

THE BOTTOM LINE

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(1) "SIMPLER SUPER" CHECKLIST FOR EMPLOYERS

In our last newsletter, we alerted you to a number of changes to Australia's superannuation regime to streamline and simplify its operation.

The legislation establishing the framework for this new simpler super has now been passed by the Federal Parliament and received Royal Assent – so it's set to start on 1 July 2007.

Focusing on you as an employer, set out below is a brief checklist of some of the main issues that employers need to be across in readiness for 1 July 2007.

Pass on your employee TFN details

Currently, your existing employees have to authorise you specifically to pass on their tax file numbers (TFNs) to their super funds – provision is made on the *TFN Declaration Form* for them to provide you with this authority.

From 1 July 2007 this will change.

Where your employee quotes their tax file number to you on or after 1 July 2007 (e.g., for employment purposes on a *TFN Declaration Form*), your employee is automatically taken to have provided you with the authority to provide their TFN to their super fund.

You will also now be required to pass that employee's TFN on to their super fund - there are potential penalties if you don't!

TIP

We understand that the ATO is currently revising the *TFN Declaration Form* for this purpose. Make sure you use this new form from 1 July this year.

Full deduction for all contributions

From 1 July 2007, as age-based limits will no longer apply, you can claim a full deduction for all contributions you make on behalf of your employees under the age of 75 to their super fund. However, exercise care – if contributions are made in excess of specified limits, your *employee* may become liable to tax on the excess.

TIP

Your *super guarantee obligations* (making contributions of at least 9% of each employee's earnings base) continue to apply – but only until an employee reaches the age of 70. Make sure you continue to comply with your *super guarantee obligations* - they are a top compliance target for the ATO at present.

Eligible termination payments

From 1 July 2007, what you now know as *eligible termination payments* for your employees will be called *employment termination payments* - (ETPs).

ETPs will be taxed differently from 1 July 2007 and you should be aware that from that date they can no longer be rolled over into super funds. However, there are always some exceptions!

Transitional arrangements apply to ETPs that are specified in any of your employees' existing employment contracts as at 9 May 2006, provided payment is made prior to 1 July 2012.

In addition to special taxing rules, under these transitional arrangements, these ETPs may be contributed to a super fund until 1 July 2012.

TIP

We understand that the ATO is preparing new PAYG payment summary forms for ETPs. Make sure you use this new form when you make an ETP from 1 July this year.

Reasonable Benefit Limits

Reasonable Benefit Limits (RBLs), which limit the amount of concessional taxed super benefits someone can receive over a lifetime, will be abolished from 1 July 2007.

As an employer this will impact on you because payments made after 1 July 2007 do not have to be reported for RBL purposes.

A NOTE OF CAUTION

You still have to report eligible termination payments to the ATO over \$5,000 paid up to 30 June 2007 for RBL purposes. The deadline for reporting these payments is **14 July 2007** (using an *Employers: Reasonable Benefits Limits (RBL)* reporting form).

Disclaimer

We believe the advice and information contained in this newsletter to be accurate and reliable but no warranty of accuracy or reliability arising in any other way for errors or omissions (including responsibility to any person by reason of negligence) is accepted by the company or its officers.

'Choice of super fund' obligations

As an employer, there are no changes to your *choice of super fund* obligations. From 1 July 2005, most employees have had the right to choose the superannuation fund into which you pay their contributions. This doesn't change after 1 July 2007.

(2) 'SIMPLER SUPER' CHECKLIST FOR INDIVIDUALS

From the perspective of individuals attempting to take advantage of the new opportunities presented by these superannuation changes, you should also be aware of the following issues:

- If more than \$1 million of post-tax contributions are made to superannuation in the period 10 May 2006 to 30 June 2007, an assessment for a tax liability of 46.5% will issue for the excess contributions. This assessment will issue to the individual making the contributions, rather than the fund to which the contributions are made. Therefore, you should ensure that any post-tax contributions you have made in this period are less than or equal to \$1 million, in order to avoid having this extra penalty tax applying to your contributions.
- Legislation has also been passed that taxes any contributions received by superannuation funds that are made for members who have not quoted their tax file number to the fund at a rate of 31.5%. Ordinarily, the tax rate on deductible contributions is 15%. Therefore, individuals should ensure they quote their tax file number to their superannuation funds.
The Tax Office will shortly be sending letters to 1.85 million superannuation fund members they have identified who have not quoted their tax file number to their superannuation funds. If you receive one of these letters, or if you know you have not quoted your tax file number, you should ensure you do quote it as soon as possible to avoid the possible imposition of this penalty tax on future contributions.

(3) 30 JUNE ANNUAL UPDATE

The lead up to 30 June this year is set to be a busy time - there have been some significant changes in recent months that have moved the tax planning goalposts since this time last year.

We will highlight what's new and changes to watch out for, as well as touching on recurring year end tax planning strategies and compliance hot spots.

What's new...

Set out below is a brief round up of some of the changes over the past twelve months that may open up new planning opportunities and other forms of relief.

TIP

It's important to get advice if you think any of these changes may be of benefit to you or you would like more details about their operation.

A checklist for your business...

- if you run your small business through a company or trust, some changes have been made to the **small business capital gains tax (CGT) concessions** that may make it easier for you to take advantage of these important concessions. The changes apply to eligible CGT events from 1 July 2006;
- a **new fuel tax credit system** commenced on 1 July 2006 - if you're eligible, this may help cut fuel costs for your business by providing you with a credit for the fuel tax (excise duty) included in the price of your fuel; and
- access to **simplified goods and service tax (GST) accounting methods** was made available to restaurants, cafes and caterers from 1 October 2006 - these alternatives may help to make it easier for you to account for GST when a mix of GST-free and taxable food items are sold.

A checklist for your employees...

Starting in the current fringe benefits tax (FBT) year (1 April 2007 - 31 March 2008) there is:

- an increase in the **minor fringe benefits** threshold from \$100 to \$300 per employee;
- an increased reduction of the taxable value that applies to eligible fringe benefits (e.g., **'in house' benefits** like goods or services you provide to your employees that are identical or similar to those you supply to the public) from \$500 to \$1,000;
- an **extended definition of 'remote'** for the purposes of the FBT concessions;
- an exclusion of **pooled or shared vehicles** from the FBT reporting requirements; and
- an **increase in the reportable fringe benefits tax threshold** from more than \$1,000 to more than \$2,000.

WHERE'S THE POTENTIAL BENEFIT?

These changes may help you to provide more fringe benefits to your employees in a way that is tax effective for your business, whilst at the same time keeping your employees happy.

Changes on the horizon...

Set out below is a brief checklist of some of the changes over the past twelve months that have yet to come into force and that may impact on you and your business. We will keep you posted in future newsletters on developments in these and other new areas as they arise.

Access to small business concessions

If you're a small business, we are expecting the Government to introduce legislation very soon that will simplify your initial access to a range of small business concessions from 1 July 2007.

WILL MY BUSINESS QUALIFY?

It is proposed that if your business has an annual turnover of less than \$2 million, you will get over the first hurdle of access to any of the small business concessions that meet your business needs. However, once in, you may then still need to satisfy additional criteria that are relevant in order to qualify for a particular concession.

Private company loans

Private company loans to shareholders or anyone linked with or related to a shareholder have been a real headache for small business.

In some circumstances, if your company has one of these loans a deemed dividend may arise with nasty consequences for the unsuspecting. If this happens,

- your company's franking account is debited; and
- the deemed dividend is taxable in the hands of the shareholder or associate without access to a franking credit to offset the tax paid by your company.

This is a perennial year-end tax planning problem for private companies and, if relevant, we may need to discuss with you ways of minimising your exposure to this problem.

You will have a potential problem if a loan like this is not

- fully repaid by the lodgment day of your company's tax return for the year in which the loan arises; or
- repaid on commercial terms where the loan is for more than a tax year.

We are still waiting for legislation in response to the Government's announcement that it would remove the automatic debiting of a company's franking account when a deemed dividend arises in these circumstances – this at least removes the element of double penalty! We're also expecting the Commissioner to have a discretion to disregard this type of deemed dividend in appropriate circumstances.

Non-forestry managed investment schemes

If you have invested in a non-forestry managed investment scheme (e.g., an agribusiness venture) or are considering doing so, you should be aware that the Tax Office has had a change of heart about the taxation of these arrangements.

This change of heart will apply to non-forestry managed investment schemes entered into from 1 July 2008 (or earlier if the ATO's test case confirms their views).

The effect of the ATO's interpretation of the law is that you will no longer be able to claim upfront deductions for your contributions.

Compensation for water rights

The current Government's plan to address Australia's water shortage problems has thrown up some interesting tax challenges.

Reports in the media suggest that around 5,000 farmers are to receive monetary compensation in return for cuts to their groundwater entitlements. If you are in this situation, you should be aware that there is some disagreement about the tax consequences of this type of compensation that have yet to be settled, particularly in relation to any potential capital gains tax.

2006-07 year end tax checklist

Here is a brief checklist of some key tax-time issues for you to consider when preparing your 2006-07 tax return.

Value your trading stock at 30 June

You'll need to value your closing stock on hand and work-in-progress at June 30. Resist the temptation to guess – this is a common mistake that businesses make! When you value your trading stock, clearly identify which valuation method you use – cost, replacement, market value (or less if the stock is obsolete).

Low document loans

Low document loans are very much on the ATO's radar screen. Regardless of the pros and cons of these loans, you should be aware that the ATO is still actively and systematically checking the lodgment status of people obtaining finance through these types of loans.

TIP

If you have a low document loan, make sure that your income and other information in your returns matches what you have disclosed in the loan documents – this is what the ATO is on the look out for.

Maximise your deductions

One of the more popular strategies to legitimately maximise your deductions is by prepaying some items of your business expenditure before 30 June.

COMMON PREPAYMENTS

Commonly prepaid business items include rent, lease payments, interest, audit and accounting fees, repairs and maintenance, and business related subscriptions.

Before you prepay any business expenses, you should be aware that there are some rules that may affect your entitlement to claim a deduction for prepaid business expenses (e.g., you may have to apportion your deduction over more than one tax year).

Check your bad debts now

If your business has a debt that has already been brought to account as assessable income and you can't collect that debt, you want to make sure you don't end up paying tax on income you can't collect.

The way you do this is to claim a deduction for this debt, where such a debt is 'bad' and is written off in your accounts before 30 June.

WHEN IS A DEBT BAD?

When you have made an effort to collect it, there is little likelihood that you will ever be successful in collecting it and you have abandoned any debt recovery action.

Keep an eye on your losses

Has your business received income from more than one activity during the year and one (or more) of these activities made a loss?

You may be able reduce your overall taxable income by offsetting this loss (or losses) against profits from your other business activities during this year.

You should be aware that if you carry on business alone or partnership, there are some special 'commerciality tests' that your business will need to satisfy so you can do this.

NEW BUSINESS ACTIVITIES

If you have started up a new business venture during the year which has made a loss, not uncommon in the early stages of a new venture, you'll need to check whether you can claim this loss against your other income.

Employees' payment summaries

As a general rule, you should give your employees their payment summaries for the 30 June 2007 year on or before 14 July 2007.

(3) FUTURE ISSUES OF "THE BOTTOM LINE"

In future, we would like to issue our newsletter by way of email to as many clients as possible. Where this is not possible, we will continue to post our newsletter to you.

If you would prefer to receive our newsletter via email, would you please forward an email to our office manager, Sarah Johnson, at sjohnson@tregloans.com.au, using the word "Newsletter" as your subject heading.

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