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# Practice Update

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

**MARCH 2014**

## Car expense rates per km – 2013/14

The car expense rates per kilometre have been set for the 2013/14 year (and they have been increased for the first time since 2008/09).

| Year | Small car | Medium car | Large car |
|---|---|---|---|
| 2012/13 | 63c | 74c | 75c |
| 2013/14 | 65c | 76c | 77c |

## Tax help for people affected by bushfires

The ATO has assured people directly affected by bushfires that their refunds will be fast tracked and that they will have additional time to lodge income tax returns and activity statements.

The ATO can also provide more time for people to pay tax debts and can help reconstruct tax records where documents have been destroyed.

*Editor: If you have been affected by bushfires or other natural disasters, contact us and we'll see what we can do for you with the ATO.*

### Donations

People donating up to $10 to 'bucket appeals' and other disaster relief funds this financial year will be able to claim a tax deduction without a receipt.

## ATO compliance: Taxable payments annual reports

The ATO has advised that it is phoning some businesses in the building and construction industry to:

- test the levels of understanding of the new reporting requirements for businesses in that industry; and
- help those businesses to comply with their taxable payments annual reporting obligations.

They have also been contacting them to:

- ensure lodged reports are correct and complete;
- follow up with businesses that have not yet lodged a report (where ATO records indicate they should have); and
- follow up with businesses who have advised that they are not required to report (where ATO records indicate they have a reporting requirement).

*Editor: If your business is contacted, let us know.*

## Tax changes under the new government

The new government has identified 92 announced but still unlegislated and unresolved tax and superannuation changes.

Of these, the government stated it will proceed with 18 initiatives, a further three initiatives will be significantly amended, and it will not proceed with seven initiatives. The remaining announced changes will be considered and, if required, the government intends that the bulk of any legislation that is to be progressed should be passed by Parliament by 1 July 2014.

Specifically, the government will **not** proceed with the following three measures which directly affect individual and business taxpayers:

- **Self-Education Expenses Cap** - The proposed $2,000 cap on the amount people would be able to deduct as self-education expenses, including training and educational courses, textbooks and other accreditation expenses.
- **Removal of the FBT Statutory Formula method for car fringe benefits.**
- **Tax on Superannuation Pensions** – proposed new tax on earnings on super assets, which would have taxed superannuation fund income above $100,000 in the draw-down phase.

The un-enacted measures the government will proceed with include:

- **Net Medical Expenses Tax Offset phase out –** the phasing out will allow current claimants to remain eligible for the offset until 2014/15.
- **Increase FMD threshold** - increasing the non-primary production income eligibility threshold for Farm Management Deposits from $65,000 to $100,000.
- **Dividend washing** - preventing 'dividend washing' whereby sophisticated investors can 'double dip' on franking credits.

## Update on issues affecting SMSFs

**ATO Compliance**

At a compliance level, the ATO says that it is focusing on:

- engaging with new trustees to ensure they can operate their SMSF and are not seeking illegal early access to their retirement benefits;
- ensuring that trustees understand their obligations and that, although their tax agent or accountant will assist trustees to meet their obligations, they themselves are the ones who are accountable;
- ensuring annual returns are lodged, and lodged on time (all SMSFs with two or more years of overdue lodgments will have their regulation details removed from Super Fund Lookup, potentially affecting rollovers from APRA funds, and employer contributions);
- for new funds, whether they are entitled to receive their notice of compliance;
- reviewing irregularities in exempt current pension income and non arm's-length transactions;
- re-reporting of contributions and compliance with excess contributions tax release authorities;
- arrangements involving holiday travel claimed as investment expenses by SMSF trustees; and
- every fund reported to it by approved SMSF auditors. The ATO wants to make those trustees more fully aware of their obligations and ensure the contraventions are dealt with appropriately.

**Related party transactions**

The breaches most commonly reported to the ATO by SMSF auditors are trustees investing in, or transacting with, related parties in breach of the rules. This can include providing a loan or other financial assistance to a member or relative, which is prohibited.

Further, it is also common when there is a 'loan' to a member that it doesn't meet the characteristics of a genuine loan anyway, and the member is simply accessing their super before they are entitled to.

## Spike in email scams

The ATO is warning taxpayers to protect their personal and financial details following a sharp spike in reports of tax-related email scams.

Since June, reports from the public of 'phishing' scams have quadrupled from 3,586 to 15,441 compared with the same period last year.

"While the public is reporting scam emails to the ATO in increasing numbers, scammers are also becoming more sophisticated in the way they trick taxpayers into handing over their personal details," Tax Commissioner Chris Jordan said.

"We advise people to be vigilant of emails that mimic the ATO's online publications. Think very carefully before clicking on links and attachments in emails or on social networking sites.

"The ATO will never send taxpayers an email asking them to confirm, update or disclose confidential information including your name, date of birth, home address, passwords or credit card details."

## Be careful about property arrangements with family!

The Administrative Appeals Tribunal (AAT) has held that a taxpayer who jointly owned a townhouse with his son (who lived there) was liable for CGT on his share of the property when it was sold.

**Facts**

In April 2002, the taxpayer purchased a townhouse for his adult son to reside in, but he had both of them registered on the title of the property, to "guard against his son acting unwisely".

His son lived in the townhouse until 2007, when he moved into another house, and in September 2007 the townhouse was sold and the proceeds from the sale were used to reduce the son's debt to the bank for the second house.

The taxpayer was assessed for the 2008 income year for CGT on 50% of the net capital gain arising from the sale of the townhouse.

**Reasons for Decision**

The taxpayer claimed that:

- it was never his intention to profit from the sale of the townhouse, and that "he only went on the title to protect his 'inexperienced' son of 23 years from doing something 'silly' and selling the townhouse on a whim"; and
- he did not receive any of the proceeds of sale of the townhouse (as the entire net amount received went towards reduction of his son's loan).

However, the AAT stated that these matters did not alter his liability, as:

- for CGT purposes, a person is treated as having received money if it is applied as he or she directs;
- to be eligible for the 'main residence exemption' in respect of his liability for CGT on disposal of his interest in the property, the taxpayer would have had to reside in the townhouse himself; and
- there was no evidence that the taxpayer held his interest in the property 'on trust' for his son.