MARSH & PARTNERS
Chartered Accountants

client alert

tax news | views | clues

Proposed Amendments to the Tax Law

The Federal Government has introduced Tax Laws Amendment (2009 Measures No 2) Bill 2009 into Parliament. The amendments contained in the Bill include:

- increasing access to the small business CGT concessions for taxpayers owning a CGT asset used in a business by an affiliate or entity connected with the taxpayers, and for partners owning a CGT asset used in the partnership business;
- providing a general exemption from CGT for capital gains arising from a right or entitlement to a tax offset, deduction or similar benefit; and
- exempting from tax the Clean-up and Restoration Grants paid to small businesses and primary producers affected by the recent Victorian bushfires.

Small business CGT concessions

The Bill will allow a taxpayer who holds a passively held CGT asset which is used in a business by the taxpayer's affiliate or a connected entity to access the small business CGT concessions, subject to certain conditions.

The Bill will also allow partners in a partnership to access the concessions for CGT assets owned by the partners that are used in the business of the partnership but are not interests in assets of the partnerships, provided certain requirements are satisfied.

Further, the Bill will refine and clarify aspects of the existing small business CGT concessions, including:

- expanding the range of circumstances when a taxpayer's spouse or child will be considered to be an affiliate of the taxpayer;
- exempting small business operators from satisfying the basic conditions for capital gains arising from certain CGT events;
- ensuring the small business CGT retirement exemption applies appropriately to capital proceeds received by individuals in instalments.

The Bill will also clarify that a partner in a partnership cannot be a small business entity.

Generally, the amendments will apply to CGT events happening in 2007/08 and later income years.

Tax benefits and capital gains tax

The Bill will ensure that a capital gain or loss that a taxpayer makes from a CGT event arising from a tax offset, deduction or similar benefit will be disregarded.

For example, the exemption will apply if a taxpayer has a right to receive a reduction in land tax available under an Australian law.

The amendment will apply to the 2009/10 and later income years.

Tax exemption for certain grants

The Bill will exempt from income tax the Clean-up and Restoration Grants paid to small businesses and primary producers affected by the recent Victorian bushfires.

This amendment will apply to grants paid in the 2008/09 and 2009/10 income years.

Deductibility of Self-education Expenses

In a recent decision, the Federal Court held that a taxpayer who was receiving the Youth Allowance was entitled to a deduction for self-education expenses incurred.

June 2009

Marsh & Partners Qld Pty Ltd
ABN: 84 103 868 926

Office Address:
Level 3, 74 Astor Terrace | Spring Hill | QLD 4000

Postal Address:
GPO Box 3299 | Brisbane | QLD 4001

Phone: 07 3023 4800
Fax: 07 3023 4899
Email: mail@marshpartners.com.au

www.marshpartners.com.au

Partners
Michael Marsh Affiliate of ICAA, CPA | Terry Brauer CA | Bronwyn Condon CA | Fred Patten Affiliate of ICAA, CPA

The taxpayer was studying a teaching degree and did not derive any income from employment as a teacher.

The court said that the taxpayer's ultimate motive in undertaking the degree was irrelevant to the characterisation of the expenses. Rather, its opinion was that the expenses were incurred as a necessary incident of deriving the Allowance. Accordingly, the court held that the expenses were deductible.

The Commissioner's established view is that, generally, recipients of Commonwealth educational assistance schemes payments are not entitled to a deduction for self-education expenses. This is because the expenses are not incidental and relevant to the payments.

Superannuation Warning

The Tax Office has released a Taxpayer Alert in which it warns self-managed superannuation funds (SMSFs) with pre-existing interests in unit trusts of arrangements involving the transferring of benefits associated with the in-house assets transitional provisions.

The Tax Office says that such arrangements may involve superannuation regulatory issues and taxation issues.

Broadly, the in-house assets rules restrict a regulated superannuation fund from having more than 5% of the total market value of its assets in a related party of the fund. However, transitional provisions may apply to exclude an asset from the in-house asset rules.

- Trustees of SMSF should review, in consultation with their professional advisers, pre-1 July 1999 investments in related trusts.

PAYG Instalments

The Federal Government has announced that it will cut the quarterly PAYG instalments for the 2009/10 income year for taxpayers who calculate their instalments using the Gross Domestic Product method. The reduction will also benefit businesses that pay their GST quarterly.

Data Matching Projects

The Tax Office has released details of three data matching projects it will carry out.

The information collected from the projects will be electronically matched with the Tax Office's data holdings to identify non-compliance with lodgment and payment obligations.

Motor vehicles

The Tax Office will request and collect details of individuals and entities that have acquired a motor vehicle valued at $10,000 or higher from relevant state and territory departments.

Personal services income

The Tax Office will request and collect information on amounts paid to personal service entities from labour hire firms, placement agencies and computer consultancies.

Contract payments from mining companies

The Tax Office will also request and collect information on amounts paid by mining companies to contractors and sub-contractors.

Superannuation Rates and Thresholds

The Tax Office has released key superannuation rates and thresholds for the 2009/10 income year.

The concessional contributions cap will be $55,000 ($50,000 for 2008/09). Concessional contributions are essentially contributions that are included in the assessable income of a receiving superannuation fund.

The non-concessional contributions cap will be $165,000 ($150,000 for 2008/09). Non-concessional contributions include contributions that are not included in the assessable income of a receiving superannuation fund.

Reminder: Individual Tax Rates from 1 July 2009

The resident individual tax rates will change for the 2009/10 income year. The new rates are:

Taxable income ($)	Tax payable ($)
0 — 6,000	Nil
6,001 — 35,000	15% of excess over 6,000
35,001 — 80,000	4,350 + 30% of excess over 35,000
80,001 — 180,000	17,850 + 38% of excess over 80,000
180,001+	55850 + 45% of excess over 180,000

Low-income tax offset

The maximum amount of offset an individual resident taxpayer will be entitled to will increase to $1,350 for 2009/10 ($1,200 for 2008/09).