



Wishing you a Merry Christmas and a Happy New Year.

Our office will be closing from close of business Thursday 22 December 2011 and will be re-opening on Monday 9 January 2012.

December 2011 Business & Individual Newsletter

OUR SERVICES

Did you know we can assist you in the following ways:

Income Tax

- Income Tax Preparation
- Tax Planning Advice
- GST
- Business Activity Statements
- Superannuation
- Land Tax
- Fringe Benefits
- Tax Audit Support

Accounting

- Preparation of financial and management accounts
- Company Secretarial services
- Accounting systems and technology
- Better management and procedures for your business

Business and Advisory

- Business plans and cash forecasts
- Start up feasibility studies
- Introduction to financiers and assistance with financial applications
- Preparation for sale of business

Audit

- Statutory Audits
- Not for profit organisations
- Financial Services Audits
- Half Yearly Reviews
- Superannuation Funds
- Systems and Control Reviews

Other

- Business valuations and appraisals
- Remuneration planning
- Mediation and dispute resolution
- Estate Planning

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New Work Health and Safety Laws

New Work Health and Safety (WHS) Act will come into effect on 1 January 2012 (similar to Occupational Health and Safety Act 2000 (OHS) Act).

The new act will be administered under Work Cover and further information can be obtained on the Work Cover website www.workcover.nsw.gov.au or call 13 10 50.

Personal Properties Securities Act 2009 (Cwlth) (PPSA)

As previously advised in our EOY 2011 Business & Individual newsletter the PPS Register will finally come into effect in early 2012. See our newsletter on our website for further information.

Superannuation Guarantee Charge – company directors' new personal liability

The Government is intent on improving tax compliance and putting a stop to fraudulent phoenix activity. As such, the Australian Taxation Office's (ATO) powers are set to expand. They will soon be able to issue a 'Director Penalty Notice' to pursue company directors personally for their company's withholding tax.

Under the Government's proposed legislation, company directors will be held personally liable for their company's failure to pay employee superannuation guarantee contributions, in addition to unpaid PAYG tax.

It is anticipated that company directors will be held personally liable for the entire superannuation guarantee charge (SGC), not only the 9 per cent mandatory superannuation guarantee contribution.

The proposed legislation will also allow the ATO to commence action to wind up companies without the need for a 21-day notice period for liabilities that remain unreported after three months of becoming due. Further, the ATO will have the ability to withhold tax credits from the director's individual tax returns where a company of which they are a director has failed to pay withheld amounts to the ATO.

Superannuation Guarantee Charge and Contractors

Last year we presented an article outlining the concept of Contractors being 'deemed employees' for the purposes of Superannuation Liability. In essence the Superannuation Guarantee Act 1992 defines a person as an employee if they are an employee under Common Law.

The meaning of 'employees' is, however, expanded if the contract is wholly or principally for 'labour' In that case the person is 'deemed an employee'.

The Australian Taxation Office had been involved in a number of cases arguing those deemed 'employees and those deemed 'contractors'.

The case of *Roy Morgan Research Pty Ltd v Commissioner of Taxation & Anor* went before the full Federal Court to make a determination. In that case, the full Federal Court decided that certain individuals engaged by the taxpayer were in fact employees for the purposes of the *Superannuation Guarantee Act 1992* (Cwth).

This reinforces the need for companies to reconsider their position where they have engaged contractors.

Call this office for further information regarding this matter.

FBT and the New Car Fringe Benefits Legislation

Since the introduction of the new car fringe benefits legislation on 1 May 2011, it is worth revisiting the method chosen for calculating the car fringe benefits tax (FBT).

Previously, if you used the 'statutory formula method' for calculating FBT then a sliding scale percentage was used. In this instance, the more kilometres the car travelled, the lower the percentage applied.

Under the May 1 changes, a flat 20 per cent applies to all car fringe benefits provided after 7:30pm on that date. The rate is phased in gradually from 2011 to 2014. This is outlined in the table below:

Total kms travelled in FBT year	Old Rate	From 1 May 2011	From 1 April 2012	From 1 April 2013	From 1 April 2014
Less than 15,000	26%	20%	20%	20%	20%
15,000 to 24,999	20%	20%	20%	20%	20%
25,000 to 40,000	11%	14%	17%	20%	20%
Over 40,000	7%	10%	13%	17%	20%

There are some circumstances, however, where the old rates will still apply. One such example would be where there is a pre-existing commitment (Eg: A lease entered into prior to 1 May 2011).

Should the terms of the agreement be varied or changed after that date it may be considered a new agreement. If so, the new rules would apply.

For cars travelling less than 15,000kms per year the FBT rate has actually been reduced and for those travelling between 15,000km to 24,999km there is no difference.

The rate has increased, however, for those travelling more than 25,000km. For drivers using their cars for business purposes that fall into this category, it may be worth moving from the 'statutory formula method' to the 'operating cost method' to calculate FBT.

In order to rely upon the 'operating cost method' a logbook must be prepared and kept.

A logbook must be maintained for a continuous period of 12 weeks and contain the following information:

- The date the journey began and ended (multiple journeys are treated as a single entry)
- The odometer reading of the car at the start and end of the journey
- The number of kilometres travelled by the car, and
- The purpose of the travel.

The odometer readings of the car must be recorded at the start and end of the FBT year. If you complete a logbook within 12 weeks of the end of the FBT year it can be used for the preceding year, thereby, giving you the option to choose your FBT method for the FBT year ending 31 March 2012.

Over 50's can save more Super

From 1 July 2012 individuals aged 50 and over, with total superannuation below \$500,000 will be able to make up to

\$50,000 in concessional superannuation contributions.

This doubles the originally stated cap of \$25,000 that was scheduled to apply from 1 July 2012. This change aims to give people aged 50 and over more flexibility to increase their superannuation.

Christmas Fringe Benefits

It is that time of year – Christmas party planning is in full swing and employers may be considering gifts for staff and their families. The key is to ensure that your Christmas cheer does not leave you with a Fringe Benefits Tax (FBT) hangover.

Christmas Parties

The general position is that if a Christmas party is not held on your premises and the cost per employee is less than \$300 per head (\$150 per head if partners attend), it is classed as a minor benefit and no FBT is payable. The function is, however, classed as 'entertainment' and as such no GST or tax deduction will be claimable.

If the function is held on your premises on a work day for employees and it includes a light meal but no alcohol then no FBT is payable and GST and a tax deduction can be claimed.

If however, the function is held on your premises on a work day with the employees' families and alcohol is supplied (with the cost per employee being less than \$300 per head), no FBT will be payable but no GST or tax deduction can be claimed either.

If this style of function exceeds a cost of \$300 per employee then FBT is payable on the family portion and a tax deduction is

claimable only for the portion for which FBT is payable.

Gifts

Gifts to employees may be provided at the same time as the Christmas party without being included in the \$300 minor benefit cost allowed for the party. So long as the gifts are less than \$300 and are not classified as 'entertainment' (Eg: Concert tickets) then no FBT is payable and GST and a tax deduction can be claimed on these items.

With this information in mind, you can enjoy a tax effective Christmas party season!

SMEs Set Their Sights on Sustainability

The Chartered Accountants of Canada, American Institute of CPA and Chartered Institute of Management Accountants recently released a Report entitled 'SME's set their sights on Sustainability'.

The authors undertook a study on how small companies can implement sustainable business practices for the benefit of the environment, their communities, the customers and the bottom line.

For those that are interested in setting their business sights on sustainability, we strongly recommend that you read and consider this report at www.aicpa.org.

The Benefits of an Enduring Power of Attorney

In the unfortunate event of an accident or the premature onset of dementia or Alzheimer's disease, business owners may

no longer be able to make any reasonable decisions.

On a short term basis, this can lead to the business' shutdown as the business owner may have no ability to access the entity's bank accounts, pay staff wages and contract new orders – in effect keep the business going.

Many business owners and company directors do not have in place an effective Enduring Power of Attorney (EPA), whereby another nominated person has the immediate ability to make informed and reasonable decisions and act on their behalf.

Every business owner and company director is advised to establish an effective Enduring Power of Attorney.

Smile for the quarter

Only Accountants know the true meaning of Christmas

.....Peace, goodwill and reconciliations.

* * * *

Good King Wenceslas phoned Domino's for a pizza.

The salesgirl asked him:-

'Do you want your usual? Deep pan, crisp and even?'

DISCLAIMER: The contents of this publication are general in nature and we accept no responsibility for persons acting on information contained herein.