

Practice Update

Please read this update and contact this office if you have any queries

MAY 2008

Change to calculation of super guarantee from 1 July

The Tax Office is reminding employers that from 1 July 2008 ordinary time earnings (OTE), as defined in the super guarantee law, must be used to calculate super contributions for their employees.

What is OTE?

OTE is generally what an employee earns for ordinary hours of work including over-award payments, shift loading or commissions. It excludes such things as overtime (and there are some other exceptions).

Most employees have OTE as their earnings base, however some have other earnings bases that may be contained in:

- ◆ an industrial award;
- ◆ an existing employment agreement;
- ◆ a fund's trust deed; or
- ◆ a Commonwealth, State or Territory law.

If an employer is currently paying super on a different earnings base, and this results in an amount being paid which is less than the minimum 9% of OTE from 1 July 2008, they may need to increase the super support to meet the minimum and avoid the superannuation guarantee charge (SGC).

Example

Motor vehicle company XYZ has been paying super contributions under an award for its employees which states that commission for salespersons is excluded from ordinary time earnings as defined in the relevant award.

However, from 1 July 2008, Motor vehicle company XYZ must include commission for its salespersons when calculating super guarantee contributions.

Money taken from private company may be treated as dividend

The Tax Office is also reminding private company owners that, under the tax law, private companies are prevented from making tax-free distributions of profits to shareholders and/or their associates.

Or, in layman's language: *they must treat their private expenses separately from their company expenses.*

How to avoid penalties when paying personal expenses

Taxpayers who fail to separate their personal and company money appropriately may incur penalties and have to pay more tax, since any company money used for personal purposes can be deemed to be an unfranked dividend in the individual's hands.

To avoid this, the Tax Office advises taxpayers to use one or more of the following options:

- pay back any money borrowed from the company before the date the company's tax return has to be lodged;
- set up a written loan agreement, which meets minimum interest rate and maximum term criteria, before the date the company's tax return has to be lodged, and make the minimum loan repayments each year; or

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- ❑ ensure the company pays them an adequate salary, wage or dividend, and that they also then pay tax on that income in the normal way.

Editor: There is actually an amnesty available right now, until 30 June 2008, to fix any existing errors without needing to contact the Tax Office or incurring a penalty, basically as long as the error arose due to an honest mistake or inadvertent omission during the 2002 to 2007 income years.

As the the Tax Office states "If you've made an error in the past and you haven't fixed it, there's never been a better time than now to do so," so if you think you might be able to take advantage of this amnesty, contact us ASAP.

New Child Support Assessments being issued

The Child Support Agency (CSA) has advised that every parent in Australia who pays or receives Child Support, including those with private arrangements, is in the process of receiving a new assessment.

This is so they have time to check their details and plan prior to the new Scheme starting on 1 July 2008, as a new formula will be used to calculate Child Support payments from that date.

Editor: If you pay or receive Child Support but do not receive a new assessment by mid-May, contact us so that we can discuss it with the CSA.

Income tax: 2007/08 cents per km rates

The 2007/08 cents per kilometre rates for claiming deductions for car expenses have been released.

| Engine capacity (non-rotary) | Engine capacity (rotary engine) | Rate (cents) |
|------------------------------|---------------------------------|--------------|
| 0 – 1,600cc | 0 – 800cc | 58 |
| 1,601 – 2,600cc | 801 – 1,300cc | 69 |
| 2,601cc+ | 1,301cc+ | 70 |

FBT: Record keeping exemption threshold

The record keeping exemption threshold for the FBT year commencing 1 April 2008 is \$6,766 (replacing the amount of \$6,614 from the previous year).

FBT: Cents per km rates (other than cars)

The rates to be applied where the cents per kilometre basis is used for calculating the taxable value of motor vehicles other than cars for the FBT year commencing on 1 April 2008 are:

| Engine capacity | Rate per km |
|-----------------|-------------|
| 0 – 2,500cc | 42 cents |
| Over 2,500cc | 51 cents |
| Motor cycles | 13 cents |

Editor: Note that these rates are for FBT purposes only, not for income tax purposes.

FBT: Benchmark interest rate

The benchmark interest rate for the FBT year commencing 1 April 2008 is 9.00% p.a (replacing the rate of 8.05% that applied for the previous FBT year).

Editor: The ATO has also released the following for the 2008/09 FBT year:

- *the amounts that are considered to be a reasonable food component of a living-away-from-home allowance (LAFHA); and*
- *the indexation factors for the purpose of valuing non-remote housing.*

Contact our office if you would like to know more.

Superannuation Lost Members Register

The Lost Members Register uses information supplied by superannuation funds to assist individual members to identify lost super and consolidate their accounts.

The ATO has recently found that the number of lost accounts on the register has grown to about 6.1 million, with assets totalling approximately \$11.9 billion!

The Government has stated that their preference for dealing with these 'lost' accounts is to introduce an automatic consolidation system, with an opt-out provision, using the Tax File Number system.

Editor: If you think some of this money might be yours, we can also help you find any lost super.

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.