

# the report

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# MONTHLY REPORT

## Tax Law Changes

In March 2008, the Government introduced into Parliament an amending Bill to:

- allow taxpayers to claim a deduction in relation to an amount misappropriated by an employee or agent following the disposal of an asset;
- extend the period within which employers can make a superannuation contribution – after the quarterly due date, and still be eligible to use the late payment offset to reduce their superannuation guarantee charge liability;
- exempt from income tax the entire amount received from either a research fellowship under the Endeavour Awards Program or an Endeavour Executive Award, regardless of whether the recipient is a full- or part-time student; and
- exempt the first \$1,000 of an early completion bonus paid to an apprentice by a State or Territory.

## Self-education Expenses

In a recent decision, the AAT affirmed that a taxpayer was not entitled to a deduction for self-education expenses. The Tribunal found that the expenditure was not incidental or relevant to the taxpayer's income-producing activities and did not have the essential character of an income-producing expense.

Generally, self-education expenses are deductible if they are incurred in maintaining or improving a taxpayer's skills and knowledge in his or her present occupation.

However, self-education expenses incurred before employment commences (as in this case) or to obtain new employment are not deductible.

## Taxpayer Alerts

The Tax Office has issued three Taxpayer Alerts warning taxpayers of certain arrangements that are currently being examined. The Taxpayer Alerts pertain to the following situations:

1. Non-arm's length arrangements where a taxpayer uses borrowed funds to acquire an interest, such as units in a trust where the latter uses those funds to purchase income-producing property.

The Tax Office is of the view that such arrangements do not provide a sufficient connection between the expenditure and the production of future income and/or capital gains.

2. Non-arm's length arrangements under which a SMSF derives income through a direct or indirect interest in a closely-held trust. The tax implication is similar to that for the arrangement described above.
3. Arrangements under which the trustee of a SMSF enters into certain limited limited-recourse borrowings, which may breach the superannuation law. This Alert does not deal with taxation issues other than those relating to the application of the superannuation law.

## Super Update

In its Super Update March 2008, the Tax Office reminded employers of two important changes that will take effect from 1 July 2008:

- ordinary time earnings must be used to calculate employees' superannuation guarantee contributions, and
- employer-nominated super funds must offer minimum levels of life insurance death cover to members.

## Acquisition of Assets by SMSF

The Tax Office has released a Draft Self Managed Superannuation Fund Ruling stating its position on when a contribution of assets to an SMSF by a related party of the fund will not contravene the SIS Act.

Generally, a trustee of an SMSF is prohibited from intentionally acquiring assets from a related party of the SMSF. However, certain exceptions can apply.

The Draft states that a trustee intentionally acquires an asset if the trustee means to acquire the asset. Further, the legal owner of the asset is not a decisive factor.

Situations that will not result in a contravention of the superannuation law are:

- the trustee accepting a contribution of money; and
- a related-party making a monetary payment to a third party to extinguish a liability of the SMSF.

The Draft states that for any of the exceptions to apply, the acquisition of an asset must be at market value and consideration be given to the in-house asset rules.

## SMSF Tax Return

A single annual return, which will incorporate a super fund income tax return and the member contributions statement, will be used from the 2007/08 income year onwards. Some of the key changes are set out below:

- the annual supervisory levy will be included in the fund's notice of assessment. The levy has been increased from \$45 to \$150 per year starting from the 2007/08 income year; and
- the annual return will include ongoing disclosure questions for trustees to ensure that they are aware of their obligations.

## ECRP to Farmers

The Tax Office has released a Draft Determination stating that an exceptional circumstances relief payment (ECRP) paid to a farmer is not primary production income.

The ECRP is ordinary income and, therefore, will be assessable.

## Stapled Securities

Readers will recall we highlighted in the March 2008 issue that the Tax Office issued a Tax Alert warning taxpayers that it was examining the tax implications of investing in stapled securities.

The Tax Office has followed up on the Alert with a Draft Determination stating that a taxpayer is not entitled to an income tax deduction upon the sale of a stapled security at a loss, or upon the occurrence of an Assignment Event.

## FBT Rates

The Tax Office has released the FBT thresholds and rates for the 2008/09 FBT year (i.e. the FBT year commencing on 1 April 2008).

### Benchmark interest rate

The interest rate to be used in calculating the taxable value of a loan fringe benefit and a car fringe benefit under the operating cost method is 9% per annum.

### Exemption threshold

The small business record-keeping exemption threshold is \$6,766.

## Deeming Rates

The deeming rates for social security payments have increased from 20 March 2008. The new rates are:

- 4% for the first \$39,400 of a single pensioner's financial investments (\$65,400 for pensioner couples and \$32,700 for each member of an allowee couple); and
- 6% for financial investments above those amounts.

## Car Expenses Rates

The Tax Office has released the cents per kilometre rates to be used for calculating deductions for the 2007/08 income year:

Engine capacity (cc)	Rotary engine	Rate per km (\$)
0 – 1,600	0 – 800	0.58
1,601 – 2,600	801 – 1,300	0.69
2,601 +	1,301 +	0.70

## GIC and SIC Rates Released

The Tax Office has released the general interest charge and shortfall interest charge rates for the fourth quarter of the 2007/08 income year:

Rate	Annual (%)	Daily (%)
GIC	14.69	0.04013661
SIC	10.69	0.02920765

The Tax Office has also released the interest rate for overpayments, early payments and delays in refunds for the fourth quarter of the 2007/08 income year. The applicable interest rate is 7.69%.

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# federal budget | June 2008

## PERSONAL TAXATION

### Income tax rates

The Government has reaffirmed its commitment to cutting personal income tax rates. The tax rates and thresholds for the 2008/09 and 2009/10 income years are as follows:

2007/08 Current	
Income (\$)	Rate (%)
6,001–30,000	15
30,001–75,000	30
75,001–150,000	40
150,001+	45

2008/09 From 1 July 2008	
Income (\$)	Rate (%)
6,001–34,000	15
34,001–80,000	30
80,001–180,000	40
180,001+	45

2009/10 From 1 July 2009	
Income (\$)	Rate (%)
6,001–35,000	15
35,001–80,000	30
80,001–180,000	38
180,001+	45

### Medicare levy low income threshold

From the 2007/08 income year, the Medicare levy low income thresholds have increased, as follows:

	2006/07 income year (\$)	2007/08 income year (\$)
Singles	16,740	17,309
Families	28,247	29,207
Threshold increment for each dependent child or student	2,594	2,682
Pensioners below Age Pension age	21,637	22,922

### Medicare levy surcharge

The Government has announced that the 1% Medicare levy surcharge for singles will increase from \$50,000 to \$100,000, and for families, from \$100,000 to \$150,000, with effect from 1 July 2008.

## Employee share schemes

### *Election required*

The Government has announced that a taxpayer will be required to make an election to access the tax concessions available when receiving qualifying shares or rights under an employee share scheme. No further details were provided.

### *Removal of double taxation*

The Government has announced that it will remove double taxation that arises in relation to certain employee share schemes (ESS) that use employee share trusts.

## Entrepreneurs' tax offset

The Government will introduce a family income test for the entrepreneurs' tax offset. The test will limit access to the offset by restricting eligibility when the adjusted taxable income (ATI) per year exceeds the amounts given in the table to the right.

Taxpayer	Maximum ATI (\$)	Date of effect
Singles	75,000	1 July 2008
Families	120,000	1 July 2008

Offset	Maximum income threshold (\$)	Date of effect
Dependent spouse	150,000	1 July 2008
Housekeeper	150,000	1 July 2008
Child-housekeeper	150,000	1 July 2008
Invalid relative	150,000	1 July 2008
Parent/parent-in-law offset	150,000	1 July 2008

### Income test for benefits

The Government has announced that it will introduce an income test for the benefits outlined in the table to the left.

## Family Tax Benefit Part B

From 1 July 2008, FTB Part B will only be available to families where the annual adjusted taxable income of the principal earner does not exceed \$150,000.

Furthermore, FTB will only be delivered through Centrelink and Medicare, thereby removing claims through the tax system.

## Child Care Tax Rebate

The Government has confirmed that the Child Care Tax Rebate will increase from 30% to 50%.

The cap on the amount that can be paid will be lifted from \$4,354 to \$7,500 per child. In addition, the rebate will be paid quarterly.

## Education Tax Refund

The Government has confirmed it will provide eligible parents with an Education Tax Refund from 1 July 2008.

## Baby Bonus

From 1 July 2008, the Baby Bonus will be increased to \$5,000. In addition, from 1 January 2009, the Baby Bonus will be paid in fortnightly instalments and will only be available where family income does not exceed \$150,000 a year.

## Measures for carers

The following measures to support carers were announced in the 2008/09 Federal Budget:

- Carer Allowance recipients will receive a \$600 tax-free bonus for each eligible care receiver;
- Recipients of Carer Payments and Department of Veterans' Affairs Carer Service Pensions will each receive \$1,000 tax-free. Carer Allowance recipients who receive a Wife Pension or the Department of Veterans' Affairs Partner Service Pensions will also receive \$1,000;
- Eligible carers looking after children with a profound disability will have fairer and simpler access to financial support of up to \$546.80 per fortnight; and
- Disabled children whose ageing parents can no longer care for them at home will be provided with additional supported accommodation.

Bonus payments are expected to be automatically made before the end of June 2008. Those receiving both payments on 13 May 2008 will receive both lump sum payments.

## **Expanded definition of income**

Income eligibility for Government support programs, including the Age Pension and superannuation co-contributions, will include certain “salary sacrificed” contributions to superannuation, effective from 1 July 2009.

Net financial investment losses and net rental property losses will be included in determining the eligibility for certain government support programs, including senior Australians tax offset, Medicare levy surcharge and dependency tax offsets, effective from 1 July 2009.

From 1 July 2009, reportable fringe benefits will be included when determining the eligibility for certain tax offsets, including dependency tax offsets, senior Australians tax offsets and pensioner tax offsets.

## ***BUSINESS TAXATION***

### **Luxury car tax**

The Government has announced that the Luxury Car Tax (LCT) will increase from 25% to 33% with effect from 1 July 2008. However, the Government has stated that the luxury car limit will remain at \$57,123.

### **FBT**

#### ***Jointly held investment assets***

The Government has announced that the FBT law will be amended to ensure it applies appropriately where an employer provides an employee and their associate with a fringe benefit in relation to a jointly held investment asset

The measure will take effect from 7.30 pm (AEST) on 13 May 2008 with respect to new arrangements.

#### ***Work-related items***

The government has announced that the FBT exemption for work-related items will only apply if the items are used primarily for work purposes and be limited to one item of each type per employee per FBT year, unless they are replacement items.

The list of FBT-exempt work-related items will be extended to all work-related portable electronic devices, including those with multiple functions. The government has also announced that the tax law will be amended to disallow employees from claiming depreciation for the work-related percentage of FBT-exempt items.

The changes to the FBT exemption for work-related items will apply to items purchased after 7.30 pm (AEST) on 13 May 2008.

The changes that disallow depreciation for FBT-exempt items will take effect as follows:

- for items purchased after 7.30 pm (AEST) on 13 May 2008, this measure will take effect from that time;
- for items purchased before 7.30 pm (AEST) on 13 May 2008, employees will be denied depreciation for the 2008-09 and later income years.

## ***SUPERANNUATION***

The 2008/09 Federal Budget did not announce any substantive changes concerning superannuation. There are no changes to the current superannuation regime.

## ***OTHER BUDGET MEASURES***

### **Family trusts**

The Government has confirmed that the following changes to family trusts, which were introduced by the previous Government, will be rolled back to revert to the following situations:

- the definition of “family” in the family trust election rules will be changed to limit lineal descendants to children or grandchildren of the test individual or of the test individual’s spouse. This will take effect from 1 July 2008; and
- family trusts will be precluded from making a once-off variation to the test individual specified in a family trust election. This will take effect from the 2007/08 income year.

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