Practice Update

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MAY 2012

Private health insurance and Medicare levy surcharge changes

From 1 July 2012, the private health insurance rebate and the Medicare levy surcharge will be income tested against three new income tier thresholds.

Higher income earners will receive less private health insurance rebate or, if they do not have the appropriate level of private patient hospital cover, the Medicare levy surcharge may increase.

The ATO will determine the amount of a taxpayer's private health insurance rebate entitlement when they lodge their income tax return.

The new income tier thresholds

The private health insurance rebate and Medicare levy surcharge will be income tested against the income tier thresholds set out below:

Tier 1: The rebate will be reduced to 20% for singles whose income for surcharge purposes is between $84,001 and $97,000 (inclusive) and for couples/ families whose income for surcharge purposes is between $168,001 and $194,000 (inclusive) that hold a complying policy. The Medicare levy surcharge will remain at 1% for persons who fall within Tier 1 and do not hold appropriate private health insurance.

Tier 2: The rebate will be reduced to 10% for singles whose income for surcharge purposes is between $97,001 and $130,000 (inclusive) and for couples/ families with income for surcharge purposes between $194,001 and $260,000 inclusive that hold a complying policy. Also, the Medicare levy surcharge will be increased to 1.25%.

Tier 3: Singles with income for surcharge purposes of $130,001 or more and couples/families with income for surcharge purposes of $260,001 or more that hold a complying policy will no longer receive the rebate after 1 July 2012. Also, the Medicare levy surcharge for them will increase to 1.5% from 1 July 2012.

For families with more than one dependent child, the relevant threshold increases by $1,500 per child.

Editor: Note that the rebate may be higher for taxpayers aged 65 or over.

Super contribution made by EFT on 30 June results in more tax

Editor: The following case highlights how important it is to get the timing right when making superannuation contributions.

A taxpayer has had to pay excess contributions tax in respect of a superannuation contribution they made by electronic funds transfer (EFT) on 30 June 2007 but which was not received by their super fund until 2 July 2007.

Therefore, the amount was included in the taxpayer's 'concessional contributions cap' for the following year (i.e., 2008 income year).

Editor: Each year, a taxpayer is allowed to contribute 'concessional contributions' (i.e., deductible contributions, including employer contributions) up to $25,000 if they are under 50, or $50,000 if they are 50 or over. If they exceed these caps, they must pay excess contributions tax at 31.5% on the excess.

On account of his employer's contributions, the taxpayer had excess concessional contributions for 2007/08 of $54,000, and the ATO imposed excess contributions tax of about $17,000.

A contribution is not made until the funds are credited to the superannuation fund's account, and the ATO decided that there were no 'special circumstances' in this case to 'reallocate' the contribution to the 2007 year for the taxpayer's benefit.

The Administrative Appeals Tribunal agreed with the ATO, and held that it was the taxpayer's responsibility to ensure that the steps taken to make the contribution during the 2007 financial year were effective:

"Every other taxpayer was faced with the same situation. These were not *special circumstances* unique to (this taxpayer) or this situation."

Taxpayer's early access to super costs dearly

Editor: A 32 year old taxpayer who was experiencing financial difficulties and, on the advice of friends, arranged to gain early access to $18,000 from his super fund, has had to pay tax on the entire amount (even though he didn't receive all of it) and also pay penalties.

The taxpayer arranged for the transfer of $18,000 of his superannuation benefits into the Western Eagle Superannuation Fund (the 'Fund').

An amount of $12,225 was then paid by cheque drawn on the Fund's bank account to the taxpayer in the 2007/08 income year (with the remainder supposedly representing 'tax' payable).

However, he was surprised when he was subsequently advised by the ATO that no tax had been paid on the amounts he had withdrawn.

The Fund was not even a "superannuation fund" but was merely a vehicle for opening bank accounts to allow the deposit of superannuation benefits into the accounts and for the payment out of those accounts to the taxpayer (and others).

The taxpayer's superannuation benefit was paid to and received by him in contravention of the superannuation law, and therefore the amount of $18,000 *received* by him during the 2007/08 tax year was "properly assessable income".

In addition, given the taxpayer was willing to be part of an arrangement (which turned out to be part of a fraudulent enterprise) to obtain early release of his superannuation benefits, and he asked no questions about the Fund and its background or about the documentation relating to its establishment, the decision to impose 25% penalty was upheld.

Cents per km car rates for 2011/12

Taxpayers whose income producing use of a car does not exceed 5,000 kms per year can deduct car expenses on a per km basis. The rates for 2011/12 are unchanged from the 2010/11 year and are as follows:

Kind of car	Engine capacity		Rate per km (cents)
	Not rotary	Rotary	
Small	Up to 1,600cc	Up to 800	63
Medium	1,601cc to 2,600cc	801cc to 1,300cc	74
Large	>2,600	>1,300	75

FBT: Benchmark interest rate

The benchmark interest rate for the FBT year commencing 1 April 2012 is 7.40% p.a. This rate replaces the rate of 7.80% that applied for the previous FBT year.

The rate of 7.40% is used to calculate the taxable value of:

- a fringe benefit provided by way of a loan; and
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

FBT: Cents per kilometre basis

The rates to be applied where the cents per kilometre basis is used in respect of the private use of a vehicle (other than a car) for the 2012/13 FBT year commencing 1 April 2012 are:

Engine capacity	Rate per kilometre
0 – 2,500cc	48 cents
Over 2,500cc	57 cents
Motorcycles	14 cents