

Tax Update January 2003



Lodgment Dates

14 February 2003

New company and superannuation fund registrations
Income tax return

28 February 2003

Non taxable large business taxpayers as per latest year lodged
Income tax return

28 February 2003

Companies and superannuation funds (total income of latest year lodged in excess of \$1m)
Income tax return

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

Record retention period won't reduce

A suggestion was made to reduce the records kept for tax purposes from 5 to 3 years. The New Tax System and GST tax reform have all contributed to vastly increased volumes of records needed to be kept by taxpayers.

The Treasurer, Mr Costello suggested there would be no reduction period and that many businesses now have better information available to them from proper record keeping systems and they are able to utilise to make better decisions in running their businesses.

Source: Hansard, House of Reps, 2 December 2002 [p 9321, proof copy]

ATO must be vegetarian & eat out a lot

The "goods own use" (GOU) amounts (excluding GST of course) for the 2002-03 income year for selected types of business have been set out by the ATO as a guide. A taxpayer may choose to maintain suitable records of items taken from trading stock for personal use.

The figures below suggest a bias towards eating out and vegetarians when worked out on a weekly basis. For example, if you own a bakery you can only eat \$17 worth of bread a week, but if you run a café you can have a \$45 meal once a week, or goods to that effect and has anyone ever got out of a butcher shop for less than \$12/week for a single person?

Adult/Child over 16 years:
restaurant/cafe - \$2990;
unlicensed restaurant/cafe - \$2380; caterer - \$2560;
delicatessen - \$2380;
fruiterer/greengrocer - \$570;
takeaway food shop - \$2340;
mixed business (includes milk bar, general store and convenience store) - \$2930;

Child 4 – 16 years: bakery - \$445; butcher - \$325; licensed or unlicensed restaurant/cafe - \$1190; caterer - \$1280; delicatessen - \$1190; fruiterer/greengrocer - \$285; takeaway food shop - \$1170; mixed business (includes milk

bar, general store and convenience store) - \$1465
Source: ATO TD 2002/26

No to Bond

No deduction is allowed for a bond paid for premises leased for use in a business as the expense is of a capital nature and the payment does not relate to the daily activities of the business.

Source: ATO ID 2002/919

Not ordinary income

The monetary values of food vouchers received for minding a neighbour's child are not included in assessable income when the receipts are not in the nature of ordinary income. The food vouchers received by the taxpayer do not represent a regular form that could be relied on as income. There is no set time for the receipt of the vouchers, the value of the vouchers varies, and the total value of the voucher's received are less than normal market rates payable for the provision of child minding services.

Source: ATO ID 2002/944

Day to Day fees deductible

Body corporate fees, payable in relation to day-to-day administration and maintenance, with regard to a rental property are deductible. The fee does not include any component to be applied to a special purpose sinking fund. Source: ATO ID 2002/946

AGM attendance deductible

Travel expenses to attend a company Annual General Meeting (AGM) are deductible as it is for servicing the investment portfolio. If the purpose of the travel is predominantly of a private nature with attendance at the AGM being incidental, only the expenses that relate directly to the income producing purpose will be an allowable deduction.

Source: ATO ID 2002/948

Lounge Fees OK

An employer, is entitled to a deduction, for the annual fees of an airport lounge membership that is used primarily by the employees. The primary function of Airport Lounge Clubs is to provide business facilities and prompt and efficient services relating to the travel of their members. Hospitality, such as food, drink and recreation, is merely incidental to the primary function of these clubs. The fees are incidental and relevant and the airport lounge membership does not meet the definition of an entertainment expense and the Airport Lounge Club is also not considered to be a recreational club.

Of course the ATO notes that FBT needs to be considered "where an expense paid by an employer has the potential to provide a benefit to an employee". But when has the experience of waiting in an airport lounge ever been a benefit?

Source: ATO ID 2002/957

When Grant is Ordinary

A grant to conduct a feasibility study is included in assessable income when the taxpayer is in the business of conducting feasibility studies. Any amounts received in relation to the feasibility study are income from the carrying on of the business. The receipt, in these circumstances, is income according to ordinary concepts. Source: ATO ID 2002/1090

Expenses before income OK

A deduction was allowed for property agent letting fees incurred prior to a property being available for rent.

The taxpayer is constructing an investment property. It was always the taxpayer's intention to derive assessable rental income once the property had been completed. There is no private or domestic purpose for holding the property, the taxpayer's intention was always to build an income producing property.

It is not necessary, however, that the expenditure in question produces assessable income in the same year in which the expenditure is incurred. The expenses are not considered to have been incurred at a point 'too soon' before the commencement of the income producing activity.

Source: ATO ID 2002/1096

Capital works deduction

A capital works deduction was granted (under section 43-10) for a consultant fee in relation to building an investment property. The consultant fee related to holding discussions and negotiations regarding the property, providing supervision during construction, reporting to

and liaising with the taxpayer and ensuring the property was completed to the required standard and within budget. The building of the investment property qualifies as capital works under section 43-20.

Section 43-10 provides a deduction of an amount for capital works in respect of certain 'construction expenditure' incurred in respect of the construction of capital works.

Section 43-20 of the ITAA 1997 recognises three categories of capital works:

- ◆ buildings or extensions, alterations or improvements to buildings;
- ◆ structural improvements or extensions, alterations or improvements to structural improvements; and
- ◆ environment protection earthworks.

Source: ATO ID 2002/1098

Free Meal

Generally, meal expenses are not allowable as a deduction on the basis there isn't a sufficient connection between the expenditure and the income earning activities of a taxpayer. In this case, the taxpayer is in business, travelling away from home for several nights every month in connection with the business and incurs expenses for meals while away from home. The deductibility of meals will depend on the essential character of the expenditure on the basis of the facts of each case. In this case, the relevant expenses are considered to be incurred in carrying on the business as the business requires overnight travel. The meal expenses are not considered to be private in nature and are deductible. Source: ATO ID 2002/807