

Tax Update March 2003



The Tax Office advises its Compliance Program for 2002/03

Individuals may be reviewed for the following:

- ◆ Work- related expenses
- ◆ Rental audit program
- ◆ Interest and dividend deductions
- ◆ Failure to include interest and dividend income
- ◆ Capital gains on sale of shares and properties
- ◆ Tax losses being incorrectly claimed from an earlier income year

Micro business (turnover < \$2 million)

One in ten businesses can expect to be contacted by the ATO this year, particularly in cash economy areas such as building and construction, restaurant and entertainment and taxi drivers. The focus is on GST and income tax and 40% of the ATO's compliance resources will be devoted to this segment.

Small to medium businesses (turnover between \$2 million and \$100 million)

The ATO will contact over 25,000 small to medium businesses this year through field visits and written requests for

information. They will concentrate on:

- ◆ Not recording or disguising payments for labour and other supplies
- ◆ Unrecorded cash payments for overtime work, false invoices
- ◆ High-profile entertainers and sportspeople
- ◆ PAYG withholding
- ◆ Boat hire arrangements
- ◆ CGT; whether the small business concessions are being properly applied
- ◆ FBT; reportable benefits in tax returns, payment summaries and not for profits

Goods and services tax

One in ten businesses will be subject to some form of audit as the ATO increases GST compliance staff by around 350 and they will be looking at:

- ◆ Fraudulent or incorrect claims for refunds
- ◆ Cash economy – the ATO expects to conduct 20,000 GST field visits
- ◆ Inadequate accounting and system controls in large businesses
- ◆ Sales of business assets
Property and business services industry.

Charity at work

Upfront deductions will be available for charity donations within workplace giving programs. These programs will permit employers to invite their employees to make donations directly to eligible charities and non-profit groups through their employers' payroll systems.

The tax benefit will be received upfront every time the employee donates through their pay, rather than waiting to claim a deduction in their annual tax return.

Employers decide which charity or other organisation with deductible gift recipients (DGR) status will be invited to take part in their workplace program. However, the employees choose which charity from the employer's list they wish to donate to and the frequency of their donations.

Source : ATO Practice Statement PS 2002/15 reported at 2002 LTN 156 [1].

Investor warning

The Australian Securities and Investments Commission (ASIC) issued a warning to anyone thinking of sending money overseas to a foreign company called Equity-1 Limited (Equity-1). Related organisations include ITB Limited and Our World Exchange.

Australian investors have been promised returns of 30% through international share trading. At least several hundred investors have transferred over \$3.5 million to Equity-1. Investors have allegedly been recruited through word of mouth and by attending overseas seminars held by Mr Shayne Heffernan, a director of the company.

Equity-1 have vacated their registered office address in Australia and have failed to notify ASIC of any change in address. They are not licensed to operate in Australia, so anyone who sends money to them is not protected under Australian law. ASIC has initiated action to deregister the company. Source :ASIC

No hiding behind Bankruptcy

The Government has released an issues paper on possible changes to bankruptcy and family law to prevent high-income earners from avoiding their obligations to pay income tax. The options would mean that:

- ◆ Trustees in bankruptcy could apply to a court to recover assets that, although not held in the bankrupt's name, have been acquired essentially using the bankrupt's income;
- ◆ Bankrupts would not be able to put property beyond the reach of their creditors by transferring it under the Family Law Act 1975; and
- ◆ The often competing rights of unsecured creditors and a non-bankrupt spouse will be clarified in cases where both family law and bankruptcy issues need to be resolved.

APRA will get tough on returns

Previously, annual returns for APRA-regulated super funds had a deadline for providing APRA with an annual return of 9 months for small superannuation entities. However, the timeline has been shortened to 4 months now that APRA needs to be able to target its supervisory activities more effectively. Source: APRA media release No 03_09, 30 January 2003

Scheme for Schemes

Running late, the ATO had planned to have 90% of the approximately 51,400 mass-marketed settlement scheme deeds processed by 30 December 2002.

The processing of the deeds is dependent on the ATO obtaining from taxpayers, the "correct and full information". Then the ATO work on a priority basis that people who have previously paid their debt will have their deeds processed first. Source: Hansard, House of Reps, 4 February 2003 p 131

ATO warns on bushfire affected income-producing assets

Insurance pay-outs received for bushfire destroyed or damaged income-producing assets such as a rental property may need to be taken into account for CGT purposes. For example, if the rental property was acquired after 20 September 1985, the taxpayer will need to subtract the relevant cost base from the

insurance pay-out to work out whether a capital gain or loss has been made.

As well, any insurance pay-out received for destroyed depreciating assets will be used to work out the amount to be included in income or allowed as a deduction. Source: ATO

Divorce and CGT

When there is settlements occurring as a result of divorce, tax liabilities can arise that will impact on the main residence, stamp duty, depreciable assets and business involvement. Very often, the complete CGT implications are overlooked by legal advisers, as similar to the effects on GST noted in the February update. Source: ATO

ATO patches home sewer for rip off

A taxpayer working from home claimed that she didn't know a businessman who provided her with clothing garment pieces as outsourced manufacturing, despite his name and number being in her address book and that he made over 100 visits. She also claimed that she received no money from him even though he had handed her cheques, which had been cleared. She also claimed that she was too ill to have done all the work.

The ATO increased her taxable income by \$34,801 for 1992 and by \$66,211 for 1993 plus penalties and GIC for ripping off the system. Source: (AAT Case [2003] AATA 58, Re Ngo and FCT, AAT, Ref No:VT2002/8-9