

# Practice Update

Please read this update  
and contact this office  
if you have any queries

JUNE 2014

## **ATO's Tax Amnesty – They offer an "Invitation to come in from the cold"**

*Editor: Last month we reported that the ATO had announced its "Project DO IT" – an amnesty for taxpayers with offshore assets or income to voluntarily come clean by 19 December 2014.*

Greg Williams, Deputy Commissioner, Serious Non-Compliance, says that: "Sometimes people commit tax crime inadvertently."

"It may be as a result of inheriting unreported offshore accounts from relatives; it may be they have become involved without fully understanding that their arrangement is illegal; or it may simply be that they trusted people who gave them bad advice."

That, he says, is why the ATO wants to help these types of taxpayers fix their tax affairs and has announced the Project DO IT initiative\*.

*Editor: That said, taxpayers who are eligible to enter the program should seek advice – depending on the circumstances and the sums involved, possibly even consult a tax barrister.*

*The reason we say this is that the ATO is not, in fact, making an offer to taxpayers for them to accept. In truth, the shoe is very much on the other foot.*

*Taxpayers are encouraged to come forward, but it is the ATO who will decide whether they accept any advance or not. We are concerned that this may leave some taxpayers stranded with nowhere to go after baring their soul to the taxman.*

## **Family Court documents opened up to Tax Office**

In a recent and possibly disturbing case for many taxpayers, the ATO has been able to gain access to family court documents in relation to a taxpayer who was already under investigation.

### **Facts**

A husband and wife were parties to proceedings in the Family Court of Australia which were dismissed by consent in December 2010.

The dismissal occurred after the ATO had started an audit of the husband and his related entities in June 2009 in relation to the 1991 to 2010 income years.

In November 2009, the ATO wrote to the Court seeking access to documents in "a current proceeding" and subsequently requested access to certain affidavits, financial statements, subpoenas and other documents.

After much to-ing and fro-ing, the matter came before the Full Court of the Family Court which decided in the ATO's favour.

### **Decision**

Basically, the Court decided in favour of the ATO because:

- ◆ it was engaged in a substantial, targeted audit – not a "random audit"; and
- ◆ without the documents, the history and details of assets that had been acquired, many outside Australia, would only be available in the unlikely event that the taxpayers co-operated with the audit.

## **ATO keen for taxpayers to avoid tax-related scams**

The ATO is concerned about the number and frequency of email and mobile phone scams that are occurring.

These scams claim to come from the ATO and usually offer a tax refund. Generally, they link to a bogus ATO website asking for personal information and credit card details.

The ATO advises that while it may email, SMS message or phone taxpayers, it will never ask for:

- personal details, such as driver's licence, mother's maiden name; or
- credit card, including CVN, or bank details.

Where this happens, they advise that taxpayers should not progress with the email, SMS or phone call. If a taxpayer is in doubt about the authenticity of a call that they receive from the ATO, they should contact the ATO on one of its publicly listed numbers to verify the legitimacy of the call.

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## **Repairs to a rental property formerly used as a home**

In recent years, there has been an increasing tendency for home owners to use an existing home as a rental property, especially where a new home has been purchased.

In these situations, it is common for taxpayers to undertake repairs and maintenance to their existing home in order to make it more attractive to prospective tenants before the property is available for rent and/or actually rented to tenants.

However, according to the ATO, no deduction will be available for repair expenditure that is incurred before a taxpayer's home is held or used for income-earning purposes (e.g., before the property is genuinely available for rental).

### **Undertake repairs when property is available for rent**

Where appropriate, a taxpayer should consider 'holding-off' undertaking repairs to the former home until the property is either genuinely available for rent (e.g., listed with a real estate agent for rental) or actually rented to tenants.

In these circumstances, a deduction for repairs may be available even though:

- ◆ the property was previously used by the

taxpayer for private purposes (i.e., as the taxpayer's home); and

- ◆ some or all of the defects, damage, or deterioration are attributable to the period the property was used as the taxpayer's home.
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## **Gov't to effectively get rid of super excess contributions tax**

In the May Budget, the government stated it will introduce legislation to ensure that inadvertent breaches of the non-concessional contributions cap, *that are reversed*, will not incur a penalty.

For any excess contributions made after 1 July 2013 that breach the non-concessional cap (currently \$150,000), individuals will be allowed to withdraw those excess contributions and associated earnings.

If a taxpayer chooses this option, no excess contributions tax will be payable and any related earnings will be taxed at the individual's marginal tax rate.

Anyone who leaves their excess contributions in the fund will continue to be taxed on these contributions at the top marginal rate.

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## **Car parking can be classed as "meal entertainment"**

Many employers choose the 50/50 split method to value their meal entertainment benefits for FBT purposes.

However, many may not be aware that the minor benefit exemption, for benefits which are infrequent and less than \$300, is not available where this method is used.

Take, for example, the case of an employee who parks their car at a venue for a work function at which the employer provides food and drink.

If the employer is using the 50/50 method and reimburses the car parking fee, it will be added into the employer's meal entertainment expenses for FBT purposes (i.e., it won't be fully exempt).

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## **Car parking threshold 2014/15**

The car parking threshold for the 2014/15 FBT year is \$8.26. This replaces the amount of \$8.03 that applied in the 2013/14 year.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.

# 2013/14 Individual Tax Return Checklist

## Your Checklist

- Claims for deductions ✓
- Receipts for deductions ✓
- Car claims and log books ✓
- Car record keeping ✓

*Please review the information below and contact our office if you need assistance.*

## Tax saving strategies prior to 1 July 2014

*A good strategy to reduce tax payable is normally to accelerate any income tax deductions into the current income year, which will reduce overall taxable income in the current year.*

The tax rates for resident individual taxpayers for the **2013/14** income year are as follows:

Income threshold	Tax payable
0 – \$18,200	Nil
\$18,201 – \$37,000	19% of excess over \$18,200
\$37,001 – \$80,000	\$3,572 + 32.5% of excess over \$37,000
\$80,001 – \$180,000	\$17,547 + 37% of excess over \$80,000
\$180,001 and over	\$54,547 + 45% of excess over \$180,000

*Note: The Medicare levy of 1.5% (to increase to 2% from 1 July 2014) generally applies in addition to these rates. It is also important to note that as part of the 2014/15 Federal Budget, the federal government announced that it proposes to introduce a 'Temporary Budget Repair Levy' effective from 1 July 2014. Under the proposed measure, a 3-year temporary levy of 2% will be imposed on that part of a person's taxable income which exceeds \$180,000 (i.e., a temporary increase in the top marginal tax rate from 45% to 47%).*

### Common work-related claims made by individuals

The following outlines common types of deductible expenses claimed by individual taxpayers, such as employees and rental property owners, plus some strategies that can be adopted to increase deductions for the 2013/14 income year.

#### 1. Depreciable plant, etc, costing \$300 or less

Salary and wage earners and rental property owners will generally be entitled to an immediate deduction if certain income-producing assets costing \$300 or less are purchased before 1 July 2014.

Some purchases you may consider include:

- books and trade journals;
- briefcases/luggage or suitcases;

- calculators, electronic organisers;
- electronic tablets;
- software;
- stationery;
- tools of trade.

#### 2. Clothing expenses

Purchase or pay for work-related clothing expenses prior to the end of the income year, such as:

- compulsory (or non-compulsory and registered) uniforms, and occupation specific and protective clothing;
- other expenses associated with such work-related clothing, such as dry cleaning, laundry and repair expenses.

### 3. Self education expenses

Consider pre-paying the following self education items before the end of the income year:

- ◆ course fees (but not HECS-HELP fees), student union fees, and tutorial fees;
- ◆ interest on borrowings used to pay for any deductible self education expenses.

Also bring forward purchases of stationery and text books (i.e., those which are not required to be depreciated).

### 4. Other work-related expenses

Employees can prepay any of the following expenses prior to 1 July 2014:

- union fees;
- subscriptions to trade, professional or business associations;
- magazine and newspaper subscriptions;
- seminars and conferences;
- income protection insurance (excluding death and total/permanent disability).

*Note: When prepaying any of the expenses above before 1 July 2014, ensure that any services being paid for are to be provided within a 12 month period that ends before 1 July 2015. Otherwise, the deductions must generally be claimed over the period of the prepayment.*

## Information Required

We will need you to bring information to assist us in preparing your income tax return.

Please check the following and bring along payment summaries, statements, accounts, receipts, etc., to help us prepare the return.

#### Income/Receipts:

- payment summaries for salary and wages;
- lump sum and termination payments;
- government pensions and allowances;
- other pensions and/or annuities;
- allowances (e.g., entertainment, car, tools);
- interest, rent and dividends;
- distributions from partnerships or trusts;
- details of any assets sold that were either used for income earning purposes or which may be caught by capital gains tax (CGT).

#### Deductions (in addition to those mentioned above):

- ◆ award transport allowance claims;
- ◆ bank and government charges on deposits of income, and deductible expenditure;
- ◆ bridge/road tolls (travelling on business);
- ◆ car parking (when travelling on business);
- ◆ conventions, conferences and seminars;
- ◆ depreciation of library, tools, business equipment (incl. portion of home computer);
- ◆ gifts or donations;
- ◆ home office running expenses:
  - cleaning
  - cooling and heating
  - depreciation of office furniture
  - lighting
  - telephone and internet;
- ◆ interest and dividend deductions:
  - account keeping fees
  - ongoing management fees
  - interest on borrowings to acquire shares
  - advice relating to *changing* investments (but *not* setting them up);
- ◆ interest on loans to purchase equipment or income-earning investments;
- ◆ motor vehicle expenses (business/work related);
- ◆ overtime meal allowances;
- ◆ rental property expenses – including:
  - advertising expenses
  - council/water rates
  - insurance
  - interest
  - land tax
  - legal expenses/management fees
  - genuine repairs and maintenance
  - telephone expenses
  - travelling to inspect property;
- ◆ superannuation contributions by sole traders or substantially unsupported taxpayers;
- ◆ sun protection items;
- ◆ tax agent fees;
- ◆ telephone expenses (business);
- ◆ tools of trade.

# 2013/14 Year-end Checklist for Business

Many of our business clients like to review their tax position at the end of the income year and evaluate any year-end strategies that may be available to legitimately reduce their tax. Traditionally, year-end tax planning for small businesses is based around two simple concepts – i.e., accelerating business deductions and deferring income.

However, Small Business Entities ('SBEs') have greater access to year-end tax planning due to particular concessions that only apply to them. The SBE system replaced the previous Simplified Tax System ("STS") on 1 July 2007. Taxpayers that qualify as an SBE can pick and choose which of the concessions they wish to use each year (although restrictions still remain in relation to the simplified depreciation rules). The basic requirement to be eligible for the SBE concessions is that the business taxpayer's annual turnover (including that of some related entities) is less than \$2 million.

The following are a number of areas that may be considered for all business taxpayers.

## Maximising deductions for non-SBE taxpayers

Non-SBE business taxpayers should endeavour to maximise deductions by adopting one or more of the following strategies:

- Prepayment strategies;
- Accelerating expenditure; and
- Accrued expenditure.

### Prepayment strategies – non-SBE

Any part of an expense prepayment relating to the period up to 30 June is generally deductible in full.

In addition, non-SBE taxpayers may generally claim the following prepayments in full:

- expenditure under \$1,000;
- expenditure made under a 'contract of service' (e.g., salary and wages); or
- expenditure required to be incurred under law.

*Editor: Prepayments can be a little confusing, so before you commit to making a payment please feel free to call us with any queries or assistance if required.*

## Accelerating expenditure – non-SBE

This is where a business taxpayer brings forward the expenditure on regular, on-going deductible items. However, business taxpayers are generally entitled to deductions on an "incurred basis".

Therefore, there is generally no requirement for the expense to be paid by 30 June 2014. As long as the expense has genuinely been incurred, it will generally be deductible.

### Checklist

The following may act as a checklist of possible accelerated expenditure:

- Depreciating assets** costing \$100 or less can be written off in the year of purchase. Depreciating assets costing less than \$1,000 can be allocated to a low value pool and depreciated at 18.75% (which is half of the full rate of 37.5%) in their first year regardless of the date of purchase.
- Repairs** – repairs to office premises, equipment, cars or other business items.
- Consumables/spare parts.**
- Client gifts.**
- Donations.**

- Advertising.**
- Fringe benefits** – any benefits to be provided, such as property benefits, could be purchased and provided prior to 1 July 2014.
- Superannuation** – contributions to a complying superannuation fund, to the extent contributions are actually made (i.e., they cannot be accrued but must be paid by 30 June).

*Note that from 1 July 2013 a new concessional contributions taxing regime applies.*

### Accrued expenditure – non-SBE

Non-SBE taxpayers (and some SBE taxpayers) are entitled to a deduction for expenses incurred as at 30 June 2014, even if they have not yet been paid.

The following expenses may be accrued:

- ◆ **Salary or wages and bonuses** – the accrued expense for the days that employees have worked but have not been paid as at 30 June 2014.
- ◆ **Interest** – any accrued interest outstanding on a business loan that has not been paid as at 30 June 2014.
- ◆ **Commercial bills** – the discount applicable to the period up to 30 June 2014, where the term of the bill extends past 30 June.
- ◆ **Commissions** – where employees or other external parties are owed commission payments.
- ◆ **Fringe benefits tax** – if an FBT instalment is due for the June 2014 quarter, for example, but not payable until July, it can be accrued and claimed as a tax deduction in the 2014 income year.
- ◆ **Directors' fees** – where a company is definitively committed to the payment of a director's fee as at 30 June 2014, it can be claimed as a tax deduction.

### Maximising deductions for SBE taxpayers

Deductions can be maximised for SBE business taxpayers by **accelerating expenditure** and **prepaying** deductible business expenses. Former STS taxpayers who have continued to use the STS cash method since before 1 July 2005 cannot accrue expenses, but other SBE taxpayers on an accruals basis *can* accrue expenses (see above regarding accruing expenditure).

### Accelerating expenditure – SBE

Former STS taxpayers who have continued to use the STS cash method since before 1 July 2005 and who qualify as an SBE are generally only entitled to deductions if they have **paid** the amount by 30 June.

All SBE taxpayers can choose to write-off depreciable assets costing less than \$6,500 in the year of purchase. Also, assets costing \$6,500 or more can be depreciated at 15% (which is half the full rate of 30%) in their first year (and cars have even more favourable treatment).

Therefore, where appropriate, SBE business taxpayers should consider purchasing/installing these items by 30 June 2014.

*It should be noted that SBE taxpayers choosing to use the SBE depreciation rules are effectively 'locked in' to using those rules for all of their depreciable assets.*

**STOPPRESS:** *It is important to note that proposed changes to the SBE capital allowance regime may impact the 2014 income year. Under the proposals, the small instant asset write-off threshold would be reduced to 'less than \$1,000' and the accelerated write-off for motor vehicles would be abolished, generally with effect from 1 January 2014. The proposed measures were introduced as part of the Minerals Resource Rent Tax Repeal & Other Measures Bill 2013 which was recently defeated in the Senate.*

### Prepayment strategies – SBE

SBE taxpayers making prepayments before 1 July 2014 can choose to claim a full deduction in the year of payment where they cover a period of no more than 12 months (ending before 1 July 2015). Otherwise, the prepayment rules are the same as for non-SBE taxpayers.

The kinds of expenses that may be prepaid include:

- Rent** on business premises or equipment.
- Lease payments** on business items such as cars and office equipment.
- Interest** – check with your financier to determine if it's possible to prepay up to 12 months interest in advance.
- Business trips.**
- Training courses** that run on or after 1 July 2014.
- Business subscriptions.**
- Cleaning.**

### Information Required

This is some of the information we will need you to bring to help us prepare your income tax return:

- Stocktake details as at 30 June.
- Debtors listing (including a list of bad debts written off) as at 30 June. *Note: In order to claim a deduction, the debt must be written off on or before 30 June.*
- Creditors listing as at 30 June.