

News Flash

November 2011



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Message from David Shaw

With Christmas fast approaching we are making every effort to complete tax returns and accounts by 23rd December, 2011. Please note that all offices will be closed from Friday, 23rd December and will re-open on Monday, 9th January, 2012.

We would appreciate if clients with Self-Managed Super Funds could send their information to us by 1st December, 2011. Also any clients that have not sent in their tax return and/or business information should endeavour to send this to us by 1st December, 2011.

Currently we are offering special package deals if you would like to mark out your 20 year plan using our Property Projection Model. Please email me at david.shaw@wscgroup.com.au for further information.

As always if you require any advice or would like to discuss any problems please do not hesitate to call or email me direct.

Best regards,

Christmas, year-end and other staff parties

As Christmas is not too far away, many employers and businesses will be planning to reward staff with a celebratory party or event.

However, an important issue for our clients to consider is the possible FBT and income tax implications of providing 'entertainment' (including Christmas parties) to staff and clients.

Under the Tax Act, employers must choose how they calculate their FBT entertainment liability and most use either the actual method or the 50/50 method.

Under the actual method, entertainment is normally split up between employees (and their family) and non-employees (e.g., clients/suppliers).

Expenditure on employees is liable to FBT and deductible. Expenditure on non-employees is not liable to FBT, and is not tax deductible.

Using the 50/50 method instead?

Rather than apportion entertainment expenditure between staff, associates and business clients, etc., many employers choose to use the more simple 50/50 method.

Under this method, (irrespective of where the party is held or who attends) – 50% of the total expenditure is subject to FBT and 50% is tax deductible.

However, the following traps must be considered:

- even if the function is held on the employer's premises – food and drink provided to employees is not exempt from FBT;
- the minor benefit exemption* cannot apply; and
- the taxi travel exemption cannot apply.

(*) **Minor benefit exemption**

The minor benefit exemption provides an exemption from FBT for benefits of 'less than \$300' which are provided to employees (and their family/associates) and which are infrequent and irregular.

The Tax Office accepts that different benefits provided at (or about) the same time are **not** added together when applying this threshold.

Basically, this means that a Christmas party and gift may be exempt from FBT, even if provided at the same time, as long as the cost of each benefit is less than \$300.

Editor: And that's 'less than' \$300, i.e., no more than \$299.99. A \$300 gift to an employee will be caught for FBT, whereas a \$299 gift is exempt.

Example: A Christmas party

An employer holds a Christmas party for its employees and their spouses.

The cost of food and drink per person is \$250, and no other benefits are provided.

If the actual method is used:

- For employees attending on their own or with their spouse – no FBT is payable (i.e., the per head cost is less than \$300) and no tax deduction will be allowed.

If the 50/50 method is used:

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

Editor: The above is only a short explanation and while we have tried to simplify the rules, we understand that it can get complicated, so give us a call if you would like a hand.

Christmas gifts

Businesses often provide gifts to clients and staff this time of the year, we thought we would now discuss how they are handled "taxwise".

Gifts which ARE NOT considered to be entertainment

These generally include, for example:

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

Briefly, the general FBT and income tax consequences for these gifts are as follows:

- gifts to employees and family members – FBT is payable (except where the less than \$300 minor benefit exemption applies) and a tax deduction is allowed; and
- gifts to clients, suppliers, etc. – no FBT, and a tax deduction is allowed.

Gifts which ARE considered to be entertainment

These generally include, for example:

- 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.

Briefly, the general FBT and income tax consequences for these gifts are as follows:

- gifts to employees and family members – FBT is payable and a tax deduction is allowed (except where the minor benefit exemption applies); and
- gifts to clients, suppliers, etc. – no FBT and no tax deduction.

Non-entertainment gifts at functions

What if a Christmas party is held at a restaurant at a cost of less than \$300 for each person attending, and employees with spouses are given a gift or a gift voucher (for their spouse) to the value of \$150?

Under the actual method, for employees attending with their spouses – no FBT is payable because the cost of each separate benefit (including the gift) is less than \$300 (i.e., the benefits are not aggregated).

No deduction is allowed for the food and drink, but the gift is deductible.

Where the 50/50 method is adopted:

- 50% of the total cost of food and drink is subject to FBT and deductible; and
- the total cost of all gifts is not subject to FBT because the individual cost of each gift is less than \$300.
- As the gifts are not entertainment, the cost is deductible.

Editor: This is all pretty complicated so if you would like a little help, just contact our office.

Small business benchmarks

Editor: The Tax Office says that its small business benchmarks have been developed to help taxpayers compare their performance against similar businesses in their industry.

As you might expect, they also are a guide to the level of income that the ATO will expect from a business in a particular industry.

There are now more than 100 benchmarks for businesses with different turnover ranges i.e., small/medium/large, which are on the ATO's website.

Not surprisingly, the Tax Office says that businesses reporting outside the benchmarks may attract their attention as it may be an indication that the business is not recording and paying tax on all transactions, especially cash.

When undertaking an audit, the Tax Office is likely to use the relevant benchmark to estimate the income that has not been reported.

Clients who may be concerned or who would like to discuss the benchmark for their industry, should contact our office.

Benchmarks for new industries

New benchmarks have been published for the following industries:

- Landscape construction;
- Motor vehicle retail – new and used;
- Panel beating and smash repairers;
- Lawn mowing and garden services;
- Tattooing services; and
- Pharmacies.

Over the next 12 months, they intend to publish benchmarks for a further 30 industries.

SMSFs and money lending

Editor: The Tax Office has issued an information sheet on their website warning trustees about the perils of lending an SMSF's funds to the wrong person.

This includes the practice adopted by some taxpayers of withdrawing funds from an SMSF to temporarily help prop up their business when cash flow is tight.

This practice has apparently become quite prevalent since the global financial crisis.

Is your loan (or withdrawal of funds) in your SMSF's best interest?

The Tax Office asks – has your SMSF loaned money? If so, make sure the loan terms comply with the law and are in the best interests of your retirement.

When a loan agreement is not in the best interest of your SMSF – for example, when you have given discount loan rates or favourable terms – this could have serious consequences.

In addition to putting your member's benefits at risk, your SMSF could be found to be non-complying and would, therefore, not qualify for concessional tax rates.

FBT treatment of signage on a car

*Editor: At a recent meeting, the Tax Office confirmed that the cost of 'signage' placed on a car would **not** form part of the base value of the car.*

The ATO agreed that the signage in the form of a removable thin film fitted to the car is not a 'non-business accessory'; and is not included in the cost price of the car. That is, the cost of such signage would **not** form part of the base value of the car for FBT purposes.

Record-keeping for businesses

Editor: With the introduction of benchmarking, record-keeping has become the name of the game when a taxpayer is audited so they can prove their figures are correct. The following is an excerpt from the ATO's stance on record-keeping.

The ATO would expect a retail business to:

- record each individual sales transaction through their cash register or point-of-sales system;
- conduct a daily sales reconciliation between the 'z' total (or end-of-day report if they use an electronic system) and cash in the register, taking into account cash taken from the register for business and personal expenses;
- transfer the daily sales total into a cash receipts book regularly;
- perform bank reconciliations between bank statements and the cash receipts book, at least monthly;
- retain for a period of five years:
 - the 'z' totals or point-of-sales system end-of-day reports;
 - daily reconciliations;
 - bank records and cash receipts book; and
 - till rolls or end-of-day reports that record details of each individual transaction (if 'z' totals have been reconciled with actual cash sales and banking, detailed till rolls may be discarded after one month); and
- maintain a filing system to keep track of paid and unpaid accounts.

ATO's new property webpage

The ATO has launched a new property webpage which outlines information on property topics including:

- Income Tax;
- Capital Gains Tax (CGT);
- Goods and Services Tax (GST);
- Residential rental properties;
- Property used in running a business;
- Property development; and
- Building and renovating.

The new ATO property guide can be found on their website at www.ato.gov.au/property.

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.