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P r a c t i c e U p d a t e

November 2024

Hiring employees for the festive season

As the festive season approaches, employers that hire new employees to help with their business should remember the following when it comes to their employer tax and super obligations:

- ❑ Employers should make sure they are withholding the right amount of tax from payments they make to their employees and other payees, especially as this will help their employees meet their end-of-year tax liabilities;
- ❑ Employers must pay super guarantee (currently at 11.5%) to all eligible employee's super funds in full and on time to avoid paying the super guarantee charge; and
- ❑ If employers are still not reporting through single touch payroll ('STP') and they do not have an approved exemption, deferral or concession in place, they should start reporting now. If they have just started a business or recently employed staff, they will need to report through STP from their first payday.

Lodging and paying business activity statements ('BASs')

The ATO is reminding taxpayers that it is important to lodge BASs and pay in full and on time to avoid penalties and interest charges.

The BAS for the first quarter of 2024/25 is generally due on 28 October, but taxpayers may receive an extra:

- ◆ four weeks if they lodge through a registered tax or BAS agent; or
- ◆ two weeks if they lodge online.

The cost of managing tax affairs is tax deductible for taxpayers, and a registered agent's help will allow them to focus on running their business.

Deductions for financial advice fees

The ATO has provided guidance about when an individual not carrying on an investment business may be entitled to a deduction for fees paid for financial advice.

An individual is entitled to a deduction for fees for financial advice to the extent that the loss or outgoing is incurred in gaining or producing assessable income, **unless** the loss or outgoing is of a capital, private or domestic nature.

Fees for financial advice an individual incurs may also be deductible to the extent that the advice relates to managing their 'tax affairs' (e.g., fees for advice in relation to salary sacrifice arrangements).

However, fees for financial advice on a proposed investment prior to the acquisition of an asset, or about how to invest additional funds to grow an investment portfolio, will **not** be deductible.

The individual must also have sufficient evidence of the expenditure to claim the expense as a deduction, such as a properly itemised invoice.

ATO's notice of government payments data-matching program

The ATO will acquire government payments data from government entities which administer government programs for the 2024 to 2026 income years, matching data on government payments made to service providers against ATO records, including service provider identification details and payment transaction details.

The ATO estimates that records relating to approximately 60,000 service providers will be obtained each financial year, including approximately 9,000 individuals, with the remainder consisting of companies, partnerships, trusts and government entities.

FBT on plug-in hybrid electric vehicles

From 1 April 2025, a plug-in hybrid electric vehicle ('PHEV') will not be considered a zero or low emissions vehicle under fringe benefits tax ('FBT') law and will not be eligible for the electric car FBT exemption. However, an employer can continue to apply the electric car exemption if:

- use of the PHEV was exempt from FBT before 1 April 2025; and
- they have a financially binding commitment to continue providing private use of the vehicle to an employee or their associate on and after 1 April 2025 (note that any optional extension of the agreement is **not** considered binding).

If there is a change to a pre-existing commitment on or after 1 April 2025, the FBT exemption for the PHEV will no longer apply from the date of that new commitment.

An employer is not entitled to an exemption from FBT after 1 April 2025 if there was no binding financial commitment to provide the car to a particular employee in place before then.

Eligibility for compassionate release of superannuation

The ATO has been responsible for the administration of the early release of superannuation on compassionate grounds since 1 July 2018.

It will only approve a release of superannuation on compassionate grounds if the applicant meets all the conditions set out in the regulations, including that the applicant has no other means to pay the expenses.

The five main grounds of eligibility are:

- ◆ medical treatment or transport (i.e., to treat a life-threatening illness or injury, or alleviate acute or chronic pain or mental illness) for the applicant or their dependant;
- ◆ accommodating a disability for the applicant or their dependant;
- ◆ palliative care for a terminal illness for the applicant or their dependant;
- ◆ funeral expenses for a dependant of the applicant; or
- ◆ preventing foreclosure or forced sale of the applicant's home.

AAT rejects taxpayer's claims for work-related expenses

In a recent decision, a taxpayer's claims for various work-related expenses were rejected by the AAT.

The taxpayer was employed as a traffic controller in the 2020 income year. In his income tax return for that year he claimed \$9,800 in work-related deductions, including for car expenses (using the cents per km method), travel expenses, clothing expenses and self-education expenses, as well as supplemental deductions.

The ATO disallowed all of the deductions, and the taxpayer then appealed to the AAT.

The AAT agreed that all of the taxpayer's claims for work-related expenses should be disallowed, largely because the taxpayer failed to substantiate these expenses, whether by way of receipts/bank statements or any other form of evidence.

Also, in relation to the claim for car expenses, the AAT noted that the taxpayer had been using company vehicles at least some of the time.

The AAT also noted that there had generally been *"no attempt to apportion work use against private use. . . Even if I could satisfy myself of some apportionment, the amount would likely be so insignificant that it would not result in any real deduction in taxable income."*

<p>Please note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.</p>
