News Bulletin

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Accountants &
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TAX DEVELOPMENTS UPDATE

ATO Crackdown on GST Fraud

A raft of enforcement activity has been undertaken across the country by the ATO-led Serious Financial Crime Taskforce in relation to GST fraud.

As at 31 December 2022, the ATO has taken compliance action on more than 53,000 taxpayers and stopped approximately $ 2.5 billion in fraudulent GST refunds from being paid to individuals seeking to defraud the system.

Two individuals have been sentenced to jail time for their crimes so far, following their arrest in 2022. This follows 87 earlier arrests across the country, with many more to come. The ATO has commenced writing to individuals involved in the fraud, warning them of the serious consequences coming their way unless they come forward and repay the money they have defrauded.

The ATO's Final Position on S.100A "Risky" Trust Distributions

The ATO has released its final position on how it will apply some integrity rules dealing with trust distributions - changing the goal posts for trusts distributing to adult children, corporate beneficiaries, and entities with losses. As a result, many family groups will pay higher taxes because of the ATO's more aggressive approach.

Section 100A

The tax legislation contains an integrity rule, section 100A, which is aimed at situations where income of a trust is appointed in favour of a beneficiary, but the economic benefit of the distribution is provided to another individual or entity.

For section 100A to apply, there needs to be a 'reimbursement agreement' in place at or before the time the income is appointed to the beneficiary.

If trust distributions are caught by section 100A, this generally results in the trustee being taxed on the income at penalty rates rather than the beneficiary being taxed at their own marginal tax rates.

While section 100A has been around since 1979, until recently there has been relatively little guidance on how the ATO approaches section 100A. This is no longer the case and the ATO's recent guidance indicates that a number of scenarios involving trust distributions could be at risk.

For section 100A to apply:

- The present entitlement (a person or an entity is or becomes entitled to income from the trust) must relate to a reimbursement agreement;
- The agreement must provide for a benefit to be provided to a person other than the beneficiary who is presently entitled to the trust income; and
- A purpose of one or more of the parties to the agreement must be that a person would be liable to pay less income tax for a year of income.

High risk areas

Until recently many people have relied on the exclusions to section 100A which prevent the rules applying when the distribution is to a beneficiary

ATO Penalty Warning on Overdue Taxable Payments Annual Report (TPAR)

If you made payments to contractors, you may need to **report** these payments in a TPAR. which must be lodged by 28 August each year.

From 22 March 2023, the ATO will apply failure to lodge penalties to those who:

- did not lodge their 2022 or prior year TPAR
- have been sent three non-lodgement letters about their overdue TPAR.

If you have any overdue TPARs, you should lodge them now. Please contact our office if you need assistance.

who is under a legal disability (e.g., a minor) or where the arrangement is part of an ordinary family or commercial dealing (the 'ordinary dealing' exception). It is the ordinary dealing exception that is currently in the spotlight.

For example, let's assume that a university student who is over 18 and has no other sources of income is made presently entitled to $100,000 of trust income. The student agrees to pay the funds (less tax they need to pay to the ATO) to their parents to reimburse them for costs that were incurred when the student was a minor. This situation is likely to be considered high risk if the student is on a lower marginal tax rate than the parents because the parents are receiving the real benefit of the income.

The ATO is also concerned with scenarios involving circular distributions. For example, this could occur when a trust distributes income to a company that is owned by the trust. The company then pays dividends back to the trust, which distributes some or all of the dividends back to the company, and so on. The ATO views these arrangements as high risk from a section 100A perspective.

NEW FBT EXEMPTION FOR ELECTRIC VEHICLES

One of the most popular fringe benefits to help attract, retain and motivate the right employees is a company car, either under a salary sacrifice arrangement, or through the personal use of a company car

Traditionally, those benefits have been taxed as Fringe Benefits – *but under this new legislation, that tax won't apply to electric cars*.

What cars fit within the Act's exemption?

The FBT exemption is restricted to 'Zero or Low Emission Vehicles' (**ZLEV**s) (including battery electric, hydrogen fuel cell and plug-in hybrid cars) that:

- are first held and used on or after 1 July 2022; and
- where the first retail sale of the car is below the luxury car tax threshold for fuel efficient cars ($84,916 in 2022-23).

Other Conditions

In order for the FBT exemption to be available, the following conditions relating to the vehicle that need to be satisfied.

- The vehicle needs to be classified as a car, which is defined as a motor vehicle (except a motorcycle or similar vehicle) designed to carry a load of less than 1 tonne and fewer than 9 passengers.
- It needs to be classified as a zero or low emissions vehicle, limited to the following:
  - Battery electric vehicles;
  - Hydrogen fuel cell electric vehicles; and
  - Plug-in hybrid electric vehicles.

It should be noted that a hybrid car that has an internal combustion engine will not meet requirements unless it is able to be fuelled by a battery that can be recharged by an off-vehicle power source.

Plug-in hybrid electric vehicles - exemption ends 31 March 2025.

From 1 April 2025, a plug-in hybrid electric vehicle will not be considered a zero or low emissions vehicle under FBT law. However, the exemption will continue to apply if the use of the vehicle was exempt before that date, and there is a financially binding commitment to continue providing private use of the vehicle from that date.

INSTANT ASSET & TEMPORARY FULL EXPENSING WRITE-OFF TO END

With the Instant Asset Write-Off (IAW) ending on 30th June, 2023, small business will need to act quickly to beat the cut-off date for the instant asset write-off scheme.

The instant asset write-off for small business has been part of the landscape since 2015, and during the pandemic, the government introduced Temporary Full Expensing (TFE) as part of its support package for all businesses regardless of size.

Now both these popular initiatives, which encouraged owners to invest in their businesses, are coming to an end.

In order to qualify for the (IAW) & TFE Write-offs, assets purchased must either be in use or installed and ready for use by 30 June 2023 in order to qualify.

ATO Update on claiming expenses for Working From Home (WFH)

In its new WFH guidance, the ATO has reduced the rate for calculating working from home expenses to 67 cents per hour, covering energy expenses, internet, mobile and home phone usage, and stationery and computer consumables costs.

Importantly, the guidance further states that from 1 March 2023 taxpayers claiming working from home expenses must keep timesheets, rosters or a daily diary to log actual hours worked from home . In addition, bills and receipts must be kept for all claimed expenses.

From 1 July, 2023, the TFE lapses and the instant write off is currently legislated to be available only for assets costing up to $1,000.

Importantly, it will only be available to small businesses (ie, those with a turnover of less than $10 million). For businesses with a turnover above $10 million, the threshold will be $100.

This means that businesses to take advantage of the tax breaks, they must act quickly.

Of course, claiming an immediate deduction for purchases of capital assets may not always in the best interests of a business, for example, if a business is already running at a loss (or the deduction for capital assets would cause a loss), the business may struggle to make use of that loss.

5 "FAB 5" HEALTHY METRICS FOR A BUSINESS

In any business, measuring what you do is essential to understanding whether you are making progress and improving your bottom line.

By tracking the right metrics, you can manage your growth and make sure that each step you take leads in the right direction.

The first metric that you should be tracking is your revenue. This seems obvious, but it is important to track both your overall revenue against last year's revenue and against your budget.

A second metric to track is the Gross Profit, which should be sufficient to cover your expenses and leave you a reasonable profit.

The third metric is lock-up days because without cashflow, your business will be in trouble. Lock-up days are Debtors and WIP which should be monitored very closely to ensure that they do not exceed the target number of days.

The fourth metric should be the number of new customers that you are bringing on each month less the number of customers lost. Naturally, the Net figure should be increasing.

The fifth and final metric is how happy your customers are and how happy your staff are. These are done by surveys such as Net Promotor Scores survey (NPS) A NPS survey consists of a single question that measures the likelihood of your customers referring your business to their others. It is an indicator of customer experience, customer satisfaction, and brand loyalty.

An NPS of 9 or 10 out of 10 will mean your customers will go out of their way to refer you to new clients. An NPS of 7 or 8 will mean they are happy, but they will not go out of their way to refer you to a friend. An NPS of 4 or 5 means they will leave as soon as someone approaches them and finally an NPS score of below 3 means they will go out of their way to badmouth your business.

These 5 KPIs are referred to as the Fab 5 and if all are trending upwards, you know you have a healthy business.

END OF FINANCIAL YEAR TAX PLANNING

As the end of the financial year approaches, businesses should start their tax planning. Too often people undertake tax planning just before the financial year is about to finish or even after it has finished. This is often akin to closing the tax door after the horse has already bolted.

Tax planning is ideally done throughout the year, and certainly some time before the financial year ends.

Year-end tax planning typically involves preparation of interim profit figures for the business, to say 31st March, carrying out a review of the interim results and extrapolating the result for the full year.

From here, the taxation position and marginal tax rates for the business and/or the business owners can be established.

This process is important because, knowing your potential tax position prior to 30th June means that you can do something about reducing it or ensure that you have a plan to enable the tax to be paid when it is due, without any unpleasant surprises.

Once year end passes, there is very little you can do to have an impact on your tax position.

Clients who wish our assistance to undertake end of year tax planning are encouraged to contact us as soon as practicable.

Super Guarantee Rate to increase from 1 July 2023

In 2021, the Australian Government announced via the Federal Budget that the Superannuation Guarantee rate would increase incrementally by .05% until 12% was reached in 2025. .

From July 1 the latest increase to the superannuation guarantee kicks in which will lift the existing rate from 10.5% up to 11% for the 2023/24 financial year.

The limit at which super guarantee is compulsory will also be increased $62,270 per quarter.