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Practice Update

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

JULY 2010

Car limit for the 2010/11 year

The car limit for the 2010/11 financial year is \$57,466 (up from \$57,180 for the 2009/10 year).

Example

On 9 July 2010 a taxpayer purchases a motor vehicle for \$65,000 wholly for use in carrying on their business.

In working out the vehicle's depreciation for the 2010/11 income year, the cost of the vehicle for tax purposes is reduced to \$57,466.

Luxury car tax

The luxury car tax threshold for the 2010/11 financial year is also \$57,466 and is used to determine if luxury car tax is payable.

The fuel-efficient car limit for the 2010/11 financial year is \$75,375 (up from \$75,000 for the 2009/10 year).

Changes to company loan rules

Editor: The company loan rules in the tax law can deem that a loan made by a private company to a shareholder (or a related party) is actually a dividend and that they need to pay tax on it (with no access to franking credits) – these are called Division 7A loans.

Two changes have been made recently to Division 7A which considerably expand its operation.

1. Companies that are beneficiaries of trusts

Where a trust distributes income to a corporate beneficiary, but does not pay that income to the company (e.g., the trust keeps the cash to keep running a business), the ATO now believes that the unpaid amount may be deemed to be a loan by the company back to the trust.

Fortunately, the ATO has agreed that, in most cases, this will only apply where a trust distributes income to a company on or after 16 December 2009.

However, amounts distributed after that date will need to be paid out, kept separate from other trust

resources, or officially lent back to the trust under a written loan agreement to avoid Division 7A applying.

2. Use of company assets

New legislation has basically removed the scope for private companies to allow shareholders and their associates (including their relatives) to use company assets – such as real estate, cars and boats – for free, or at less than their arm's length value, without paying tax.

Under the new law, which applies from 1 July 2009, if a shareholder (or their associate) uses a company asset but does not pay the company a reasonable amount for that usage (and no exceptions apply), the company is deemed to have paid a dividend to that person.

Exemptions are available for some farmers and small businesses (including an exemption for the use of assets that could otherwise be claimed as a tax deduction by the user if they paid for that use), and the minor use of assets is also exempt.

Editor: If you are concerned about either of these developments, please contact our office, as we may be able to apply some strategies to minimise the effects of these changes.

Change to averaging of primary production income

Editor: The following change to the ATO's systems means that the tax payable or refundable for some of our primary production clients may change in future.

The ATO's processing systems have been updated when calculating primary production deductions for the purposes of the averaging of primary production income.

The new processing system does not use any personal superannuation contributions claimed in the tax return when working out a person's primary production deductions, because they "do not relate to the derivation of income, including primary production income".

The change means that a greater proportion of a person's taxable income is eligible for primary production averaging and that over the long term there will be a better evening out of a taxpayer's income tax liability.

Note: There has been no change to the treatment of personal superannuation contribution deduction claims for the purposes of special professional averaging.

Trust Deed Variation

All existing Trust Deeds will require reviewing to determine if they require changes by way of a Deed of Variation.

This action has become necessary as a result of the recent High Court decision in the Bamford Case, but more particularly because of the ATO announcement (PSLA 2010/11) of how they intend to administer the law.

We will shortly be contacting those clients with Trusts to discuss the changes together with making arrangements to prepare the Deed of Variation.

PAYG payment summary reporting requirements – changes for 2009/10

Further to our "Stop Press" newsletter we again remind all employers there are a number of changes to the Annual PAYG Payment Summary. The most important being in relation to "reportable employer superannuation contributions".

From 1 July 2009, these reportable contributions are included in various income tests to ascertain whether the employee is able to access various benefits (or is liable for various obligations), such as certain tax offsets, super co-contributions, the Medicare levy surcharge, and a range of Centrelink and Child Support benefits and obligations.

Please contact this office if you would like to know more about reportable employer superannuation contributions and how they may affect you.

Private health insurance and the Medicare levy surcharge

One of the conditions that must be satisfied so that a person will not be liable to pay the Medicare levy surcharge (an extra 1% on top of the ordinary 1.5% Medicare levy) is that they, and all of their dependants, are covered by an insurance policy that provides private patient hospital cover.

Any excess payable under such an insurance policy must be less than \$500 for a policy under which only one person is insured, and \$1,000 in relation to any other policy, in any 12 month period.

The ATO has recently confirmed that, when considering whether a person with private health insurance is liable for the Medicare levy surcharge, any "co-payment" they are liable to make under the policy (such as a fixed daily amount or a percentage of the cost of a treatment or service) is not the same as excess and is not taken into account.

Benchmarks and dealing with the cash economy

Editor: Second Commissioner of the ATO, Mr Bruce Quigley, recently spoke about how the ATO intends to use its new "benchmarking program".

"Our small business benchmarks program . . . continues to expand. We have now benchmarked the key business ratios of over 100 different businesses."

"We use the benchmarks to identify businesses that may be avoiding their tax obligations."

"We have recently begun sending letters to approximately 1,000 businesses that are reporting income that is significantly outside of the benchmarks."

"These businesses will be advised that they are required to meet their obligations and/or provide us with records to support the income declared."

"Where they do not fulfil these requirements **we will raise a default assessment based on the information available to us through the benchmarks.**"

He stated that tax agents should try to ensure that their clients are reporting within the benchmarked ratios or can substantiate their results when they report outside of them.

Editor: If you receive a letter from the ATO along these lines, make sure you speak to us first before replying!

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.
