

There has been growing concern amongst tax professionals about the use of these indicators, in particular, their use as a basis for issuing default assessments.

We believe the benchmarks do not always correctly reflect the business profiles of some industries. In addition, we believe that the indicators cannot always be accurately applied to the information drawn from business tax returns. We look forward to the review and its findings.

Prompt GST Refunds - Taxpayer wins but...

An exporter of mobile phone goods has been successful before the Federal Court in a case concerning GST refunds. The ATO had alleged that the refunds claimed were unsubstantiated and were fraudulent and refused to pay the amounts until an audit had concluded. However, the Court did not agree that the law allowed withholding of a payment pending an investigation in these circumstances. The Federal Court ordered that the Commissioner immediately pay the exporter the net amount notified in its GST returns. The Full Federal Court later also dismissed the Commissioner's appeal against the decision.

In response, the government has announced that it will amend the tax law to allow the Tax Commissioner to hold onto refunds pending "verification checks". Assistant Treasurer Mark Arbib said the legislation would provide the Commissioner with "legislative discretion" to delay refunding certain amounts to taxpayers pending necessary verification of their claims. We note that the discretion sought would apply to refunds and payments arising under all taxation laws - not just GST.

Whilst it is important that the ATO is afforded sufficient time to investigate suspicious refund claims, it will need to ensure that it does not frustrate taxpay-

ers by creating unnecessary delays in processing genuine refunds.

Youth Allowance Deductions are out!

The government will introduce legislative amendments to prevent deductions against all government assistance payments for individuals from 1 July 2011, following a controversial High Court decision in 2010 (the *Anstis* decision). In that decision, the High Court had allowed an individual who incurred study expenses in gaining Youth Allowance to deduct the expenses from her assessable income. The government's proposed legislative amendments will also affect students on Austudy and ABSTUDY. The government believes that disallowing a deduction for such expenses recognises that these government assistance payments are effectively tax free and individuals should not be able to receive an additional benefit by way of a tax deduction against their assessable income. The amendments will apply from 1st July 2011.

ATO Focus on Property Valuations

A few cases recently before the courts have centred on the issue of property valuations. If a valuation of a property is not above board, the ramifications could result in a larger tax bill. The Australian Tax Office (ATO) has recently highlighted what it believes to be recurring issues concerning valuations of property in relation to the application of the GST margin scheme provisions. Often, when certain elements of a valuation are outside an acceptable range, the ATO says the ultimate valuation is higher than it should be resulting in a lower margin and less GST payable. One common area of contention is the use of purported comparable sales figures in making a valuation. The ATO has warned that comparable sales must withstand objective scrutiny of their comparability

It seems that the days of the having a "kerbside" valuation are long gone! The golden rule for property owners is to ensure that you get a properly qualified valuer to conduct and provide a written valuation.

More Cases on Personal Services Income

The AAT has recently held that the personal services income (PSI) rules applied to an IT professional to include in his assessable income amounts derived by his company through the provision of his IT expertise to a small number of clients from the same company group. The Tribunal also held the company was not a "personal services business".

Many consultants and contractors operate as a sole trader or through a company, partnership or trust. In many cases, the income received for the work they do may be classified as PSI if certain tests are not passed. However, the PSI rules do not apply to individuals or interposed entities carrying on a "personal services business". It should be noted the ATO has recently advised that it will hold onto some income tax returns to check for PSI where appropriate. It is important that clients are satisfied that they meet the relevant tests before lodging business tax returns. Please contact us to discuss your situation.

Private Health Insurance Rebate Update

Legislation to means test the Private Health Insurance Rebate has passed in the House of Representatives and is expected to pass in the Senate. The rebate begins to phase out for individuals earning more than \$83,000 and families earning more than \$166,000. The rebate will not be available for singles earning more than \$129,000 and families earning more than \$258,000. The means testing will commence from 1st July 2012.



SUPERANNUATION NEWS

No Change to Super Contributions Caps

Due to deteriorating global economic and financial conditions, the Government late last year announced its decision to "pause" the indexation of the general superannuation concessional contributions cap for one year in 2013–14, so that it will remain at **\$25,000**. Indexation of the cap will be deferred until 2014–15, when it is expected to rise to \$30,000. The Government said this will also result in a pause in the indexation of the concessional contributions cap for individuals aged 50 (with balances over \$500,000) and the non-concessional contributions cap.

We wish to remind fund members over the age of 50 with superannuation balances exceeding (or approaching) \$500,000 that this is the last year in which you can contribute up to \$50,000 in concessional contributions. We suggest you contact our office and your financial advisor to discuss this issue before 30th June.

BUSINESS NEWS

Update on Personal Properties Securities Register(...or perhaps: "Business Goods Securities Register?")

As mentioned in our September issue, the government has introduced a Personal Properties Securities Register which provides both borrowers and lenders access to a national database of interests in property other than land and buildings and commenced on 30th January, 2012.

A personal property security occurs when a secured party, (e.g. a bank) takes a charge over property as security for a loan, or any other type of agreement that includes the use of secured finance. If a lender registers, they will be treated as a secured creditor; as opposed to an unsecured creditor should a debtor become insolvent.

Business that have existing bank, hire purchase or chattel mortgage loans may find it useful to search the register after the conclusion of those agreements to ensure that their property has been removed.

If your business supplies goods on credit, you should consider registering to protect your interest in those goods. It is our understanding that suppliers can no longer rely solely on romalpa clauses and therefore should register those interests to ensure the goods are legally protected.

Information on how to register, on-line access and search fees should check the website at www.ppsr.gov.au.

Other Announcements

- The age limit for employees receiving 9% contributions will be abolished; therefore employers will be required to pay the superannuation guarantee to all its employees regardless of age.

- The "discount" applied to minimum withdrawals from a pension fund will be retained for the 2012/13 income year. Currently, the discount is 25% off the prescribed rates which are determined by the superannuants age. If the minimum amount is not withdrawn for the financial year, the fund can lose its concessional tax benefits or tax exempt status.

Payslip Reporting of Super Contributions

An Exposure Draft has been released which sets out amendments to the SIS Act regarding employer's obligations for reporting superannuation contributions to employees.

Currently, the employer must report either the super entitlements **accrued** or the actual contributions **paid** for that period. The draft regulations seek to require the reporting to show the amount of contributions and the date **when** the employer expects to pay them.

Further amendments will be introduced to require APRA regulated funds to notify members every six months of contributions received on their behalf by letter or electronic means.

Employers should discuss these impending changes with their payroll software supplier to ensure that it can be implemented by the expected start date of 1st July, 2012.

CALENDAR

21st March 2012

Monthly Business Activity Statement – February 2012

6th - 9th April 2012 Easter Break

21st April 2012

Monthly Business Activity Statement - March 2012

28th April 2012

Quarterly Business Activity Statement - March 2012.

15th May 2012

Last day to lodge income tax returns using a tax agent without penalties.

(subject to other ATO concessions that may apply)

21st May 2012

Monthly Business Activity Statement - April 2012

FBT REMINDER

Companies and businesses that are registered for Fringe Benefits Tax will be required to lodge an annual return very soon, so now is a good time to review your FBT liabilities. We have an FBT Action Checklist which helps you to check if you have provided FBT benefits during the year and also contains the latest FBT rates for calculating the liability. Contact us today to receive your copy, or download it from our website at www.omw.com.au.



Want to help the planet and reduce our carbon footprint? Well you can by electing to receive your copy of the OMW Newsletter by email. Just send us your preferred email address to: newsletter@omw.com.au along with your full name for correct client identification.

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