



November 2010 Newsletter

ATO Compliance: Data Matching Motor Vehicle Purchases and Transfers of Real Property

In the continuation of its compliance activities, the Tax Office has advised that it will update its data on motor vehicle purchases and real property transfers in its data matching program.

The particular focus is the correct declaring of income, in particular by participants in the cash economy, for example, the non-reporting of income from the vehicle sale, or a purchaser whose declared income is not sufficient to support the vehicle purchase. Further focus also includes the meeting of capital gains tax, fringe benefits tax and GST obligations.

Specifically, the Tax Office will request data from the state motor vehicle registries where a motor vehicle was sold, transferred or newly registered between 1 July 2009 and 30 June 2010 and the transfer and / or market value of the vehicle was \$10,000 or greater.

In relation to real property transfers, the Tax Office will collect identity and transaction details from the state revenue authorities for property transfers that occurred between 1 July 2009 and 30 June 2010.

Tax Office Highlights Errors in Claiming Deductions for Superannuation

The Tax Office has recently highlighted common errors made by individuals when claiming tax deductions for their personal superannuation contributions. Such errors include not lodging the notice to claim the deduction with their superannuation fund on time and incorrectly claiming their superannuation contributions as business or partnership expenses.

The Tax Office also reminded individuals that personal superannuation contributions are not work-related expenses.

TIP:

The Tax Office said the errors came to light after it had matched superannuation contributions data it received from super funds with individual and partnership returns. As a result, the Tax Office said it will take a closer look at these claims for the 2009-10 year.

GIC and SIC Rates Released

The Tax Office has released the general interest charge (GIC) and shortfall interest charge (SIC) rates applicable for the period 1 October to 31 December 2010, these are as follows:

Item	Annual Rate
GIC	11.74%
SIC	7.74%

Portable Electronic Devices and FBT Exemption

Employers can provide employees with eligible work related items, where such items are provided primarily for work purposes they are not subject to fringe benefits tax. This exemption is limited to one of each such item per year, unless it is a replacement item.

One group of such items is portable electronic devices. These include laptop computers, mobile phones, personal digital assistants and electronic diaries. Such items often have more than one use, and may each provide similar uses. Therefore, the concept of 'substantially identical functions' becomes relevant.

If eligible work related items have substantially identical functions then the fringe benefits tax exemption is limited to one item per year. For example, a laptop computer and a mobile phone may provide some of the same uses, however they are not considered to provide substantially identical functions. On the other hand, a personal digital assistant and an electronic diary may provide substantially identical functions, in which case the exemption would be limited to the first item provided in the year.

The Tax Office has discussed its views on what constitutes substantially identical functions, including the following:

- It is not appropriate to consider the use of the item in the particular employment circumstance in determining its functions.
- It is also appropriate to consider how any differences between items actually impact on the item's functionality. For example, colour, shape, brand and design would not generally be relevant considerations or distinctions in functionality.
- A mobile phone with calendar / organiser capability does not have substantially identical functions as a personal digital assistant. They have some functions in common but do not have functions that are the same in most respects.
- An employer would need to determine if two portable computers (eg. laptops, tablets, netbooks etc) had substantially identical functions.
- However, it was accepted that an iPad does not have substantially identical functions to a laptop computer.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.