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BENEATH THE SURFACE

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FRINGE BENEFITS TAX (FBT) & CHRISTMAS PARTIES

The following guidelines are applicable to employers who report fringe benefits on an **actual** basis and who are **not** tax exempt organisations.

A Christmas party may be a minor benefit and exempt from FBT if the cost of the party is less than $100 (GST-inclusive) per employee and certain conditions are met. The cost per employee **includes** the cost for any of their associates/spouses/children attending the party. All benefits associated with the Christmas function should be grouped to determine whether the total value meets or exceeds the $100 minor benefits threshold. For example, the cost of gifts such as bottles of wine and hampers given at the function would be **included** in the total cost of the party.

The cost of providing a Christmas party is income tax deductible only to the extent that it is subject to FBT. Therefore, any costs that are exempt from FBT (that is, exempt minor benefits and exempt property benefits) cannot be claimed as an income tax deduction. **NB** If not tax deductible, you are also **not** entitled to claim GST credits on these amounts.

The costs of entertaining clients are not subject to FBT and are not income tax deductible, and not eligible for GST credits.

Exempt property benefits

The costs (such as food and drink) associated with Christmas parties are exempt from FBT if they are **provided on a working day on your business premises and consumed by current employees**. A taxable fringe benefit will arise in respect of an associate of an employee who attends the party if not otherwise exempt under the minor benefits exemption.

Christmas party held off business premises

The costs associated with Christmas parties held off your business premises (for example, a restaurant) will give rise to a taxable fringe benefit for employees and their associates unless the benefits are exempt minor benefits. Remember that the per head cost for an employee **includes** the cost of any of their associates attending the function. If the combined cost is $100 or more, it will not be an exempt minor benefit.

HOLIDAYS

Our office will be closed for holidays from 24 December 2004 – 3 January 2005 inclusive, and from 29 January 2005 – 14 February 2005 inclusive.

LINE OF CREDIT & DEDUCTIBILITY OF INTEREST ... BEWARE!

We have noticed a trend on the rise, ie clients choosing a line of credit to fund a tax deductible investment, eg rental property or listed shares. At first glance, no problem, interest is fully deductible. However, a feature of a line of credit is that the more money you deposit into it, the lower the interest expense. And here comes the trap: **each redraw is a new loan**, and may compromise the 100% tax deductibility of your interest.

Recently Mrs Domjan's case was heard by the Administrative Appeals Tribunal (case AATA 815 – 5 August 2004). There are many facts and points of law in this case; we will cite only a few. Mrs Domjan had financed various rental properties and share investments with a redraw facility on different home loan accounts. She thought

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DISPOSAL OF BUSINESS ASSETS UNDER GST MICROSCOPE

When you sell a business capital asset (eg motor vehicle, computer, pump, desk, air conditioner, etc) and you/your entity are registered for GST (or required to be registered), ensure that you include GST in the sale price.

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she could "park" money in the redraw facility (eg retrenchment payout, inheritance money), and draw it down for private use (eg top-up general cheque/savings account, pay off the visa, loan some to a friend, etc), without compromising the tax deductibility of the interest on the redraw facility.

Tax deductibility is determined on the **purpose** to which the borrowed money is put. If you taint your line of credit with private redraws, as did Mrs Domjan, then the **purpose** is private and the interest on those components is not tax deductible. One such redraw may still allow a meaningful apportionment of private and non-private interest. But after a multitude of private redraws, the calculations become so complex, that you may compromise the tax deductibility of your interest expense altogether.

Mrs Domjan's interest deduction was reduced and she was ordered to pay general interest charges and penalties for "lack of reasonable care" in making her claim.

We recommend that you seek both financial and tax advice when financing tax effective investments.

WORK-RELATED EXPENSE & RENTAL AUDIT PROGRAMS

The tax office is focusing on work-related expenses (eg union fees, professional development, car claims, self-education, clothing, etc) and rental claims because over six million taxpayers claim work-related expenses worth almost $10 billion, not all of them deductible, and over 1.3 million taxpayers show rent income or deductions in their claims.

Some (not all) of the rental hotspots are:

- claiming the cost of carrying out initial repairs - such as rectifying damage, defects or deterioration that existed at the time of purchasing the property (these costs are capital expenditure*).
- claiming renovation costs (eg remodelling bathrooms and kitchens and adding a deck or pergola, etc) as deductions for repairs (again, these are expenses of a capital nature*).
- claiming construction costs (@ 2.5% pa) as depreciation deductions (@ higher rate).

* If capital costs are reflected in the value of the property at time of sale, then they form part of the cost base for the capital gains tax calculation.

FIVE YEAR CELEBRATION!

Beneath the Surface turned five years old in October 2004. Thank you for your personal and professional support in helping us to reach this milestone.

TAKE A BREAK & AVOID A BREAKDOWN

According to Gary Albert (National Accountant, Aug/Sep 04, p45), "if you are one of the many overworked small business owners, you may think "time off" is for other people. But think again - taking a holiday break is more likely to help than hinder your business". He goes on to say that fears about what will go wrong during a vacation include a loss of customers, missed opportunities and looking unresponsive to current clients. However, the irony is that vacations are actually good for business - and truly successful people know it.

Having trouble taking a break? Start by putting it in your diary, just as you would a client appointment. Start small, say a four day weekend, and work your way up to one week, and then to two weeks. Keeping this "holiday" appointment with yourself won't be easy, and you may scrub it out many times, before you "ink" it in. Watch out for the mad rush the week before you go, when a million things **just have to** be done. As a colleague regularly asks at this time: "Does it have to be done this week?" Amazingly, when he checks with his clients, often it can wait a week or two.

Happy holidays.

SUPERANNUATION NEWS

It is proposed that from 1 July 2005, employers will be obliged to give employees the right to choose which superannuation fund their compulsory superannuation contributions are paid into.

The first super co-contribution payments are about to commence (Dec 2004). 59% of the initial 215,000 recipients are women. This is good news, as research by Ross Clare (principal research officer at ASFA*) has concluded that women retiring at sixty have, on average, half the amount of super of a man retiring at the same age. The maximum co-contributions income threshold for assessable income plus reportable fringe benefits for 2004-05 is $58,000. See our Winter 2004 newsletter (on our website) for more details on the super co-contribution scheme.

*Association of Superannuation Funds of Australia.

The Government's proposal to allow couples to split superannuation is back on the agenda originally reported in our Summer 2002/03 newsletter. Will also be covered in more detail in our next, Winter 2005, newsletter.

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