client alert | explanatory memorandum

March 2008

FBT And Minor Benefits

In Taxation Ruling TR 2007/12, the Commissioner expressed his view on the application of the minor benefits exemption contained in section 58P of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA).

The ruling states that a minor benefit is exempt under section 58P where:

- the notional taxable value of the benefit is less than $300; and
- having regard to the specified criteria in section 58P(1)(f), it is unreasonable to treat the benefit as a fringe benefit.

Notwithstanding that the notional taxable value of a benefit is less than $300, the benefit is not necessarily an exempt benefit. It is also necessary to examine the nature of the benefit provided and give due weight to each of the criteria in section 58P(1)(f) before determining whether the exemption applies.

The ruling clarifies that the threshold of 'less than $300' on the notional taxable value of a minor benefit applies to each benefit provided to an employee (or their associate). The threshold test is not an upper limit on the total value of minor benefits that an employee may receive.

Whether the $300 is a GST-inclusive value or GST-exclusive value will depend on the classification of the fringe benefit.

Notional taxable value

The notional taxable value of a benefit is defined in section 136(1) of the FBTAA as:

- in the case of a car benefit — the car benefit was a residual benefit; and
- in all cases — the benefit was a fringe benefit in relation to the employer in relation to the year of tax.

Where a benefit is provided over a period that covers two or more FBT years, only the benefit provided in the current year of tax is considered in determining the notional taxable value.

Benefits excluded from section 58P

Certain benefits are specifically excluded from section 58P. These benefits are:

- airline transport benefits;
- expense payment benefits where, if the benefit was an expense payment fringe benefit, it would be an in-house fringe benefit;
- property benefits where, if the benefit was a property fringe benefit, it would be an in-house fringe benefit; and
- residual benefits where, if the benefit was a residual fringe benefit, it would be an in-house fringe benefit.

The minor benefits exemption also does not apply to reduce the taxable value of a fringe benefit when the 50–50 split method is used to value meal entertainment fringe benefits or entertainment facility leasing expenses.

If the 12-week register method under Division 9A is used to value meal entertainment fringe benefits, any minor benefits will reduce the total value of the meal entertainment fringe benefits that are used for the calculation under section 37CB of the FBTAA.

The minor benefits exemption does not apply to benefits that are provided to an employee under a salary sacrifice arrangement.

The ruling applies to all FBT years.

Requirements of section 58P(1)(f)

It is a requirement to evaluate the minor benefit provided against the criteria stated in section 58P(1)(f) before concluding that it would be unreasonable to treat it as a fringe benefit. Consideration must be given to:

- the infrequency and irregularity of any benefits that are identical or similar to the minor benefit provided, or benefits that have been or can reasonably be expected to be provided in connection with the provision of the minor benefit (associated benefits);
- the sum of the notional taxable values of the minor benefit and any associated benefits,
- the practical difficulty in determining the notional taxable values in relation to the minor benefit and any associated benefits; and
- the circumstances surrounding the provision of the minor benefit and any associated benefits which include a consideration of whether the benefit concerned was provided to assist the employee to deal with an unexpected event and whether the benefit concerned was provided otherwise than wholly or principally by way of a reward for services rendered, or to be rendered, by the employee.

The ruling states that even when a benefit is provided on an infrequent and irregular basis, it may nonetheless be concluded that a fringe benefit arises when consideration is given to the other specified criteria in section 58(1)(f). Further, the ruling states that the more often and regularly a benefit is provided, the less likely the criterion would be met.

The terms 'infrequency and irregularity' and 'identical or similar' are not defined in the FBTAA and will adopt their ordinary meaning. The ruling adopts the definitions provided by the Macquarie Dictionary.

A car benefit can attract the minor benefits exemption if the requisite conditions are satisfied. However, the taxable value of the car benefit must be calculated by assuming that the car benefit is a residual benefit.

Examples from TR 2007/12

Example where the minor benefits exemption applies

An employer provides each of its employees with a modest gift at Christmas time. The range of gifts provided by the employer includes a bottle of whisky, perfume or a store voucher.

It is the employer's policy to provide gifts to employees on only a few special occasions throughout the year. The gifts provided to each employee are always valued at less than $300.

The value of the gift to an employee is below the minor benefits threshold and therefore it is necessary to consider the criteria listed in paragraph 58P(1)(f) to determine if it would be unreasonable to treat the minor benefit as a fringe benefit.

The Christmas gifts are provided infrequently but on a regular basis (being every Christmas). However the sum of the value of all gifts, where they are identical or similar benefits, in this year and all other years is not considered to be substantial, and there are no other associated benefits provided in connection with the gift.

There would be no difficulties in determining the value of the benefit and the benefit was not provided to assist the employee deal with an unexpected event. On the facts, it is not wholly or principally a reward for services.

On balance, having regard to the various criteria in paragraph 58P(1)(f), it would be concluded that it would be unreasonable to treat the benefit as a fringe benefit. Accordingly, the gift provided to the employee is an exempt benefit.

Example where the minor benefits exemption does not apply

An employer operates a monthly sales incentive scheme for the benefit of its employees. Employees who achieve their monthly sales targets are rewarded with store vouchers having a face value of less than $300 which are redeemable for goods or services at the nearby shopping centre. There is an expectation from past experience that most employees will achieve this target.

An employee does achieve this target and is provided with a store voucher. The employee has achieved the target on a number of occasions and has received other store vouchers both in the current and previous years of tax.

The value of the store voucher is below the minor benefits threshold and therefore it is necessary to consider the criteria listed in paragraph 58P(1)(f) to determine if it would be unreasonable to treat the minor benefit as a fringe benefit.

Vouchers, which are identical or similar, can reasonably be expected to be provided to the employee on a frequent and regular basis.

Even though the value of each benefit is below the minor benefits threshold, the sum of the values of the associated benefits in this year and other years is considered to be substantial. There would be no difficulties in determining the value of the benefit; the benefit was not provided to assist the employee deal with an unexpected event; and the benefit is wholly or principally a reward for services rendered.

On balance, with regard to the various criteria in paragraph 58P(1)(f), it would be concluded that it would not be unreasonable to treat the benefit as a fringe benefit. Accordingly, the benefit provided to the employee is not an exempt benefit.

Withdrawal of previous Rulings

Miscellaneous Taxation Ruling MT 2042, Taxation Determination TD 93/76 and Taxation Determination TD 93/197 were withdrawn with effect from 27 June 2007. This means that the Commissioner's views on the application of the minor benefits exemption in those Rulings have been incorporated in TR 2007/12.

Wash Sale Arrangements

In Taxation Ruling TR 2008/1, which discusses wash sale arrangements, the Tax Office has stated that the Commissioner may make a determination to cancel any tax benefits obtained in connection with a wash sale arrangement pursuant to Part IVA of the *Income Tax Assessment Act 1936* (ITAA 1936). Whether an arrangement will attract the Commissioner's determination will depend on the facts in the particular circumstances.

The Commissioner is concerned with arrangements where a taxpayer disposes of, or otherwise deals with, a CGT asset where in substance there is either no significant change in the taxpayer's economic exposure or interest in the asset, or a reinvestment of such an exposure or interest, in order to apply a resulting capital loss or allowable deduction against a capital gain or assessable income already derived or expected to be derived.

What is a wash sale arrangement?

The term wash sale is defined in the ruling as 'arrangements where a disposition of an asset occurs without an intention of ceasing to hold an economic exposure to the asset.'

The ruling gives a range of examples of wash sales where Part IVA might apply. These include where:

- the taxpayer disposes of, or deals with, the asset and at the same time, or within a short period after, acquires the same or substantially the same asset;

- shortly prior to, or at the time of, disposing of, or dealing with, the asset the taxpayer acquires the same, or substantially the same, asset;
- shortly prior to, at the time of, or shortly after disposing of, or dealing with, the asset the taxpayer enters into derivatives or financial instruments that substantially provide continued exposure to the risks and opportunities of the asset, as if the taxpayer had continued to hold the asset;
- shortly prior to, at the time of, or shortly after disposing of, or dealing with, the asset the taxpayer enters into arrangements under which the taxpayer is entitled to, relative to the taxpayer's prior interest, the future income produced by the asset and/or any capital appreciation in the asset, or to a reimbursement for any future income produced by, or capital appreciation in the asset;
- the taxpayer disposes of or deals with the asset to a company which the taxpayer is a member of, or to a trustee of a trust the taxpayer is a beneficiary or an object of, and the taxpayer controls or influences the company or trustee, or is the trustee or appointor; and
- the taxpayer disposes of the asset or otherwise deals with the asset in circumstances where there is a significant overlap in the individuals who had direct or indirect interests in the asset before and after the disposal or dealing (e.g. where the asset is transferred from one wholly owned company to another, or between two trusts with the same trustee and class of beneficiaries or objects).

What is meant by 'substantially the same'?

An asset is 'substantially the same' with the asset disposed of if it is:

- economically equivalent to the original asset;
- fungible with the original asset; or
- immaterial differences between the two assets that they are in substance economically equivalent.

The ruling provides the view that where a taxpayer disposes of shares in one company and purchases shares in a competitor company that carries on a similar business, the shares in the two companies do not constitute substantially the same.

Part IVA of ITAA 1936

Before the Commissioner exercises his discretion under section 177F of ITAA 1936 to cancel a tax benefit, the requirements of Part IVA must be satisfied. These requirements are:

- a tax benefit was or would have been obtained;
- the tax benefit was or would have been obtained in connection with a 'scheme'; and
- the scheme is one to which Part IVA applies.

The term 'scheme' is defined in subsection 177A(1) of ITAA 1936 and includes any agreement, understanding, promise or undertaking, whether express or implied, and whether legally enforceable or not. Further, a scheme includes a scheme, plan, proposal or course of action even if unilateral.

Whether a tax benefit has been obtained in connection with a scheme, it requires the consideration of the eight factors listed in section 177D(b). These factors are:

- the manner in which the scheme was entered into or carried out;
- the form and substance of the scheme;
- the time in which the scheme was entered into and the length of the period during which the scheme was carried out;
- the taxation outcomes, including the tax benefit and any other tax consequences arising from the scheme;
- any change in the financial position of the taxpayer resulting, will result, or may reasonably be expected to result from the scheme;
- any change in the financial position of any person who has, or has had, connection (whether of a business, family or other nature) with the taxpayer resulting, will result, or may reasonably be expected to result from the scheme;

- any other consequences for the taxpayer, or any other person connected with the taxpayer arsing from the scheme having been entered into or carried out; and
- the nature of any connection (whether of a business, family or other nature) between the taxpayer and the connected person.

Provision of Trade Credit

In Taxation Determination TD 2008/1, which discusses the consequences of a private company providing trade credit to a shareholder (or their associate) on the usual terms it gives to parties at arm's length and there is a failure to repay an amount within the agreed payment term, the Tax Office states that such a failure does not automatically prevent section 109M of ITAA 1936 from applying. This is provided the private company deals with the failure to repay in the same manner in which it deals with defaults on similar loans made to parties at arm's length.

If the private company does not deal with a failure to repay on time by a shareholder (or their associate) in the same manner in which it deals with defaults of similar loans made to parties at arm's length, the exception contained in section 109M will not apply and potentially a loan has been made under Division 7A. However, if the shareholder (or their associate) fully repays the amount by the earlier of either the due date for lodgement of the private company's tax return for the year of income or the lodgement day of the private company's tax return for the year of income, a Division 7A liability does not arise.

The determination applies to all income years.

Explanation of section 109M

Section 109M provides that a loan extended to a shareholder (or their associate) is excluded from the operation of Division 7A if the loan is made:

- in the ordinary course of the private company's business; and
- on the usual terms on which the private company makes a similar loans to parties at arm's length.

In determining whether a loan is made in the ordinary course of the private company's business, it is imperative to consider the facts of the particular situation.

The wording of section 109M suggests that it is a requirement that a private company must have a history of making loans in the course of their business activities to unrelated third parties at arm's length terms before the exemption can apply. Previous provision of loans to shareholders (or their associates) on commercial terms is not sufficient.

The definition of a 'loan' is defined in section 109D(3) of ITAA 1936 as:

- an advance of money; and
- a provision of credit or any other form of financial accommodation; and
- a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount; and
- a transaction (whatever its terms or form) which in substance effects a loan of money.

Timing of Receipts

In Self Managed Superannuation Funds Determination (SMSFD) 2007/1, the Tax Office discusses when it considers a dividend or trust distribution to be received by a self managed superannuation fund (SMSF) for the purpose of satisfying section 71D(d) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

The Tax Office has stated that a dividend or trust distribution is 'received' before the end of 30 June 2009 for the purposes of section 71D(d) of the SIS Act if the dividend or trust distribution is paid to the SMSF by the company or trust respectively on or before 30 June 2009. A dividend or trust distribution is not received by a SMSF if the SMSF is only entitled to the dividend or trust distribution. Further, the determination states that

the time when a dividend or trust distribution amount is paid to the SMSF depends on the payment option that is either chosen by the SMSF or prescribed by the company or trust respectively.

Payment method	**Received by the SMSF when**
Direct credit to bank account	the amount is credited to the account
Cash	the case is collected
Cheque (collecting)	the cheque is collected
Cheque (posting)	the cheque is actually received
Any other methods (for example, reinvestment)	as soon as it has been applied or dealt with as requested

The determination applies to all income years.

In-house asset rules

The in-house asset rules are contained in sections 69 to 85 of the SIS Act. These rules dictate the proportion of a superannuation fund's assets that the trustee may lend to or invest in an employer-sponsor of the fund or an associate of the employer. Put simply, the rules state that a trustee of a superannuation fund must not acquire in-house assets if to do so would increase the ratio of such assets to over 5% of total assets, or if the ratio already exceeds 5%.

Section 71 of the SIS Act defines an in-house asset as:

- loans to, or investment in a related party of the fund;
- an investment in a related trust of the fund; and
- an asset of the fund subject to a lease or lease arrangement between the trustee of the fund and a related party of the fund.

Notwithstanding the broad definition in section 71, a number of exclusions and transitional provisions can apply to exclude certain assets from being classified as in-house assets. One of the transitional provisions provided in the SIS Act is section 71D which excludes investments in related entities made on or before 30 June 2009 from being classified as in-house assets. However, any investments in related entities made after 30 June 2009 are not excluded from the in-house assets rules.

Section 71D only applies to investment in related entities made between 12 August 1999 and 30 June 2009 (the relevant period). Further, the maximum total amount that can be invested in the related entities during the relevant period must not exceed the sum of the amounts received by the SMSF as trust distributions or dividends during that period in respect of the original investment or further investments in the concerned entity: section 71D(d).

To ensure that section 71D(d) is not breached, it is necessary to identify when a dividend or trust distribution is received by the SMSF. The time when a dividend or trust distribution is received by a SMSF for the purposes of section 71D(d) is as detailed above.

Legal status of the Determination

The determination represents the Commissioner's views about the way in which provisions of the SIS Act, or regulations under that Act, apply to SMSFs.

The determination is not legally binding on the Commissioner. However, if the Commissioner later takes the view that the law applies less favourably to you than Determination, the fact that a taxpayer acted in accordance with the determination would be a relevant factor in the Commissioner exercising his discretion as to what action to take in response to the breach of that law.

Alert on Stapled Securities

The Tax Office in Tax Alert TA 2008/1 is warning taxpayers investing in certain stapled securities involving notes and preference shares that it is considering whether they are entitled to a deduction under section 70B of ITAA 1936 on the disposal of the stapled securities at a loss on the ASX or on the occurrence of an 'Assignment Event' (see below).

The alert states that the profit from the sale of a stapled security may be assessed as a capital gain, rather than as statutory income under section 26BB of ITAA 1936. Further, if an investor has held the stapled security for more than a year, he or she may be entitled to a CGT discount.

The alert applies to arrangements possesses some or all of the following features:

- An Australian resident company issues Notes from one of its overseas branches or subsidiaries to an Initial Purchaser for a fixed amount that is not repayable.
- At the same time, the Initial Purchaser enters into an irrevocable agreement with the company to offer to assign the Notes back to the company (or one of its subsidiaries) for nil consideration upon certain events occurring, called 'Assignment Events'.
- Also at the same time, the Company issues Preference Shares to the Initial Purchaser at a fully paid face value, said to be in consideration of the offer to assign. The Note and the Preference Share have the same face value and no further money is paid for the Preference Share.
- In some cases, the steps listed above may differ in that an overseas resident subsidiary of the Company issues the Notes to the Initial Purchaser for a fixed amount. Immediately after the issue of the Notes to the Initial Purchaser, the Initial Purchaser enters into an irrevocable agreement with an Australian resident subsidiary of the Company (Aus Sub) to offer to assign the Notes to Aus Sub for nil consideration upon certain events occurring, the so-called 'Assignment Events'.
- The Preference Shares are stapled to the Notes one-for-one, and will remain stapled until the occurrence of an 'Assignment Event'.
- The Initial Purchasers on-sell the Stapled Securities to resident individuals, companies and super funds (the Investors) for an amount equal to the fixed amount paid for the issue of the Notes.
- The Investors are bound by the same terms as the Initial Purchasers. The irrevocable offer of assignment is embedded in the Note Terms.
- While the Notes and the Preference Shares remain stapled, an amount is payable on the Notes on the same terms on which dividends would be payable on the Preference Shares, that is, subject to there being distributable profits and subject to certain requirements regarding solvency, at the discretion of the Company and no dividends are payable on the Preference Shares.
- When an 'Assignment Event' occurs dividends become payable on the Preference Shares on the same terms as the amounts on the Notes. Alternatively, the Preference Shares are converted into Ordinary Shares in the Company.

The Tax Office is concerned about the following taxation issues that arise from such arrangements:

- whether the stapled security constitutes one or two assets for CGT purposes;
- whether sections 26BB and 70B apply to the gains/losses on the disposal or redemption;
- if the Note is a traditional security, whether the assignment of the Note constitutes a disposal as per section 70B; and
- whether Part IVA applies to cancel a section 70B deduction.

Legal status of the Alert

The alert is only intended to be an 'early warning' of a tax planning arrangement that the Tax Office has under risk assessment. However, it is expected that a taxation ruling or taxation determination will be issued by the Tax Office following the release of the alert.

Taxpayers who have entered into or are contemplating entering into an arrangement similar to that described in the Alert can seek a formal determination of the Tax Office's position through a private ruling.

Sections 26BB and 70B(2) of ITAA 1936

A traditional security is defined in section 26BB(1) as:

> '… a security that held by the taxpayer that:
>
> (a) is or was acquired by the taxpayer after 10 May 1989;
>
> (b) either
>
> (i) does not have an eligible return; or
>
> (ii) has an eligible return, where:
>
> (A) the precise amount of the eligible return is able to be ascertained at the time of issue of that security; and
>
> (B) that amount is not greater than 1½% of the amount calculated in accordance with the formula:
>
> Payments x Term'

Subsection 26BB(2) of ITAA 1936 states that:

> 'Where a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed, the amount of any gain on the disposal or redemption shall be included in the assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.'

On the other hand, section 70B(2) states the tax treatment on the loss arising from the disposal or redemption of traditional securities:

> 'Where a taxpayer disposes of a traditional security or tradition security of a taxpayer is redeemed, the amount of any loss on the disposal or redemption is allowable as a deduction from assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.'

UK War Widows Pension

In ATO ID 2008/6 and ATO ID 2008/7, the Tax Office expresses its view that a UK war widows pension and UK war widows supplementary pension are not assessable income under section 6–5 of the *Income Tax Assessment Act 1997* (ITAA 1997) as they are exempt from tax under section 53–20 of ITAA 1997.

Explanation of Tax Office's decision

A payment made by the Government of the United Kingdom is exempt from income tax in Australia under section 53–20 if:

- the payments are similar to payments under the *Veterans' Entitlement Act 1986* that are exempt under Subdivision 52–B of the ITAA 1997; or
- the payments are similar to payments that are made because of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* and are exempt under Subdivision 52–C.

A list of pensions or other payments made under the *Veterans' Entitlement Act* are contained in section 52–65.

A UK war widows pension and supplementary pension received by a taxpayer is similar to a pension for defence caused death or incapacity paid under the *Veterans' Entitlement Act* which is listed as an exempt payment in Subdivision 52–B of ITAA 1997. Therefore, the pensions are exempt from tax under section 53–20.

The Tax Office has accordingly withdrawn the following ATO IDs with effect from 11 January 2008, as they have been superseded by ATO IDs 2008/6 and 2008/7, respectively:

- ATO ID 2002/429: Assessability of UK War Widows pension; and
- ATO ID 2002/669: Exempt income — UK War Widows supplementary pension.

Entrepreneurs' Tax Offset

ETO and partners in a partnership

The Tax Office in ATO ID 2008/22 expresses its view that a taxpayer whose assessable income includes personal services income (PSI), which is attributed to a partner in a partnership that is not conducting a personal services business (PSB), is entitled to the ETO under section 65–510 of ITAA 1997.

Requirements of section 65–510

A partner in a partnership is entitled to the ETO if the following conditions stated in section 65–510 are met:

- the taxpayer is a partner in a partnership during the year; and
- the partnership is a small business entity for the year; and
- the partnership's aggregated turnover for the year is less than $75,000; and
- the partnership has net small business income for the year; and
- the taxpayer's assessable income for the year includes a share of the net small business income of the partnership.

Explanation of Tax Office's decision

The assessable income of a taxpayer, who is a partner in a partnership, includes any amount of ordinary income of the partnership that is attributed to the personal services of the taxpayer. Further, section 86–30 of ITAA 1997 states that that amount does not form part of the assessable income of the partnership.

Despite the operation of the PSI regime contained in Division 86 of ITAA 1997, section 61–525(1) of ITAA 1997 states that 'an entity's net small business income for an income year is the amount by which the entity's small business entity turnover for the year is more than the sum of the entity's deductions attributable to that turnover. 'Further, section 61–525(2) states that 'an entity's small business entity turnover for an income year is the total ordinary income that the entity derives in the income year in the ordinary course of carrying on a business.'

The Tax Office is of the view that the provision of personal services by a partner for a partnership results in ordinary income derived by the partnership in the ordinary course of carrying on its business and is included in the partnership's small business entity turnover.

Albeit that the PSI is not included in the assessable income of the partnership, it still forms part of the partnership's net small business income. Therefore, the amount included in a partner's assessable income is a share of the net small business income of the partnership. If the taxpayer satisfies the other provisos of section 65–510, he or she will be entitled to the ETO.

Eligibility of a company for the ETO

In ATO ID 2008/22, which discusses the eligibility of a company that is a personal services entity (PSE) which is not conducting a PSB, the Tax Office states that the company is entitled to the ETO if the requirements of section 65–505 of ITAA 1997 are satisfied.

Requirements of section 65–505

For a company to be eligible for the ETO, it must satisfy the requirements stated in section 61–505(1):

- be an individual or a company; and
- is a small business entity for the year; and

- an aggregated turnover for the year of less than $75,000; and
- have net small business income for the year.

Explanation of Tax Office's decision

Notwithstanding that the assessable income of an individual who performs the personal services includes the amount of ordinary income of the company that is the personal services entity and pursuant to section 86–30 of ITAA 1997 does not form part of the assessable income of the company, the income is still included in the company's small business entity turnover.

While the PSI is not included in the assessable income of the company, if the company's small business entity turnover is greater than the deductions attributable to that turnover, the company has net small business income for the year. Therefore, if the company satisfies the other requirements of section 61–505, it may be eligible for the ETO.

The amount of ETO is calculated in accordance with section 61–505(2) that states that the first step in the calculation is to determine the company's taxable income. The taxable income of a company will be nil unless it has ordinary or statutory income other than PSI. This is because PSI does not form part of the assessable income of the company.

Entrepreneurs' tax offset

Taxpayers who are eligible for the offset are:

- an individual;
- a company that is a small business entity;
- the partners of a partnership that is a small business entity; or
- the trustee or beneficiaries of a trust that is a small business entity.

The offset is equal to 25% of the income tax liability that is attributed to a small business entity income. If the annual turnover is more than $50,000, the offset is phrased out until it equals zero at turnover of $75,000.

Tax Office Assistance

In two separate but related media releases, the Tax Office has stated that farmers, businesses and individuals who are experiencing difficulty in complying with their tax obligations as a consequence of the drought, floods, bushfires and storms to contact its office.

The Tax Office said it can help by:

- allowing more time to lodge activity statements or tax returns without incurring a penalty;
- allowing additional time to pay tax debts without any interest charges;
- arranging for tax debts to be paid in instalments;
- remitting penalties or interest that may have been imposed; and
- fast tracking refunds.

Tax agents can contact the Tax Office on behalf of their clients on 13 72 86 for information or assistance.

Other Taxation Issues

Non-lodgement of tax returns

The Tax Office has commenced a data-matching process based on data received from Centrelink, the Department of Veterans' Affairs and other external sources, including financial institutions. This data is

matched with taxpayers' individual records to identify those who may not need to lodge an income tax return for the year ended 30 June 2007.

Taxpayers who had tax deducted from their pensions, allowances or payments, or where data matching indicates that they may have an obligation to lodge a return, will not be given the status of 'current year income tax return not necessary'.

Taxpayers who have been identified as not needing to lodge an income tax return will not appear on their tax agent's electronic lodgement service (ELS) list. However, the taxpayers will continue to remain on their tax agent's client list.

Multiple Birth Allowance

The eligibility for the multiple birth allowance has been extended from 1 January 2008.

The changes will allow families with at least three children born in the same multiple birth to be eligible for the allowance until:

- the children are 16 years of age; or
- if at least three of the children are in full-time study, until the end of the calendar year in which the first born of the three children turns 18 years of age.

Impact on family tax benefit

Advisers claiming FTB for their clients through a reduced PAYG income tax withholding will require two calculations at step A10 as detailed in the 'Withholding declaration — Family tax benefit worksheet'.

A revised worksheet which incorporates the new changes is available from the Tax Office's website.

If the second calculation is not completed, insufficient tax may be withheld from payments made and this may result in a significant tax debt at the end of the income year.

The revised worksheet can be found online at: <www.ato.gov.au/content/downloads/n7089_07_2007.pdf>.

Erratum — CR 2007/114

The Tax Office has issued an Erratum to Class Ruling 'CR 2007/114 Income tax: script for script: acquisition of Coles Group Limited by Wesfarmers Limited'. In the February 2008 edition we reported on the ruling.

The Erratum corrects two typographical errors in the ruling:

- Paragraph 17

  Omit '$2.9853'; substitute '$2.9583'.
- Paragraph 107

  Omit the formulate; substitute:

$$\text{Cost base of Coles shares} \times \frac{\text{Cash consideration}}{\text{Value of share consideration plus cash consideration}}$$

The Erratum applies on and from 7 November 2007.

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