

# CLIENT ALERT

June 2006

## Tax News, Views and Clues

### Home Loan Interest Deduction Denied

In a recent decision, the Administrative Appeals Tribunal (AAT) concluded that interest deductions claimed by a taxpayer for borrowings to invest in a unit trust to construct a family home were not deductible.

In this case, the taxpayer purchased a parcel of land and transferred it to a personal unit trust. The unit trust entered into a contract to erect a house on the land. On transfer of title, the taxpayer issued units in the trust and drew down on the loan funds to make payments under the building contract.

The taxpayer claimed a deduction for the interest on the loan but the Commissioner disallowed the deduction. The AAT concluded that there was not the necessary connection between the interest payments and the unit trust producing assessable income.

The AAT also concluded that this arrangement will attract the anti-avoidance rules under Part IVA, as the sole or dominant purpose of the arrangement was to obtain a tax benefit.

### Common FBT Return Errors

Following the lodgment deadline for FBT returns, several common errors have been noted, including

- commercial vehicle usage;
  - car parking benefits and benefit threshold amounts;
  - the 'minor exemption' and 'consumption on business premises exemption' should not be applied to meal entertainment expenses using the 50/50 or 12-week method;
  - FBT-exempt status only applies to a laptop where the purchase is a package deal;
  - GST-inclusive values should be used when calculating FBT;
  - FBT returns and payment summary matching; and
  - rebateable employees need to take extra care to ensure data is correctly disclosed and reviewed.
- **TIP:** Consider post-lodgment reviews to make amendments where necessary.

### Main Residence CGT Exemption

A person's main residence will generally be exempt from CGT upon disposal.

A Tax Office fact sheet indicates that, in certain circumstances, the full exemption may not apply and only a partial main residence exemption may be available. This will occur when the taxpayer's partner and/or dependants have separate homes, part of the property has been used to produce assessable income, or the land area is more than two hectares.

As a general rule, a person is only entitled to the exemption on one property for any particular period. However, where a person purchases a new home before disposing of an old one, both dwellings may be treated as the person's main residence for up to six months.

- **TIP:** Taxpayers should carefully consider the tax treatment of their residential premises.

## Transition to Retirement Pensions

On 9 May 2006, the Assistant Commissioner of Taxation tabled a response to the Senate on questions about a statement made by the Commissioner on 17 November 2005. The Commissioner had advised that the general anti-avoidance provisions would not apply to taxpayers transitioning to a retirement pension and making salary sacrifice contributions to their superannuation fund, but Part IVA might apply where the actions of taxpayers seemed contrived or artificial.

The Assistant Commissioner indicated that the Commissioner did not have a particular arrangement in mind where Part IVA might apply, and clarified that it would not be possible to provide a blanket statement on salary sacrifice arrangements and the general anti-avoidance rules.

## False Details on Tax Return

In a recent decision, the AAT upheld the Commissioner's decision to impose penalties on a taxpayer who had lodged an income tax return with incorrect details through an agent.

The taxpayer had their income tax return prepared by a tax agent and failed to note that there were disclosure errors regarding certain employment and assessable income details.

The AAT concluded that the burden of proof rested with the taxpayer, and disallowed the taxpayer's penalty objections.

## 2006/2007 Superannuation Thresholds

### Redundancy payments — tax-free amount

|                            | 2006/07 | 2005/06 |
|----------------------------|---------|---------|
| Fixed component            | \$6,783 | \$6,491 |
| Years of service component | \$3,392 | \$3,246 |

### Age-based deduction limits

| Age limits | 2006/07   | 2005/06   |
|------------|-----------|-----------|
| Under 35   | \$15,260  | \$14,603  |
| 35 to 49   | \$42,385  | \$40,560  |
| 50 to 70   | \$105,113 | \$100,587 |

### RBL limits

|              | 2006/07     | 2005/06     |
|--------------|-------------|-------------|
| Lump sum RBL | \$678,149   | \$648,946   |
| Pension RBL  | \$1,356,291 | \$1,297,886 |

### Post-June 1983 ETP component threshold

|                        | 2006/07   | 2005/06   |
|------------------------|-----------|-----------|
| ETP low rate threshold | \$135,590 | \$129,751 |

## GST on Security Deposits

The Tax Office has recently released a GST ruling in relation

to 'deposits held as security for the performance of an obligation', which defines the meaning of the term, as it is not defined in the GST legislation.

As a result of this ruling, taxpayers will be able to more accurately determine whether a deposit paid or received is in fact a security deposit for the purposes of the GST legislation. This will allow taxpayers to correctly determine the GST implications of paying or receiving the deposit.

The ruling contains a more detailed discussion and provides additional examples which were not previously included in the draft ruling.

## Other Key Issues

- The FBT car parking threshold has increased to \$6.62 from \$6.43, effective from 1 April 2006.
- A recent Tax Office ruling deemed that a government rebate, received by a rental property owner for an energy saving appliance, is assessable income.
- The CGT improvement threshold has been increased from \$109,447 to \$112,512 for the 2006/07 income year. This applies when a pre-CGT asset is a separate asset or where a rollover may be available.
- The Commissioner of Taxation has determined that there is no CGT liability where an asset is transferred from a jointly managed superannuation fund to another self-managed superannuation fund as a result of a marriage breakdown.

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.