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Practice Update

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

OCTOBER 2008

Cash economy under fire: ATO directly contacting taxpayers

As part of the Tax Office's drive to rein in the cash economy, they are sending out letters direct to taxpayers who have high volumes of cash transactions.

Recently, the ATO has sent out 44,000 letters to businesses in the retail, construction and consumer service industries.

The letters have also been directed to businesses that have reported a low or negative cash flow which may indicate they are under-reporting income.

As it is likely that some of these businesses will be subject to further review, the ATO is encouraging their tax agents to assist any clients identified under this program.

Editor: So please contact us if you receive one of these letters, and would like us to help you review your circumstances.

Bill to remove same-sex discrimination introduced

The government has introduced legislation removing same-sex discrimination from a range of Commonwealth laws.

It stated that the changes will provide for equality of treatment under a wide range of laws between same-sex and opposite-sex de facto couples and will ensure children are not discriminated against because of the structure of their family.

For FBT and income tax purposes, the reforms are expected to become operative on 1 April 2009 and 1 July 2009 respectively.

How the Bill will operate

These amendments will include a new model definition of 'de facto partner' which will apply equally to same and opposite-sex couples.

The definitions of 'child' and 'parent' will be expanded where appropriate to include the children of same-sex couples.

Amendments will also be made to ensure that de facto partners, children of same-sex couples, and persons whose relationship is traced through them will be considered to be members of their family and relatives for the purposes of relevant Commonwealth legislation.

More ATO Industry Benchmarks – Roofing, Taxis, Concreting

The Tax Office has issued new industry benchmarks for the roofing and concreting industries and updated its taxi industry benchmark.

We originally reported in the July 2008 issue of this newsletter that the ATO has been working with a number of trade associations, tradespeople and tax practitioners to develop 'benchmarks' or 'industry norms'. This is an expanding area of interest for the ATO.

At that time, the ATO had produced benchmarks for the floor sanding and polishing, roof tiling and painting industries.

The benchmarks are provided on the ATO's website in the form of a 'tool', so that taxpayers can print them out and then insert their own figures to see how they compare.

Medicare benefit tax statements now available online

Taxpayers can now access their Medicare benefit tax statement on the internet, via Medicare Australia's Online Services. Those not registered for Online Services are encouraged to register now so that they can get their Medicare benefit tax statement online when they need it, via the internet at medicareaustralia.gov.au/online or by visiting their local Medicare office.

The Medicare benefit tax statement will help people claim the net medical expenses tax offset as it contains information on medical services and expenses claimed in the previous financial year.

First home saver accounts (FHSAs)

Editor: The ATO has provided a Fact Sheet on its website regarding first home saver accounts which financial institutions are now providing.

Please contact us if you would like us to provide more detailed information.

Why open an FHSA?

Basically, the government will contribute a certain percentage/amount into the FHSA provided the taxpayer is eligible for the concession.

Taxpayers can receive a tax-free amount of up to \$850 in 2008/09 (calculated at the rate of 17% of contributions (up to \$5,000) made to the FHSA.)

Taxpayers must make contributions (from after-tax income) of at least \$1,000 for each of four financial years (not necessarily consecutive) before they can withdraw their money. Other people can contribute to the account.

Earnings on FHSAs are only taxed at 15%, and the account provider (bank) is liable to pay it.

If a taxpayer decides not to go ahead with buying or building their first home, they must contribute the funds deposited to the FHSA into their superannuation fund.

What about the First Home Owners Grant?

Taxpayers are still entitled to apply for a First Home Owners Grant if they decide to open an FHSA.

Genuine redundancy payments

The Tax Office has issued a ruling that shows that even taxpayers who operate their own business (through a company or trust) can be paid out "genuine redundancy payments" which are concessionally taxed.

Example: Husband and wife company

Edsel Design Pty Ltd provides car design services to Aussie Autos. Bill and Mary Edsel are directors of Edsel Design, which employs 20 people in its operations. Bill is the Administration and Marketing Manager and Mary is the Design Manager.

After several years of losses, Aussie Autos decides to cease operations.

As Aussie Autos is Edsel Design's sole client and other opportunities are not realistically available, Bill and Mary also decide to cease the operations of Edsel Design.

Redundancy payments are made to all employees, including Bill and Mary, equal to eight weeks pay over and above unused leave entitlements. None of the employees is entitled to redundancy payments under their employment arrangements.

The ATO accepts that the payments may be treated as genuine redundancy payments as it is clear that Bill and Mary's employment terminated because of redundancy. In their capacity as directors, they had no real choice but to terminate their own employment along with the other employees.

Government's trust tax changes reversed in the Senate

The Rudd Government's attempt to reverse the trust loss changes that applied from 1 July 2007 in relation to family trusts has been derailed.

The Government sought to reverse the expansion of the definition of 'family' which allowed any lineal descendant of a nephew, niece or grandchild of the test individual or test individual's spouse to be included, from 1 July 2007.

The amendments also sought to prevent family trusts from making a one-off variation to the test individual specified in a family trust election (other than in relation to a marriage breakdown) from 1 July 2008.

The Senate removed the offending provisions from the relevant tax Bill, and the House of Representatives finally agreed to their removal.

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.