

# Tax Strategies for Tough Times

## *In this Issue ....*

- Tax strategies for tough times
- PAYG instalment relief
- Investment allowance boost
- Keeping on top of FBT
- Super changes impacting SMSFs
- Using industry benchmarks
- Economic Stimulus Package



It's advisable for your business to seize the opportunity to reassess the way it is doing things for tax purposes. What you were doing last year may no longer be a smart way to do things in today's business climate.

Using appropriate tax strategies can be an important way to help steer your business through the current economic crisis.

In times such as this, we are here to help you put in place tax strategies for your business that may help improve cash flows, reduce costs and improve financing opportunities. Depending on the particular circumstances of your business, some of the strategies you may need to consider include:

- claiming all eligible tax credit and rebate entitlements (eg fuel tax credits);
- making sure you are properly utilising any tax losses generated by your business;

- self assessing your PAYG instalments to ensure they correctly reflect your current level of business activity;
- reviewing your GST liability to make sure you are claiming your correct credits; and
- taking advantage of special Government initiatives to assist businesses in economic crisis (eg PAYG instalment relief and an investment allowance boost, details below).

## PAYG Instalment Relief

Economic crisis or not, businesses traditionally experience tightening cash flows in February and March each year following the Christmas and holiday season frenzy.



To help your cash flow, take advantage of the Government's announcement in December last year to cut the PAYG instalment payable for the 31 December 2008 quarter by 20%.

### Who's eligible?

Small businesses with an aggregated turnover of \$2 million per annum or less.

### What does the reduction apply to?

The reduction applies only to the instalment amount on the BAS sent out by the ATO for the December 2008 quarter.

If you pay your instalments quarterly (as most small businesses do), you should only pay 80% of the instalment amount due on 3 March 2009. Although this amount is normally due on 28 February 2009, because this date falls on a long weekend in some States the due date has been extended Australia-wide by the ATO.

If your small business has elected to report and pay its GST on a monthly basis rather than quarterly, your December 2008 PAYG instalment was due on 21 January 2009.



### What if I pay the full amount?

If you are eligible to pay the reduced PAYG instalment but you pay the full amount advised by the ATO on your BAS for the December 2008 quarter, you have a couple of options:

- **do nothing** – the ATO will treat the additional 20% payment as a 'voluntary payment' towards your income tax liability; or
- **contact the ATO** – you can request the ATO to apply the additional 20% payment to your next PAYG instalment or ask for it to be refunded.

## Investment Allowance Boost

If you are thinking about buying plant and equipment or other assets for your business, keep an eye on Government plans for a temporary 10% investment allowance to encourage capital investment by Australian businesses.

The legislation for this initiative hasn't been introduced yet, but we understand from details released by the Treasurer that the key features of this proposal will be as follows.

### What's eligible?

The special investment allowance is expected to apply from 12.01am AEDT 13 December 2008 until 30 June 2009 to:

- tangible new depreciating assets which are acquired, held under contract or constructed during this period
- eligible assets that are installed ready for use before the end of June 2010.

### Eligible assets

New tangible depreciating assets eligible for the proposed investment allowance include new plant and equipment, vehicles and other tangible assets used by your business.

### Assets not eligible

Assets that will not be eligible include:

- assets you can't claim depreciation on or that are deductible under other provisions (eg land, trading stock and capital works);
- intangible assets and rights; and
- assets that have previously been used or held for use will be excluded, but new expenditure on existing eligible assets used in Australia may qualify.

**Who's eligible?**

A taxpayer using the eligible asset in Australia in carrying on a business, who is also entitled to claim depreciation (capital allowance deduction) on the asset.

**Will there be any thresholds?**

Yes – a minimum capital expenditure threshold of \$10,000 will apply.

If you use an eligible asset for business and private purposes, only that portion of the expenditure that relates to carrying on a business will count towards the \$10,000 threshold.

**How will it work?**

We anticipate that an additional tax deduction equal to 10% of an eligible asset's appropriate cost can be claimed through the tax return in which you claim the first depreciation (capital allowance) on that asset.

**A simple example**

*Tom is a major beekeeper operating on the NSW North Coast producing premium honey. He entered into a contract to purchase a new processing plant on 2 March 2009 with an effective life of 20 years and costing \$15,000. The plant was installed ready for use by the beginning of July 2009. When Tom lodges his 2009-10 income tax return, he can claim a depreciation deduction as well as a special investment allowance deduction of \$1,500 (10% of \$15,000).*

We will confirm this initiative with you once it becomes law.

## Keeping on top of FBT

With the end of the fringe benefits tax (FBT) year only a matter of weeks away – 31 March 2009 - it's that time of year to make sure you are on top of your FBT obligations. To get prepared, we suggest you:

- check whether you have provided any fringe benefits to your employees in respect of their employment that are taxable; and
- make sure you are ready to lodge your FBT return and pay any FBT liability on time.

We are here to help you make sure that you are making the most of planning opportunities and that your business is up-to-scratch when it comes to its FBT compliance.

**TIP**

Some of the more common benefits that may give rise to an FBT liability include: providing cars or other vehicles, reimbursing non-business debts, providing accommodation, entertainment, and/or goods and services for your employees and their associates.

**What to look out for this year**

There are **three main FBT changes** you need to be aware of – **all of them take effect from 13 May 2008**. These changes impact on:

- work related items;
- meals provided to your employees; and
- jointly held assets.

**Work-related items**

The FBT exemption for purchases of certain work-related items now only applies where these items are *primarily for use in your employee's employment*.

The types of work-related items covered by this exemption from FBT include:

- portable electronic devices (eg mobile phones, calculators, personal digital assistants, laptops, portable printers and portable GPS devices);
- items of computer software;
- items of protective clothing;
- briefcases; and
- tools of trade.

This FBT exemption will generally be limited to one item of each type per employee per year.

### *What does 'primarily for use in the employee's employment' mean'?*

The ATO has provided the following guidance on how they will administer this requirement and what you will be expected to do.

An item is primarily for use in your employee's employment if you provide it principally to enable your employee to do their job;

You have to make a decision as to whether your employee is using an item for this purpose;

Your decision should be based on the employee's intended use *at the time you provide this benefit to your employee* - the ATO does not require you to look at your employee's actual usage over the FBT year to determine whether the item is used primarily in their employment; and

In making this decision, you will be expected to use a reasonable basis to determine an item's usage – for example, using the employee's job description, duty statement or employment contract.

#### **TIP**

It appears a declaration from your employee that an item is to be used primarily for use in their employment is unlikely to be regarded by the ATO as a reasonable basis for you to make this decision – the ATO will expect you to assess the actual circumstances of and surrounding your employee's employment.

### **Meals provided to your employees**

Meals provided by you to your employees on your premises as part of a salary sacrifice arrangement are no longer exempt from FBT.

The type of arrangement we are talking about here is where:

- your employee agrees to forgo salary and wages; and
- food and drink supplied to them on your premises (usually by an independent caterer) – commonly called 'meal cards'.

We are not talking about a subsidised canteen that is available to all employees and does not form part of a salary sacrifice arrangement.

#### **TIP**

For meal card arrangements in place before 13 May 2008, any food or drink relating to an existing balance at that time will not be subject to FBT if the food and drink is provided on or before 31 March 2009.



### **Jointly held investments**

The reimbursement of an associate's share of expenses incurred in relation to jointly held investment assets will no longer escape the FBT net.

However, if any of your employees have entered into this particular arrangement, they will have until 31 March 2009 to renegotiate their salary package to avoid incurring a FBT liability.

### **Your FBT basics checklist for 2009**

The current FBT year runs from 1 April 2008 to 31 March 2009.

As an employer, you are responsible for calculating your FBT liability, if there is one, and paying any FBT liability.

If you have an FBT liability, you must lodge your FBT return and pay your FBT liability by 21 May 2009.

FBT is separate from income tax and is levied at the top personal marginal rate of income tax, including the Medicare levy (ie currently 46.5%).

You can generally claim an income tax deduction for the cost of providing fringe benefits and for the FBT you pay.

Where the total taxable value of reportable fringe benefits for an employee is more than \$2,000 for the current FBT year, you will have to disclose this value (grossed-up) on the employee's payment summary.

# Super Changes Impacting SMSFs

Some people may need to make sure their self managed superannuation funds (SMSF) are complying with changes to the investment rules that take effect after 30 June 2009 – less than five months away.

## Is my SMSF at risk?

These changes may catch some SMSFs unaware because they go back to 1999 and have taken until now to come into effect for some SMSFs.

As you are already aware, there are a number of investment restrictions preventing an SMSF from borrowing and entering into a range of transactions with related parties.

Prior to 11 August 1999, SMSFs were able to invest in entities such as unit trusts, which in turn could enter into transactions that were not strictly within the investment rules applying to the SMSF.

Even though these arrangements were closed off effective from 11 August 1999, transitional rules were put in place that allowed SMSFs to:

- continue to hold pre-11 August 1999 unit trust and company investments; and
- increase the value of these investments until 30 June 2009.

## Do I need to do anything?

If your SMSF was around before 11 August 1999, you need to get advice about whether these changes impact on your fund and what you may need to do to ensure your SMSF remains compliant with the superannuation laws after 30 June 2009.

# Using Industry Benchmarks

At present the ATO is focusing on developing industry benchmarks.

These benchmarks focus on businesses working directly with household customers and indicate:

- expected/anticipated average usage of materials for doing a job; and
- a range of income for the services/goods provided.

Industry benchmarks are currently available for concreting, floor sanding and polishing, metal roofing, painting, roof guttering, roof tiling and taxis.

We are expecting the ATO to release at least 11 more industry benchmarks during 2009.

We are not aware at present that the ATO is using these benchmarks in their audits or for raising default assessments.

However, you need to be aware that they now exist, are likely to become more common in some industries, and can be used as a tool to gauge how your business is

far- with like



nesses.

**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. This bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential.

# Economic Stimulus Package

On 3 February 2009 the Government released its economic stimulus package, *Nation Building and Job Plan*. Key proposals in this package include:

- a range of energy efficiency initiatives including free installation of ceiling insulation, a low emissions rebate plan for renters, and an increase in the Solar Hot Water Rebate;
- infrastructure investment in schools, rail and road safety projects, and defence and social housing;
- a revamping of the proposed small business and general business temporary investment allowance; and
- cash bonuses for low and middle income households.

Set out below are some details about the temporary investment allowance and cash bonuses that may be of interest to you.

## **Bonus Investment Allowance**

In the attached February 2009 newsletter we let you know about plans, announced on 12 December 2008, for a temporary 10% investment allowance to encourage capital investment by Australian businesses.

This 12 December 2008 announcement has now been replaced by further new proposals in the Government's *Nation Building and Job Plan* package.

How quickly things change in the world of tax!!

The proposals as they stand at present are:

- all businesses will be able to claim a bonus deduction of either 30% or 10% on expenditure for eligible assets;
- where your business acquires an eligible asset between 12.01am AEDT 13 December 2008 and the end of June 2009 and has it installed ready for use before the end of June 2010, you will be able to claim a bonus tax deduction of 30% of the cost of the asset;
- where your business acquires an eligible asset between July 2009 and the end of December 2009 and has it installed ready for use before the end of December 2010, you will be able to claim a bonus tax deduction of 10% of the cost of the asset;
- there are different eligibility spending thresholds for small businesses (one that has a turnover of \$2 million per year or less) and other businesses;

- small businesses will only need to spend a minimum of \$1,000 per eligible asset in order to qualify for this special deduction. Other businesses will be entitled to the same deductions if they spend a minimum of \$10,000 per eligible asset;

- assets eligible for this allowance are new tangible depreciating assets and new expenditure on existing assets used in carrying on your business and for which you can claim a capital allowance deduction; and

- this bonus deduction is on top of the usual capital allowance (depreciation) deduction that you can claim for eligible assets.

## **Example**

The Treasurer released the following example illustrating how this bonus deduction will work.

*A landscaping business entered into a binding contract to acquire a new backhoe on 20 May 2009 at an all inclusive cost of \$60,000. The backhoe is delivered and ready for use on 20 June 2009 and has an effective life of 9 years.*

*The business will be entitled to claim the 30% deduction because:*

- *a backhoe is a depreciating asset for which the business would be entitled to claim a capital allowance deduction;*
- *the backhoe exceeds the expenditure threshold of \$1,000 for small businesses and \$10,000 for all other businesses;*
- *the business started to hold the backhoe before the end of June 2009; and*
- *the backhoe was installed ready for use before the end of June 2010.*

*The deduction will be 30% of the eligible cost of the backhoe - \$18,000 (30% of \$60,000).*

*When lodging its 2008-09 income tax return the business will be able to claim this bonus deduction in addition to the usual depreciation deduction on the backhoe.*

*If the business delays this investment until after 30 June 2009 – for example, until 1 September 2009 – and has it installed ready for use before the end of December 2010, the 10% rate would apply. It would be able to claim a deduction of \$6,000 (10% of \$60,000).*

**TIP**

It's still early days and this proposal is not law as yet. We haven't seen the legislation for this bonus one-off investment allowance – we are expecting it to be released by the end of February 2009.

**Cash bonus for taxpayers**

The Government announced the following five one-off cash payments for eligible taxpayers.

**Tax Bonus for Working Australians**

The Government will provide an up-front, lump-sum tax bonus of up to \$950 to around 8.7 million Australian workers earning \$100,000 or less:

- \$950 bonus will be paid to eligible taxpayers with a taxable income of up to and including \$80,000;
- \$650 bonus will be paid to eligible taxpayers with taxable incomes exceeding \$80,000 and up to \$90,000; and
- \$300 bonus will be paid to eligible taxpayers with incomes exceeding \$90,000 up to and including \$100,000.

You don't need to apply for the payment. The Australian Taxation Office will automatically make the payment after determining eligibility based on your 2007-08 tax return. The Government has indicated that these payments could start flowing in April 2009.

**Single Income Family Bonus**

Families who are eligible for Family Tax Benefit Part B (FTB-B) on 3 February 2009 will receive the Single Income Family Bonus of \$950.

Most of these payments are expected to be made automatically by Centrelink in the fortnight commencing 11 March 2009, will be non-taxable and will not be counted as income for social security purposes.

**Farmer's Hardship Bonus**

You will receive a lump-sum payment of \$950 if, on 3 February 2009, you are a drought affected farmer or farm dependent small business receiving exceptional circumstances related income support. The payments are expected to be made in the fortnight commencing 24 March 2009. They are not taxable and nor will they be counted as income for social security purposes.

**Back to School Bonus**

The Government's \$950 Back to School Bonus will provide a one-off, up-front bonus to be paid to families eligible for Family Tax Benefit Part A (FTB-A) on 3 February 2009, for each eligible child of school age (aged 4 to 18 on 3 February 2009). This is in addition to and separate from the Education Tax Refund.

**Training and Learning Bonus**

There will also be a \$950 training and learning bonus for eligible students and people outside the workforce returning to study.

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