



Spring 2013

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**Chartered Accountants**

## Self-education expenses cap delayed

The Government has decided to defer the introduction of the \$2,000 cap on work related education expense deductions until 1 July 2015.

Upon announcement of the policy change, there were widespread protests from the education sector and professional associations. The government have stated the delay will allow them to further consult on how to best target excessive claims while ensuring genuine continuing professional development is maintained.

## Motor vehicle FBT changes

In July this year the Federal Government announced that motor vehicle Fringe Benefits Tax (FBT) rules were to be changed to remove the statutory formula method of calculating fringe benefits tax. Current novated leases or company vehicles will not be affected provided there is no material change to the lease condition. Car leases signed after 16 July 2013 will be affected by the proposed changes.

Previously, the taxable value of a car fringe benefit was calculated using one of two methods – the statutory method or the operating cost and log book method. The statutory method of calculating the FBT is calculated by taking 20% of the cost of the car, less any employee contributions.

The operating cost method of calculating FBT totals all the running costs of the vehicle (fuel, service, registration etc) and multiplies it by a personal use

percentage of the vehicle as determined by the log book.

If the main use of the car is for private purposes the statutory formula will generally produce a lower taxable value than the log book method. If the change proposed by the Government is legislated, everyone who has a company vehicle will be required to keep a logbook for 12 weeks every 5 years justifying the business usage percentage of their car.

The federal opposition have stated that they do not support the changes and will not proceed with the policy changes if elected. However until the outcome of the election is decided it is important businesses consider the private use of any vehicles before purchasing a new vehicle.

## Reminder – Super Guarantee increase

Just a reminder that as of 1 July 2013 the super guarantee was increased to 9.25% and the upper age limit has been removed.

## Insolvency Law Reform Bill 2013

Late last year, the draft Insolvency Law Reform Bill 2013 was released by the government for comment and suggestions. The first changes made under this Bill are to commence from September this year. The Bill will amend the Corporations, Australian Securities and Investments Commission and Bankruptcy Acts. It aims to:

- Align and modernise the registration and disciplinary frameworks that apply to registered liquidators and registered trustees

- Align and modernise a range of specific rules relating to the handling of personal bankruptcies and corporate external administrations
- Improve the powers available to the corporate regulator to regulate the corporate insolvency market and the ability for both regulators to communicate in relation to insolvency practitioners operating in both the personal and corporate insolvency markets.

Those benefiting from the reforms will be businesses that become creditors of insolvency administrations.

Several provisions in the Bill will be of interest to creditors. They include:

- Information may be requested from the insolvency practitioner outside their existing obligations. Provided the request is reasonable (i.e. the practitioner has enough funds to comply with the request), the practitioner is obliged to comply. Creditors will also have the authority to change default reporting requirements (as set out by regulations) that a practitioner is subject to, provided the changes are also reasonable.
- Creditors will be able to appoint an assessor who would review the costs and remuneration incurred during an insolvency administration. This information may be used as the basis of a resolution to remove the insolvency practitioner and appoint a replacement, without having to firstly, apply to the Court.
- Creditors will gain the authority to request that a meeting of creditors is convened on three conditions, namely, when resolved by creditors or a Committee of Inspection,

when requested by at least 25% of the creditors, or by 10% of creditors who have lodged security for the cost of holding the meeting.

- An insolvency practitioner would be required to gain the prior approval of creditors before deriving a profit or benefit from a transaction relating to an administration.

The amendments of the proposed bill have the potential to greatly benefit creditors. The proposed bill represents a new, transparent and more regulated stage in insolvency practice, and will strengthen the rights of creditors affected by insolvency administrations.

## Protecting your business for customers' insolvency

Running a business is all about managing risk – most acutely to avoid bankruptcy or insolvency. When providing services or goods to a customer, there is always the possibility that your customer will unexpectedly be unable to pay you according to your agreed trading terms or even leave your debt unpaid.

This has been highlighted recently in NSW with the collapse of a number of construction firms. Of all the companies going into administration in the financial year ending 2012, 22% were from the building and construction industry.

As a creditor, protecting your interests should be a high priority. The insolvency of a major debtor can severely impact your business and cash flow. Business owners and managers must consider the risks and develop strategies to mitigate them.

## Perform background checks

Background checks seem simple but are often neglected in the haste to secure sales. A background check on a new or existing customer may reveal details of their business or trading history and that of the key individuals involved in your customer's operations. According to a report in Forbes Magazine, two thirds of accountants surveyed considered that their clients did not check the background of customers thoroughly prior to entering into supply agreements. Consequently, creditors can be caught by surprise when a customer is unable to pay for goods and services.

Background checks may include Australian Securities and Investments Commission company searches, business name searches and personal name searches into the proprietors and managers of the business. Searches at the Land Titles Office in the name of the customer and the proprietors will reveal property holdings which may provide comfort when taking personal guarantees from directors. A search of the Personal Property Securities Register will reveal other parties that have an interest in the customer's business assets. Credit Reference Association checks will reveal whether the customer has had difficulty fulfilling obligations to suppliers in the past.

Adverse findings after any of these checks may require you to reconsider your position.

## Ensure detailed contracts

Contracts may include provisions for the execution of security agreements to ensure that the title for goods remains yours until the customer has paid for them in full. In doing so, should the customer become insolvent without paying for goods, you are able to be repossess those goods. Various terms such as claims to extend

or change payment terms should also be clearly detailed in any contract, to prevent any uncertainty in the event of insolvency. Similarly, if late payments do occur, actions may be considered to prevent this happening again, as this can be a sign that your customer is experiencing financial difficulties. The information gathered in your background checks can be useful when drafting a contract. For example, if your prospective client has not fulfilled payment terms on previous contracts, you can use this information to justify a demand for full payment on delivery or shorter trading terms.

### Register your interest in supply

Registering your interests on the Personal Property Securities Register (PPSR) may ensure that claims against your supply are enforceable and prioritised over other suppliers. In the event of insolvency, without registration and supporting security documentation, an administrator or liquidator may be able to retain your supply for the benefit of all creditors. To be enforceable, your interest must be detailed accurately on the PPSR and within time, otherwise the priority may be affected.

### Keep accurate books and records

It is vital that you keep adequate, accurate and comprehensive records of all transactions, including written contracts, verbal communications and any claims made by customers. This will ensure that if a debtor does become insolvent, you will have evidence to support your claims, interests and rights regarding your supply.

### Find 'good' customers

Easier said than done, however, reliable customers are particularly important for ensuring growth and smooth trading. Maintaining a good relationship with these clients will help keep your business

sustainable and strong in the future.

## General year end tax planning strategies

With 30 June 2013 just behind us, these are some strategies that you may find helpful when looking towards 30 June 2014.

For most small business owners the end of the financial year requires a review of their operations – not only their tax planning strategies but also their cash flow requirements. Small businesses, defined as having a turnover of less than \$2 million, normally account for their income and expenditure on a cash basis.

For this reason there is a need to plan the year end to provide yourself with an optimum tax strategy while not creating significant cash flow issues for yourself. This is particularly important if you have deferred income until after 30 June. For example, income derived from construction contracts is generally taxed when the progress payments are owing or received.

To ensure that you have optimised your position from a tax planning strategy the following should be considered:

- Bad debts should be written off in your Book of Accounts before 30 June.
- Employer and/or self-employed superannuation contributions should be paid, or received by 30 June. Take special care these payments are within the Superannuation Contribution limit.
- Ensure prepaid expenses are claimed up to 12 months in advance.

- Take care with the payment of wages to related parties – for example a spouse or family member. These payments should reflect a 'reasonable income' for the work that has been performed.
- Fixed assets subject to depreciation need to be installed before 30 June if there is going to be a claim for depreciation.
- Trading stock should be carefully reviewed and, if necessary, obsolete stock should be identified.

For more information on these matters please contact us.



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