crestani partners
Specialist Accountants & Auditors

TAXWISE
INDIVIDUAL NEWS

April 2013

IN THIS ISSUE

Change of Tax Commissioner

There has been a change of Commissioner at the Australian Taxation Office. Michael D'Ascenzo AO ceased to be Commissioner on 31 December 2012 and Chris Jordan AO commenced as the new Commissioner on 1 January 2013.

2013 Federal Election

With the early announcement of the 2013 federal election, the government will be forced to re-prioritise tax measures it may or may not choose to pursue over the coming months. There may be delays in areas where change was pending and changes sped up in other areas. We will keep you informed of these changes as they are announced by the government.

Rules against Tax Avoidance

Following some decisions in cases going against the ATO, the Government has decided to tighten up the rules which target tax avoidance by taxpayers. Draft legislation bringing the changes the Government wishes to make will be introduced in the Autumn sittings of Parliament.

Previous editions of *TaxWise* have mentioned this change, and now it is on our doorstep.

It is good to be aware that such provisions exist and bear them in mind when embarking on transactions. Your tax agent will be able to advise you if there is any concern about these provisions with respect to your business activities.

In-house fringe benefits – FBT changes

In the Mid-Year Economic and Fiscal Outlook report released by the Government in late October 2012, the Government announced a change would be made to the FBT treatment of in-house fringe benefits provided through a salary sacrifice arrangement. An "in-house fringe benefit" is a benefit (goods and services) provided by an employer (or their associate) to an employee that are identical or similar to goods and services ordinarily provided by the employer (associate) to their customers.

Under the proposal, the value of the fringe benefit subject to FBT will become either the lowest price that an identical good or service is sold to the public or the lowest price of the good or service under an arms' length arrangement.

Note!
This change only affects in-house benefits provided through salary sacrifice arrangements. If you receive these kinds of benefits from your employer for goods or services your employer sells in their business through salary sacrifice arrangements, you should see your tax adviser to see if these new rules might affect you.

Changes to the Australian Business Register

The Australian Business Register website has recently been upgraded and some new functionality has been added. When registering a new entity, you should now be able to do the following:

- register for a business name, an AUSkey, GST, fuel tax credits and PAYG withholding at the same time as applying for an Australian Business Number (ABN); and
- have your details pre-filled from one registration to the next - for example, some of the details included on your ABN application should then be pre-filled on your business name application.

However, if you do not take advantage of applying for certain registrations at the initial stages of your ABN application, you will still need to:

- apply directly to each agency for additional registrations if you do not elect to apply for these registrations at the same time as you apply for an ABN, or if you already have an ABN;
- apply for a business name directly with the Australian Securities & Investments Commission (ASIC) if you are registering an entity that is not an individual or organisation with an Australian Company Number or Australian registered body number;
- go to the AUSkey website www.auskey.abr.gov.au to manage your AUSkeys - for example, cancel an AUSkey, or apply for additional AUSkeys.

It is important to look after your AUSkeys for the entities that you have.

Tip!
Before going ahead to register an entity, if you are not sure what type of entity you should register, you should seek advice from your accountant or tax agent as there may be different tax implications for different types of entities. Also, it is worth spending time working out what is the best structure for your type of business.

Taxable Payments Reporting – Building and Construction Industry

In previous editions of *TaxWise*, we noted that the new rules comprising the Taxable Payments Reporting System began to apply from 1 July 2012. As a reminder, these rules only affect participants in the Building and Construction Industry with an ABN and require certain payments made to contractors for certain building and construction services to be reported.

The reporting date of 21 July 2013 is fast approaching and businesses likely to be affected should have already started trying to record relevant transactions that they may need to report.

For this first year in which the rules apply, these payments will need to be reported by 21 July 2013, which is very soon after the financial year ends. If you make these payments, it may be worth starting to compile a list of the payments you make to contractors (including the details noted above) to assist you to meet the reporting requirements at year end. This way, you will have compiled all the information you need in one place by year end.

The ATO has indicated that it will send letters to contractors (or their tax agents) who have been identified by the ATO to raise awareness and ensure these contractors are aware of this new obligation.

If you have received one of these letters, see your tax agent who can help you get your records together to meet the requirements here.

To Do!
It is not too late to start keeping track of payments you make to contractors for the 2012-13 income year and will help you when the time comes to prepare the first report due on 21 July 2013.

Motor vehicle data matching program

The ATO has embarked on a "data matching" program where they will request and collect details of individuals or businesses that have acquired a vehicle with a transaction value of $10,000 or greater in the 2011-2012 and the 2012-2013 financial years from all the motor vehicle registries in all the States and Territories.

The ATO will then electronically match the data with data the ATO has on file to see if individuals and businesses are meeting tax obligations they may have in respect of the vehicles acquired. This program may pick up obligations that have not been met in relation to fringe benefits tax, luxury car tax and Fuel Scheme compliance verification activity.

If you have recently purchased a vehicle for business purposes, check with your tax agent if there are any associated tax obligations you may need to meet.

Tax exemption for pension earnings

The Government released in February a draft regulation to provide certainty to the beneficiaries of deceased estates. The regulation will ensure that investment earnings derived by superannuation funds from assets supporting pensions will be exempt from tax. The tax exemption is intended to continue following the death of the pension recipient until all their benefits have been paid out.

This gives effect to an announcement the Government made in the 2012-13 Mid-Year Economic and Fiscal Outlook report.

Tax refunds by EFT

From 1 July 2013, refunds on individual tax returns will be given by EFT. Individuals whose returns are lodged through the electronic lodgment service will have to provide their bank account details (BSB and account number) where a refund is expected. The ATO has said they will accept details of bank accounts which are also joint accounts or trust accounts for this purpose.

Applying for a TFN at the Post Office

Australian residents aged 16 years and older are now able to apply for a tax file number online so long as they authenticate their "proof of identification" documents at participating Australia Post outlets.

This facility is available from February at over 230 participating Australia Post outlets. A total of 475 outlets will be offering the service by June 2013. You will find a copy of the online form on the ATO website.

Unfortunately current paper TFN applications (available from newsagents) are not accepted as part of the service Australia Post offers.

Self-Managed Super Funds

There is lots of activity going on in relation to self-managed superannuation funds (SMSF). More and more people are deciding to set up their own SMSFs. We highlight below some of the current issues for SMSFs.

1) Regulations relating to audits of SMSFs - StrongerSuper

New regulations will be introduced relating to the SMSF auditor registration regime and the prescribed period for the provision of an audit report and accompanying explanatory material for an SMSF. The Government recently released the draft proposed regulations for public consultation.

The purpose of the regulations is to ensure auditors of SMSFs meet a high standard of competency so that they may carry out their role as auditor of SMSFs to the highest standards.

If you run your own SMSF, it is useful to know that an auditor you obtain to audit your SMSF will be required to meet these high standards.

2) SMSF arrangements to acquire property which contravene superannuation law

The ATO has released a Taxpayer Alert (TA 2012/7) about certain arrangements entered into by SMSFs to acquire property. There are certain arrangements which the ATO consider do not comply with the superannuation laws. These are described in the Taxpayer Alert.

The ATO is concerned that some arrangements, if structured incorrectly, may not be able to be fixed up easily and may require sale of the property.

If you have an SMSF, you need to ensure care is taken when investing in property, particularly where certain types of borrowing arrangements are involved.

3) Pre-retirement super withdrawals

A recent decision of the Administrative Appeals Tribunal held that an individual who withdrew funds from their self-managed super fund without meeting the qualifying conditions for withdrawal was subject to tax on the amounts withdrawn. If you are thinking about withdrawing funds from your SMSF, speak to your tax agent about whether you have met the qualifying conditions that will allow you to draw the funds out without triggering a liability to tax.

4) Acquisitions and disposals of certain assets by SMSFs and related parties

Some draft legislation was released by the Government which affects certain transactions involving acquisitions and disposals of certain assets (eg real property used in a business) between SMSFs and parties associated with the SMSF.

If you have plans to transfer an asset into your SMSF or for the SMSF to dispose of an asset, you should speak to your tax agent about how these proposed rules may affect your proposed transaction.

Useful superannuation publication from the ATO

The ATO has prepared a publication entitled "Super – what employers need to know" which gives employers an overview of their essential obligations in relation to superannuation and their employees.
This document may be useful for you if you are an employee to ensure you are aware of your employer's super obligations in respect of you. A copy of the publication can be found on the ATO's website.

SuperSeeker

SuperSeeker is a free, online search tool that shows you details of any superannuation accounts that have received contributions in the past two financial years, any lost super reported to the ATO and any super money that the ATO holds. SuperSeeker can also be used to transfer your super online.

In February this year, the Government announced that the SuperSeeker tool had been improved to allow people to see and do more with their super.
Firstly, you will need to register on the website. Once registered, you should be able to see all the superannuation accounts you have contributed to in the previous two financial years. You should also be able to see any superannuation money the ATO is holding that is yours, any lost super you may have and request funds be transferred between your super accounts to consolidate your entire super into one account using the online form.

To Do!

There are billions of dollars in lost super and some of it may be yours! Register on the SuperSeeker website and see if any of the lost super belongs to you! If you find some, you'll be able to easily transfer it into your current super account.