THE BUZZ

Taxation Update
Autumn 2008

End of the FBT year – 31 March 2008

With 31 March fast approaching, FBT returns for the 2007/08 year will soon be due for lodgement in April and May.

Where we usually prepare the FBT return for your business, we ask that you collect all relevant FBT records relating to any benefits provided, such as:

- motor vehicles;
- car parking;
- entertainment;
- expense payments; and
- living away from home allowances;
  together with travel diaries, employee declarations, etc.

And, don't forget to ensure that employees take odometer readings for their cars on 31 March.

Editor: Please call if you need to make an appointment or discuss the records needed.

Changes to the minor benefits exemption

The most notable change this year was that:

- the minor benefits exemption threshold increased to 'less than $300' from 1 April 2007 (prior to 1 April 2007 it was less than $100); and
- a Tax Office ruling states that the threshold applies to each benefit provided and not to the total value of all associated benefits.

EXAMPLE – Employee receives benefits valued under $300 each

During the 2008 FBT year, John receives the following benefits from his employer:

A gift basket while in hospital for an operation	$88
A Christmas hamper	$110
A pen set for 10 years' service with employer	$140
Total cost of all benefits	$338

Each of the above benefits satisfy the minor benefits exemption threshold (i.e., each benefit costs less than $300). As a result, each benefit can qualify as an exempt minor benefit.

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How the ATO's ruling can help clients

The ATO's (new) view, that each benefit must be looked at separately when applying the exemption threshold, is a significant change to the ATO's traditional approach of applying the exemption threshold to associated benefits, particularly where:

- multiple (or associated) benefits are provided to an employee at or about the same time (e.g., food and drink, a band and gifts, are provided at a year end party); and
- a benefit is provided by an employer to both an employee and their associate at or about the same time (e.g., an employer pays for food and drink that is provided to an employee and their spouse at a Christmas function held at a restaurant).

Editor: The ATO's traditional approach has been to aggregate the cost of all benefits provided, so this change may be able to provide significant savings to clients.

Huge opportunity! Super funds are now able to borrow to buy property

Recent changes made to the superannuation investment laws mean that, in some cases, Self Managed Super Funds (SMSFs) are now allowed to borrow to acquire property.

These changes are sure to be of great interest to the many clients who would like to be able to include real estate in their SMSF's investment portfolio.

The basic features of the arrangement

As with 'all things taxation', the details can be quite complicated. However, the basic requirements are that:

- a trust holds legal title to the property on behalf of the SMSF; and
- the financial institution can only lend on a 'limited recourse' basis.

That is, if the SMSF defaults on the loan, the lender does not have any recourse to the SMSF's other assets – the lender can only make a claim against the property being acquired under the loan.

Once the loan is set up and the property acquired:

- The property is rented out, and rents paid direct to the SMSF.
- The SMSF makes loan repayments to the lender and pays all other outgoings in relation to the property.
- When the mortgage is paid out, the property can be retained by the trust or transferred to the SMSF CGT and GST-free.

Note: This change can allow an SMSF to acquire a client's own business premises. In that case, the premises are 'business real property' and may be purchased from a related party of the SMSF. However, residential property cannot be purchased from a member of the fund (or an associate), but must be purchased from a party unrelated to the fund, to avoid breaching the 'acquiring assets from related parties' rule.

We will send a further more detailed newsletter on this new opportunity shortly!

Changes to personal income tax rates and thresholds

The Government has introduced a Bill to Parliament to reduce personal income tax rates and increase thresholds.

The tables below show the current income tax rates and thresholds and the new rates and thresholds that will apply from 1 July 2008.

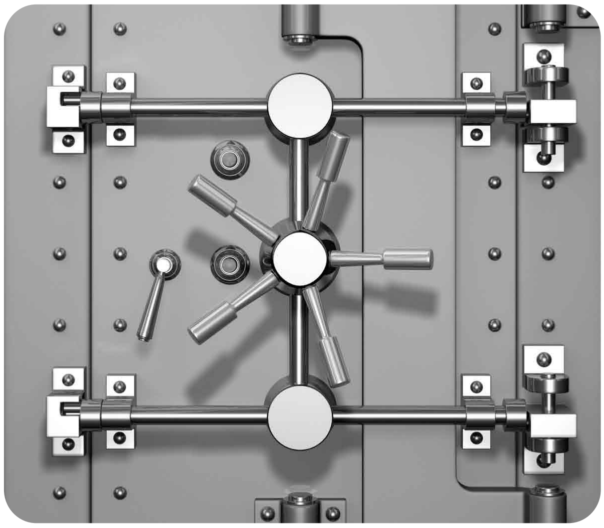
Resident Individual – 2007/08	
Taxable Income $	Tax Payable $
0 - $6,000	Nil
6,001 – 30,000	15% of excess over $6,000
30,001 – 75,000	$3,600 + 30% of excess over $30,000
75,001 – 150,000	$17,100 + 40% of excess over $75,000
150,001+	$47,100 + 45% of excess over $150,000

Resident Individual – 2008/09	
Taxable Income $	Tax Payable $
0 - $6,000	Nil
6,001 – 34,000	15% of excess over $6,000
34,001 – 80,000	$4,200 + 30% of excess over $34,000
80,001 – 180,000	$18,000 + 40% of excess over $80,000
180,001+	$58,000 + 45% of excess over $180,000

(What they call) 'aspirational goals'

The Government has also set a goal of having just three brackets of personal tax rates of 15%, 30% and 40% from 1 July 2013. Whatever they call them, let's hope they come good on their aspirations.

Banks to get tough on finance



With the boom times seemingly over and the credit market generally tightening, it is prudent to prepare finance applications knowing the banks will be taking a tougher stance and lending only to the more blue chip borrower.

In the current economic climate successful finance applications should include:

- a detailed plan that will ensure the financier understands your business evidence of business success if the business is less than 5 years in operation
- the most up to date tax returns and tax assessments and tax returns from the previous 2 years as well as financial statements from the previous 3 years
- long term contracts with significant customers

Businesses should also enquire about alternative sources of finance such as debtor finance using receivables as security.

As local banks continue to increase interest rates and the overseas markets face a financial crisis, exacerbated by the sub-prime lending debacle it will be difficult for businesses to secure finance.

Contact your Chartered Accountant to find out how your business can be one of the successful applicants.

Personal services income

The Australian Taxation Office (ATO) has recently identified the common mistakes businesses make with relation to Personal Services Income rules. In summary they are as follows:-

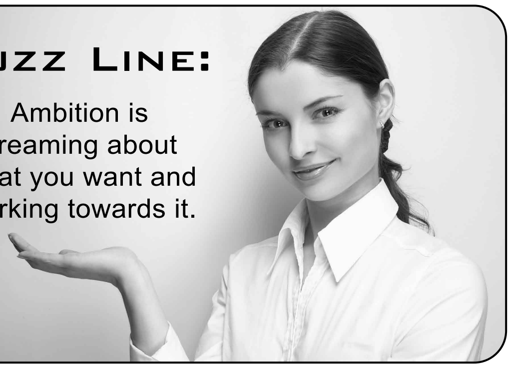
1. Self assessing that the first condition of a results test has been passed when paid on an hourly or daily rate, not when tax payers must be paid as a result of achieving a specific result. Not obtaining a determination from the ATO when failing to meet the results test and 80 per cent or more of the income is from one client.
2. Self assessing that the unrelated clients test has been met when the services are provided are not a direct result of making offers to the public. This is common where services are through a labour hire firm or through an agency.
3. Applying the personal services business test to the whole entity and not to the individual where the test needs to be applied on an individual basis, by the individual.
4. Retaining profits from personal services income when any profit made must be paid as a salary and wage to the individual who performed the services.
5. Not complying with the additional PAYG obligations.
6. Failing to complete and attach a personal services income schedule with their tax return.
7. Claiming deductions for personal services income where there is no entitlement. They may include rent, mortgage interest, rates for their home or their associate's home that is the place of business, payments to a spouse and the like for support service work such as secretarial duties.

In order to get a clear understanding and to ensure compliance it is strongly recommended that you discuss your personal services income matters with your Chartered Accountant.

It is also important to note that these personal services income rules not only apply to companies but also to trust structures.

Buzz Line:

Ambition is dreaming about what you want and working towards it.



DISCLAIMER Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.

Notice Board News

We welcome to the team for 6 months, Catherine Belme who will replace Kylie McPherson whilst on maternity leave.

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