

# News Flash

## November 2009



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### **ALERT received from the ATO – 5 November 2009**

#### **Avoid delayed refunds – lodge tax returns early**

Business and individuals taxpayers may be affected by our plans to implement our new income tax system in late January 2010.

#### **What are we doing**

The Tax Office's computer systems will be unavailable from Friday 22 January until Wednesday 27 January 2010 while we implement the new system. In addition, we will need to suspend some processing in the weeks leading up to the implementation.

There will also be some processing delays in the weeks following the implementation as the new system gradually returns to full processing levels. We expect these delays may continue during February 2010.

#### **What you need to do**

**We recommend business and individual taxpayers expecting a tax refund to have their income tax returns lodged as early as possible (before Christmas 2009) to reduce the likelihood of any delays.**

#### **Further information**

We will continue to keep you informed about the implementation of our new income tax system. Details about processing suspensions and other implications for tax agents and taxpayers will be provided as soon as they are available.

**Assistant Commissioner  
Tax Practitioner and Lodgment Strategy**

## More Tax Office audits with New Small Business Benchmarks

The Tax Office has released a whole host of "Small business benchmarks" in October – 38 in all. The ATO says they provide a snapshot of what, on average, is happening in businesses operating in a particular industry by comparing various business costs to sales.

For example, depending on the size of the business, they compare costs, such as labour, cost of goods sold and rent, to sales.

Where a business's costs as a percentage of sales fall outside the benchmarks, it may find itself looking down the barrel of a tax audit.

### Selected Industries

There were 38 benchmarks issued for businesses operating in the following industries:

- Manufacturing
- Construction
- Retail trade
- Accommodation and food services
- Transport, postal and warehousing
- Rental, hiring and real estate services
- Administrative and support services (such as pest control) and
- Other services (such as barbers, hairdressers and nail salons)

*Editor: Any client wishing to know if benchmarks have been issued for their type of business should contact our office.*

### Case study

The Tax Office has provided an example of how the benchmarks have been applied where a Melbourne-based concreter received a tax bill for \$115,953 after an audit showed he had omitted \$142,000 from his tax return.

The taxpayer came to the ATO's attention because he had been reporting very low levels of income for a number of years. The concreting benchmark helped the Tax Office to understand the taxpayer's business relative to the rest of the industry.

During the audit, the taxpayer said his business was based on smaller suburban work, for which he received very little cash. He said he always issued tax invoices to his customers.

He had declared a taxable income of \$18,000 for the year. He recorded only four concrete purchases during one of the quarters.

Third party data acquired from his supplier for that quarter showed eighteen concrete purchases, some of which were paid for in cash. Further examination showed:

- many of his jobs were for cash
- they were not recorded in his records and
- his customers did not receive tax invoices

As the taxpayer's record keeping was inadequate, the auditors calculated his income by applying his normal sale price per square metre to his actual purchases of concrete.

The audit resulted in tax liabilities of \$67,000 and additional penalties of nearly \$50,000.

## REMINDER - WSC Audit Protection Service

The Australian Taxation Office (ATO) continues to announce significant increases in their audit activity. Now more than ever individuals, business and Self Managed Superannuation Funds are at risk of being selected for a random audit.

Unfortunately, the instigation of a random audit or investigation by the ATO, or indeed any Federal or State revenue agency, will result in costs to you. Even if there are no adjustments to the return, there would still be costs associated in the preparation of material for the ATO, or the agency involved, and the managing of the response process.

## WSC Audit Protection Service (cont'd)

It is for this reason that we continue to hold Audit Insurance to cover the professional fees incurred in preparing all relevant documentation and responses to the ATO, or any other Government Agency, conducting an Audit, Review or Investigation (including workers' compensation audits). This policy, underwritten by Vero Insurance Ltd, covers these costs (up to a prescribed limit) for any audits, reviews or investigations relating to the current year's returns, and all previous years.

This cover does not automatically extend to you, however, we can add your account to the list of clients participating in this service. In the event that you are subsequently subject to an audit or query, we will then seek to claim our fees from the insurance company.

We emphasise there is no compulsion, and it is for each client to decide whether to participate. If you wish to participate, simply complete the payment details on the client acceptance form sent to you recently and return it to us with your payment. If you have not received a client acceptance form in the mail please Julie Busuttill on (02) 8525 4600 or email [julie.busuttill@wscgroup.com.au](mailto:julie.busuttill@wscgroup.com.au)

Should you have any other queries in respect to this offer, please do not hesitate to contact us.

## FBT – Donations made under salary sacrifice arrangements

The FBT law has been amended to ensure that, from the 2008/09 FBT year, FBT will not apply where a salary sacrifice arrangement involves a donation to an organisation that is a deductible gift recipient (DGR).

Employees who make donations under such a salary sacrifice arrangement are not entitled to claim an income tax deduction for the donation in their own tax return.

## Christmas/year end parties and gifts

The year end is on the way and many employers will be planning to celebrate Christmas with their annual year end "bash". In addition, many businesses will be considering what gifts, if any, they will provide to clients and employees. However, an important issue to consider is the possible FBT and income tax implications of providing "entertainment" to staff and clients.

*Editor: If you would like some assistance in this complicated area please contact us.*

One major consideration is the "less than \$300" minor benefit exemption and the fact that the Tax Office now accepts that different benefits provided at (or about) the same time are not added together when applying this threshold.

This means that a Christmas party and gift may be exempt from FBT, even if provided at the same time, as long as each costs less than \$300!

**Gifts which ARE NOT entertainment** – generally include:

- a Christmas hamper, a bottle of whisky, wine, etc.; and
- gift vouchers, a bottle of perfume, flowers, a pen set, etc.

**Gifts which ARE entertainment** – generally include:

- tickets to attend a theatre, live play, sporting event, movie or the like; and
- a holiday airline ticket or admission ticket to an amusement centre.

### Example of a party and gifts

An employer holds an external Christmas party for employees and their spouses. The cost of food and drink per person is \$250, and no other benefits are provided. Assuming the actual method is adopted:

- for employees attending with their spouse – no FBT is payable (i.e., the per head cost is less than \$300); and
- for employees attending alone – no FBT is payable (i.e., the per head cost is less than \$300).

In either case, no tax deductions will be allowed.

Assuming the 50/50 method is adopted:

- 50% of the total expenditure is subject to FBT and is tax deductible.

### **Warning: Another tax refund email scam**

The Tax Office is warning people about another bogus email circulating that claims to offer a tax refund. The email claims to be from the ATO, and shows a Tax Office email address as the sender.

The email uses the Tax Office logo and includes the words 'You are eligible to receive a tax refund of \$250.50' in the subject heading and the following text (though there may be variations):

*Dear Australian Taxation Office customer,*

*After the last annual calculation of your fiscal activity we have determined that you are eligible to receive a tax refund of \$250.50 AUD.*

*Please submit the tax refund and allow us 3-5 business days in order to process it.*

The email asks people to complete a refund form by clicking on a link in the email which directs them to a bogus Tax Office Website and asks for personal and credit card details.

The ATO advises that anyone who entered their credit card information into the bogus site should immediately report it to their credit card provider.

### **An Important Message**

**While every effort has been made to provide valuable, useful information in this publication, this firm and any related suppliers or associated companies accept no responsibility or any form of liability from reliance upon or use of its contents. Any suggestions should be considered carefully within your own particular circumstances, as they are intended as general information only. Please contact your WSC account manager for more information.**