

THE BOTTOM LINE

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(1) MORE ON “BETTER SUPER”

In previous newsletters, we have been giving you some idea about how the new super reforms will impact on you.

Until recently called “simpler super”, the Government has just re-branded it as “Better Super” and it started on 1 July 2007.

In this newsletter, we will be focusing on the question, “*How much can I now contribute to my super?*” for people in the workforce.

Because the results of the application of the new contribution rules may vary depending on your own circumstances, we’re only going to look at some of the main high level principles.

A WORD TO THE WISE...

It’s best to get advice from appropriately qualified professionals about the contributions you should make, how much to contribute and how this will impact on your overall super strategy.

No more age-based limitations

From 1 July 2007, the age-based limits on the amount of contributions you could make to your super no longer operate.

Basic contributions rules from 1 July 07

There are a number of contribution options depending on your age and the type of contribution you make.

Before-tax (concessional) contributions

- You (if substantially self-employed) or your employer can make before-tax contributions of up to \$50,000 a year (indexed) into your super account.
- If you are 50 or over, your before-tax contribution limit is \$100,000 a year between 2007-08 and 2011-12.

After-tax (non-concessional) contributions

- If you are under 65, there is an annual cap of \$150,000 (indexed) on your after-tax contributions. You can also ‘bring forward’ these contributions and pay \$450,000 in one year provided nothing is paid in the following two financial years.

TIP

You can make contributions (both before and after-tax) to your super until you turn 75. If you are over 65, you will need to work 40 hrs in 30 consecutive days (called the “work test”) in a financial year to make contributions.

What if I exceed the contribution caps?

Exceeding the contribution caps is costly:

- If you exceed the before-tax contribution cap, **you** will be taxed on your excess contribution at a rate of 31.5%. This is on top of the 15% tax paid by your fund on your contributions.
- If you exceed the after-tax contribution cap, **you** will be taxed on your excess at the top marginal rate of tax, including the Medicare Levy, of 46.5%.

Tax File Numbers

Make sure your super fund has your tax file number. If it doesn’t, not only could you be charged a higher tax on your contributions – your fund also will not be able to accept some types of contributions from you.

(2) MONEY IN YOUR POCKET

It’s that time of year again to let you know about some of the tax related windfalls for individuals coming out of the 2007-08 Federal Budget. This Budget had a strong focus on a number of aspects of personal taxation and superannuation.

More personal tax cuts

Personal tax cuts were once again centre stage in the latest Budget:

- **From 1 July 2007**, the current 30% threshold will rise from \$25,001 to \$30,001.
- **From 1 July 2008**, the current 40% threshold will rise from \$75,001 to \$80,001 and the 45% threshold will rise from \$150,001 to \$180,001.

These changes have been passed into legislation.

With the Federal Election being called, both the major parties are promising further changes to the tax rates in future years.

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.

More for low income earners

From 1 July 2007, two things are happening to the Low Income Tax Offset (LITO):

- the maximum amount of offset increases from \$600 to \$750.
- the offset will begin to phase out when your taxable income exceeds \$30,000 (instead of the current \$25,000 threshold).

DOLLARS IN THE HAND...

In the upcoming 2007/08 tax year, if you're eligible for the full LITO you will not pay tax until your annual taxable income exceeds \$11,000 (currently \$10,000). You may still be entitled to some LITO offset up to a taxable income of \$48,750 (currently \$40,000).

More for seniors

From 1 July 2007, if you receive the Senior Australians Tax Offset (SATO) you will be able to earn more income without paying tax:

- *singles* can have a taxable income up to \$25,867 (up from \$24,867).
- *couples* can have a taxable income up to \$43,360 (up from \$41,350).

The Medicare Levy threshold for seniors will also be increased to make sure you don't pay this levy until you begin to incur a tax liability.

More spouse rebate

From 1 July 2007, the dependent spouse rebate will increase from \$1,655 to \$2,100. This means a dependent spouse will be able to earn \$8,681 in net income before the rebate cuts out completely.

More for child care

From 1 July 2007, there are a couple of important changes impacting on child care costs:

- the rate of Child Care Benefit (CCB) will be increased by 10% (for example, a family on the maximum rate of CCB with one child in Long Day Care to 40 hrs per week will receive an extra \$16.40 per week).
- the existing Child Care Tax Rebate (CCTR) will be converted to a direct payment administered through Centrelink (the CCTR covers 30% of out of pocket expenses, up to a maximum of \$4,000 plus indexation).

More capital gains tax relief

From 1 July 2007, the Government plans to allow one spouse in a marriage breakdown to transfer their entire *in specie* interest in a small superannuation fund to another complying superannuation fund without there being an immediate CGT taxing point.

More super co-contribution

If you made an eligible contribution to your super fund in **the 2005-06 income year** that attracted the Government's superannuation co-contribution payment, the Government plans to make a one-off additional co-contribution into your super account. This will effectively double the amount of co-contribution paid to you in 2005-06.

Medicare Levy low income thresholds

From 1 July 2007, the Medicare Levy low income thresholds increase for individuals to \$16,740 and for families to \$28,247. The Medicare Levy low income threshold to pensioners below Age Pension age has increased to \$21,637.

(3) FBT AND CAR BENEFITS

The ATO has advised that 2 major projects are being undertaken to ensure that employers are meeting their fringe benefits tax (FBT) obligations in relation to employee car benefits.

One project is in relation to employers who attribute a high level of business use to a luxury car. Employers identified as high-risk, and their tax agents, will receive a letter regarding the tax treatment of their business-owned luxury cars plus a request for information. Where employers lodge an FBT return and pay the FBT liability on time, the response will be treated as a voluntary disclosure. Failure to provide the information could result in an audit.

The other project relates to all business-owned cars and FBT lodgements over the past two years. Letters associated with this project will include a questionnaire requesting information about business-owned cars over the past 2 years. The questionnaire may reveal an FBT liability and the ATO encourages voluntary disclosure. As an incentive to complete and return the questionnaire promptly, no penalties and GIC will apply when the questionnaire, plus FBT return and payment, are returned and lodged on time. Note that the penalty and GIC concessions will not apply if an audit is commenced.

(4) TAXING SANTA

With the festive season just around the corner and with plans for your staff and client celebrations starting to pick up momentum, who would have thought the ATO was interested in your Christmas good cheer?

Unfortunately, the ATO does have an interest in your office festive season, especially from an FBT point of view.

With a little forward planning you should be able to minimise the taxman's intrusion.

FORWARD PLANNING IS ESSENTIAL

The impact of FBT rules on Christmas celebrations can be particularly vexing. It's absolutely essential to get advice about what to do beforehand to keep things under control.

Christmas parties and FBT

The potential FBT consequences of your Christmas party can become complex because of the different ways FBT can impact on different types of costs and situations.

Whether you're likely to have an FBT problem depends on:

- where and when you have your party;
- who comes; and
- how much it costs.

We can't cover all the possibilities, but here are some outcomes for you to consider.

Celebrating on site

If you hold your party on a work day at your business premises and only your employees attend, costs such as food and drink are FBT exempt, regardless of what the cost is per head for each employee.

However, if you also invite your employees' associates (e.g., family) and perhaps some clients then it gets a bit more complicated.

- what you spend on entertaining your employees' associates are taxable fringe benefits and you'll need to work out whether you have an FBT liability.
- what you spend on your clients may be exempt from FBT altogether.

TIP

Food and drink provided to your clients is likely to be exempt from FBT whether it's at a social or business function on your business premises or away from it.

Celebrating offsite or not on a work day

If your party isn't held on a work day or on your business premises (e.g., you head off to the local restaurant), the FBT alarm bells can really start to ring loud and clear.

However, there is good news. If you can contain your costs by keeping them under \$300 per head – you may qualify for the FBT *minor benefit exemption* and may end up with no FBT liability for your party.

Calculating whether you come in below the minor benefit threshold can be tricky. The cost per head for each employee not only includes the cost of food and drink but also other items like:

- the cost of transport to venues or taxis home;
- the cost of any gifts you hand out at the party (e.g., Christmas hampers); and
- if your employees' associates come along, the cost per head for each employee includes the cost of their associates.

A happy gift giving experience

Give some careful thought to how you give gifts to your employees at Christmas time:

- it's best to avoid handing out gifts at the office party if you are relying on the minor benefit exemption because the cost of the gift for an employee will directly affect how you calculate his or her cost per head;

- if you don't hand out gifts at the party but at some other time, it's possible that you may still be able to rely on the minor benefit exemption at that time if the value of each gift is less than \$300; and
- as an alternative, if the gifts you give are products that you would normally sell to members of the public, there is another exemption of \$1,000 per annum for each employee that may apply (called an 'in-house benefit').

A WORD TO THE WISE

In many instances entertainment expenses are not tax deductible. In addition, GST input tax credits may not be claimable on your Business Activity Statement. These rules are quite complicated, so if you have any concerns it is best to speak to us for advice on your particular circumstances.

(5) SUPERANNUATION GUARANTEE

All employers would be aware of the requirement to pay a minimum 9% superannuation contribution to the "ordinary" earnings of their employees. This amount is required to be paid no later than 28 days after the end of the quarter in which the obligation has arisen.

The legislation covering superannuation guarantee requirements is very inflexible and until recently did not make any provision or concessions for late payment. If payment is not made on time, the "superannuation guarantee charge" is payable. This is a non-tax deductible payment required to be made to the ATO, comprising the amount of superannuation that should have been paid plus an administration charge and an interest charge for the late payment. The ATO will then pay the superannuation component to the fund of which the employee is a member. However, the employer will have missed out on a tax deduction for this payment.

The inflexibility of the legislation has been highlighted by a number of cases over the past year or so. In one case, superannuation contributions for employees were paid 3 days late. As a consequence of the late payment an SGC assessment was raised for \$27,736 of unpaid superannuation, plus interest and administration charges totalling \$8,468. The taxpayer submitted to the Administrative Appeals Tribunal that this was harsh and unreasonable, given that the amount due had actually been paid, albeit 3 days late. However, the AAT confirmed that the Tax Office did not have the discretion to remit the SGC.

The Act was amended recently to enable employers to use late contributions to offset part of any SG shortfall for the relevant quarter in certain instances. However, by paying superannuation contributions late, you run the risk of missing out on a tax deduction for legitimately incurred business expenses, plus exposure to unnecessary additional penalties payable to the ATO.

Therefore, you should ensure that all SG obligations are met on time in order to avoid such problems arising. You should also ensure that SG obligations are met each quarter for family members employed in the business, especially where traditionally most of the superannuation planning has been left to the year end.

Please speak to us if you have any concerns in this area.



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