



News Bulletin



Accountants &
Business Advisors

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TAX DEVELOPMENTS UPDATE



How the ATO identifies audit targets

The ATO every year publish small business benchmarks that outline what a typical business 'looks like' in different industries. If your business falls outside of those benchmarks, the ATO is likely to take a closer look at why that is.

Falling outside of the benchmarks might not indicate a tax related problem. It might mean that your business has a different business model to the norm or is performing poorly relative to others in the industry.

If your business does fall outside of the benchmark however, it is important to ensure that the reasons why can be clearly articulated (preferably documented) and the reason for those differences is not tax evasion. If there is no proof as to why the business is outside of the benchmarks, the ATO is likely to simply apply the benchmark ratio and issue a revised tax assessment.

The ATO look at:

- cost of sales to turnover (excluding labour)
- total expenses to turnover
- rent to turnover
- labour to turnover
- motor vehicle expenses to turnover
- non-capital purchases to total sales, and
- GST-free sales to total sales.

The benchmarks are also a useful tool for anyone wanting to understand what is typical in their industry and how they perform against the average.

National audit office flags potential in-depth review of JobKeeper

The Australian National Audit Office (ANAO) has flagged that it would assess the effectiveness of the ATO's administration of the JobKeeper scheme.

The audit would include examination of the implementation of integrity measures designed to protect the scheme against fraud and other abuse.

To date, the ATO has clawed back over \$120 million in JobKeeper payments and currently has 19 active criminal investigations into fraud against the \$101 billion JobKeeper scheme. It has also issued fines to a number of applicants to the wage subsidy program who have made false or misleading statements.

The ATO reports that its fraud hotline has received over 10,000 tip-offs alleging JobKeeper rorts.

IMPORTANT CHANGES TO VACANT LAND INCOME TAX DEDUCTIONS

Clients should be aware that The House of Representatives passed a vital Taxation Amendments Bill which is effective from 1 July, 2019 and which substantially change the taxation of vacant land.

Prior to the changes, a taxpayer holding vacant land for the purpose of gaining or producing assessable income could claim a deduction for expenses like rates and interest on the land.

Where the land produced no income, the deductions remained claimable where the intention of the taxpayer was to produce assessable income at a future point in time.

Following the change, taxpayers will no longer be able to make deductions for the cost of holding vacant land except if the vacant land is:

- Used or made available for use by the taxpayer for carrying on a business. or
- Used or made available for use by the taxpayer's affiliate, spouse or child or an entity affiliated either with or to the taxpayer in running a business.

Examples of holding costs include, borrowing costs, including interest payment on the loan used in acquiring land, land taxes, council rates etc.

Significantly, Corporate tax entities (i.e. companies) are excluded from the changes.

For the purposes of this amendment, vacant land is a land with no substantial and permanent building or structure either in use or available for use.

Prior to the proposed changes, a taxpayer holding vacant land for the purpose of gaining or producing assessable income could claim a deduction for expenses like rates and interest on the land.

Where the land produced no income, the deductions remained claimable where the intention of the taxpayer was to produce assessable income at a future point in time.

Due to the significant nature of the above change, clients should consider carefully the structure that they adopt in conducting future property developments.

Whereas a trust structure may have been appropriate in the past for property developments falling under the “vacant land” provisions, a company structure (which is exempted from the changes) may be the more tax effective structure going forward.

GOVERNMENT JOB INCENTIVES

With the phasing out of JobKeeper, the shift now is to create jobs, not just keeping them. The following are some of the government incentives for employers to grow employment and skills:

JobMaker

A 12 month “hiring credit” available for jobs created from 7 October 2020 until 6 October 2021 that provides a payment to employers of:-

- \$200 per week for eligible new employees aged between 16 and 29, and
- \$100 per week for eligible employees aged between 30 to 35 years.

Eligibility restrictions apply to the business and the employee.

To be eligible, the employee will need to have worked for a minimum of 20 hours per week, averaged over a quarter, and received the JobSeeker Payment, Youth Allowance (Other) or Parenting Payment for at least one month out of the three months prior to when they are hired.

Employers must also meet a number of eligibility conditions, including being registered for pay-as-you-go (PAYG) withholding, holding an Australian business number (ABN), being up to date with their tax lodgement obligations, and be reporting through Single Touch Payroll (STP).

Entities exempt from STP reporting will need to meet additional requirements and provide these details by contacting the ATO by phone.

The hiring credit is paid every three months in arrears, with claims for the first quarterly payment to open on 1 February 2021.

Apprenticeship subsidies

Subsidies of 50% of an apprentice’s wage (up to \$7,000) are available for new and existing apprentices to keep them employed.

The schemes apply to the wages of new apprentices from 5 October 2020 and 30 September 2021, and existing apprentices from 1 January 2020 to 31 March 2021. Eligibility requirements apply to the business and the apprentice.

It should be noted that Federal Government incentives generally do not overlap. That is, a business cannot receive incentives for JobKeeper and JobMaker, or JobMaker and an apprenticeship subsidy.

State based incentives

To further encourage employers to employ more workers, the Victorian government recently announced a New Jobs Tax Credit for SMEs of ten cents for every dollar of increased taxable Victorian wages.

For further information and assistance, please contact your Kaias Phillips Team member on 03 9489 5888.

TAXATION OF PROPERTY DEVELOPMENTS

The ATO seems to be always looking over the shoulder of property developers to make sure they are complying with their tax obligations.

The considerations facing the ATO are many and varied, but can include topics such as whether an agreement to develop and sell land is a “mere realisation” or a disposal either in the course of a business or as part of a profit making undertaking or plan.

A “mere realisation” is a sale on capital account to which the capital gains tax (CGT) rules will generally apply. Landholders will usually seek this treatment if they can access CGT concessions (for example, applying the appropriate CGT discount or the small business CGT concessions) or the property is a pre-CGT asset.

A sale that is more than a mere realisation will be on revenue account and the proceeds will generally be assessable as ordinary income. The two most common scenarios where the proceeds are income are:

1. where the land is sold in the course of a business or as an incident of business operations, or
2. where the land has been acquired and sold as part of a profit-making undertaking or scheme.

Whether a sale is a mere realisation or something more is determined by examining and weighing the facts and circumstances taken as a whole.

TAXATION OF CHRISTMAS BENEFITS



With another Christmas fast approaching, it is once again an opportune time to consider the FBT, GST and income tax implications associated with the Christmas functions and gifts that businesses may provide to staff and clients at this time of the year.

Christmas Parties And Fbt

Generally, the cost of providing a Christmas party is tax deductible only to the extent that it is subject to FBT.

Therefore, any costs that are exempt from FBT cannot be claimed as an income tax deduction.

Exempt Benefits include: -

- Exempt Minor Benefits – benefits provided to an employee or their associate (e.g. spouse) on an “infrequent” or “irregular” basis, and is not a reward for services, and the cost is less than \$300 “per benefit” inclusive of GST.
- Exempt Property Benefits - costs (such as food and drink) associated with Christmas parties are exempt from FBT provided they are incurred on a working day, on your business premises and any food and drink is consumed by current employees. A taxable fringe benefit will arise in respect of an associate of an employee who attends the party, if not otherwise exempt under the minor benefits exemption.

Christmas party expenses such as food and drink (including alcohol), held on the business premises on a working day, are exempt from FBT as follows:-

- For employees – full exemption as exempt property benefits no tax deduction or GST credit can be claimed.
- For Employee’s spouse – if less than \$300 (minor benefit exemption)

Christmas parties held off the business premises are only exempt from FBT where the cost for the employee and their associate is each less than \$300 inclusive of GST but no tax deduction or GST credit can be claimed. The cost of clients attending the party is not subject to FBT, and no tax

deduction or GST credit can be claimed on their portion of the cost.

Gifts

Non-entertainment gifts - Non-entertainment gifts provided to employees are usually exempt from FBT where the total value is less than \$300 inclusive of GST. A tax deduction and GST credit can also be claimed.

The costs associated with providing Christmas gifts (eg hampers, gift cards etc) to customers will not give rise to any FBT liability, are tax deductible and GST credits can be claimed.

Entertainment gifts - Where the cost of entertainment gifts (eg theatre tickets, tickets to a sporting event etc) for the employee and their associate is each less than \$300 GST inclusive, FBT is not payable, and no tax deduction or GST credit can be claimed. If the cost of entertainment gifts is more than \$300, a tax deduction and GST can be claimed, but FBT is payable.

The cost of any entertainment gifts provided to **clients** is not subject to FBT, and no tax deduction or GST credit can be claimed.

SEASONS GREETINGS!

What a year it’s been! Hoping that an effective COVID-19 vaccine will return us to the days of normality.

We would like to take this opportunity to thank you for allowing us to be of service to you and wish all of our clients all the very best for the festive season and for a happy and prosperous New Year.



Thank you for your support over the past year, and we look forward to working with you again next year.

Please note that our Offices will be closed for the festive season from Thursday the 24th December, and will re-open on Monday, 18th January.

Disclaimer:-

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