

# InForm Accounting and Taxation

E - NEWS BULLETIN BROUGHT TO YOU BY BT CORPORATE ADVISORY PTY LTD

## Welcome to the Winter 2019 Edition of InForm Accounting and Taxation

Here at BT Corporate Advisory Pty Ltd we are delighted to take care of your family, friends, associates and other connections. Simply let us know and we will arrange an obligation free consultation with Boris Feldman. Even if they just want another quote or second opinion we are more than happy to assist. Please ask them to inform us that it was your referral and they will be treated as VIPs. Call us on 03 9005 2133 to have this arranged anytime.



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### **'Cash in hand' payments to workers no longer tax deductible**

The ATO has reminded employers that any 'cash in hand' payments made to workers from 1 July 2019 will not be tax deductible.

'Cash in hand' refers to cash payments to employees that do not comply with pay as you go ('PAYG') withholding obligations.

Payments made to contractors where the contractor does not provide an ABN and the business does not withhold any tax will also not be tax deductible from 1 July.

In addition to the loss of a tax deduction, employers caught not complying with their PAYG withholding obligations may be penalised for failing to withhold and report amounts under the PAYG withholding system.

However, employers who mistakenly classify their employee as a contractor will not lose their deduction where their worker provides them with an ABN.

### **Uber drivers not employees**

The Fair Work Ombudsman has completed its investigation relating to Uber Australia Pty Ltd and its engagement of drivers, concluding that the relationship between Uber Australia and the drivers is not an employment relationship.

The investigation found that Uber drivers are not subject to any formal or operational obligation to perform work.

Instead, Uber drivers have control over whether, when, and for how long they perform work, on any given day or on any given week, and, in particular, Uber Australia does not require drivers to perform work at particular times.

As a consequence, the FWO will not take compliance action in relation to this matter.

## Making a Division 293 election

The ATO is reminding taxpayers and tax practitioners that the process to release money from super fund accounts to pay additional tax on concessional contributions (referred to as 'Division 293') changed on 1 July 2018.

Since then, practitioners or their clients must send the Division 293 election form to the ATO, not to the super fund (if the election form is sent to the fund it will be rejected and returned to the sender).

When the ATO receives the election form, they will have the client's nominated super fund release and send the money to the ATO, which will then be offset against any outstanding tax or other Australian Government debts before they refund any remaining balance to the client.

## ATO targeting false laundry claims

The ATO will target false clothing and laundry work-related expense claims this Tax Time.

In 2018, around six million people claimed work-related clothing and laundry expenses totalling nearly \$1.5 billion.

Assistant Commissioner Karen Foat said although many Australians can claim clothing and laundry expenses, it's unlikely that half of all taxpayers are required to wear uniforms, **protective clothing or occupation-specific clothing** to earn their income.

*"Last year a quarter of all clothing and laundry claims were exactly at the record-keeping limit", Ms Foat said.*

*"But don't think that we won't scrutinise a claim because we don't require receipts".*

*She also said the ATO does not ignore incorrect claims "just because they are small, because small amounts add up".*

The ATO is also concerned about the number of people claiming deductions for conventional clothing, such as retail workers claiming normal clothes *"because their boss told them to wear a certain colour, or items from the latest fashion clothing line"*, or others claiming normal clothes because they only wear them to work.

The ATO's sophisticated data analytics is constantly improving and can identify unusual claims by comparing taxpayer claims to others in similar occupations.

Taxpayers who can't substantiate their claims should expect to have them refused, and may be penalised for failing to take reasonable care when submitting their tax return.

## Lifestyle assets data matching program

The ATO has released details of *their "Lifestyle assets 2013-14 and 2014-15 financial years data matching program protocol"*.

They will obtain information on insurance policies for certain classes of assets, including marine vessels, enthusiast motor vehicles, thoroughbred races horse, fine art and aircraft to improve their profiling of taxpayers and provide a more comprehensive view of their assets and accumulated wealth.

## Tax time tips for small business

To lend a 'helping hand' to small businesses to get their tax right this Tax Time, the ATO has identified the top 3 issues they see when small businesses lodge their tax returns:

- Failing to report all of their income;
- Not having the necessary records to prove small business expenses claims; and
- Claiming private expenses as business expenses (such as travel expenses).

## Fixing incorrectly issued excess NCCs determinations

The ATO has recently identified a system error that inadvertently led them to issue incorrect pre-dated excess non-concessional (superannuation) contributions ('NCCs') determinations to clients.

The ATO will extend the election due dates for all affected clients, so this issue will not disadvantage them, and will not take default action in relation to these affected clients who do not make their election by the due date.

Amended determinations will automatically issue on a case-by-case basis in coming weeks to any clients that will have a modified excess NCC amount due once their income tax return is processed.

## Car parking threshold for 2020 FBT year

The car parking threshold for the FBT year commencing on 1 April 2019 is \$8.95 (replacing the amount of \$8.83 that applied in the previous year commencing 1 April 2018).

## Trustee obligations on the ATO's radar: TFN reports

The ATO is currently reviewing adherence to certain trustee obligations, including the lodgment of Tax File Number ('TFN') reports for TFN withholding for closely held trusts.

Beneficiaries are required to quote their TFN to trustees to avoid having tax withheld from payments or unpaid present entitlements, and trustees must lodge a TFN report for any quarter in which a beneficiary quotes their TFN to the trustee.

If beneficiaries have not quoted their TFN to the trustee, the trustee must:

- withhold tax at the rate of 47% from the distribution;
- pay this tax to the ATO; and
- report, in an annual report, details of all withheld amounts.

## Tax cuts become law

The Government has announced that more than 10 million Australians will receive immediate tax relief following the passage of legislation through the Parliament, which increases the top threshold for the 19% tax rate from \$41,000 to \$45,000 and increases the low income tax offset from \$645 to \$700 in 2022/23.

In combination with the legislated removal of the 37% tax bracket in 2024/25, the Government is also *"delivering structural reform to the tax system"* by reducing the 32.5% tax rate to 30%.

## Low and middle income tax offset also now law

In addition, from the 2018/19 income year (i.e., last income year):

- The low and middle income tax offset ('LAMITO') has been increased from a maximum amount of \$530 to \$1,080 per annum and the base amount increased from \$200 to \$255 per annum; and
- Taxpayers with a taxable income:
  - **of \$37,000 or below** can now receive a LAMITO of up to \$255;
  - **above \$37,000 and below \$48,001** can now receive \$255, plus an amount equal to 7.5% to the maximum offset of \$1,080;
  - **above \$48,000 and below \$90,001** are now eligible for the maximum LAMITO of \$1,080; and
  - **above \$90,000 but is no more than \$126,000** are now eligible for a LAMITO of \$1,080, less an amount equal to 3% of the excess.

The ATO is implementing the necessary system changes so taxpayers that have already lodged their 2018/19 tax return will receive any increase to the LAMITO they are entitled to (any tax refund should be deposited in the taxpayer's nominated bank

account). There will not be any need to request an amendment.

Those who are yet to lodge their tax return will have any offset they are entitled to taken into account during the normal processing of their return.

## Private health insurance statements now optional

Taxpayers with private health insurance should be aware that insurance providers are no longer required to provide statements to their members.

Taxpayers lodging their tax returns using a registered tax agent should have their health insurance details 'pre-filled' into their return (but they will need to contact their health insurer if they cannot get this information for some reason).

## FBT and taxi travel

Taxi travel by an employee is an exempt benefit for FBT purposes if the travel is a single trip beginning or ending at the employee's place of work (or if it is a result of sickness or injury in certain circumstances).

However, the ATO is reminding taxpayers that this exemption is limited to travel undertaken in a vehicle that is licensed to operate as a taxi by the relevant State or Territory, and does not extend to travel undertaken in a ride-sourcing vehicle or other vehicle for hire that do not hold such a licence.

## ATO rates and thresholds

The ATO has updated a number of rates and thresholds on their website, including the following

### Division 7A – benchmark interest rate

The Division 7A benchmark interest rate for the 2020 income year is 5.37% (up from the rate for the 2019 income year of 5.20%).

### Car cost limit for depreciation

The maximum value taxpayers can use for calculating depreciation of cars is the car limit in the year in which they first used or leased the car.

In the 2019/20 income year, the car limit is \$57,581, unchanged from the 2018/19 year.

### Capital improvement threshold

The improvement threshold for the 2019/20 income year is \$153,093, up from \$150,386 for the 2018/19 income year.

### SMSF LRBA interest rates

An interest rate of 5.94% charged by an SMSF in the 2020 income year under a limited recourse

borrowing arrangement ('LRBA') to acquire real property would be consistent with the ATO's safe harbour terms (or 7.94% for listed shares or units).

### **ATO Data Matching Program: HELP, VSL and/or TSL debts**

The ATO is conducting a data matching program for the 2019/20, 2020/21 and 2021/22 financial years to identify individuals with an existing Higher Education Loan Program ('HELP'), Vocational Education and Training Student Loan ('VSL') and/or Trade Support Loans ('TSL') debt who may not be meeting their registration, lodgment and/or payment obligations.

This data collection is expected to involve approximately 3 million individuals each year.

#### **YOUR IMPORTANT ACTION STEPS FOR THIS MONTH**

**Cash flow is a life-blood of the business and yet many organisations fail to properly plan and address this important matter.**

**We work with owners to insure that a long-term plans are in place as well as short term.**

**Talk to us to identify smart solutions.**

***Please Note:** Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.*