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Practice Update

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JULY 2008

The cash economy – still in ATO's sights

The Commissioner of Taxation has given some insights into how the ATO intends to tackle the cash economy.

Compliance action – Letters

For those that 'need a nudge along', the ATO often provides advisory letters to individual businesses where it's thought they might be involved with the cash economy, and last year:

- ❑ sent more than 9,000 letters to people who had applied for an owner/builder's licence in NSW and Victoria, informing them about tax obligations of the people they were likely to employ; and
- ❑ sent 3,000 letters to shopping centre retailers, advising them that the centre owners had provided the ATO with information about their business turnover and rental payments.

Compliance action – data-matching

The ATO is using new strategies, including:

- data matching to identify people whose lifestyles appear conspicuously out of step with their reported income;
- cross matching data from Centrelink, child support agencies and state fair trading agencies; and
- increased use of computer-assisted risk evaluation processes to more accurately identify high risk cash economy participants

They obtain records of purchases of luxury goods like cars and boats, and compare them against income declared by the purchaser.

They are also drilling deeper into areas that seem more prone to cash economy activity – building and construction, the taxi industry, restaurants and cafes and some areas of retailing and transport.

Data matching example

The Commissioner detailed an example of the ATO discovering that taxpayers were hiding income through data matching.

A husband and wife were selected for an audit in February 2008 as the purchase of their \$65,000 BMW seemed to be at odds with ATO records indicating net household income of \$17,000 p.a.

The ATO examined their funds and expenditure as well as information provided by third parties, and found that the couple had undeclared incomes of \$225,000 over four years, which led to income tax and GST adjustments, the imposition of an administrative penalty, and possible criminal prosecution.

Personal super contributions and income tax/SMSF returns

Self employed taxpayers are entitled to claim a tax deduction for superannuation contributions if they comply with a number of requirements.

The ATO has advised that, where such taxpayers have made a contribution to their own self managed super fund (SMSF), they need to ensure:

- ◆ they have advised their fund in writing of their intent to claim a deduction and the amount they intend to claim;
- ◆ they have an acknowledgment from their SMSF that it has received their notice to claim a deduction **before** lodging their individual tax return; and
- ◆ they complete the correct items and labels in their individual tax return, in the fund's income tax return, and when completing their member contribution statement.

Editor: We can obviously assist in getting all of these right. It's important, because the ATO matches the data between individual returns, member contributions statements and fund income tax returns when looking at who it will audit.

Child Care Benefit and Child Care Tax Rebate from 1 July

From 1 July 2008, the Child Care Tax Rebate (CCTR) will increase from 30% to 50% of out-of-pocket costs.

The maximum payment will increase from \$4,354 to \$7,500 per child, and payments will be made quarterly, rather than annually.

The first of these payments will be made in October 2008.

Also, from 1 July 2008 there will no longer be a minimum rate of Child Care Benefit (CCB) (before that date, the amount of CCB reduced to a minimum rate, depending on the family's income, but now it will continue to reduce until the family's rate is zero).

The income level at which CCB will cut out completely depends upon the number of children in approved care.

For example:

- ❑ the rate of CCB a family with one child in approved care receives will be reduced if their combined income is above \$111,000 and will cut out completely at around \$126,000; or
- ❑ the rate of CCB a family with two children in approved care receives will be reduced if their combined income is above \$119,000 and cut out completely at around \$131,000.

Note that families who no longer receive the minimum CCB will still be eligible for the CCTR.

ATO's Industry benchmarks

The ATO has been developing 'benchmarks' or 'industry norms' of the relationship between costs and income for various industries, to give people an idea of what range of income can be expected based on the work they do and other costs they incur, and so business operators can compare their performance with the rest of their industry.

Apart from the taxi industry benchmarks brought out a few years ago, the ATO has now produced benchmarks for the following industries:

- ◆ floor sanding and polishing;
- ◆ roof tiling; and
- ◆ painting.

Other benchmarks will be forthcoming for other building trades.

Editor: Since the ATO views 'long term performance outside a benchmark' to be a sign of non-compliance, it's crucial for everyone in these industries to get their heads around these benchmarks. Call our office for more details.

Trustees of SMSFs going overseas

The ATO has reminded trustees of SMSFs that, to receive the tax concessions that super funds are entitled to, a fund must satisfy a residency test.

In general, a fund will still meet the residency test even if the trustees are temporarily outside Australia for up to two years.

However, if the fund stops being a complying fund because it fails the residency test, the market value of the fund's total **assets** will basically be taxed at **the highest marginal tax rate**.

Editor: Obviously, if you are a trustee of your SMSF and are planning on going overseas for a long period, it's best you speak to us ASAP!

Super guarantee 2008/09: Maximum superannuation contribution base

The maximum superannuation contribution base for 2008/09 is \$38,180. This is the maximum limit on any individual employee's earnings base for each quarter of 2008/09.

Editor: That is, the maximum amount of super an employer is required to contribute for a particular employee is 9% of this maximum superannuation contribution base each quarter.

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.