CLIENT ALERT

JUNE 2012

Private health insurance and Medicare levy surcharge changes

From 1 July 2012, the private health insurance rebate and the Medicare levy surcharge will be income tested against three new income tier thresholds.

Higher income earners will receive less private health insurance rebate or, if they do not have the appropriate level of private patient hospital cover, the Medicare levy surcharge may increase.

The ATO will determine the amount of a taxpayer's private health insurance rebate entitlement when they lodge their income tax return.

The new income tier thresholds
The private health insurance rebate and Medicare levy surcharge will be income tested against the income tier thresholds set out below:

Tier 1: The rebate will be reduced to 20% for singles whose income for surcharge purposes is between $84,001 and $97,000 (inclusive) and for couples/families whose income for surcharge purposes is between $168,001 and $194,000 (inclusive) that hold a complying policy. The Medicare levy surcharge will remain at 1% for persons who fall within Tier 1 and do not hold appropriate private health insurance.

Tier 2: The rebate will be reduced to 10% for singles whose income for surcharge purposes is between $97,001 and $130,000 (inclusive) and for couples/families with income for surcharge purposes between $194,001 and $260,000 inclusive that hold a complying policy. Also, the Medicare levy surcharge will be increased to 1.25%.

Tier 3: Singles with income for surcharge purposes of $130,001 or more and couples/families with income for surcharge purposes of $260,001 or more that hold a complying policy will no longer receive the rebate after 1 July 2012. Also, the Medicare levy surcharge for them will increase to 1.5% from 1 July 2012.

For families with more than one dependent child, the relevant threshold increases by $1,500 per child.

The moral of this story is that if you expect to exceed the tiered thresholds from 1st July, 2012 you should prepay your annual premium by 30th June, 2012.

Editor: Note that the rebate may be higher for taxpayers aged 65 or over.

New personal tax rates 2012/13

From 1 July 2012, personal tax rates are to be adjusted by:

- raising the tax-free threshold from $6,000 to $18,200;
- lifting the first two marginal tax rates from 15% to 19% and from 30% to 32.5%; and
- reducing the low-income tax offset from $1,500 to $445.

Tax rates for 2012/13

2012/13	
Taxable income	**Tax Payable**
0 – $18,200	Nil
$18,201 – $37,000	19% of excess over $18,200
$37,001 – $80,000	$3,572 + 32.5% of excess over $37,000
$80,001 – $180,000	$17,547 + 37% of excess over $80,000
$180,001 and over	$54,547 + 45% of excess over $180,000

Super contribution not in on time costs a taxpayer dearly

A recent tax case involved a superannuation contribution of $7,215 mailed by the taxpayer's employer on 28 June 2007 but which was not recorded as income by the fund until 5 July 2007.

Unfortunately, the taxpayer ignored the amount as a contribution for the 2007/08 year, and contributed another $50,000 to the fund – exceeding the super cap by more than $7,000.

The ATO issued an Excess Contributions Assessment – on the contributions above the $50,000 cap.

The Tribunal held that there were no special circumstances which would allow the Commissioner or the Tribunal to allocate the amount to another year.

The taxpayer simply got it wrong and "ignorance of that kind is not a special circumstance".

Taxpayer's early access to super costs dearly

Editor: A 32 year old taxpayer who was experiencing financial difficulties and, on the advice of friends, arranged to gain early access to $18,000 from his super fund, has had to pay tax on the entire amount (even though he didn't receive all of it) and also pay penalties.

The taxpayer arranged for the transfer of $18,000 of his superannuation benefits into the Western Eagle Superannuation Fund (the 'Fund').

An amount of $12,225 was then paid by cheque drawn on the Fund's bank account to the taxpayer in the 2007/08 income year (with the remainder supposedly representing 'tax' payable).

However, he was surprised when he was subsequently advised by the ATO that no tax had been paid on the amounts he had withdrawn.

The Fund was not even a "superannuation fund" but was merely a vehicle for opening bank accounts to allow the deposit of superannuation benefits into the accounts and for the payment out of those accounts to the taxpayer (and others).

The taxpayer's superannuation benefit was paid to and received by him in contravention of the superannuation law, and therefore the amount of $18,000 *received* by him during the 2007/08 tax year was "properly assessable income".

In addition, given the taxpayer was willing to be part of an arrangement (which turned out to be part of a fraudulent enterprise) to obtain early release of his superannuation benefits, and he asked no questions about the Fund and its background or about the documentation relating to its establishment, the decision to impose 25% penalty was upheld.

Cents per km car rates for 2011/12

Taxpayers whose income producing use of a car does not exceed 5,000 kms per year can deduct car expenses on a per km basis. The rates for 2011/12 are unchanged from the 2010/11 year and are as follows:

Kind of car	Engine capacity		Rate per km (cents)
	Not rotary	Rotary	
Small	Up to 1,600cc	Up to 800	63
Medium	1,601cc to 2,600cc	801cc to 1,300cc	74
Large	>2,600	>1,300	75

FBT: Benchmark interest rate

The benchmark interest rate for the FBT year commencing 1 April 2012 is 7.40% p.a. This rate replaces the rate of 7.80% that applied for the previous FBT year.

The rate of 7.40% is used to calculate the taxable value of:

- a fringe benefit provided by way of a loan; and
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

FBT: Cents per kilometre basis

The rates to be applied where the cents per kilometre basis is used in respect of the private use of a vehicle (other than a car) for the 2012/13 FBT year commencing 1 April 2012 are:

Engine capacity	**Rate per kilometre**
0 – 2,500cc	48 cents
Over 2,500cc	57 cents
Motorcycles	14 cents

Budget 2012

Following are the main tax measures announced in last month's Federal Budget.

Measures previously announced but not going ahead or being deferred

Some of the biggest tax news from the latest Budget involved the Government deciding not to proceed with (or deferring) previously announced initiatives, including the following:

- The Government will not proceed with the measure to **lower the company tax rate** from the 2013/14 year, nor implement an early start to the company tax rate cut for small businesses from the 2012/13 year;
- The Government will not proceed with the measure to introduce a **50% discount for interest income**, which was due to commence on 1 July 2013;
- The Government will not proceed with the measure to introduce a **standard deduction** for work related expenses and the cost of managing tax affairs, which was due to start on 1 July 2013; and
- The Government will **defer** the start date of the measure to increase, by $25,000, the concessional contributions cap for individuals over age 50 with superannuation balances below $500,000 from 1 July 2012 to 1 July 2014.

Editor: This two-year deferral means that, for 2012/13 and 2013/14, the concessional contributions cap will be $25,000 per year for all individuals, regardless of their age.

Phasing out the Mature Age Worker tax offset

From 1 July 2012, the Government will phase out the mature age worker tax offset ('MAWTO') for taxpayers born on or after 1 July 1957. Access to the MAWTO will be maintained for taxpayers who are aged 55 years or older in the 2011/12 year.

Instead, the Government will provide a Jobs Bonus of $1,000 to 10,000 employers who recruit and retain a worker aged 50 years or over for over three months.

Consolidating the dependency offsets into a single tax offset

From 1 July 2012, eight existing dependency tax offsets will be consolidated into a single, streamlined and non-refundable offset that is only available to taxpayers who maintain a dependant who is genuinely unable to work due to disability or carer obligations.

Converting the Education Tax Refund into a new 'Schoolkids Bonus'

From the 2012/13 year, the Government will transform the Education Tax Refund into a 'Schoolkids Bonus' that will automatically be paid to eligible families through the family payments system. Eligible families will receive the new Schoolkids Bonus of $410 for each child in primary school and $820 for each child in high school.

The bonus will be paid in two equal instalments in January and July each year, starting from January 2013 and, as a transitional measure, the full Education Tax Refund for the 2011/12 year will generally be paid to eligible taxpayers in June 2012.

Changes to the Net Medical Expenses tax offset

The Government will introduce a means test for the net medical expenses tax offset ('NMETO') from 1 July 2012. For taxpayers with adjusted taxable income above the Medicare levy surcharge thresholds (i.e., $84,000 for singles and $168,000 for couples or families in 2012/13):

- the threshold above which a taxpayer may claim the NMETO will be increased to $5,000 (currently $2,000); and
- the rate of the tax offset will be reduced to 10% (currently 20%) for eligible out of pocket expenses incurred.

Non-residents – changes to income tax rates and removal of the 50% CGT discount

The Government will adjust and simplify the personal income tax rates and thresholds that apply to the Australian sourced income of non-residents, and will remove the eligibility for the 50% discount on capital gains accrued by non-residents on taxable Australian property (such as real estate), after 7.30pm (AEST) on 8 May 2012.

However, non-residents will still be entitled to the CGT discount on capital gains accrued before this time, provided they choose to obtain a market valuation of assets as at 8 May 2012.

Better targeting of the ETP tax offset – crackdown on golden handshakes

The Government will apply a 'whole of income' cap to tax concessions provided to the recipients of certain employment termination payments ('ETPs') so that, from 1 July 2012, only that part of an affected ETP (e.g., a 'golden handshake') that takes a person's total annual taxable income (including the ETP) to no more than $180,000 will receive the ETP tax concession.

Existing arrangements will be retained for certain ETPs relating to genuine redundancy, invalidity, compensation due to an employment related dispute and death.

Reduction of tax concession for super contributions by high income earners

From 1 July 2012, individuals with 'income' greater than $300,000 will have their concessional contributions taxed at 30% and not at 15% (the definition of 'income' for the purposes of this measure basically includes the concessional contributions as well).

However, the 30% rate will not apply to concessional contributions which are subject to 'excess contributions tax' (as these contributions are effectively taxed at the top marginal tax rate).

Company loss 'carry-back' tax relief

The Government will provide tax relief for companies (and entities taxed like companies) by allowing them to 'carry-back' revenue tax losses so they receive a refund against tax previously paid, with 2012/13 being the first year that companies will be able to carry-back up to $1 million of revenue tax losses.

The measure will be subject to integrity rules, and limited to a company's franking account balance.

Trustee resolutions must be made no later than 30 June

Editor: The ATO has provided some important information for trustees of trusts that they need to know when distributing income to beneficiaries of the trust (e.g., most, if not all, discretionary trusts).

From the 2011/12 income tax year, all trustees who make beneficiaries entitled to trust income by way of a distribution must do so by the end of the income year (i.e., usually 30 June, although the trustee must also comply with any additional requirements in the trust deed).

Why has the date for making distributions changed this year?

The ATO previously had a limited administrative practice in place, which provided an extension to certain trustees to make distributions after 30 June, but the relevant ruling allowing this was withdrawn in September 2011.

Note: In some circumstances, it may be possible for the trustee to resolve to distribute the trust income on or before 30 June, but record that resolution in writing after 30 June. It is important that all clients with trusts are aware of the ATO's changes in this area, and to contact us if they have any concerns.

FBT car parking threshold

The car parking threshold for the FBT year commencing on 1 April 2012 is $7.83 (up from the amount of $7.71 that applied in the previous FBT year).