CLIENT ALERT

JUNE 2015

## ATO's audit targets

*Editor: The ATO has set up a new page on its website called "Building confidence", which talks about its current compliance activities, and the amounts of tax and penalties it has collected in 2014 from its various initiatives.*

Some of the areas that the ATO has stated it will be focusing on are:

- Work-related expenses:
  - motor vehicle expenses for travelling between home and work;
  - overnight travel; and
  - the work-related proportion of use for computers, phones and other electronic devices.
- Rental property expenses:
  - excessive deductions being claimed for holiday homes (deductions should be limited to the amount of income earned, or to the number of days actually rented out at a commercial rate);
  - husbands and wives inappropriately splitting rental income and deductions for jointly owned properties; and
  - interest deductions being claimed for the private proportion of loans.
- Cash economy:
  - the building and construction industry; and
  - the restaurant, café and takeaway industry.
- Contractors – employers misusing contracting arrangements with the intention of avoiding employment overheads.

## Eligibility for net medical expenses tax offset

The ATO has reminded taxpayers that the net medical expenses tax offset (NMETO) is being phased out.

To be eligible for the NMETO for 2014/15, a taxpayer must have received an amount of the tax offset in **both** of their 2012/13 and 2013/14 income tax assessments.

If a taxpayer's 2012/13 notice of assessment shows an amount of zero for NMETO, they wouldn't have received this offset in that year and so are not eligible to make a claim in 2013/14 or 2014/15.

However, the eligibility rule for the NMETO does not apply to clients with out-of-pocket medical expenses relating to disability aids, attendant care and aged care (these expenses can continue to be claimed until 30 June 2019).

## Employers and SMSFs must prepare for SuperStream

With the 30 June 2015 deadline fast approaching for ***medium to large employers*** to be SuperStream compliant, the ATO is urging these employers to act now to ensure they are SuperStream ready.

*Editor: For **'small employers'** with 19 or fewer employees, SuperStream starts from 1 July 2015 and they have until 30 June 2016 to be ready (though they can start using SuperStream earlier, if possible).*

The ATO has also reminded employees of these taxpayers who are members of a ***self-managed super fund*** (SMSF), that they have the ***same deadline***.

For SuperStream to work efficiently, employees with SMSFs must provide relevant e-commerce details to their employer so they can update their payroll system.

This information includes the SMSF's:

- Australian Business Number (ABN);
- bank account details; and
- electronic service address.

*Editor: By 30 June 2015, SMSFs must be able to receive employer contributions electronically in the SuperStream format if their members work for a medium or large employer.*

In the event that an SMSF member fails to provide this information to their employer in time for the employer to get ready, the employer may request that the employee completes a ***new choice form***.

Therefore, the ATO recommends that SMSFs provide these details to their employer at least 30 days prior to the date the employer will start sending contributions using SuperStream, to allow enough time for the employer to manage the changes and ensure the SMSF has no interruption in maintaining their contributions flow.

*Editor: If you need any assistance with this, including the requirement to obtain an electronic service address, please contact our office.*

## FBT: Benchmark interest rate

The benchmark interest rate for the 2015/16 FBT year is 5.65% p.a. (replacing the rate of 5.95% that applied for the 2014/15 FBT year).

The rate of 5.65% is used to calculate the taxable value of:

- a loan fringe benefit; 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 for the 2015/16 FBT year in respect of the private use of a vehicle (other than a car) are:

| Engine capacity | Rate per kilometre |
|---|---|
| 0 – 2,500cc | 51 cents |
| Over 2,500cc | 61 cents |
| Motorcycles | 15 cents |

## ATO warns about aggressive phone scams

The ATO is again warning the public to be aware of a phone scam that is circulating, where fraudsters are intimidating people into paying a fake tax debt over the phone.

The aggressive scam attempts to force people to pay a fake tax debt immediately by threatening arrest if they don't comply.

*Editor: If any client receives a call from the ATO we recommend that they should ask for the caller's name and either call our office with the details or phone them back through the ATO's switchboard on 13 28 69.*

## Holiday homes that taxpayers rent out

*Editor: The ATO has updated its information guide on claiming deductions on holiday homes. This may have something to do with its stated intention to increase its audit focus on holiday homes that are rented out.*

*Clients with such holiday homes may want to take notice of the following.*

**Claiming deductions on holiday homes**

The principles that apply to a rental property also apply to a holiday home if it is rented out.

If a taxpayer rents out their holiday home, they can claim expenses for the property based on the proportion of the income year it was rented out or was genuinely available for rent.

They must apportion their expenses if the property is used:

- for private purposes for part of the year – such as when they use it themselves, or allow their family, relatives or friends to use it free of charge; and
- by family or friends for part of the year and they are charged *less than* market rent.

If their holiday home is rented out to family, relatives or friends below market rates, their deductions are limited to the amount of rent received for that period.

**Tax Tip: Keeping records for CGT purposes**

*Editor: Clients who own holiday houses should be aware that they need to keep records of their expenses.*

*If they make a capital gain when they sell the property, the proportion of expenses (interest, insurance, maintenance costs and council rates) they could not claim a deduction for are taken into account in reducing the amount of their capital gain.*

## Early access to super for people with terminal illness

The Assistant Treasurer has announced that, from 1 July 2015, the government will amend the provision for accessing superannuation for people suffering a terminal illness.

Under the current provision for early access to super, a person with a terminal illness is required to obtain a certification from medical specialists that they have less than 12 months to live.

The relevant regulations will be amended to change the life expectancy period from 12 months to 24 months.

## Consider buying house in spouses name if used partly for business

Where an individual is using part of their home as a place of business, this will affect the application of the CGT main residence exemption when the home is eventually sold.

That is, the main residence exemption is effectively reduced (i.e., only a partial exemption applies).

However, if that taxpayer does not have an ownership interest in the dwelling (e.g., the dwelling is solely owned by the taxpayer's spouse), the CGT main residence exemption is not reduced.

This is because the spouse would not have been able to claim a deduction for interest incurred on any borrowings to buy their interest in the house (as they do not use the dwelling for income-producing purposes, the taxpayer does).

Therefore, where a taxpayer uses (or plans to use) part of their home as a sole base of operations (or as a place of business), the dwelling could still retain the full main residence exemption when it is sold if it is owned solely in the name of the taxpayer's spouse (or even some other family member, where appropriate).

However, in these circumstances, interest expenses incurred on moneys borrowed by the spouse (or other family member) to acquire the property (or an ownership interest in it) are basically not deductible, because the spouse (or other family member) is not using the property themselves for income-earning purposes.

## FBT: Car parking threshold

The car parking threshold for the FBT year commencing on 1 April 2015 is $8.37. This replaces the amount of $8.26 that applied in the previous year commencing 1 April 2014.

## Luxury car tax threshold

The luxury car tax threshold for the 2015/16 financial year is $63,184. The fuel-efficient car limit for the 2015/16 financial year is $75,375.