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Chartered Accountants

+ 2024 December Tax & Super Update

Merry Christmas

We want to take this opportunity to wish you and your family a safe and happy Christmas.

It's been an eventful and busy year. Let's hope 2025 is a year of stability and peace.

We will look forward to working with you again in 2025 and making it the best possible year for you.

We wish you and your family the warmest of Christmas wishes.

Office closure

Our office will be closed for Christmas from 20 December 2024 and will reopen on 6 January 2025.

Top Christmas Party Questions

What can I do to make the staff Christmas party tax deductible or tax-free?

Not have one? Ok, seriously, it's likely that you will pay tax one way or another; it's just a question of how. If you structure your celebrations to avoid fringe benefits tax (FBT), then you normally can't claim a tax deduction for the expense or goods and services tax (GST) credits.

No FBT

If you host your Christmas party in the office on a working day, then FBT is unlikely to apply to the food and drink. Taxi travel that starts or finishes at an employee's place of work is also exempt from FBT - helpful if you have a few team members that need to be loaded into a taxi after overindulging in Christmas cheer.

If you host your Christmas party outside of the office and keep the cost per head under $300 (the FBT minor benefit limit) then FBT often won't apply to the cost of entertaining your employees.

But, if you do not incur FBT, you cannot claim GST credits or a tax deduction for the Christmas party expense.

Tax deductible

If your business hosts slightly more extravagant parties away from the business premises and the cost goes above the $300 per person minor benefit limit, you will pay FBT but you can also claim a tax deduction and GST credits for the cost of the event.

Are the costs of client gifts deductible

It depends on the gift and why you're giving it. If you send a client a gift, the gift is tax deductible if you have an expectation that the business will benefit; it's marketing. While this seems like a mercenary way to look at Christmas giving, it is the business giving the gift, not you personally. This assumes that the gift is not a gift of entertainment like golf, or restaurants, which would not be deductible.

What about gifts for staff? Are they deductible

The key to Christmas presents for your team is to keep the gift spontaneous, ad hoc, and from a tax perspective, below the $300 FBT minor benefit limit. So, no ongoing gym memberships or giving the same person several of the same gift that adds up to $300 or more unless you want to give a gift to the ATO at the same time. But, you can give gifts at different times throughout the year without triggering FBT as these are counted separately for the minor benefit limit.

A cash bonus will be treated as income in much the same way as salary and wages.

I like to catch up with clients for lunch or a drink (or two) at Christmas. These expenses are deductible, right?

Regardless of whether it's for Christmas or at any other time of the year, the cost of entertaining your clients – food, drink or other entertainment – is not deductible.

The ATO is keen to ensure that taxpayers are not picking up part of the cost of your long lunches or special events while you're bonding with clients.

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An Election

Welcome to political advertising slipping into your social media, voicemail, and television viewing - most likely with messages from the opposition asking if you are better off, and from the incumbents telling you all the reasons why you are.

The 2025-26 Federal Budget has been brought forward to 25 March 2025. This suggests an election will be held in either March or May 2025 but no later than 17 May 2025.

Legislation in limbo

The Senate pushed through 32 Bills on the final sitting day of parliament for 2024 including seven of direct relevance to business and to the financial interests of some Australians. However, two key announcements remain in limbo:

$3m tax on earnings in a superannuation fund

The proposed Division 296 tax, which imposes a 30% tax rate on future earnings for superannuation balances above $3 million, is proposed to commence from 1 July 2025. The Bill enabling the new tax is stalled in the Senate. It's unlikely that this tax will pass parliament prior to the election; at which point, the Bill lapses. It then becomes a question of whether the elected Government chooses to rectify the concept or let it fade into oblivion as a bad idea.

$20,000 instant asset write-off for small business

In the 2024-25 Federal Budget, the government announced the extension of the $20,000 instant asset write-off threshold for small business for a further year to 2024-25. The concession enables businesses with an aggregated turnover of less than $10 million to immediately deduct the full cost of eligible depreciating assets costing less than $20,000. Without this measure, the threshold returns to $1,000. This concession was removed by amendment from the enabling legislation at the last minute in the final sitting of Parliament of 2024. The removal of this measure is unfortunate, as once again, SMEs now have no confidence about the tax treatment of investments in assets that they might be looking to make, or have made, in the current financial year.

Tax & Super changes

Foreign resident capital gains withholding changes on sale of property

One of the Bills pushed through Parliament at the end of 2024 changes how capital gains withholding applies to foreign residents from 1 January 2025.

Currently, residents selling taxable Australian property must provide a clearance certificate to the purchaser at or before settlement to avoid having 12.5% withheld from a property sale where the value of the property is $750,000 or more. If applicable, the withholding is then made available as a credit against any tax liability. The vendor only receives any refund due after their next income tax return is processed at tax time.

From 1 January 2025 however, the threshold will be removed and the withholding rate increased so that:

- The withholding is increased from 12.5% to 15%; and
- The withholding applies to the sale of all Australian land and buildings by foreign residents, regardless of the value of the assets.

The reforms apply to acquisitions made on or after 1 January 2025.

Superannuation rate increases to 12%

The Superannuation Guarantee (SG) rate will rise from 11.5% to 12% on 1 July 2025 - the final legislated increase.

Super on paid parental leave

From 1 July 2025, superannuation will be paid on Paid Parental Leave payments. Eligible parents will receive an additional payment based on the superannuation guarantee (i.e.

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12% of their PPL payments), as a contribution to their superannuation fund.

Wage theft criminalised

As of 1 January 2025, the intentional underpayment of workers will be criminalised.

Employers will commit an offence if:

- they're required to pay an amount to an employee (such as wages), or on behalf of or for the benefit of an employee (such as superannuation) under the Fair Work Act, or an industrial instrument; and
- they intentionally engage in conduct that results in their failure to pay those amounts to or for the employee on or before the day they're due to be paid.

Employers convicted of wage theft face fines of up to 3 times the amount of the underpayment and $7.825 million.

Phasing out cheques

The Government has announced a transition plan to phase out the use of cheques. Under the plan, cheques will stop being issued by 30 June 2028 and stop being accepted on 30 September 2029.

The use of cheques has declined dramatically over the last 10 years, declining by around 90%. In response, banks have stopped issuing chequebooks to new customers. However, financial institutions have a legislated requirement to accept cheques until the Government no longer requires them to do so.

Danish banks stopped accepting cheques in 2017 and New Zealand's banks in 2021.

Cheques out but cash remains king

While Australians have moved to digital payment methods, the Government has been careful to maintain cash as a payment method. Around 1.5 million Australians use cash to make more than 80% of their in-person payments. Cash also provides an easily accessible back-up to digital payments in times of natural disaster or digital outage.

According to the most recent data, up to 94% of businesses continue to accept cash.

The Government has stated that they will mandate that businesses must accept cash when selling essential items, with appropriate exemptions for small businesses.

Currently, businesses don't have to accept cash – business can specify the terms and conditions that they will supply goods and services.

The issue of card surcharges often comes up when a business adds a surcharge rather than recognising this cost of doing business in their pricing. A business can charge a surcharge for paying by card, but the surcharge must not be more than what it costs the business to use that payment type.

Death and Taxes

Beyond the difficult task of dividing up your assets and determining who should get what, it's essential to look at the tax consequences of how your assets will flow through to your beneficiaries.

When assets pass from a deceased individual to a beneficiary of the estate, the tax impact will generally depend on the nature of the asset and the tax characteristics of the beneficiary, such as their residency status.

Inheriting cash

When cash passes from a deceased individual to their estate and then to a beneficiary, generally, there should not be any direct tax issues to deal with, assuming that the cash is denominated in AUD.

Inheriting assets

Death is a taxing event. When a change of ownership of an asset occurs, generally, a capital gains tax event (CGT) is triggered. However, the tax rules provide some relief from CGT when someone dies. The basic rule is that

a capital gain or loss triggered by a death is disregarded unless the asset is transferred to one of the following:

- An exempt entity (although there are some exceptions to this where the entity is a charity with deductible gift recipient status);
- The trustee of a complying superannuation fund; or
- A foreign entity and the asset is not classified as taxable Australian property.

The exemption applies if the asset passes to the deceased's legal personal representative (i.e., executor) or to a beneficiary of the estate, which is not one of the entities listed above. Once the asset has been transferred to the beneficiary, the beneficiary will need to manage the tax impact when they sell the asset.

Reminder of December 2024 Quarter Super Guarantee payments

The Superannuation Guarantee ('SG') rate has increased to 11.5% from 1 July 2024 and employers are reminded to pay their SG for the quarter ending 31 December 2024 by the due date of 28 January 2025.

Where an employer either doesn't pay or underpays the SG for a quarter by the payment due date they will be liable to pay the SG charge, which includes a penalty and interest component (interest charged at 10% for 2025), neither of which are tax deductible.

Understanding the Medicare Levy and Medicare Levy Surcharge

Australian tax system can be challenging, especially when it comes to understanding the Medicare levy and the Medicare levy surcharge.

The Medicare levy is a compulsory charge that helps fund Australia's public healthcare system. Almost all Australian taxpayers pay this levy, which is 2% of your taxable income. This levy is generally withheld from your pay by your employer throughout the year, so you may not notice it until tax time.

It's important to note that having private health insurance doesn't exempt you from paying the Medicare levy; it only affects your liability for the Medicare levy surcharge.

In certain cases, you might be eligible for a reduction or exemption from the Medicare levy. For instance, if you meet specific conditions such as being a low-income earner, foreign resident or having a medical exemption, you may qualify for a reduced rate or full exemption.

The Medicare levy surcharge (MLS) is an additional charge designed to encourage higher-income earners to take out private hospital insurance, thereby reducing the strain on the public healthcare system. Unlike the Medicare levy, the MLS isn't automatically withheld from your income but is calculated when you lodge your tax return.

You may be liable for the MLS if your income exceeds the MLS threshold and you, your spouse or your dependent children don't have an appropriate level of private patient hospital cover for the entire income year. The surcharge rates vary based on your income tier.

Your income for MLS purposes includes several components beyond your taxable income, such as reportable fringe benefits, total net investment losses and reportable super contributions. If you have a spouse, their income is also considered in the calculation.

To avoid the MLS, you need an appropriate level of private patient hospital cover. For singles, this means a policy with an excess of $750 or less, and couples or families need a policy with an excess of $1,500 or less. Your policy must cover you, your spouse and all dependants for the full income year to avoid the surcharge.

Keep in mind that extras-only cover (such as for dental or optical) and travel insurance don't qualify as private patient hospital cover for MLS purposes.

Managing your tax debt

The ATO has recently shifted to a more active approach to debt recovery with their primary goal being to work with you to manage and clear tax debts.

You or your tax agent can review your income tax assessment notices or use the ATO's online services to check your current tax debt. You can also contact the ATO directly.

If you find yourself unable to settle your tax debt in full by the due date, don't panic. The ATO offers several repayment options, including:

- Self-service payment plans: For debts under $100,000, you can set up a plan online. This option is available if you don't already have an active plan for the same debt and can cover the amount within two years.

- Proposing a payment plan: For larger debts or more complex situations, you can propose a tailored payment plan. The ATO provides tools like the Payment Plan Estimator and Business Viability Assessment Tool to help you create a realistic proposal.

It's important to note that the general interest charge (GIC) applies to unpaid tax debts. This rate is currently 11.38% per annum. The government has also recently announced plans to make GIC non-tax-deductible, which would increase the effective cost of unpaid tax debts.

Warning on SMSF asset valuations

The ATO has issued a warning to auditors and trustees of SMSFs about sloppy valuation practices.

ATO data analysis has revealed that over 16,500 self-managed superannuation funds (SMSFs) have reported assets as having the same value for three consecutive years. Where asset values are consistently reported at the same value, it's likely your SMSF will be flagged for closer scrutiny by the ATO.

The value of assets in your SMSF impacts on member balances and by default, can impact the amount you can contribute, ability to segregate assets for exempt current pension income, the work test exemption and access to catch-up concessional contributions.

Auditors are now requesting trustees obtain independent market valuation information (which can be an appraisal rather than a formal paid for valuation) at 30 June each year for (as relevant) the capital and lease value of property. If you have real estate in your SMSF please set a reminder to obtain market valuation information at financial year end.

If needed, please contact our office for more information on super fund asset valuation requirements.

Downsizer contributions

If you are aged 55 years or older, the downsizer contribution rules enable you to contribute up to $300,000 from the proceeds of the sale of your home to your superannuation fund (eligibility criteria applies).

The most likely age someone makes a downsizer contribution is between 65 and 69. From age 65, a downsizer contribution can be withdrawn from super if your circumstances change, even if you are still working. Those aged 55 to 64 generally won't have access to these funds until they are at least 60 and retired.

Downsizer contributions are excluded from the existing upper age test, work test, and the total super balance rules (but the amount that can be moved to a retirement pension is limited by your transfer balance cap).

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For couples, both members of a couple can take advantage of the concession for the same home. That is, if you or your spouse meet the other criteria, both of you can contribute up to $300,000 ($600,000 per couple). This is the case even if one of you did not have an ownership interest in the property that was sold (assuming they meet the other criteria).

To be eligible to make a downsizer contribution you do not have to buy another home once you have sold your existing home, and you are not required to buy a smaller home - you could buy a larger and more expensive one and make a downsizer contribution if you have access to other funds.

Accessing money in your SMSF

The ATO has made a call to professional accountants to help identify and manage illegal early access to superannuation by members of self-managed superannuation funds (SMSFs). In general, access to your super is only possible if:

- You retire and turn 60; or
- You turn 65 (regardless of whether you're working).

Early access to superannuation is only possible in very limited circumstances such as terminal illness, permanent incapacity, and severe financial hardship and there are very strict protocols to follow before any amounts are paid out.

One of the benefits of an SMSF is the control that it provides to members. The flip side of full control is the temptation to dip into the super account and approve transfers without proper controls.

There are two common ways illegal early access occurs:

- When the trustees (or their business) are in financial distress and they use the superannuation account for a short-term loan; or
- A promoter offers access through a scheme – often getting people to establish the SMSF and roll over their superannuation into the SMSF.

Illegal access to the SMSF's account or assets is not difficult to identify and generally will be picked up by your auditor. Where illegal access has occurred, not only is it likely that your retirement savings have been lost or impaired, but you are likely to face additional tax, penalties and interest, and be disqualified as a trustee. In addition, your name will be published online.

A reminder that yearly lodgement final due dates are usually 15th May so, if not done already, please start to progress your tax by early in the new year.

This is general information only and please contact our office with any accounting or taxation questions.