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## Practice Update

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

DECEMBER 2009

### Cash economy in the firing line

*Editor: The Tax Office has been promising to 'up the ante' on the cash economy for some time now. With thousands of letters about to hit possible future audit 'targets' and the new benchmarks the ATO has just released on different cash industries, they are definitely starting to play for keeps.*

*If any client receives a letter from the Tax Office as described below, please contact our office straight away.*

The Tax Office has released copies of letters which will be sent out to thousands of taxpayers who are in the cash economy.

The ATO stated that it was sending letters to businesses that have:

- ◆ made substantial bank deposits that do not appear to be consistent with reported income; or
- ◆ made multiple international bank transfers out of their bank accounts that don't appear to be consistent with their reported income; or
- ◆ reported income that doesn't appear to support the owner's personal living expenses.

One of the letters sent out advises the taxpayer that their business has reported a net income that appears to be lower than required to support a reasonable level of personal living expenses.

It states that the Tax Office uses a range of indicators to identify businesses for reviews and audits including:

- ❑ identifying businesses with the opportunity for cash economy activity;
- ❑ comparing tax return information to other similar businesses in their industry;
- ❑ using information from organisations such as Centrelink, business suppliers and banks; and
- ❑ reviewing information provided by the community.

The letter finishes up by saying that the ATO will be monitoring the taxpayer's activity statements and/or income tax returns during the next six months. This may result in the business being selected for an audit.

### Crackdown on phoenix schemes

*Editor: In another crackdown, individuals involved in phoenix schemes\* are set to be targeted and penalised by the Government.*

*Note(\*): Phoenix schemes are fraudulent arrangements under which individuals avoid paying tax, wages, superannuation and leave entitlements and other responsibilities, such as supplier accounts, by deliberately liquidating a company.*

*The business in question then continues, free of liabilities, in the form of another company which is controlled by the same person or group of individuals.*

The Government has released a number of reforms to:

- ❑ ensure that there are anti-avoidance

- provisions in tax law to cancel any benefits derived through fraudulent phoenix activity;
- ❑ reinstate the failure to remit offence that would make it an offence for an entity not to remit the required PAYG(W) amounts;
  - ❑ make it an offence for directors to claim credits in relation to their own income for PAYG(W) amounts not remitted by the company of which they are a director;
  - ❑ expand ASIC's powers to disqualify directors; and
  - ❑ expand the role of the director penalty notice to impose stricter liabilities on directors.

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### **Superannuation 'clearing house' service**

The Government has announced a new measure to cut red tape for many businesses which have to make superannuation contributions to numerous super funds for their employees.

From July 2010, small businesses will be able to pay one superannuation contribution to a 'clearing house', which will then forward payments on to super funds nominated by the employer.

Medicare is the nominated clearing house and small businesses will be able to begin registering with it online in May 2010 (for a July start).

#### **How will the service work?**

- ◆ Small businesses with less than 20 employees will register for the service online and pay their superannuation contributions to Medicare, which will split them up and forward them on to the nominated super funds.
- ◆ Employers will pass on choice-of-fund nominations to Medicare.
- ◆ Medicare will develop an online system for registration and on-going payments, with payments initially being made via electronic funds transfer (EFT).

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### **ATO looks closely at employers employing 'contractors'**

In a recent speech, a senior tax officer indicated that the ATO was now taking a good hard look at employers arrangements with 'contractors', to ensure that they are, in fact, genuine contractors and not just employees being treated as contractors to cut costs.

He said that "Evidence suggests that the current tighter economic conditions have increased the prevalence of such arrangements as more businesses feel the need to cut costs, and labour market conditions can make employees more vulnerable to these practices.

"Increasingly it seems that many employers prefer to treat workers as contractors as it can enable them to cut costs in terms of workers compensation, payroll taxes and superannuation guarantee. They can also negotiate pay rates outside of normal wages and conditions and do not withhold tax."

The Tax Office has commenced an audit campaign that will tackle non-compliance in this area by focusing on businesses that do not withhold from payments to workers as required and fail to make superannuation guarantee contributions.

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### **ATO trials payment by credit card**

The Tax Office is trialling payment by credit card for all taxation liabilities. Initially, payments between \$10 and \$10,000 will be accepted.

To make a credit card payment, taxpayers will need:

- a current Visa, MasterCard or American Express card;
- their ATO electronic funds transfer EFT code; and
- to use the Government EasyPay website or telephone service.

Taxpayers will be informed of the bank fee amount on the transaction before they are asked to confirm payment.

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### **Self-education deductible against Youth Allowance**

In a recent case before the Full Federal Court, a taxpayer who was studying to obtain a teaching degree has successfully argued that she was entitled to claim expenses of self-education which qualified her to receive the Youth Allowance.

*Editor: We will have to wait and see if the Tax Office appeals the decision to the High Court. If not, it will be open to taxpayers in these circumstances to claim their self-education expenses.*

*Normally this would mean objecting to the last two years' income tax assessments – but taxpayers will need to be able to substantiate their claims.*

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.