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Practice Update

Are all allowances what they say?

A recent case that came before the Administrative Appeals Tribunal involves a claim that was made against an allowance that was described on a truck driver's payment summary as a LAFHA or living-away-from-home allowance.

The taxpayer's return treated the amount received as a 'reasonable travel allowance' which, if it were, any deductions would not require substantiation.

It turns out it was neither a LAFHA nor a travel allowance but was merely a loading which had been negotiated between the employee and the union.

As such, any claim for travel expenses required full substantiation. The taxpayer had no receipts or other evidence to prove his claim and his appeal was dismissed.

Editor: This case demonstrates how important it is for employers to correctly describe allowances and benefits on payment summaries and for employees to understand exactly what they mean.

Employer super guarantee contributions to lift to 12%

The government has introduced legislation to the House of Reps to provide for an increase in the rate of the superannuation guarantee to phase in to 12% over 7 years starting 2013/14 as follows:

Year starting	Super guarantee rate
1 July 2013	9.25
1 July 2014	9.5
1 July 2015	10
1 July 2016	10.5
1 July 2017	11
1 July 2018	11.5
1 July 2019	12

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

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New Tax Office GST property tool

The Tax Office has issued a GST property tool on its website to help people dealing with property to understand their taxation obligations and entitlements.

The GST property tool topics include residential premises, commercial premises and vacant land. The tool also carries information on claiming GST credits, margin scheme eligibility, and GST-free supplies of real property.

Editor: While we appreciate the ATO's initiative, we recommend clients consult with our office before taking any action that may affect their taxes.

Employee/ New Contractor Tool

The ATO are carrying out audits on businesses engaging labour using Contractor arrangements for non compliance of their PAYG Withholding obligations. Even if an ABN is provided the ATO take the position if predominately only labour is provided, the business should be engaging the labour as an employee and withholding PAYG. The ATO have an employee/contractor decision tool online at

<http://www.ato.gov.au/businesses/content.aspx?doc=/content/00095062.htm>

to assess the specifics of each situation and we strongly recommend you use this tool. The penalty for getting this wrong can be non compliance withholding penalties of 46.5% of the payments made. This is in addition to their long existing stance that Superannuation Guarantee is payable where individuals are paid predominately for their labour. As always, please do not hesitate to contact us to discuss these matters if you have queries.

Education tax refund data matching

The Tax Office has advised that Centrelink will provide it with approximately 2 million names and addresses of taxpayers who claimed Family Tax Benefit Part A for the 2009, 2010 and 2011 financial years.

These will be electronically matched with certain sections of ATO data holdings to identify non-compliance with taxation obligations in relation to the education tax refund.

New reforms announced

The Government has released its 2011/12 Mid-Year Economic and Fiscal Outlook, which forecasts substantial downgrades to revenue due to "a significant deterioration in global conditions."

As a result, the Government "has had to find further savings in the budget", including the following measures that will apply from 1 July 2012:

- The Government will introduce reforms to stop individuals from being able to exploit the tax exemption for living away from home allowances and benefits;
- The Government will further restrict the Dependent Spouse Tax Offset (DSTO) to those with spouses born before 1 July 1952 (this extends the 2011/12 Budget measure, to phase-out the DSTO for most taxpayers with a dependent spouse born on or after 1 July 1971);
- The Government will reduce the matching rate and maximum payment of the voluntary superannuation co-contribution from 1 July 2012, when the new low income superannuation contribution commences; and
- The drawdown relief for account-based, allocated and market linked pensions (i.e., a 25% reduction in the minimum payment amounts for these products), will be extended to the 2012/13 year (the Government had indicated previously the minimum payment amounts would return to normal in 2012/13).

Deferral of measures and/or indexation

The Government will also defer certain previously announced tax reforms by one year, including:

- The start date of the standard deduction for work related expenses will be deferred until 1 July 2013;
- The start date of the 50% tax discount for interest income will be deferred until 1 July 2013;
- The Government will pause the indexation of the superannuation concessional contributions caps for one year in 2013/14.

SMSF compliance focus for trustees

The ATO has advised that it has three major focus areas for its SMSF compliance program:

- Non or late lodgements (not lodging can result in the fund being made non-complying or the trustees being prosecuted);
- Compliance breaches without an auditor contravention report (ACR); and

- Unrectified ACRs (i.e., where the auditor reports a breach of the superannuation law that the trustees fail to rectify), and SMSF trustees making the same breaches the ATO has previously addressed with them.

In addition, the ATO is focusing on:

- related-party investments including lending to members;
- breaches of the 5% in-house asset limit;
- exempt current pension income and non-arm's length income;
- ACRs lodged for SMSFs that are under 15 months old; and
- funds breaching the borrowing restrictions.

ATO Data Matching Programs

The ATO has released details of the following data matching programs:

- Dependent Spouse Tax Offset Data Matching Project (collecting names, addresses and other related information of approximately 1.3 million taxpayers from Centrelink);
- Legal Profession Data Matching Project;
- Department of Immigration and Citizenship (DIAC)/ATO Temporary Visa Data Matching Project;
- WorkCover Data Matching Project (collecting names and addresses of entities from the WorkCover Authorities for each of the States and Territories for the 2010 financial year);
- Pleasurecraft Data Matching Project (collecting about 110,000 insurance records from marine insurance companies);
- Motor Vehicle Data Matching Program (collecting details from motor vehicle registries of individuals or businesses that have purchased or acquired a vehicle valued at \$10,000 or greater in the 2011 financial year); and
- Credit and Debit Card Data Matching Program (collecting data relating to credit and debit card sales of approximately 400,000 entities within various industries for the 2011 financial year from banks and credit card companies).

The acquired data will be electronically matched with certain sections of ATO data holdings to identify non compliance with registration, reporting, lodgment and payment obligations under taxation law, and, in particular, to identify those participating in the cash economy and those who are potentially skimming some or all of their cash takings or in other ways not reporting all of their income.

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.