



June 2013

client alert

tax news | views | clues

Cap on work-related self-education deductions

The Government has announced that it will introduce a \$2,000 per-person cap on tax deduction claims for work-related self-education expenses. The cap is proposed to apply from 1 July 2014.

In making the announcement, Treasurer Swan said that without a cap, "it's possible to make large claims for expenses such as first class airfares, 5-star accommodation and expensive courses". However, the Treasurer said the Government "will consult with employees and employers to better target this concession while still supporting essential training".

ATO data-matching programs

The ATO has recently announced the following new data-matching programs:

- **Employers and WorkCover** – the ATO will request and collect names and addresses of employers from state and territory WorkCover sources for the 2011 to 2013 financial years. It says the data will be matched to identify employers who might not be complying with their registration, lodgment and payment obligations under tax law.
- **Student and temporary work visa holders** – the ATO will collect details of student and temporary work visa holders between the period 1 January 2012 to 30 June 2014 from the Department of Immigration and Citizenship for the 2012, 2013 and 2014 income years. The information will be matched to identify non-compliance with tax obligations.
- **Online sellers** – the ATO will collect information of sellers who have made sales of \$20,000 or more in the 2010–2011 income year through various online selling websites. It says records will be matched to identify non-compliance with lodgment,

payment and correct reporting obligations under tax law, including undeclared income and goods and services tax (GST) obligations.

ASIC warns of property spruikers focusing on SMSFs

The Australian Securities and Investments Commission (ASIC) has warned people to be aware of property spruikers who might be encouraging them to set up a self managed superannuation fund (SMSF) in order to gear into real property.

The warning comes with the release of ASIC's review of financial advice provided in the SMSF sector. According to ASIC, the majority of advice reviewed was adequate. However, it noted a number of areas requiring improvement, including the need to better inform investors of the risks associated with investments.

TIP: Investors should take care when considering advertisements pushing property purchases through SMSFs. A number of key considerations, such as legal obligations, risks and alternatives, should be taken into account before making a decision to invest in property via an SMSF. Please contact our office if you have any questions.

Major superannuation reforms announced

The Government has recently made a number of important announcements affecting superannuation. A key proposal announced is that the Government will change the superannuation law to cap tax-free earnings at \$100,000. That is, the tax exemption for earnings on superannuation fund assets supporting income streams will be capped at \$100,000 per annum per person from 1 July 2014. A tax rate of 15% will apply to fund earnings above \$100,000. According to

the Government, the measure would affect around 16,000 individuals who have around \$2 million in their superannuation funds and an estimated rate of return of 5%.

However, the Government confirmed that withdrawals will continue to remain tax-free for those aged 60 years and over. Presumably, the proposals will be subject to public consultation before implementation.

“Holiday home” included in tax concession test

A taxpayer company has been unsuccessful before the Administrative Appeals Tribunal (AAT) in a claim to secure the capital gains tax (CGT) concessions for small businesses.

In this case, the AAT affirmed the Commissioner’s decision that the taxpayer did not satisfy the “maximum net asset value” test for the purposes of qualifying for the concessions. The AAT found that the individual who controlled the company could not exclude from the test his interest in a Queensland property, which he claimed was used for “personal use and enjoyment”.

TIP: The small business CGT concessions are intended to offer small business taxpayers a range of unique tax concessions. However, despite being targeted towards taxpayers who typically have less complicated affairs, the rules are riddled with complexities that may not appear obvious at first glance.

Each concession has its own particular rules. However, there are two basic conditions for the relief – either the taxpayer is a small business entity (SBE) or is a partner of a partnership that is an SBE, or the taxpayer satisfies the maximum net asset value test. If you have any questions, please contact our office.

Small business benchmarks catch out florist

The AAT has recently dismissed an appeal by a florist against the Tax Commissioner’s decision to issue income tax and GST assessments following an ATO audit of her florist business.

The taxpayer had reported that the cost of goods sold in her business represented 83% of her reported business income. The ATO had selected the taxpayer for audit because this figure was outside what it considered to be the industry benchmark range of between 44% and 54%.

In this case, the taxpayer was unable, due to a lack of evidence, to prove to the AAT that the assessments were excessive.

TIP: The Tax Commissioner has warned that businesses operating outside the relevant benchmarks could be subject to ATO review and/or audit, and where the businesses do not have adequate records to substantiate their performance, the ATO will make a default assessment using the appropriate small business benchmark.

Businesses may want to consider reviewing their record-keeping practices and assess whether they are at risk of an audit. Please contact our office for further information.

FBT rates and thresholds 2013–2014

The ATO has announced important fringe benefits tax (FBT) rates and thresholds for the 2013–2014 FBT year that commenced on 1 April 2013. Some of the key rates and thresholds include the following:

- The benchmark interest rate is 6.45% per annum. (It was 7.40% per annum for the 2012–2013 FBT year.)
- The record-keeping exemption threshold is \$7,779. (It was \$7,642 for the 2012–2013 FBT year.)

GST tax invoice information requirements

The ATO has released a Ruling setting out the minimum information requirements for a tax invoice under the GST law. The Ruling also explains the circumstances in which it is not necessary for the supplier to give a tax invoice, and the circumstances in which an input tax credit is attributable to a tax period without the recipient being required to hold a tax invoice for a creditable acquisition.

However, the Ruling states that the recipient must have records to explain its entitlement to an input tax credit for a creditable acquisition.

TIP: In certain situations, it may be difficult to ascertain whether a document is a “tax invoice” that complies with the requirements of the GST law. For example, a “quote” given by a professional or tradesperson to a single recipient would generally not qualify as a “tax invoice”.

However, the Tax Commissioner has made a determination to waive the tax invoice requirement to cover particular situations such as “offer documents and renewal offers”. Please contact our office for further information.

Important: Clients should not act solely on the basis of the material contained in Client Alert. 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. Client Alert 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.