June 2008

Globe Accounting Pty Ltd

Certified Practising Accountants

Welcome to the New Financial Year,

Well nearly…..

We are busy getting things ready for the new financial year and all the changes it will bring with it. Below are some changes made by the Australian Tax Office to be aware of including the new fuel tax credit regime that comes into effect from July 1st.

Also in this newsletter we address the issue of using ordinary time earnings to calculate your superannuation obligations.

We have been supporting Banklink for nearly a year now and have been impressed with the ease of operation of this program and the range of reports you can request. Because it comes straight from the Bank there is no reconciliation required, just inputting the details of the amounts shown. If you would like further details, please call and chat to Erin, she is our Banklink specialist!!

On the Financial Planning front Peter has been kept busy with ………………………. If there is a topic you would like to discuss or a specialist you would like to talk to, please let us know and we will do our best to organise a seminar.

Just a reminder that as we head into the busy part of our year, we endeavour to answer your calls within 24 hours. If we are not available, please leave your name, number and a message with Maureen or Belinda and we will get back to you as soon as possible. Email is always a good option as we always check them before leaving for home .

Enjoy the rest of 2008!!

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If you wish to receive this newsletter via e-mail please contact us with your e-mail address.

Deadline for shareholder loan accounts

If you have a shareholders loan account now is the time to check that all is ok with it. Division 7A of the Tax Act can trigger tax on shareholder loans where you have borrowed money from your company or where the company has paid expenses on your behalf. While this legislation was introduced in 1997, many small businesses have been in breach of Division 7A.

Last year, the Australian Tax Office (ATO) provided an amnesty period up to 30 June 2008 to correct any Division 7A breaches. The amnesty allowed taxpayers to put in place corrective action to avoid the tax liability that otherwise would have occurred and the resultant penalties.

There are certain conditions that need to be met to qualify for this relief.

As the amnesty ended on 30 June, it is crucial to ensure that you have reviewed and manage of any loan account issues now. After 30 June this year, it will be too late to take corrective action. Any loan account that does not meet the guidelines will be deemed an unfranked dividend and taxed in the hands of the shareholder.

Have debit loans to shareholders (or associates) or think that you could be affected? Talk to us today about safeguarding your position and ensuring you don't get caught by this tax. It may take some time to put in place the corrective action required so don't leave it till the last minute.

Fringe benefits tax warning

A recently decided tax case, *Slade Bloodstock Pty Ltd and Commissioner of Taxation*, sounds a warning to all small businesses. In this case the ATO took issue with a company where they paid expenses on behalf of the shareholders and those payments were charged back against a shareholders loan. The company had a debt to the shareholders for moneys they had previously advanced to it. As the company paid expenses on behalf of the shareholders, it was charged against the loan reducing the indebtedness. Sounds ok so far and there would be a lot of small businesses who would have done exactly the same thing. So, where was the problem?

The ATO attempted to treat the payments by the company as an expense fringe benefit and charged the company with fringe benefits tax. When tested in the Federal Court, the ATO lost - thankfully. However, what did come out of the case was the need for companies to have agreements in place confirming that any payments being made on behalf of the shareholders represented a reduction in the loan account and it was appropriate for such payments to be applied as a reduction of the loan. This documentation was the evidence relied on in court that the payment was not an expense fringe benefit payment. Like many other areas, the devil is in the detail.

Market tightens its grip on small business

Have you noticed that your customers are paying you a little slower than usual? A recent Dun & Bradstreet survey shows business to business payment days have hit their highest level since 2001. The average payment period across all industries has reached 55.8 days.

During the economic good times, many businesses let their debtor management slip. Now that the financial pressure is on, some have been caught out.

On top of a cash flow cycle slow down, the major banks have tightened their lending criteria and are moving to enforce these criteria.

Highly leveraged companies are particularly susceptible. If a large portion of your business gross profit is directed towards the financing of loan capital this indicates that you are in a higher risk position. Don't lose control over your position. It may be a good time for a business health check.

For those who are likely to need to borrow money, don't expect any special favours. The banks may not be chasing you for your business as they once were. Be particularly wary if you are on a growth path and funding that growth with debt. The banks are likely to want to see strong financials to continue lending to you.

If you are a high growth company or are likely to need cash in the next 12 months, talk to us today. Presenting a strong financial position will play a pivotal role in your future. This is an area to keep a close eye on.

Using ordinary time earnings to calculate the super guarantee

From 1 July 2008, you must use ordinary time earnings as defined in the super guarantee law, to calculate super guarantee contributions for your employees. This ensures all employees are treated the same for super guarantee purposes.

What are ordinary time earnings?

Ordinary time earnings are generally what your employees earn for their ordinary hours of work, including:

- over-award payments
- commissions
- Allowances, and
- paid leave.

Ordinary time earnings do not include overtime (subject to certain exceptions).

What should you prepare for changes from 1 July 2008

Make sure you:

- review the earnings base for all employees to ensure you are calculating your super contributions based on ordinary time earnings
- review the 'Checklist for salary or wages and ordinary time earnings' to see what is included and excluded from ordinary time earnings
- update your software and payroll systems.
- include performance based bonuses when calculating the super guarantee (some bonuses do not apply, for example Christmas bonuses)
- include allowances when calculating the super guarantee (there are exceptions for reimbursements or fully expended allowances)
- include employee commissions when calculating the super guarantee
- consider the cost impact on your business if you are required to increase your super contributions
- have the correct systems ready to handle any change in your super contributions, and
- have a strategy to inform your employees of possible changes to their super contributions.

Are you on the Tax Office hit list?

The birds are singing, the sun is shining and just when you thought life was good, it's tax time again. With increasingly sophisticated methods of matching the information you declare to the Tax Office against your records practically everywhere else, we reveal who is on the hit list and why.

Buying or selling a business
In addition to the standard capital gains tax issues from any safe (i.e. making sure you declare the capital gain), the Tax Office is looking closely at mechanisms such as share buy-backs, capital reductions and the sale of shares to exit from businesses. Debt forgiveness or write-off to facilitate a transfer of a business will also be in the spotlight. Nothing wrong with any of this providing it is managed correctly. The devil is in the detail.

GST integrity
GST on property transactions is a continued focus. In particular:

- Unreported property sales, particularly of new residential premises;
- Valuations used under the margin scheme;
- Incorrect reporting of adjustments arising from a change in the extent of creditable purpose; and,
- Incorrect treatment of supplies to associates.

In addition, where GST refunds are high or above an industry standard, expect a call from the Tax Office. The Tax Office has tackled a number of GST frauds of late where falsified or over inflated invoices have been used to generate higher refunds.

Checklist for salary or wages and ordinary time earnings

Payment type	Salary or wages	Ordinary time earnings
Expense allowance that is paid with the expectation that it will be fully expended in producing income (for example, car allowance paid to real estate agents)	No	No
Allowances paid (other than a reimbursement of expenses or expense allowance)	Yes	Yes
Reimbursement of expenses (for example travel costs)	No	No
Bonuses that don't relate to specific performance criteria (for example Christmas bonuses)	Yes	No
Other bonuses	Yes	Yes
Commission	Yes	Yes
Over-award payments	Yes	Yes
Shift loading	Yes	Yes
Overtime	Yes	No
Casual loading	Yes	Yes
Benefits subject to fringe benefits tax (FBT)	No	No
Workers compensation payments, including top-up payments where no work is performed	No	No
Workers compensation payments, including top-up payments, paid by the employer, where work is performed	Yes	Yes
Top-up payments (for example when serving on jury duty or with reserve forces)	Yes	No
Payments when on maternity or paternity leave	Yes	No
Pay for annual holiday leave taken	Yes	Yes
Government wage subsidies (for example Wage Subsidy Scheme allowance)	Yes	Yes
Annual leave loading	Yes	No
Pay for sick leave taken	Yes	Yes
Pay for long service leave taken	Yes	Yes
Accrued annual leave, long service leave and sick leave paid as a lump sum on termination	Yes	No
Payments in lieu of notice	Yes	No
Redundancy payments	Yes	No
Other payments paid by an employer on termination of employment	Yes	No
Director's fees	Yes	Yes
Payments for performance in, or provision of services relating to entertainment, sport, promotions, films, discs, tapes, TV, or radio	Yes	Yes
The labour portion of payments to contractors who are employees for super guarantee purposes	Yes	Yes
Dividends	No	No
Partnership and trust distributions	No	No
Payments for entering into a restraint of trade agreement	No	No
Payments for domestic or private work under 30 hours per week	No	No

Contractors and the self employed

Contractors, even those working through a company structure, can fall foul of the alienation of personal services income (PSI) rules. The PSI rules are designed to ensure that contractors really are in business for themselves rather than being quasi-employees (and thus paying less tax than their salaried colleagues and receiving larger deductions). Under these rules, unless certain conditions are met, the Tax Office treats any income as income easily earned by you rather than income earned by the business. This means that your personal tax rates will apply to your business income and you will be denied access to a range of tax deductions normally available to business.

To qualify as a personal services business, you need to pass at least one of four tests. The first is the results test – to pass this test your contract needs to be able to demonstrate that you are contracted to produce a particular result, such as the completion of a project, you provide you own tools and equipment, and are responsible for correcting defects. If you fail this test and 80% or more of your income is from one source, there are another three tests that might apply.

Even if the rules didn't affect you in the past, this is an annual test. If your circumstances have changed, you need to make sure you are not caught.

Landlords

Landlords claims some $3 billion year in subsidies (with nearly 1 million landlords claiming to have lost money on rental properties and only 500,000 making money in 2005/2006). The Tax Office has been talking about rental properties for some time and earlier this year, launched a new series of programs designed to try and improve compliance by educating new investors about their rights and obligations. All this means that if you get caught doing the wrong thing, don't expect the Tax Office to be gentle.

Here is the Tax Office's list of common mistakes made by landlords:

- Claiming deductions for rental properties not genuinely available for rent.
- Incorrectly claiming deductions for properties only available for rent part of the year, for example a holiday home.
- Incorrectly claiming the cost of structural improvements as repairs when they are capital works deductions, such as remodelling a bathroom or building a pergola; and
- Overstating deduction claims for the interest on loans taken out to purchase, renovate or maintain a rental property. A loan can be taken for both income-producing and private purposes, like to buy a car or go on an overseas holiday. The interest on the private portion of the loan is not tax deductible.

There are two categories of rental property expenses you can claim:

- Expenses for the year you paid them, like council rate, repairs, insurance and loan interest; and
- Expenses that is deductible over a number of years, like borrowing costs, creating structural improvements and costs of depreciating assets.

Renovating costs and costs to repair damage, defects or deterioration existing on purchase cannot be claimed as an immediate deduction. These costs are capital expenditure, depending upon what is repaired or improved, and must be claimed as either decline in value deductions over the asset's effective life, or as capital works deductions over 40 years.

Investors
Declaring Capital Gains is the big issue for investors and one the Tax Office is passionate about. If you have disposed of any assets (shares, property, etc) including those who disposed of assets to invest in their super fund, don't forget to declare the gain!

Overview

Fuel tax credits provide you with a credit for the fuel tax (excise or customs duty) included in the price of fuel you use in:

- business activities
- machinery
- plant
- equipment, and
- Heavy vehicles.

The only fuels that are not eligible are:

- aviation fuels
- alternative fuels such as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), ethanol and bio diesel, and
- fuels you use in lighter vehicles of 4.5 tonne gross vehicle mass (GVM) or less travelling on a public road.

Fuel tax credits were introduced on 1 July 2006 and the entitlement expands from 1 July 2008. This means even if you weren't eligible before, you may be able to claim fuel tax credits for fuel you acquire, manufacture or import for use in your business activities from 1 July 2008.

You must be registered for GST and fuel tax credits before you can make a claim on your BAS. If you are already claiming fuel tax credits, check to see if more of your fuel is eligible.

What you can claim

Once you have registered, you can claim fuel tax credits for most fuel you use in your business. The amount you can claim depends on how you use the fuel. You can claim:

- **18.51 cents per litre** for fuels eligible from 1 July 2006 that you use in vehicles with a GVM greater than 4.5 tonne travelling on a public road
- **38.143 cents per litre** for fuels eligible from 1 July 2006 that you use in specified activities – for example agriculture, forestry, fishing, mining, marine and rail transport, electricity generation and non-fuel use. Other fuels (including petrol) you use in these activities are eligible from 1 July 2008.
- **19.0715 cents per litre** for fuels you acquired from 1 July 2008 for use in all other activities, machinery, plant and equipment. Examples include a wide range of construction, wholesale/retail, property management, and landscaping activities.

If your fuel tax credits are likely to exceed $3 million in a financial year, you may need to join the Greenhouse Challenge Plus program.

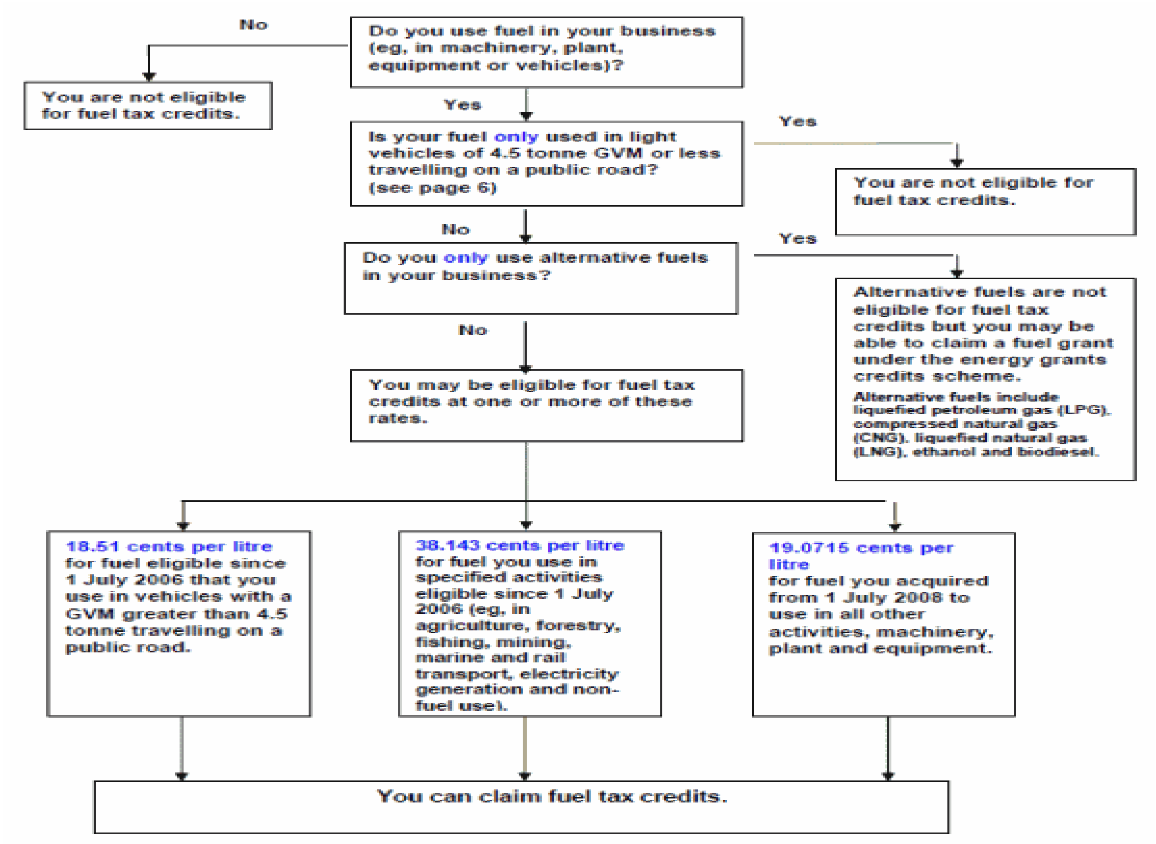
Activities where you can claim 19.0715 cents per litre

Eligibility for fuel tax credits has expanded from 1 July 2008 to include all taxable fuels you use in machinery, plant and equipment for business activities not previously eligible. **The only exception is fuel you use in light vehicles of 4.5 tonne GVM or less travelling on a public road**.

To claim fuel tax credits for these activities, you must have acquired the fuel on or after 1 July 2008. Here are some examples of business equipment you can claim fuel tax credits for:

- all-terrain bikes (off-road use)
- asphalt pavers
- augers
- backhoes
- blower vacuums
- bulldozers
- concrete mixers
- chainsaws
- compactors
- compressors
- cranes
- crushers
- dredges
- drills
- excavators
- front end loaders
- graders
- hoists
- lawn mowers
- motorcycles (off-road use)
- outboard motors
- pumps
- rollers
- skid steer loaders
- whipper-snippers, and
- winches

Can you claim fuel tax credits?



How do you register for fuel tax credits?

Your business must be registered for both GST and fuel tax credits before you can claim.