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MEA Update – June 2008

Practice Update

Mark Edmunds Associates has introduced our newsletter service. Please contact this office if you have any queries.

Cash economy benchmarks

The ATO has developed new cash economy benchmarks for the **building industry**. It consulted widely with the building industry and, depending on the size of the business, has developed expected levels of income, expenditure and profits.

These benchmarks help them try and establish how much income a business has generated by looking to the amount spent on purchases of stock, and other materials used in the business.

The new industries for which benchmarks have *initially* been developed are: bricklaying; concreting; fencing; roofing; floor sanding and painting.

The Tax Office is adamant that the benchmarks will not be used by tax auditors, but will be available to encourage taxpayers to comply with the law once they are aware of their existence.

ATO targets deposits to super funds

In a recent speech, the Commissioner of Taxation has indicated that the ATO are now focusing on looking into the source of deposits made to superannuation funds.

He said that "The strong flow of funds into self managed super has prompted us to examine their sources. We are identifying taxpayers who

use under-reported or concealed sources of income."

"We are also investigating cases where real property has been placed into self managed funds without paying capital gains tax (CGT) on the transfer."

Using available data, the Tax Office is also checking that the 2000 or so trustees who accessed the transitional \$1m contribution cap last year met their obligations in respect of CGT.

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; 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).

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.

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

Editor: There is actually an amnesty available 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.

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.

Super co-contribution reminder

Super fund members who are eligible to receive the super co-contribution need to make personal contributions before 30 June 2008.

Note that eligibility for the super co-contribution was extended from 1 July 2007 to self-employed people who make after-tax contributions.

Editor: To be eligible to receive the super co-contribution, a taxpayer's 'total income' (assessable income plus reportable fringe benefits) must be less than \$58,980, and at least 10% of that total income must be from eligible employment (e.g., salary and wages) or business activities.

ATO data matching programs

The ATO will be undertaking a number of data matching programs to identify taxpayers who may not be meeting their taxation (including CGT, income tax and GST) obligations, and will acquire:

- identity and transaction details relating to securities held in *all* ASX listed entities;
 - owner builder licence registration information from Victorian and NSW authorities; and
 - details of approximately 600,000 individuals or entities that have purchased or acquired a motor vehicle valued at \$57,009 or higher from the RTA's in each of the States and Territories.
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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.

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