

## BENEATH THE SURFACE

## What's New in 2006?

**25% ENTREPRENEURS' TAX OFFSET (ETO)**

This is an incentive for very small, micro and home-based simplified tax system (STS) taxpayers. This discount will begin to phase out when group **turnover** (ie gross sales/fees) passes \$50,000 and is reduced to zero when the turnover reaches \$75,000. Hardly an 'entrepreneurial' incentive, it cuts out as your income rises! However, it is a new benefit available to eligible companies, partnerships, trusts or individuals in **business**. Eligible taxpayers can claim a maximum (non-refundable) tax reduction equal to 25% of so much of their basic income tax liability that is attributable to net business **STS** income. Of course if you have various sources of STS and non-STS income, then grouping needs to be considered, plus there is a six-step formula to calculate your proportional 25% entrepreneurs' income tax reduction.

**NEW BANKRUPTCY AMENDMENTS**

Partly in response to some high profile bankruptcies involving barristers who had substantial tax debts, the joint taskforce on the use of Bankruptcy and Family Law Schemes to Avoid Paying Tax was set up. This law is complex. We thus outline here only the new clawback time limits available to a trustee in bankruptcy on transfers to related parties of property interests that occurred prior to bankruptcy.

- ⇒ if solvent for entire 5 years prior to commencement of bankruptcy – 4 years before commencement of bankruptcy
- ⇒ if first become insolvent with 4 years prior to commencement of bankruptcy – 4 years before commencement of bankruptcy
- ⇒ if first become insolvent in the 5<sup>th</sup> year prior to commencement of bankruptcy – from the time of insolvency

Traditionally, superannuation funds have provided a significant avenue to asset protection in a bankruptcy situation, however the amendments will allow a trustee in bankruptcy to recover certain superannuation contributions made before the date of bankruptcy.

**CLAIMING THE NEW 30% CHILD CARE TAX OFFSET**

The new 30% child care tax rebate helps families with the cost of approved child care. The rebate is not means tested and covers 30% of out-of-pocket expenses for approved child care with a maximum rebate per child of \$4,000 (per year). The rebate is not a "cash in hand" refund. It is a tax offset that reduces your tax liability in the income year in which you claim it. You can claim the rebate and still receive Child Care Benefit (CCB).

From 1 July 2006, you can claim through the tax system, the rebate for approved child care expenses you incurred between 1 July 2004 and 30 June 2005 for the weeks you: used approved child care, and received CCB, and passed the CCB work/training/study test.

The rebate is transferable. This means that the primary claimant will have the option of transferring any unused rebate to their spouse. This includes non-lodgers of tax returns who wish to transfer their entitlements to their spouse at 30 June of the claim year.

**FAMILY TAX BENEFIT (FTB) RETURN TO WORK**

From 1 July 2005, parents who return to work for the first time

- ⇒ after the birth of a child or
- ⇒ after caring for a child who has come into their care

may be entitled to the maximum rate of Family Tax Benefit Part B for the period during the year that they were not at work. Eligibility for this extra assistance will be calculated after the end of the financial year when Family Tax Benefit payments are reconciled. Most families claim FTB through the Family Assistance Office, however, it is also possible to claim through the tax system.

## REDUCTION OF THE PERIOD OF REVIEW

Changes made as a result of the review of self-assessment reduced the period of review from 4 years (from date of assessment notice) to 2 years for most STS taxpayers.

## WHAT'S HAPPENING IN SUPERANNUATION?

### Choice of Superannuation Fund is Being Extended to More Employees

If you are an incorporated business and you have employees who were covered by a state award, you should check whether they are now covered by a 'notional agreement preserving state award' under the WorkChoices changes. From 1 July 2006, these employees can choose the fund into which their superannuation contributions are paid. If you are already providing choice of superannuation fund to your existing employees, then nothing changes for you.

If you want to brush up on your obligations as an employer in relation to choice of superannuation fund for employees, please phone our office for advice, or visit [www.superchoice.gov.au](http://www.superchoice.gov.au)

If an employee fails to make a choice, then the employer must have a default fund at the ready because the tax office special holding account has now been closed.

### A Reminder of Your Superannuation Obligations

If you pay the compulsory 9% superannuation guarantee contributions (SGC) to a complying superannuation fund or retirement savings account by the quarterly cut-off dates – **28 January, 28 April, 28 July and 28 October** – then the contributions are tax deductible. Otherwise they are not only non-deductible but also subject to penalty charges. **Beware:** Payments are required to be **paid** on your bank statements by the cut-off dates (so allow enough time) and these rules also apply to owners who are employees of their own company or trust.

### Superannuation on Back Payment of Wages

Effective 1 January 2006, the government has made changes to confirm that the superannuation guarantee law compels employers to make superannuation contributions on salary or wages paid back to former employees.

## Splitting Super Contributions with a Spouse - From 1 January 2006

Since 1 January 2006, members with an accumulation interest in a superannuation fund have been able to split both personal and employer superannuation contributions (including SGC) with their spouse (including a de facto spouse). One of the main purposes of this legislation was to assist families to maximise their superannuation benefits in retirement by allowing single income couples to access two Reasonable Benefit Limits (RBLs) and two ETP low-rate thresholds (for the post-June 83 component).

However in the May 2006 budget the government announced their intention to legislate as follows, effective from 1 July 2007:

- ⇒ RBLs be abolished
- ⇒ taxpayers who are 60 and over and receive payments from a taxed superannuation fund will have no tax on a lump sum and no tax on a pension.

These measures largely make the main reason for super splitting redundant. However it may still be appropriate for a younger person to salary sacrifice superannuation to an older spouse so as to transfer super to a tax-free environment sooner for the 60-ish member.

## HOW TO CUT YOUR BUSINESS FUEL COSTS - THE NEW FUEL TAX CREDIT

From 1 July 2006, you can claim a fuel tax credit for fuel for use in carrying on your business for certain applications. These include but are not limited to:



- ⇒ petrol or diesel when used in a vehicle with a gross vehicle mass (GVM) greater than 4.5 tonne travelling on public roads (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonnes), or for electricity generation
- ⇒ diesel only when used in activities (other than road transport) that were previously eligible under the energy grants credits scheme. They include:
- ⇒ rail or marine transport
- ⇒ certain primary production activities, eg agriculture, fishing and forestry.

All businesses need to be registered for both GST and fuel tax credit before they can claim a fuel tax credit. After registration, fuel tax credit labels will be included on the first business activity statement you receive after 1 July 2006.

## WRITING OFF BLACKHOLE EXPENDITURE

As most business owners know there are times when a necessary business expense is neither income tax deductible nor able to be included in the cost base of an asset for capital gains tax (CGT) purposes (generally because the expenditure is incurred prior to any income earning activity or is capital in nature but not related to a specific asset). This kind of expenditure is referred to as "blackhole expenditure". Since 1 July 2001, some such items became deductible at the rate of 20% per year, ie written off over five years, eg costs to establish a business structure, convert an existing business structure to a different one, raise equity for your business, etc.

Recent changes expand access to these write-offs and apply to both expenditure incurred and CGT events that happen on or after 1 July 2005. For further advice please phone our office to discuss, or visit [www.ato.gov.au/newlegislation](http://www.ato.gov.au/newlegislation) and select A-Z index, letter B for Blackhole expenditure.

## NET MEDICAL EXPENSES TAX OFFSET - CHANGES TO ALLOWABLE ITEMS

For the 2005-06 income year and later years, payments for the following items **no longer qualify** for the net medical expenses tax offset:

- ⇒ cosmetic operations for which a Medicare benefit is not payable, and
- ⇒ dental services and treatment which is solely cosmetic.

Medical and dental procedures which do qualify for the offset include:

- ⇒ surgery to the nose to correct breathing difficulties
- ⇒ laser vision corrective surgery
- ⇒ reconstructive surgery following the removal of a cancer
- ⇒ braces fitted to rectify crowded or missing teeth, a misaligned jaw or bite, and
- ⇒ a gold filling to repair tooth decay.



## WORK-RELATED EXPENSES

Each year a number of occupations are selected for specific focus by the tax office because they have above average work-related expense claims.

Their 2005-06 focus includes but is not limited to:

- ⇒ business professionals
- ⇒ hospitality industry service workers
- ⇒ mechanical, automotive and electrical tradespersons
- ⇒ information technology professionals.



## CHANGES TO THE MARGIN SCHEME

GST law regarding the margin scheme was amended in 2005. The changes aim to ensure the appropriate amount of GST is collected when property is bought, sold, or otherwise transferred or acquired.

In broad terms, recent amendments relate to, but are not limited to:

- ⇒ the buyer and seller being required to agree in writing to apply the margin scheme (as the buyer is not entitled to GST credits on the purchase)
- ⇒ calculating the margin using the amount the seller actually paid for the property, rather than the sale price when the seller acquired the property
- ⇒ the treatment of inherited property under the margin scheme (ie when no purchase proceeds are paid)
- ⇒ costs incurred when buying, developing or improving your property that cannot be included in the purchase amount used to calculate the margin.

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