



## IN THIS ISSUE

- Election 2013
- ATO Compliance Focus
- Low income earners may still need to lodge a return
- Medicare Levy rising to pay for DisabilityCare Australia
- Updated ATO information on private health insurance rebate and Medicare levy surcharge
- Net medical expenses tax offset phase out
- Did you receive an employment termination payment in 2013?
- Are you a Senior or Pensioner and a Foreign resident? Are you entitled to a tax offset?
- Information for Businesses and Contractors in the Building and Construction Industry
- Reporting of personal services income and business income
- Capping of Education Expense Deductions for Employees
- Proposal to abolish FBT statutory formula for cars
- Are you a property owner?
- Letters to directors with outstanding obligations
- Combatting "Dividend Washing"
- Tax Avoidance Schemes – Warning to Investors from ATO
- Employee share scheme rules under review
- Tax advice provided by financial planners to be regulated
- Treasurer promises a 5 year freeze on superannuation changes
- Trans-Tasman super portability regulations made
- When a superannuation income stream commences and ceases – TR 2012/5
- Useful ATO Link

However, prior to the Election officially being called, there was significant activity in the tax space as noted below.

### ATO Compliance Focus

The ATO has published its "[Compliance in focus 2013-14](#)" document. This document sets out what the ATO is doing to manage the risks to and maintain the integrity of Australia's taxation and superannuation systems for the next 12 months.

In relation to individuals, the ATO will be focusing on the following:

- individuals who fail to declare income or make incorrect claims for deductions and benefits;
- the tax risks associated with the use of complex business structures;
- correct reporting of taxable income by wealthy individuals; and
- participation in tax planning schemes.

The ATO will also be focusing on ensuring correct reporting by individuals of:

- private health insurance rebates;
- flood levy exemptions;
- taxable government grants and payments; and
- certain payments to contractors in the building and construction industry.

This year, incorrect claims for work-related expenses made individuals in the following occupations will be a focus for the ATO:

- building and construction labourers, construction supervisors and project managers; and
- sales and marketing managers.

### Guides for members of particular industries

To assist taxpayers to prepare their tax returns, the ATO issues a guide about claiming work-related expenses for particular industries.

Guides for members of industries, such as tradespeople and business professionals, can be found [here](#) on the ATO website. There may be a guide available for your particular industry.

### Election 2013

With the certainty of the 2013 Federal Election being held on 7 September 2013, for the last few weeks, the Government has been in Caretaker mode. Until the Election passes and the new Government settles in, apart from Election promises made, we are unlikely to see much activity in the tax space.

### Tip!

Speak to your tax agent if you have any concerns about the ATO Compliance Program and how it may affect you in preparing your tax return.

### Low income earners may still need to lodge a return

If your income falls under the tax-free threshold for the 2013 income year, that is it is less than \$18,200, generally you should not have to lodge a tax return. However, there are certain reasons why you may still need to lodge a tax return form with the ATO.

The most common of these are:

- if you are entitled to the private health insurance rebate;
- if you had pay as you go (PAYG) withheld from payments you received during the year;
- if you had a reportable fringe benefits amount on your PAYG payment summary;
- if you had reportable employer superannuation contributions on your PAYG payment summary;
- if you made a loss or can claim a loss made in a previous year; and
- if you were an Australian resident for tax purposes and had exempt foreign employment income and \$1 or more of other income.

### To do!

If you are unsure about whether you need to lodge a tax return for the 2013 income year, talk to your tax agent. They will be able to advise you. Even if none of the reasons listed above apply to you, it is worth double-checking with your tax agent to ensure you meet any obligations you might have that you did not know about.

### Medicare Levy rising to pay for DisabilityCare Australia

With the introduction of the Government's new initiative, DisabilityCare Australia, comes an increase in the Medicare Levy. From 1 July 2014, the Medicare Levy will increase by 0.5% to 2% to assist to fund the DisabilityCare Australia program.

All proceeds raised by the 0.5% increase to the Medicare Levy will go into the new DisabilityCare Australia Fund.

This change will affect your 2014 tax return onwards.

### Updated ATO information on private health insurance rebate and Medicare levy surcharge

Given the changes to how the rebate for private health insurance is to apply, the ATO has included a detailed explanation on its website, which can be accessed [here](#). In the table below is a quick summary of how the rebate phases out according to your income level for individuals and families (with persons under 65 years old) for the 2013 and 2014 income years.

Income - Individuals		Income - Families		Rebate amount
2013	2014	2013	2014	
\$84,000 or less	\$88,000 or less	\$168,000 or less	\$176,000 or less	30%
\$84,001 to \$97,000	\$88,001 to \$102,000	\$168,001 to \$194,000	\$176,001 to \$204,000	20%
\$97,001 to \$130,000	\$102,001 to \$136,000	\$194,001 to \$260,000	\$204,001 to \$272,000	10%
\$130,001 or more	\$136,001 or more	\$260,001 or more	\$272,001 or more	0%

### To do!

To ensure that you are claiming the right amount of the rebate, talk to your tax agent to ensure you get it right.

### Net medical expenses tax offset phase out

In the 2013-14 Federal Budget handed down in May this year, the Government announced that it would phase out the net medical expenses tax offset (NMETO). Transitional arrangements will apply for people who claim the NMETO in the 2013 income year. That is:

- Taxpayers who claimed the NMETO in the current year (2012-13) will be able to continue to claim the offset in the 2013-14 income year if they have eligible out-of-pocket medical expenses above the relevant thresholds.
- Taxpayers who are eligible to claim the NMETO in the 2013-14 year can continue to do so in the 2014-15 year.
- Until 1 July 2019, the NMETO will continue to be available for certain out-of-pocket medical expenses only (disability aids, attendant care or aged care expenses) when the DisabilityCare Australia program is expected to become fully operational and aged care reforms have been in place for several years.

## Did you receive an employment termination payment in 2013?

If so, you need to be aware of the fact that there have been some changes to the taxation of employment termination payments (ETP) that apply from 1 July 2012. The ETP section of the PAYG payment summary now includes a spot where an ETP code has to be included. The codes describe the type of payment the ETP is and will ensure the correct rate of tax is applied.

Your employer should be using these new codes. Similarly, you will also need to include the relevant codes in your 2013 income tax return. This will ensure the ATO system “knows” what type of payment your ETP is and will apply the correct rate of tax.

Your tax agent will be able to assist you to ensure that the correct code is included in your tax return when completing the ETP section.

### To do!

If you have received an ETP and no code has been included in your PAYG payment summary, you will need to contact your employer to have this corrected.

## Are you a Senior or Pensioner and a Foreign Resident? Are you entitled to a tax offset?

Recently, amendments were made to the Regulations which govern how the “seniors and pensioners tax offset” (SAPTO) applies to foreign residents.

The amendments correct an unintended consequence arising from amendments to the regulations which took account of changes to the personal income tax rates and thresholds made as part of the Government’s Clean Energy Future Plan in 2012. An amendment was required to reflect the fact that the former “pensioner tax offset” and “senior Australians tax offset” have now merged.

The original amendment worked for the most part but had an unintended consequence in the 2012 income year for the amount of SAPTO available for transfer for foreign residents whose eligible spouse had taxable income greater than the tax-free threshold. Note that foreign residents are not usually afforded the benefit of the tax-free threshold.

## Information for Businesses and Contractors in the Building and Construction Industry

From 1 July 2012, businesses in the building and construction industry will need to report to the ATO each year the total payments they make to each contractor for building and construction services. The first *Taxable payments annual report* was due

by 21 July 2013 (or by 28 July 2013 for those who lodge activity statements quarterly). An extension was granted to tax agents to lodge these reports on behalf of their clients to 26 August 2013.

Businesses are required to report each contractor’s ABN, name and address, the total amount paid for the year and the total GST included in that amount. You should be able to find most of the information you need for the report in the invoices received from contractors.

Separately, if you are a contractor, you will need to:

- lodge your 2012-2013 tax returns by the due date and include all income
- lodge any prior year tax returns as soon as possible
- consider making a voluntary disclosure if a mistake may have been made in a previously lodged tax return. Where the contractor voluntarily advises the ATO of any errors or omissions, any penalties that apply may be reduced.

The information reported will allow the ATO to identify those contractors who have either not included all their income in their tax return, or not lodged tax returns.

### To do!

If you have received notification from the ATO, but you do not believe you have any information to provide to the ATO or that you have received the notification by mistake, it is best to contact the ATO to advise them of this. Your tax agent will be able to assist you with this process.

## Reporting of personal services income and business income

Earlier this year, the ATO wrote to some taxpayers asking them to review their tax return for the 2011-12 income year to work out if the business income they have reported may, in full or in part, be classified as personal services income (PSI) and subject to the PSI rules

If you received such a letter, you should speak to your tax agent to confirm whether there is any action that you need to take and if there is likely to be any impact on your 2013 tax return.

## Capping of Education Expense Deductions for Employees

In April this year, the Government announced that the deduction for work-related self-education expenses claimed by employees would be capped at \$2,000 per annum, rather than remain unlimited as it is currently. This measure has been the subject of a lot of discontent from all sectors including where

further education is a continuing requirement of a profession, education providers, taxpayers likely to be adversely affected by the measure as well as the tax profession. A discussion paper considering the design of the measure was released at the end of May this year.

If you are an employee claiming work-related self-education expenses, these expenses will be subject to a cap of \$2,000 from 1 July 2015 when this measure is intended to start to apply.

Given a cap is intended to apply, some individuals may look to their employer to assist in funding their education expenditure. There could be FBT implications if the cost of education is salary-sacrificed by an employee or there could be other possible FBT implications for employers providing education to employees. There are also possible implications if you are a sole trader or if you derive personal services income.

If, as part of your work or employment, you are required to undertake further education or choose to do so, this is a measure to keep an eye on. Your tax adviser will be able to keep you abreast of the progress of this measure.

### **Proposal to abolish FBT Statutory Formula for Cars**

On 16 July 2013, the Treasurer, Chris Bowen, announced that the statutory formula to calculate car fringe benefits would be removed and that only the operating cost method would be available. The operating cost method requires log books to be kept over a twelve week period every 5 years as well as all costs associated with the car (eg registration, servicing, insurance) to be tracked for the purpose of calculating the value of the fringe benefit provided by an employer who provides a car to an employee.

The removal of the statutory formula is to take effect from 1 April 2014 and is estimated to save the Government \$1.8 billion over the forward estimates period.

Note that this measure is just a proposal, though it is something employees who receive car fringe benefits from their employers should keep in mind and therefore is a measure that potentially affected employees should keep an eye on.

A factsheet entitled "A fairer treatment for FBT on cars" is available if you are interested in finding out more information about the proposal. The fact sheet can be accessed [here](#).

### **Are you a property owner?**

If so, you should note that the ATO has put together a [Property](#) page on its website. It is a repository for easily accessible information relevant to all property related transactions. There may be information on

this page to help you better understand your tax obligations at different points in the lifecycle of acquiring, owning and selling property.

The property page contains information on topics including:

- Buying, selling and renting property;
- Inheriting a dwelling;
- Vacant land;
- Subdividing;
- Property development, building and renovating; and
- Property used to run a business.

Of course, your tax adviser will always be able to assist you with any tax queries you have in relation to property ownership.

### **Letters to directors with outstanding obligations**

From 1 July 2012, changes were made to the tax and superannuation laws to reduce the scope for companies avoiding liabilities and payments of employee entitlements.

If you are a director of a company, you may have received a letter from the ATO if your company has unpaid pay as you go (PAYG) withholding amounts. The letter explains your obligations as a director and your personal risk in relation to your company's PAYG withholding debt.

The letter encourages directors to ensure their company addresses the outstanding PAYG withholding debt either by paying it immediately or establishing with the ATO an agreed payment arrangement.

If you are a director and have not received a letter like this, depending on whether your company meets its PAYG withholding obligations, you may receive one in the future. It is worth bearing in mind your obligations in relation to the tax and superannuation laws.

### **Combatting "Dividend Washing"**

The Assistant Treasurer has announced a measure to combat "dividend washing".

Dividend washing occurs when a person sells shares ex-dividend and the person selling the shares retains the right to the dividend and the franking credits. Then the same person immediately buys equivalent cum-dividend shares (which include the right to an additional dividend and franking credits). This can be done with listed shares where a special "cum-dividend" market is created for the shares for the two days after they go ex-dividend. This allows the same person to obtain the dividend and franking credits twice while only holding one set of shares.

The measure will prevent investors who have been able to engage in this practice from claiming both sets of franking credits on the one parcel of shares. Per the Assistant Treasurer's press release on 28 June 2013, "The measure will not have an impact on typical 'mum and dad' investors, as it will only apply to investors that have franking credit tax offset entitlements in excess of \$5000."

Taxpayers with investments in shares shouldn't be impacted by this new measure unless they have engaged in dividend washing which is, of course, discouraged. The measure is intended to apply from 1 July 2013.

### Tax Avoidance Schemes – Warning to Investors from ATO

In a media release issued in June this year, the ATO recently warned investors about new and complex tax avoidance schemes being marketed as people get ready to lodge their 2013 tax returns.

"It is important for anyone considering an investment or any other arrangement that will affect their tax liabilities to do their research and seek independent advice," the Commissioner, Chris Jordan said.

Some recent schemes have offered people financial security, opportunities of wealth creation and others have even attempted to exploit a social or environmental conscience.

Be wary of someone offering you a scheme that might assist you to avoid tax, particularly at this time of year when you are likely to be focused on doing your tax return.

#### Note!

Always speak to a registered tax agent about any scheme that might be offered to you as a way of reducing or avoiding tax. Registered tax agents are professionals that are able to give you proper advice about your tax affairs.

### Employee Share Scheme Rules under review

The Government announced in June this year that it will review the policy around employee share schemes (ESS). The review is part of the Government's *Advancing Australia as a Digital Economy: Update to the National Digital Economy Strategy* project for Australia to become a trusted hub in the global digital economy.

The Government will consult with stakeholders to determine the most effective measures to address the barriers faced by start-up companies in running ESS, including:

- developing guidance to reduce the administrative burden (meaning the cost of valuing shares and options) of establishing an ESS;
- adjusting the valuation methodology of options; and
- examining the point at which share options are taxed for start-up companies.

### Tax advice provided by financial planners to be regulated

From 1 July 2014, tax advice provided by a financial planner in the context of providing financial advice will be subject to regulation by the Tax Practitioners Board, which also governs tax and BAS agents.

If you see a financial planner and possible tax implications of investments are discussed, it may be worthwhile chatting to your registered tax agent to be certain of your potential tax obligations with investments you may be contemplating.

### Treasurer promises a 5 year freeze on superannuation changes

The current Treasurer, Chris Bowen, has promised that a re-elected Rudd Labor Government would make no major changes to superannuation tax policy for a five-year period, commencing immediately. Given the constant changes to the taxation of superannuation over recent years, this may be welcome relief.

The Government will also bring forward legislation to establish the Super Council to ensure any future changes to superannuation are consistent with an agreed Charter of Superannuation Adequacy and Sustainability. The Charter will include the commitment to a five-year moratorium on changes to superannuation tax policy. The Government will make an announcement on the membership of the Council in due course.

However, prior to this announcement, a number of other changes to super recently made their way into law including:

- There will be a temporary increase to the concessional contributions cap to \$35,000 for the 2013-14 financial year for individuals aged 60 years and over, and to \$35,000 for the 2014-15 financial year and later financial years for individuals aged 50 years and over. The temporary cap will cease when the general cap indexes to \$35,000;
- From the 2012-13 income year, individuals who are high income earners with a combined income and concessional tax contributions exceeding \$300,000 in an income year will have their concessional contributions made to their super fund over and above the \$300,000 threshold subject to tax at 15% in the fund (which ordinarily

applies to concessional contributions) with a further 15% payable.

- From the 2013-14 income year, if you make concessional contributions to your superannuation fund that exceed the concessional contributions cap (ie excess concessional contributions):
  - a) they will be included as part of your assessable income; and
  - b) you will be entitled to a tax offset equal to 15% of your excess concessional contributions; but
  - c) an excess concessional contributions charge may apply; and
  - d) you may elect to withdraw up to 85% of the excess contributions. The amount withdrawn from the super fund is not assessable (nor exempt) income. The limit of 85% applies as the remaining 15% equates to the tax the super fund would have paid when the whole amount was received.

#### Tip!

If you have any concerns about the super contributions you have made or your employer has made on your behalf, it is a good idea to pull out your latest statement from your super fund and sit down with your tax adviser to go through it and see if any of the changes noted above may apply to you.

#### Trans-Tasman super portability regulations made

New regulations have been made which will allow Australians and New Zealanders to take their superannuation with them when they move permanently from one country to the other. The regulations began to apply from 1 July 2013.

#### When a superannuation income stream commences and ceases - TR 2013/5

On 31 July 2013, the ATO issued Taxation Ruling [TR 2013/5](#) entitled "Income tax: when a superannuation income stream commences and ceases".

This Ruling explains when a superannuation income stream commences and when it ceases, and consequently when a superannuation income stream is payable. These concepts are relevant to determining the income tax consequences for both the superannuation fund and the member in relation to superannuation income stream benefits paid. This Ruling applies with effect from 1 July 2007.

If you receive an income stream from a superannuation fund or are likely to start receiving one soon, talk to your tax agent about what this may mean for you.

#### Useful ATO Link

The ATO has published on its website some useful information about the superannuation contribution and cap amounts that apply in certain circumstances. These can be accessed [here](#).

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