

Tax Update February 2003



Lodgment Dates

28 February 2003

Quarter 2, 2003
BAS

28 February 2003

Individuals and trusts with tax payable in latest year lodged in excess of \$500,000
Income tax return

28 April 2003

Quarter 3, 2003
BAS

'Fabric of the building' not depreciable

A rental property within a unit complex which is rented or available for rent on a commercial basis at all times contains a number of items as listed below.

A depreciation deduction is not available because none are considered to be 'plant'. All the items form part of the 'fabric of the building' and are an integral part of the structure of the building. Their nature and degree of affixation to the building supports the view that none of the items are articles. On a functional analysis, it could not be said that any of the items' operation is sufficiently mechanical in nature for them to be viewed as machinery. They are no more than setting.

- ◆ Distribution and switch gear (various electrical components to distribute, meter and control the usage of power)

- ◆ Aluminium letterbox (mounted to the front wall of the property and within a bank of letter boxes)
- ◆ Cable tray (mounted to the building as a support system for cabling)
- ◆ Fire hydrant and booster valves (water inlet and distribution entry point)
- ◆ Fire hose reel (plumbed in and mounted to the building)
- ◆ Fire separation doors
- ◆ Light fittings and shades (mounted to the building surface including dome lights, cast aluminium bunk lights and flush mounted tungsten halogen down lights)
- ◆ Emergency lighting (battery operated emergency)
- ◆ Signage (various including notice boards, location of fire safety equipment, exit areas and common facilities fixed to the building)
- ◆ Bollards (steel posts set in concrete)

Source: ATO ID 2002/1015

One off Market Research session assessable income

The payment to the taxpayer was made in return for the service they provided by participating in market research. The payment falls within the meaning of income from personal services so is therefore assessable income even though the taxpayer does not provide those services as an employee or in carrying on a business.

Although the taxpayer might attend only one session and hence receive just the one payment, the absence of regularity of payment in this instance does not indicate that the payment is not ordinary income. The predominant character of the payment is of remuneration for the taxpayer's services. Further, the taxpayer has an expectation that they will be paid for those services.

The consultant intended the payment as an incentive for the taxpayer to participate in the consultant's market research sessions indicates that the payment is properly characterised as ordinary income in the hands of the taxpayer. Source: ATO ID 2002/822, TR 2639 (para 3).

Divorce re retirees

From 28/12/02 the Family Law Act allows superannuation to be divided like other assets for divorcing couples. Although not yet applying to de facto couples, super payments can be split by either court order or the couple's consent.

Benefits paid as the result of a payment split would be reported in the name of the person receiving the benefit and measured against that person's RBL.

Special rules apply to ensure equitable treatment for both spouses. Source : ATO

\$9 million cheque to ATO

A property developer recently settled tax debts after long running disputes with the tax office. It pays not to delay your tax payments.

Source : SMH 29/12/02

Are you tax effectively saving super ?

A recent survey shows that over 90% of Australians are not willing to top up their super.

There are tax effective means to make the most for your retirement savings.

Source: The ING-Melbourne Institute Household Savings quarterly report contains data on householders' current savings behaviour, reasons for savings, current household asset and debt structure and their assessment of the best ways to hold assets.

<http://wff2.ecom.unimelb.edu.au/iaesrwww/miesi/hsr.html>

Divorce and GST

Much planning may be done to consider income tax, CGT and stamp duty implications following the assets split in divorce settlements. However, GST is rarely considered

Where joint assets are held in structures that are registered for GST, such as a company or trust, the transfers of assets could lead to GST. There is no "roll-over" relief like there is for CGT

The person retaining the interest in the entity, say a business with a company structure, may have to personally compensate the

GST amount that the business pays in the transfer of the asset. However, no GST is payable on money paid (unless it is exchanged for other money). So it is possibly better for cash adjustments to be made rather than transferring particular assets, like a holiday house or car when the assets are in a GST registered entity.

Seek professional advice for the consequences of GST and the liability that arises for who and when. Make sure your legal advisers know of the different possible scenarios.

Umpires score

Match fees and car allowances paid to Northern Tasmanian Football Umpires are not assessable income. It follows then that any losses or outgoings incurred are not allowable deductions.

Source: ATO Class Ruling 2003/5 22/1/03

No where to hide Euros anymore

From 2004, automatic exchange of information will begin between EU Member States. The rules hope to reduce banking secrecy and tax avoidance by those using foreign banks across the EU.

While most Member States have agreed, banking secrecy will be retained by Belgium, Austria, Luxembourg and Switzerland for another 6 years however a withholding tax on savings held by residents of other EU Member States will be applied.

Source:
<http://www.eurunion.org>

Crime Stoppers QLD Tax Deductible

For gifts to the value of \$2 or more.

Source: Assistant Treasurer's PR No C004/03, 23/1/03

ATO quenches Tax Payers concerns over fires

The ATO will assist those affected by bushfires in overcoming any difficulties in meeting tax obligations and minimizing any further disruption to their lives. This extends to those involved in fire control or support services, including volunteers traveling interstate.

The ATO will allow more time to meet lodgment dates and the \$10,000 grant being made available by the ACT Government will not be taxable. The Tax Commissioner, Mr Carmody said, "And if you get any mail from us, don't worry about it. Give us a call when you're ready and we will work with you to sort things out". Source: ATO

Canberra Bushfire Appeal Tax Deductible

The Prime Minister has said donations to the Canberra Bushfire Recovery Appeal established by the ACT Government will be tax deductible. The donations will assist those who have been affected by bushfires and can be at Commonwealth Bank and National Australia Bank branches, ACTAB outlets and at ACT Government shop fronts. The Commonwealth Government will also contribute \$500,000.

Source: Prime Minister's media release, 21 January 2003