

Practice Update

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

DECEMBER 2006

CPI for September quarter 2006

The CPI indexation factor for the September quarter 2006 was 155.7 (up from 154.3 for the June 2006 quarter).

Small business concessions to be standardised

The Government has announced that it will standardise the eligibility criteria for the various small business tax concessions.

There are separate tests to be eligible for the GST, the Simplified Tax System (STS), CGT, FBT and PAYG small business concessions.

For example, to enter the STS, a business' STS income must be less than \$1 million, and to access the CGT small business concessions, the net market value of its active assets must be less than \$5 million.

From 1 July 2007, there will be a single definition of 'small business', and any business with annual turnover of less than \$2 million will be able to access any of these concessions. Therefore, small businesses will only have to apply that one eligibility test to access the range of small business concessions, and will be able to choose those concessions that meet their business needs.

Also, businesses with existing access to CGT, FBT or PAYG small business concessions will be able to access those concessions where they meet either the new small business definition or the other existing eligibility criteria.

CSA and ATO crackdown on non-lodging Mums and Dads

As tax returns form the basis for calculating child support that should be paid or received by separated parents, the Child Support Agency (CSA) and the Australian Taxation Office (ATO) have teamed up to uncover unreported income.

Many parents do not submit a tax return because they want to minimise their payments (or maximise them, if receiving child support).

So far the CSA has:

- referred 125,000 payers, who had not lodged tax returns, to the ATO;
- recovered an extra \$5.3 million in child support; and
- issued tax return demand notices to about 6,000 separated parents a week.

As a result, CSA 'customers' had lodged 13,006 tax returns by the end of September.

Also, 202 cases have been referred for prosecution as part of the tax lodgment program, and 83 summonses have been issued by the ATO.

Parents not 'dependants', so don't get son's super benefits

The Federal Court has held that the trustee of a superannuation fund was entitled to pay a \$221,509 death benefit to a deceased member's de facto and daughter, rather than to his parents and siblings.

Facts

A young postal worker, a member of the Australia Post Superannuation Scheme (the Scheme), died in a motor vehicle accident.

Although he had a large superannuation death benefit, he had not completed a 'Nomination of Beneficiary form' and died without a will.

The trustee of the Scheme decided that the mother of his child was also his de facto spouse and that 75% of the payment should be made to her, and 25% to their child.

The parents challenged this decision in the Superannuation Complaints Tribunal and then the Federal Court, claiming that:

- they were financially dependent on the deceased, being seriously disabled and unable to work (and the deceased apparently provided them with \$50 every week); and
- the mother of his child was not his spouse nor financially dependent on him.

Reasons for Decision

The Court did not accept the parents' claims, and held that the Superannuation Complaints Tribunal was entitled to find that the de facto and daughter were "dependent" on the deceased, and that the parents and siblings were not.

Editor: This case highlights how important it is to consider your personal affairs should you pass on, no matter how old you are.

Don't respond to this 'ATO' letter!!!

Employers are being warned to be on the lookout for hoax ATO letters seeking personal information about their employees.

The letter states that the ATO has responsibility under the Workplace Relations Act 1996 for ensuring federal awards, agreements and legislation are observed, but the ATO does not administer this Act.

The letter suggests the employer is being audited, and asks them to provide personal information about their workers, including employees' names, dates of birth, addresses, sex, tax file numbers, gross annual salary, and Australian citizenship details.

Editor: Please contact us if you receive a letter like this.

No deductions for super contributions made for director

The ATO has reminded directors of companies that, whilst they may be able to claim a deduction for contributions they make personally on behalf of their employees, they still cannot claim a deduction for any contributions they make for their own benefit.

Example

Due to financial difficulties, a company does not have sufficient funds to make the required superannuation contributions for its employees.

Therefore, a director of the company, who holds a 50% interest in a company and is also an employee of the company, makes the contributions out of his own funds, consisting of:

- \$20,000 for all other employees of the company; and
- \$5,000 for his own benefit.

A taxpayer can generally claim a deduction for contributions made on behalf of an 'eligible employee', including where the person is an employee of a company in which the taxpayer either has a controlling interest, or is the beneficial owner of shares and meets other conditions.

However, an eligible employee must be a person *other than* the taxpayer.

This means that the director could claim a deduction for the \$20,000 in contributions they made on behalf of the other employees, but the \$5,000 made for their own benefit would not be deductible.

Tax Office extends hand to drought-affected taxpayers

The Tax Office has stated that it can help taxpayers affected by the drought by:

- ◆ allowing more time to lodge activity statements or tax returns without penalty;
- ◆ allowing additional time to pay tax debts without incurring charges;
- ◆ arranging for tax debts to be paid in instalments;
- ◆ remitting penalties or interest that may have been imposed; and
- ◆ fast tracking refunds.

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.