

# CLIENT ALERT

July 2008

## Tax News, Views and Clues

### 2008-09 Federal Budget Follow-up

#### Entrepreneurs' tax offset

In the 2008-09 Budget, the Government announced that a family income test will be introduced to determine the eligibility for the offset.

The threshold for single taxpayers was stated as \$75,000 in the Budget Papers. However, the press release accompanying the Budget stated the threshold as \$70,000.

The Government has not confirmed the correct threshold.

#### Budget Measures Bill

The Government has introduced into Parliament a Bill to implement some of the measures announced in the Federal Budget:

- FBT: meal cards and work-related items;
- employee share schemes: changes to method of making the 'discount' election and removal of double taxation; and
- depreciation rate for in-house software.

#### Medicare levy surcharge

The Government has introduced a Bill into Parliament to increase the Medicare levy surcharge threshold for individuals from \$50,000 to \$100,000, and for families from \$100,000 to \$150,000.

The increase to the threshold will take effect from 1 July 2008.

#### Tax Law Changes

In May 2008, the Government introduced into Parliament a Bill to:

- amend the tax laws in relation to shareholders' and unit-holders' rights in relation to call options and put options; and
- restrict GST refunds for overpayments, and amend the review period of indirect taxes assessments.

#### Private Company Loans

The Tax Office has released a Taxation Determination stating the essential information that a written loan agreement between a private company and its shareholder (or their associate) must include:

- the name of the parties;
- the loan terms;
- a statement that the parties have agreed to the terms; and
- the date when the agreement was executed.

If a private company extends a loan to its shareholder (or their associate), the loan may be deemed as an unfranked dividend, which is assessable income to the shareholder (or their associate) in the year the loan arises.

However, if a loan agreement is in place, an exception applies.

#### SMSFs and Business Real Property

The Tax Office has released a Draft SMSF Ruling in which it explains the term 'business real property'.

Generally, an SMSF is subject to various investment restrictions unless an exception exists. One of the exceptions relates to business real property.

This Draft SMSF Ruling states that an SMSF must consider the interest in the real property and apply a business use test before the exception can apply.

## Taxpayer Alerts

The Tax Office has issued two Taxpayer Alerts warning taxpayers of arrangements that are currently being examined:

1. Arrangements whereby a shareholder of a private company purports to make a repayment of a loan extended by the company via a round robin of endorse cheques.

The Tax Office is concerned that these arrangements have been contrived to avoid the operation of the tax legislation which may deem a loan between a private company and its shareholders (or their associates) as an unfranked dividend.

2. Arrangements for the prepayment of service fees from a trading entity to an associate service entity.

The Tax Office is concerned that these arrangements have been entered into with the dominant purpose of obtaining a tax deduction.

## Director Penalty Notice

In a Decision Impact Statement released by the Tax Office, the Commissioner has stated that he will calculate the time for compliance with a director penalty notice (DPN) from the date on which the notice was posted to a director of a company, irrespective of whether or when the DPN was received or delivered.

The Commissioner has the authority to recover from a director of a company any withholding amounts that the company has failed to remit. Put simply, the director becomes personally liable for the company's unremitted amount.

## Main Residence Exemption

In a recent decision, the AAT held that a taxpayer's main residence was not entitled to the full CGT exemption on its sale because the taxpayer had not occupied it as his main residence throughout the ownership period.

Generally, if the main residence of a taxpayer was used either in full or in part for producing assessing income, the taxpayer is only entitled to a partial exemption from the CGT arising from the disposal of the dwelling.

## Data Matching

### Luxury cars

The Tax Office will request and collect details of individuals or entities that, between 1 July 2005 and 30 June 2007, have purchased or acquired motor vehicles valued at \$57,009 or higher.

The data collected will be electronically matched with its data holdings to identify non-compliance with tax obligations.

### Owner-builder licence registration

The Tax Office will acquire owner-builder licence registration information from the Victorian and NSW state governments.

This information will be electronically matched with its data holding to identify taxpayers who may not be meeting their tax obligations.

## PAYG Payment Summary

The Commissioner has issued a Legislative Instrument that removes:

- the requirement for individual taxpayers to attach a copy of

their PAYG payment summary to their tax returns, and

- the requirement for employers to provide their employees with a duplicate copy of a PAYG payment summary.

## Increase in Pension Thresholds

The assets test thresholds for pensions will increase from 1 July 2008.

Taxpayers who will benefit from the increase include those receiving the Age Pension, Carer payment, and Austudy.

## Capital Improvement Threshold

The Tax Office has released the capital improvement threshold for the 2008-09 income year, which is \$119,594.

## FBT Car Parking Threshold

The Tax Office has stated that the car parking threshold for the FBT year that commenced 1 April 2008 is \$7.07.

## HECS and SFSS Repayment

The Tax Office has released the HECS and SFSS repayment thresholds for the 2008-09 income year.

When a taxpayer's repayment income is above \$41,594, the taxpayer will be required to start repaying his or her HECS debt and/or SFSS debt.

The repayment amount is calculated by applying the relevant repayment rate that corresponds to the taxpayer's income.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.