

# TAXWISE® BUSINESS NEWS

June 2008

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## FEDERAL BUDGET 2008-09

The Federal Budget 2008-09 did not include sweeping changes to business taxation – any reform at this level will be driven by the ‘root and branch’ tax system review that was announced by the Government in the Budget.

There were, however, some Budget tax-related measures of interest to small and medium businesses.

### Small Business Tax Concessions

You may already be aware that access to small business tax concessions was simplified from 1 July 2007.

You can now pick and choose what type of concession suits your business:

- most small businesses with an aggregated annual turnover of less than \$2 million are able to access a range of small business tax concessions, ranging across income tax, capital gains, GST and PAYG; or
- if your business does not satisfy this \$2 million threshold test, but the net value of its CGT assets does not exceed \$6 million, it may still be able to access the CGT small business concessions, subject to satisfying any other eligibility tests.

With effect **from the 2007-08 year**, access to the small business CGT concessions will now be extended to:

- taxpayers owning a CGT asset used in a business by a related entity; and

- partners owning a CGT asset used in a partnership business.

### Family trust elections

There are plans afoot to reverse some of the family trust election changes made by the previous Government.

If you have a family trust, you need to be aware that the proposed reversals may impact on the ability of your family trust to utilise its tax losses to lower its income tax:

- **from the 2007-08 income year**, family trusts will be prevented from making a once off variation to the test individual specified in a family trust election (unless it relates to marriage breakdown); and
- **from 1 July 2008**, the definition of family in the family trust election rules will be narrowed to limit lineal descendants to children or grandchildren of the test individual or of the test individual’s spouse.

#### TIP

Other family trust changes introduced by the previous Government will not be affected, including: (i) variations in the family group as a result of death or marriage breakdown are allowed; and (ii) revoking family trust elections in circumstances where the original elections were not actually required.

### Entrepreneurs’ tax offset

The entrepreneurs’ tax offset (ETO) currently provides a 25% tax offset for eligible small businesses with annual turnover of \$75,000 or less (the offset phases out where this turnover is between \$50,000 and \$75,000).

We are now expecting a new family income test that will further restrict access to the ETO.

With effect from **1 July 2008**, the family income test will limit access to the ETO by restricting eligibility for:

- *singles* – from \$70,000 adjusted taxable income per year; and
- *families* – from \$120,000 adjusted taxable income per year.

### Luxury cars

If you're going shopping for new cars in the new financial year, you may find them more expensive.

From **1 July 2008** the luxury car tax rate is expected to increase from 25% to 33%, bearing in mind that the luxury car tax currently cuts in at \$57,123.

Before you rush out and go car shopping before 1 July 2008, it's still not clear in what circumstances the 25% rate will continue to apply before 1 July (eg, whether you simply need to order before 1 July or whether you will also have to take delivery of the vehicle on or before 30 June 2008).

### Crack down on fringe benefits

#### Work related items

In previous newsletters, we have given you some tips about how to position yourself cost effectively as an "employer of choice" by providing employees with work-related items free from fringe benefits tax (FBT) as part of their salary packaging arrangements.

Unfortunately, effective immediately, it will now be harder for you to provide these types of benefits FBT free.

**From 7.30 pm (AEST) on 13 May 2008**, the FBT exemption for purchases of certain work-related items (including laptop computers, personal digital assistants and tools of trade) only applies where your employees use these items primarily for work purposes.

The FBT exemption will generally be limited to one item of each type per employee per year.

Your employees will also now be denied depreciation deductions for FBT exempt items (that is, items purchased primarily for work purposes) purchased from 7.30 pm (AEST) on 13 May 2008.

This eliminates a double taxation benefit that was available before these Budget changes were announced.

### Other FBT changes

We are expecting some other FBT changes that may limit your employees' ability to access FBT free benefits.

Effective **from 7.30 pm (AEST) on 13 May 2008** FBT will be imposed on:

- meals provided to your employees on your business premises as part of a salary packaging arrangement (known as *meal cards*). Existing balances on meal cards as at 7.30 pm (AEST) on 13 May 2008 will remain eligible for the FBT exemption, provided they are used by 31 March 2009; and
- the reimbursement of an associate's share of expenses incurred in relation to jointly held investment assets. If any of your employees have entered into this particular arrangement, they will have until 31 March 2009 to renegotiate their salary package to avoid incurring a FBT liability.

### In-house computer software

The depreciation period for capital expenditure on in-house computer software is set to increase from 2.5 years to 4 years (calculated on a straight line basis).

The increased rate will apply to expenditure on in-house computer software you incur on or after **7.30 pm (AEST) on 13 May 2008**.

#### What's in-house computer software?

In house software is computer software (or the right to use computer software) that:

- you acquire, develop or get someone else to develop; and
- is mainly used by you in performing the functions for which the software was developed (that is, not for resale).

#### TIP

This includes purchasing of off-the-shelf software on or after 7.30 pm (AEST) on 13 May 2008.

### GST and property transactions

If you are a property developer, you may have been using the 'margin scheme' to help reduce your GST liability on any ultimate sale of your property development.

In practice, this opportunity usually arises where you purchase property as either a GST-free supply of a going concern or a GST-free supply of farmland. You calculate your GST liability on the 'margin' – the difference between the sale price of the finished development and the GST-free purchase price.

The Government plans to amend the GST laws to ensure that the full amount of 'value added' to the property will now be subject to GST (by including in the margin scheme calculation the value added by the registered entity that made the supply). These changes will apply when the enabling legislation becomes law.

### Superannuation clearing house

The Government plans to introduce an optional superannuation clearing house to help you manage your employer obligations under Super Choice.

Under Super Choice some employers have to pay superannuation into a large number of different funds for their employees. This can be a costly administrative exercise.

Under this new proposal:

- you will be able to pay your employee contributions into a single location - the superannuation clearing house; and
- the superannuation clearing house distributes the contributions to the various super funds selected by your employees.

It's early days for this proposal because the Government still has to consult with industry on this measure before it goes any further.

### SUPER GUARANTEE CHANGES

As you are aware, you are required to provide a minimum level of superannuation support for an employee - currently 9% of the employee's notional earnings base.

In working out an employee's notional earnings base, **from 1 July 2008**, you will now be required to make sure all your employees' Super Guarantee contributions are calculated using *ordinary time earnings*.

#### What are 'ordinary time earnings'?

*Ordinary time earnings* (OTE) is generally what your employees earn for their ordinary hours of work, including:

- salary and wages
- over-award payments
- commissions
- shift allowances
- paid leave.

However, it excludes things like overtime.

#### Do I need to check current arrangements?

Most employers tend to use *OTE* to calculate their employees super contributions.

To be safe, however, you should check your current Super Guarantee arrangements now to see if you are using an earnings base other than *OTE*.

Make sure you are using *OTE* to calculate your employees Super Guarantee contributions if you are relying on an earnings base contained in:

- an industrial award
- an existing employment agreement
- a fund's trust deed, or
- a law of the Commonwealth, States or Territories.

#### WARNING !

From 1 July 2008, if the super contribution percentage in a specific earnings base for your employees is below the minimum 9%, you will have to pay extra to meet the minimum 9% to avoid additional Super Guarantee charges.

### PLANNING FOR YOUR TAX RETURN

#### Tax planning basics

Ideally, tax planning is something you should be looking at regularly throughout the year. The reality, however, is that most of us tend only to look at it about now. Whilst there is no magic formula for the 'best' tax planning strategies, good planning practice aims to:

- **cover the basics** - such as including all your assessable income and maximising all the tax deductions to which you are entitled; and

- **look at opportunities to improve your tax situation before 30 June** – this depends on your particular circumstances but may include things like ensuring any capital gains are offset with any available capital losses, the use of farm management deposits and maximising your superannuation contributions for the year, including making contributions to attract the government co-contribution (for those who are eligible).

Here are some key tax-time issues for you to consider when preparing your 2007-08 return.

### **Maximise your deductions now**

One of the more popular strategies to legitimately maximise your deductions is by prepaying some items of your business expenditure before 30 June.

#### **COMMON PREPAYMENTS**

Commonly prepaid business items include rent, lease payments, interest, audit and accounting fees, repairs and maintenance, and business related subscriptions.

Before you prepay any business expenses, you should be aware that there are some rules that may affect your entitlement to claim a deduction for prepaid business expenses (eg, you may have to apportion your deduction over more than one tax year).

### **Watch out for GST traps**

It's not hard to make a mistake keeping track of and working out your businesses GST reporting obligations, payments and refunds.

Here are some common traps to avoid.

- Be careful not to understate the total value of goods and services supplied.
- Make sure you are not overstating your entitlement to input tax credits.
- Make sure you report supplies and purchases in the correct period.
- Classify your supplies correctly – be particularly careful if you think a supply is GST free.

### **Keep an eye on your business losses**

Has your business received income from more than one activity during the year and one (or more) of these activities made a loss?

You may be able reduce your overall taxable income by offsetting this loss (or losses) against profits from your other business activities during this year.

You should be aware that if you carry on business alone or in partnership, there are some special 'commerciality tests' that your business will need to satisfy so you can do this.

#### **NEW BUSINESS ACTIVITIES**

If you have started-up a new business venture during the year which has made a loss, not uncommon in the early stages of a new venture, you'll need to check whether you can claim this loss against your other income.

### **Check your bad debts now**

If your business has a debt that has already been brought to account as assessable income and you can't collect that debt, you want to make sure you don't end up paying tax on income you can't collect.

The way you do this is to claim a deduction for this debt, where such a debt is 'bad' and is written off in your accounts before 30 June.

#### **WHEN IS A DEBT BAD?**

When you have made an effort to collect it, there is little likelihood that you will ever be successful in collecting it and you have abandoned any debt recovery action.

### **Value your trading stock at 30 June**

You'll need to value your closing stock on hand and work-in-progress at 30 June. Resist the temptation to guess – this is a common mistake that businesses make!

When you value your trading stock, clearly identify which valuation method you use – cost, replacement, market value (or less if the stock is obsolete).

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