Suite 5 Macquarie Court 180 Main Road Speers Point NSW 2284. Tel +61 2 4958 1829 December 2013

Tax help for people affected by bushfires

The ATO has advised that refunds will be fast-tracked for people directly affected by bushfires, and they will have additional time to lodge income tax returns and activity statements due between October and December 2013 (the new lodgement date is 28 January 2014).

"You do not need to apply for a deferral or a faster refund if your business or residential address is in one of the identified affected postcodes. It will happen automatically. You can visit our website to see the new lodgement dates and check if your region is included," Tax Commissioner Chris Jordan said.

People outside of the identified postcodes that have been impacted by the disaster are still able to contact the ATO for assistance on 1800 806 218.

If taxpayers are experiencing any difficulties meeting their tax obligations, the ATO will make arrangements on a case-by-case basis.

"We understand that for many people their tax affairs are the last thing on their minds right now."

"When people are ready, we will make sure they are supported in dealing with their tax obligations."

The ATO can also provide more time for people to pay tax debts and can help reconstruct tax records where documents have been destroyed.

In addition, people donating up to $10 to 'bucket appeals' and other disaster relief funds this financial year will be able to claim a tax deduction without a receipt. For donations greater than $10, people should keep a receipt to substantiate their claim.

Please contact us if you feel we need to assist you in applying for an extension to your 2013 lodgement due date.

Please read this update and contact
this office if you have any queries

In this month…

Unfortunately this month newsletter has to start with the word 'unfortunately'.

The ATO spin doctors have just released a nice year end crop of warnings which include a prospective self-education expense cap of $2000, work-related expense claim targets, SMSF compliance issues that are at their forefront, real estate industry warnings regarding advice or opinions they provide to their clients and minors even receive a mention regarding their Christmas and birthday money!

Nothing like December to bring bad news before Santa comes. It seems a new government have decided through the 'whacking stick' of the ATO, that it is time to reel in spending by reducing the ATO cheques heading out to taxpayers. I have a feeling the May 2015 budget will be all doom and gloom, and the reason will be given is that we have 'overspent in previous years' - don't expect tax relief…this will only be the start.

At a Glance

- The ATO have released their assistance package with regards to taxpayers affected by the bushfires which will be a welcome relief for many clients still dealing with recordkeeping issues around that period.
- We have provided an update to the living away from home allowance rules trying to clear the muddy water on this issue since the changes came into effect on 1 October 2012.
- SMSF's is a new minefield area where some taxpayers have trudged unwittingly into a field of let's just say 'timebombs'. The ATO are now setting the triggers! Post GFC this has become an area of indulgence for many taxpayers, however 'understanding' and 'clarification' are two words that need to be given priority.

Tax changes under the new government

The new government has identified 92 announced but still unlegislated and unresolved tax and superannuation changes.

Of these, the government stated it will proceed with 18 initiatives, a further three initiatives will be significantly amended, and it will not proceed with seven initiatives. The remaining announced changes will be considered and, if required, the government intends that the bulk of any legislation that is to be progressed should be passed by Parliament by 1 July 2014.

Specifically, the government will **not** proceed with the following three measures which directly affect individual and business taxpayers:

- **Self-Education Expenses Cap** – the proposed $2,000 cap on the amount people would be able to deduct as self-education expenses, including training and educational courses, textbooks and other accreditation expenses.
- **Removal of the FBT Statutory Formula method for car fringe benefits.**
- **Tax on Superannuation Pensions** – proposed new tax on earnings on super assets, which would have taxed superannuation fund income above $100,000 in the draw-down phase.

The un-enacted measures the government **will** proceed with include:

- **Net Medical Expenses Tax Offset phase out** – the phasing out will allow current claimants to remain eligible for the offset until 2014/15.
- **Increase FMD threshold** – increasing the non-primary production income eligibility threshold for Farm Management Deposits from $65,000 to $100,000.
- **Dividend washing** – preventing 'dividend washing' whereby sophisticated investors can 'double dip' on franking credits.

TIP; You don't have to lodge a combined tax return if you're married. Any joint income is recoded separately in your respective tax returns. If you elect to change your name, you can notify the tax office simply by noting it on the front cover of your next return. You don't need to provide any certified documents.

ATO to target work-related expense claims

This year the ATO is paying particular attention to a range of industries and occupations including:

- Building and construction project managers and supervisors;
- Building and construction labourers; and
- Sales and marketing managers.

The ATO says that it is also looking closely at:

- Overnight travel expense claims; and
- Claims for transporting bulky tools and equipment.

Living away from home allowance

The ATO defines a living-away-from-home allowance (LAFHA) as a taxable allowance that an employer pays to an employee to compensate for additional expenses incurred and any disadvantages suffered because the employee is required to live away from their usual place of residence in order to perform their employment-related duties.

You are considered to be living away from your usual place of residence when:

- You change your job location (but not your employer)
- You intend to return to your original location after time away
- The period away exceeds 21 days.

As a practical general rule, where the period away does not exceed 21 days, the allowance will be treated as a travelling allowance rather than as a LAFHA.

FBT is only payable on the amount that the LAFHA exceeds the exempt accommodation and food components.

Tax Fact

Since 1 October 2012, access to the tax concessions for the LAFHA will be limited to a 12 month period for an employee at a particular work location.

Update on issues affecting SMSFs

ATO compliance

At a compliance level, the ATO says that it is focusing on:

- Engaging with new trustees to ensure they can operate their SMSF and are not seeking illegal early access to their retirement benefits;
- Ensuring that trustees understand their obligations and that, although their tax agent or accountant will assist trustees to meet their obligations, they themselves are the ones who are accountable;
- Ensuring annual returns are lodged, and lodged on time (all SMSFs with two or more years of overdue lodgments will have their regulation details removed from Super Fund Lookup, potentially affecting rollovers from APRA funds, and employer contributions);
- For new funds, whether they are entitled to receive their notice of compliance;
- Reviewing irregularities in exempt current pension income and non-arm's-length transactions;
- Re-reporting of contributions and compliance with excess contributions tax release authorities;
- Arrangements involving holiday travel claimed as investment expenses by the SMSF trustees; and
- Every fund reported to it by approved SMSF auditors. The ATO wants to make those trustees more fully aware of their obligations and ensure the contraventions are dealt with appropriately.

Related party transactions

The breaches most commonly reported to the ATO by SMSF auditors are trustees investing in, or transacting with, related parties in breach of the rules. This can include providing a loan or other financial assistance to a member or relative, which is prohibited.

Further, it is also common when there is a 'loan' to a member that it doesn't meet the characteristics of a genuine loan anyway, and the member is simply accessing their super before they are entitled to.

ASIC warning to real estate industry

ASIC has warned the real estate industry that agents recommending investors use a SMSF to invest in property must ensure they are appropriately licensed to provide such advice.

Real estate agents may not realise they are providing 'financial product advice' and need an Australian financial services (AFS) licence when making recommendations or statements of opinion to a person to use an SMSF to invest in property.

Note: Although this affects the real estate agents personally, it's obviously important for SMSF trustees in this situation to ensure they are receiving appropriate advice from a person qualified to do so.

Tax Warning

Any income that has been earned by your child's efforts, such as wages from an after school job is considered 'excepted income' and is taxed at the general adult tax rates regardless of whether your child is under 18. However, you should be cautious when putting investments in your child's name because minors do not enjoy the same tax-free thresholds as adults on this type of income.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.