Client Information Bulletin

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Budget changes that affect your business

The recent budget handed down by the Government included several changes that will affect small businesses. Each change is outlined below:

50% discount on interest income abandoned

Proposed in the 2010-2011 Federal Budget and due to commence 1 July 2012 was a 50 per cent discount available to individuals for interest income earned up to $1,000 then lowered to $500. In the 2011-12 budget it was announced that this measure will not proceed.

Standard deduction for work related expenses abandoned

Also proposed in the 2010-2011 Federal Budget was a standard deduction for individuals of $500 from 1 July 2012 increasing to $1000 from 1 July 2013. This measure will also not be proceeding.

Changes to the medical expenses tax offset

Currently, the medical expenses tax offset (NMETO) is available where net medical expenses exceed $2,060 for the 2011–12 income year.

From 1 July 2012, for singles with an adjusted taxable income of more than $84,000, and for couple or families with an adjusted taxable income of more than $168,000, the net medical expenses tax offset reduces from 20 per cent to 10 per cent of net medical expenses over $5,000.

Concessional Contributions Cap for those aged 50 and over

For the next two years commencing on 1 July 2012 the concessional cap will be $25,000 irrespective of a person's age.

Individuals (50 years +) with low superannuation balances under $500,000 are expected to have a concessional cap of $55,000 in the year commencing 1 July 2014 assuming the concessional cap increases to $30,000 due to indexation.

Reminder

Those individuals salary sacrificing superannuation should review their salary sacrifice agreement to ensure that they do not exceed their concessional caps for the year commencing 1 July 2012.

Removal of CGT 50% discount for non-residents

The Government will remove the 50 per cent capital gains tax (CGT) discount for non-residents on capital gains accrued after 7.30 pm (AEST) on 8 May 2012.

The CGT discount will remain available for capital gains accrued prior to this time provided that they obtain a market valuation of assets as at 8 May 2012.

Company loss carry-back

The Government will allow companies to carry-back tax losses of up to $1 million to receive a refund against tax previously paid. A one year loss carry-back will apply in 2012/13, where tax losses incurred in that year can be carried back and offset against tax paid in 2011/12. For 2013/14 and later years, tax losses can be carried back and offset against tax paid up to two years earlier.

It will apply to their revenue losses only and will be subject to integrity rules, and limited to a company's franking account balance.

Company tax rate reductions will not to proceed

The Government will not proceed with the measure to lower the company tax rate to 29 per cent for small business from the 2012–13 income year, and companies generally from the 2013–14 income year.

Fringe benefits tax — reform of living away from home allowances and benefits

The Government will further limit the tax concession for living away from home allowances by:

- limiting access to the tax concession to employees who maintain a home for their own use in Australia, that they are living away from for work; and
- providing the tax concession for a maximum period of 12 months with respect to an individual employee for any particular work location.

This will apply from 1 July 2012 for arrangements entered into after 7.30pm (AEST) on 8 May 2012 and from 1 July 2014 for arrangements entered into prior to that time.

The reforms will **not** apply to:

- tax concessions for 'fly-in fly-out' arrangements; or
- tax treatment of travel and meal allowances

Superannuation contributions tax for high income earners

Individuals whose adjusted taxable income (ATI) is more than $300,000 will have their concessional contributions taxed in the fund at 30 per cent.

Individuals whose ATI is $300,000 or less will continue to have their concessional contributions taxed in the fund at 15 per cent.

Those individuals whose ATI exceeds $300,000 solely because of the inclusion of concessional superannuation contributions in the calculation of their ATI will have their contributions taxed at the rate of 30 per cent only on the amount that has caused the ATI to exceed $300,000.

For further information about these changes and how they might affect you, talk to our friendly team at MWB Accountants.

Private health insurance rebate means tested

A reminder that from 1 July 2012 the private health insurance rebate will be means tested as per the table below.

One strategy to consider is to prepay your annual private health insurance premium before the 30 June 2012 to gain an additional year at the current rebate level.

Individuals	**Current Rebate**	**Rebate From 1 July**
$83,000	30%	30%
$83,000 - $96,000	30%	20%
$96,001 - $129,000	30%	10%
$129,000+	30%	0%
Families	**Current Rebate**	**Rebate From 1 July**
166,000	30%	30%
$166,001 – 192000	30%	20%
$192,001 - $258,000	30%	10%
$258,000+	30%	0%

Superannuation death benefits

Your superannuation benefit is not an estate asset. Therefore, if you wish to control how your superannuation benefits are controlled, you should consider a death benefit nomination. This type of nomination provides instruction to the trustee of the superannuation fund to apply the benefit to dependents. Your dependents include your spouse, children, financial dependents, and your legal personal representative.

There are a number of different types of nominations – non-binding, binding and non-lapsing death benefit nominations. The nomination needs to be properly executed by two witnesses that are not beneficiaries to your superannuation benefit.

Non-binding death benefit nominations, as the name suggests, does not bind the trustee to distribute your superannuation benefit in accordance with your wishes. A binding death benefit nomination does bind the trustee; however, this type of nomination lapses after three years. A non-lapsing binding death benefit nomination continues into perpetuity. Importantly, you should review your nomination from time to time as your personal circumstances change.

Superannuation funds provide for retirement but it is also a vehicle to hold life insurance policies. Therefore, a significant life insurance benefit raises the significance of making your instructions clear to the trustee of the superannuation fund.

Consider the proportion of your superannuation benefit you wish to distribute to dependents as well because superannuation death benefits are paid out tax-free.

Additionally, you should consider how you wish for your dependents to be assisted from your superannuation benefit. Is it lump sum amounts or income streams? Lump sum amounts may help in discharging debt for example. However, once the benefit is paid out, the money is exposed to creditors and predators. An income stream permits some level of 'control', whereby the benefit is maintained in a trust environment and there may be tax advantages, such as tax rebates, in doing so as well. The ability to pay lump sum or income streams will be determined by the superannuation fund's trust deed.

A superannuation benefit that goes to your legal personal representative therefore places greater importance on having current Wills and Powers of Attorney, and other estate planning issues such as testamentary trusts.

If you have multiple superannuation fund memberships, the above needs to be considered for each membership. This may add to the complexity of your affairs and therefore 'consolidating' your superannuation memberships into manageable form, will reduce the stress of liaising with multiple financial institutions.

To discuss which superannuation benefit will work best in your situation talk to our friendly team at MWB Accountants.

GST refunds

Since the ATO's loss in the court case called Multiflex Pty Ltd in late 2011, the Federal Government has tried to push through some tax legislation which will allow the ATO to keep GST refunds for a period of 90 days (and in some cases even longer than that) for "refund verification checks". The Institute of Chartered Accountants, and other professional bodies have sought to amend the legislation by suggesting that a 30 day time period was a more appropriate timeframe than 90 days for their "checking".

Please note the legislation is even more far-ranging than simply GST refunds and could cause some financing issues for clients where the transaction is of a larger scale.

For those clients who are undertaking transactions which will result in large refunds, particularly GST Refunds, and to ensure a timely turnaround of the refund you should provide us with all the appropriate documentation relating to the transaction(s) including tax invoices, bank statements and contracts.

New rules planned for Hire Purchase Leases/Agreements

Small businesses registered for GST can currently claim GST credits on the finance of assets for business purposes in the following situations:

- If you purchase the asset through a Chattel Mortgage, you can claim the whole of your GST credits at the time of the first payment, whether your business reports on a cash or accrual method for GST purposes. A Chattel Mortgage is a type of finance typically used for the purpose of purchasing vehicles or other business plant equipment. You own the goods, however the financier retains title until final payment (hence the word "mortgage");
- If you lease the asset, you cannot claim GST credits on the leased asset, but you can claim the GST included in each lease payment at the time of making each lease payment;
- If you purchase the asset through a Hire Purchase agreement, you can claim the principal component of your repayments (excluding interest):
    - if you use Cash Basis reporting, you claim back GST credits over the life of the agreement, on each made under the Hire Purchase agreement (i.e. claim one-eleventh of the principal component of Hire Purchase payment/s that fall in the reporting period);
    - if you use Accruals Basis reporting (i.e. non-cash basis), you claim back the whole of your GST credits in the reporting period for the first payment under the Hire Purchase agreement (i.e. claim up-front one-eleventh of the principal component of the agreement).

This has meant that small businesses using Cash Basis reporting are disadvantaged compared to those using Accruals Basis reporting. New rules are planned from 1 July 2012 for new Hire Purchase Agreements entered into from 1 July 2012. From that date you will be able to claim the whole of the GST credits at the time of the first payment under the Hire Purchase plan, whether you use Cash Basis or Accruals Basis reporting.

Accordingly you can make use of your GST credits sooner. The old rules however continue to apply for Hire Purchase Agreements entered into before 1 July 2012. Check our office to see if the new rules can work for your business.

No deductions allowed against government assistance payments

The Government announced in the 2011-2012 Budget that it would disallow deductions against government assistance payments from 1 July 2011. This came about after considering the long term implication of the Full Federal Court decision in *FCT v Anstis [2010] HCA 40*, in which the taxpayer, a full–time university student undertaking an educational degree was entitled to deduct self–education expenses from her receipt of the Youth Allowance under S8-1 of the *Income Tax Assessment Act* 1997(Cwlth).

From 1 July 2012 new rules apply.

The individual will not be able to deduct a loss or outgoing they incur in gaining or producing rebateable benefits. This includes the Austudy Living Allowance, NewStart Allowance, and Youth Allowance.

However, taxpayers who have other assessable income, such as employment or investment income in addition to their taxable government assistance payment may still have the tax on their government assistance payment extinguished by the beneficiary rebate and may be taxed on any other assessable income at their marginal tax rate. These taxpayers can reduce their tax liability by claiming deductions.

Only taxpayers have other assessable income in addition to their taxable government assistance payment are able to access the benefit conferred by the High Court decision. Taxpayers who receive a taxable government assistance payment, but have no other assessable income are unable to benefit as the operation of the beneficiary rebate means they have no tax liability to claim deductions against.

ATO crackdown on the building & construction industry

From 1 July 2012, there will be a crackdown on unreported payments in the building and construction industry. Any businesses involved in the industry, including sole traders, will need to lodge an annual report detailing amounts paid to contractors and sub-contractors, including each contractor's ABN.

People working wholly or principally in the building and construction industry will need to report any payments that include a service component. If payments to a contractor are for services plus materials and fittings, then all the amounts paid to the contractor, including for materials and fittings, must be reported.

If you think you might be affected, contact us and arrange a consultation to address any issues that might be of concern to the ATO.

Non compliance on motor vehicles

All motor vehicles sold, transferred or newly registered in the 2010-11 financial year with a market value of $10,000 or greater face scrutiny from the ATO.

The ATO has obtained data from the State and Territory registering bodies (e.g. Vic Roads, RTA (NSW), etc.) to identify:

- taxpayers whose expenditure is in excess of their reported income (e.g. potentially skimming some or all of their cash takings, running part of their business 'off-the-books', or in other ways not reporting all their income);
- businesses that sell vehicles and do not report, or under-report those sales.

The ATO is also looking to address non-compliance in the areas of:

- income tax
- superannuation
- goods and services tax
- fringe benefits tax
- luxury car tax.

For more information you should contact us immediately.

Social media network and tax

As social media continues to grow, it is important to note there is a link between your social networking profile and your tax.

In 2011, a tax expert Tony Anamowlis, from Latrobe University said the Australian Taxation Office was, in some instances, relying on social networking profiles to build prima facie cases for tax evasion that was being conducted by investors who had used offshore tax havens. Anamowlis cited this case from the online business magazine *Smart Company.*

The ATO can use social network sites as a platform to build up profiles. This can be used more for 'Mum and Dad 'types.

From an international prospective, even though Australia has tax information agreements in place, there are still weaknesses when getting information from overseas using the 'normal' channels. For this reason, the ATO has begun building profiles by using these sites.