



## 2007 Summer Newsletter

### How to Keep the Taxman Away From Your Christmas Party



Christmas parties generally constitute "entertainment benefits" and as such would usually attract Fringe Benefits Tax (FBT).

However, you may be able to avoid FBT if you plan your Christmas party in a tax effective manner.

The provision of a Christmas party to an employee may be considered a minor benefit and therefore exempt from FBT, provided that the cost of the party is less than \$300 per employee.

The minor benefit exemption may also extend to an associate of an employee, and as such, provided the cost of the party for each associate is less than \$300, there will be no FBT implications.

If you choose to have your Christmas party on a working day on your business premises, expenses such as food and drink for your employees will be exempt from FBT.

However, an employee's associate will not be exempt from FBT in such circumstances, unless they satisfy the minor benefit exemption.

The provision of a gift to an employee may also be a minor benefit, and exempt where the cost is less than \$300, regardless of whether it is provided at the Christmas party or not.

### Beware Wary of Unsolicited Share Offers

The share offers are targeted primarily at less sophisticated investors, who are often unaware of the value of their shares.

The businesses offering to purchase the shares may appear



legitimate, and use trading names such as Share Buyback Group Ltd and Hassle Free Share Sales.

Shareholders details are often obtained through the target company's share register.

Such offers are not illegal, provided that share values are easily obtainable.

Companies whose shareholders have recently received such offers include Insurance Australia Group (IAG) and Adelaide Bank Ltd. Shareholders of IAG and Adelaide Bank Ltd received unsolicited letters in the mail, offering to purchase their shares at prices roughly half of their value on the Australian Stock Exchange.

IAG and Adelaide Bank Ltd have since written to shareholders, warning them of the offers.

### Bringing Home The Goods!



Generally, when taxpayers take trading stock from their business for private use, the cost or market value of the trading stock is assessable.

The ATO requires that taxpayers who take items of trading stock from their business for private use, maintain records outlining the following:

- the date the item is taken from stock;
- the reason why the item is taken;
- the description of the item; and
- the cost of the item.

Taxpayers who are unable to maintain records, and are in particular types of business, can rely on values from the schedule published by the ATO.

The ATO's schedule for 2007/08 is as follows:

Type of Business	Amount (excluding GST) for Adult/Child over 16 years	Amount (excluding GST) for Child 4-16 years
Bakery	1,040	520
Butcher	700	350
Restaurant/Café (licensed)	3,570	1,425
Restaurant/Café (Unlicensed)	2,850	1,425
Caterer	3,100	1,550
Delicatessen	2,850	1,425
Fruiterer/ Greengrocer	750	375
Takeaway food	2,700	1,350

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shop		
Mixed business (including milk bar, general stores etc)	3,400	1,700

## Death Benefits for Defence Forces and Police Personnel

Generally, the tax treatment of superannuation death benefits differs depending on whether the recipient was a dependant or non-dependant of the deceased person at the time of death.



In most circumstances, lump sum superannuation death benefits paid to a dependant are tax free while non-dependants have to pay tax.

A dependant includes a person's spouse or child under the age of 18, while a non-dependant usually includes a parent or sibling.

The ATO has made some new regulations which provide that non-dependants of defence or police personnel who die "in the line of duty" are treated as dependants for tax purposes.

The regulations specify the circumstances in which a person died in the line of duty.

This means that lump sum superannuation death benefits paid to non-dependants of defence and police employees will now be tax free.

The new regulations commenced on October 3, 2007 and apply from the 2007/08 income year onwards.

Non dependants who received a lump sum death benefit payment between January 1, 1999 and June 30, 2007 may be entitled to receive an ex gratia payment equal to the tax paid.

## Medicare levy surcharge- time for a change?

The Medicare levy surcharge is imposed on "high income" taxpayers without adequate private patient hospital cover for themselves and their dependants.



These taxpayers are required to pay up to an extra 1% Medicare levy surcharge on top of the 1.5% Medicare levy if their income is over the surcharge threshold.

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Currently, the threshold remains at \$50,000 for individuals [\$ 100,000 for couples] – the same level as when it was first introduced in 1997.

The threshold was designed to apply to the wealthy but, with the increase in average wages from \$36,000 to \$ 56,000 over the last 10 years, is now affecting more households.

The Treasury has been asked to cost changes to the tax which has raised more than \$1 billion for the government since its introduction.

It has been estimated that had the surcharge threshold been indexed, it would now be almost \$87,000.

## Do You Need To Provide Distribution Statements?

Distribution [formerly dividend] statements must be provided to the recipients by any entity making a "frankable distribution".



The approved form of distribution statements must state the following:

- the entity making the distribution;
- the date on which the distribution is made;
- the amount of the distribution;
- the amount of franking credit on the distribution;
- the franking percentage of the distribution;
- the withholding tax amount (if any) deducted from the distribution; and
- any other information required by the approved form.

If the entity is a private company, the distribution statements must generally be provided within four months of the end of the financial year in which the distribution is made, hence allowing retrospective franking of the distributions.

For entities that are not private companies, the statements should be provided on or before the day the distribution is made.

## ATO Slams the Brakes on Incorrect Car FBT Record Keeping!



Generally, a car fringe benefit arises when a car held by an employer is made available for private use by an employee.

In most instances, a car garaged

at an employee's home is considered available for private use by the employee.

Common mistakes in reporting car fringe benefits include:

- logbooks do not provide enough information about the cars use
- claiming substantial business use where there is no record of such use
- incorrect GST & income tax treatment of employee contributions

An employer using the operating-cost method of calculating the taxable benefit must record the following details for each business journey the car makes:

- the dates on which the journey began and ended,
- the odometer readings at the start and end of the journey,
- the kilometres travelled in the journey, and
- the purpose of the journey

Simply entering 'business' under the purpose of the journey is not sufficient evidence of business use.

## Tax Exemption for Beneficiary's of Deceased Estates.

Under the current tax laws, you are generally exempt from tax on the sale of your "main residence".

Special rules also apply to the sale or disposal of a residence that you have inherited as the beneficiary of a deceased estate.

If the deceased's date of death was before September 20, 1985, there will be no tax payable when you sell or dispose of the residence.

If the deceased's date of death was on or after September 20, 1985, you may also be entitled to a tax exemption upon disposal, depending on the facts of the situation.

Various factors may affect the tax exempt status, including:

- How long after the deceased's date of death the house was sold by the beneficiary.
- Whether the house was acquired by the deceased before or after September 20, 1985.

- Whether the house was inherited by the beneficiary before or after August 20, 1996.

- Whether the house was used by the deceased for income producing purposes.

- Whether the beneficiary lived in the house as their main residence prior to sale.

In general, you will be exempt from tax on the sale of the residence if the house is sold within two years of the deceased's date of death.

You may also be entitled to a partial exemption if you do not satisfy all the requirements for a full exemption.

## Support for small business



In a recent speech, the Commissioner of Taxation has announced the Tax Office initiatives to assist small business and the Tax Office compliance program.

The Commissioner said that the Tax Office is trying to provide easier, cheaper, and simpler ways for small business to deal with its tax obligations.

The Tax Office initiatives are outlined in the "Small Business Assistance Program" which aims to help businesses get on the right track from the start by developing good habits.

The Commissioner also gave details in relation to the Tax Office compliance priorities which include:

- Reducing the number of outstanding collectable debts from small businesses by referring some debts to external debt collection agencies and dedicating more staff to recovering superannuation owed to employees.
- Focusing on the cash economy including:
  - ensuring more effective follow-up of information from third parties;
  - identifying those whose lifestyles are out of step with their reported income; and
  - targeting those with a high risk of non-disclosure of cash income such as tradespeople and subcontractors.
- In relation to superannuation, the ATO will focus on regulatory issues such as in-house assets and loans.

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