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Practice Update

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

DECEMBER 2007

FBT: Christmas Parties & Entertainment

With the festive season looming, many clients will be getting ready for their annual Christmas party, and possibly thinking about what types of gifts to buy employees (including their families), clients, suppliers, etc.

However, clients should be aware that this year the FBT minor benefit exemption limit has increased from \$100* to \$300* from 1 April 2007.

Note(): The actual exemptions are for benefits less than \$100 and less than \$300. So a benefit that costs up to \$299 is an exempt minor benefit and benefits that cost \$300 and over are not.*

Clients should also be aware that the Tax Office has taken a new, more flexible approach to how the exemption is applied.

Basically, the ATO has decided that different benefits do not have to be added together when applying the \$300 threshold.

Therefore, both a Christmas party and a gift to employees, etc., may be exempt from FBT, even though they were provided at the same time, as long as each costs less than \$300.

Editor: As the following example demonstrates, the FBT and income tax rules that apply to entertainment, gifts, minor benefits, etc., are very complicated.

Before you decide to commit to any expenditure this year you might want to call our office and discuss the tax consequences.

Example

An employer holds an external Christmas party for employees only. The cost of food and drink per person is \$260.

Employees with spouses are given a gift voucher (for their spouse), to the value of \$150.

Assuming the "actual method" of calculating FBT on entertainment is used:

- ◆ for employees with a spouse – FBT is not payable because each separate benefit is less than \$300 (i.e., the benefits are not aggregated); and
- ◆ for employees without a spouse – no FBT is payable (i.e., cost of food and drink only is less than \$300).

Also, no deduction is allowed for the entertainment but the voucher is deductible.

Assuming the "50/50 method" is adopted:

- ◆ 50% of the total cost of food and drink is subject to FBT and deductible; and
- ◆ the total cost of all gift vouchers is not subject to FBT because the cost is less than \$300. As the vouchers are not entertainment the cost is deductible.

ATO penalises super fund trustees

Editor: Ever since the ATO took over administration of self managed superannuation funds (SMSFs) a few years ago, they warned that Phase I would involve education.

Now, it seems, we're entering Phase II – audit and penalties.

The trustees of an SMSF have been penalised \$30,000 and ordered to pay \$32,500 in costs for breaching the rules relating to their fund.

The Federal Court declared that the trustees for the SMSF had breached the superannuation legislation by selling a property belonging to the fund and using the proceeds of nearly \$150,000 to pay a private debt.

The couple had accessed assets in the super fund before meeting any conditions of release such as retirement or reaching preservation age.

A Deputy Commissioner for the Tax Office said this action was part of an increased compliance focus on SMSFs by the Tax Office.

Editor: This case is a timely reminder for clients that they must be very careful when dealing with the assets of their super funds and should never draw funds out without checking with us as to the tax implications of the withdrawal.

FBT: Tax Office targets employers and car benefits

The Tax Office has launched two major FBT car benefit projects to ensure that employers are meeting their FBT obligations.

Letters regarding the tax treatment of business-owned cars are being sent to employers with a covering letter.

The two projects are in relation to employers that have:

- luxury cars with high business use; and
- business-owned cars which do not take into account private home to work travel.

ATO still chasing the cash economy

Editor: In a recent speech about the ATO's compliance program, the Commissioner of Taxation has indicated that the Tax Office will continue to tackle the 'cash economy' in the upcoming year.

The Tax Office plans will involve:

- **Lifestyle**
People whose lifestyles are out of step with their reported income attract the Tax Office's attention.

- **Retail transactions**

Business-to-consumer cash transactions will also get special attention – especially retail businesses where non-reporting of cash transactions is facilitated by high volume, low value cash transactions.

- **Non-reporting of income by industry**

Other businesses under scrutiny will be those where there is a high risk of non-reporting of cash income including tradespeople and sub-contractors in:

- the building & construction industry; and
- restaurants and cafes.

- **Benchmarks**

The ATO is developing industry benchmarks for some trades and industries where there is a high volume of cash transactions.

Where the ATO sees people who do not fit within relevant benchmarks, it will take a closer look at their activities to see whether these involve non-compliance.

Goods taken from stock for own use

Every year the Tax Office puts out its estimate of the value of goods taken from trading stock for private use for certain industries.

The schedule for the value of goods taken from trading stock for private use in 2007/08 is:

Type of business	Amount (excl. GST) for	
	Adult/Child 16+ years	Child 4-16 years
Bakery	1,040	520
Butcher	700	350
Restaurant/cafe (licensed)	3,570	1,425
Restaurant/cafe (unlicensed)	2,850	1,425
Caterer	3,100	1,550
Delicatessen	2,850	1,425
Fruiterer/greengrocer	750	375
Takeaway food shop	2,700	1,350
Mixed business (includes milk bar, general store, and convenience store)	3,400	1,700

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.