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Practice Update

June 2023

2023/24 Budget Update

On 9 May 2023, Treasurer Jim Chalmers handed down the 2023/24 Federal Budget.

Some of the measures announced by the Government (including some which were actually announced prior to the Budget), include:

- ❑ from 1 July 2026, employers will be required to pay their employees' superannuation at the same time as their salary and wages;
- ❑ providing businesses with annual turnover of less than \$50 million with an additional 20% deduction on spending that supports electrification and more efficient use of energy (the 'Small Business Energy Incentive'); and
- ❑ increasing the capital works tax deduction depreciation rate for eligible new build-to-rent projects from 2.5% to 4% per year.

In addition to these, one of the most important aspects of this Budget was that the Government has provided some further depreciation relief for small businesses once temporary full expensing comes to an end on 30 June 2023.

Specifically, from 1 July 2023 until 30 June 2024, the Government will temporarily increase the instant asset write-off threshold for small businesses (with an aggregated annual turnover of less than \$10 million) from \$1,000 to \$20,000. Assets valued at \$20,000 or more (which cannot be immediately deducted) can continue to be placed into the small business simplified depreciation pool.

Also, the provisions that prevent small businesses from re-entering the simplified depreciation regime for five years if they opt-out will continue to be suspended until 30 June 2024.

Other important measures the Government announced include:

- amending (and limiting) the non-arm's length income ('NALI') provisions which apply to expenditure incurred by superannuation funds;
- reducing the tax concessions available to individuals with a total superannuation balance exceeding \$3 million; and
- exempting lump sum payments in arrears from the Medicare levy.

In the ATO's sights this Tax Time

The ATO has announced its three key focus areas for this Tax Time:

- ◆ rental property deductions;
- ◆ work-related expenses; and
- ◆ capital gains tax.

ATO Assistant Commissioner Tim Loh said the ATO is continuing to prioritise areas where they often see mistakes being made:

"Within these areas, we have identified common mistakes, and are particularly focused on addressing these and supporting taxpayers and registered tax agents to get their claims right this year."

However, the ATO also recognises that many people are *"doing it tough"* this year, and expects fewer people will receive a refund, or they may receive smaller refunds than they were expecting, and more may have tax debts to manage.

ATO advice regarding year-end trustee resolutions

The ATO has advised that, in the lead up to 30 June, trustee clients who wish to make beneficiaries presently entitled to trust income for the 2023 income year should ensure their trustee resolutions are effective.

This includes where trustees may want to make beneficiaries 'specifically entitled' to franked dividends and capital gains included in that income (i.e., where trustees want to 'stream' those classes of income to certain beneficiaries).

It is important that trustee clients:

- check their trust deed to ensure that the intended beneficiaries are within the class of persons entitled to trust income (or of trust capital, if they intend to stream a capital gain that is not income of their trust) and are not excluded from being beneficiaries;
- comply with any requirements in the trust deed that concern how to validly 'appoint' (or distribute) trust income to beneficiaries;
- recognise that, for tax law purposes, beneficiaries need to be made presently entitled to trust income by 30 June of the relevant year;
- are aware that, if they fail to do what is required in a trust deed, or fail to appoint income by 30 June, this may cause outcomes to arise that differ to what they intended. This could include other beneficiaries being assessed on the relevant share of the trust's net (taxable) income (or the trustee being assessed at the top rate of tax); and
- ensure that resolutions are unambiguous.

'Side hustles' in the ATO's sights

'Side hustles' have really grown over the past few years — everything from the gig economy and drop shippers, to content creators and influencers.

The ATO recognises that it can be hard to know how to treat income when earning money from side hustles, especially when an individual has several, so the ATO has prepared some tips.

First, the individual needs to know if they are 'in business'. If so, they may need to think about registration and tax obligations. If they are not in business, but are looking to start one, they should know how to "*set themselves up for success*".

Also, if a side hustle means the individual is now a director of a company, they must make sure they apply for a director ID (which is free).

ATO ride sourcing data-matching program

The ATO will acquire ride sourcing data relating to approximately 200,000 individuals to identify individuals that may be engaged in providing ride sourcing services during the 2022/23 financial year.

The data items include:

- ◆ identification details (driver identifier, ABN, driver name, birth date, mobile phone number, email address and address); and
- ◆ transaction details (bank account details, aggregated payment details, gross fares, net amount paid to driver, and all other income to which GST may or may not apply) of all payments received in the relevant period.

The data will be used to identify and inform ride sourcing providers of their tax obligations as part of information and education campaigns.

The intelligence obtained will increase the ATO's understanding of the behaviours and compliance profiles of individuals and businesses that provide ride sourcing services, and may also be used as part of the methodologies by which the ATO selects taxpayers for compliance activities.