

Welcome to the November issue of Pearce Norris Tax News. This issue focuses on:

- Taxing Santa
- Cutting your fuel costs
- Bringing the goods home
- Easier GST for some?
- Your annual compliance check-up

We would be pleased to discuss the tax issues set out in this issue of Tax News. Please contact Michelle Pearce or Chris Rutter on (02) 9555 1309 to discuss how Pearce Norris can assist you and your business.

TAXING SANTA

With the festive season just around the corner and with plans for your staff and client celebrations starting to pick up momentum, who would have thought the ATO was interested in your Christmas good cheer?

Unfortunately, the ATO does have an interest in your office festive season, especially from a fringe benefits tax (FBT) point of view.

With a little forward planning you should be able to minimise the taxman's intrusion.

FORWARD PLANNING IS ESSENTIAL

The impact of FBT rules on Christmas celebrations can be particularly vexing. It's absolutely essential to get advice about what to do beforehand to keep things under control.

Christmas parties and FBT

The potential FBT consequences of your Christmas party can become complex because of the different ways FBT can impact on different types of costs and situations.

Whether you're likely to have an FBT problem depends on:

- where and when you have your party;
- who comes; and
- how much it costs.

We can't cover all the possibilities, but here are some outcomes for you to consider.

Celebrating on site

If you hold your party on a work day at your business premises and only your employees attend, costs such as food and drink are FBT exempt, regardless of what the cost is per head for each employee.

However, if you also invite your employees' associates (e.g., family) and perhaps some clients then it gets a bit more complicated:

- what you spend on entertaining your employees' associates are taxable fringe benefits and you'll need to work out whether you have an FBT liability.
- what you spend on your clients may be exempt from FBT altogether.

TIP

Food and drink provided to your clients is likely to be exempt from FBT whether it's at a social or business function on your business premises or away from it.

Celebrating offsite or not on a work day

If your party isn't held on a work day or on your business premises (e.g., you head off to the local restaurant), the FBT alarm bells can really start to ring loud and clear.

However, there is good news. If you can contain your costs by keeping them under \$100 per head – you may qualify for the FBT *minor benefit exemption* and may end up with no FBT liability for your party.

Calculating whether you come in below the minor benefit threshold can be tricky. The cost per head for each employee not only includes the cost of food and drink but also other items like:

- the cost of transport to venues or taxis home;
- the cost of any gifts you hand out at the party (e.g., Christmas hampers); and
- if your employees' associates come along, the cost per head for each employee includes the cost for their associates.

A PARTY BONUS!

The ATO currently has an administrative practice allowing you an extra \$25 per head for entertainment (like a band) when working out whether you qualify for the minor benefit exemption for a celebration like this. This is in addition to other costs covered by the current \$100 minor benefit exemption threshold. Make sure you separately invoice any entertainment expenditure so it can be easily identified.

A happy gift giving experience

Give some careful thought to how you give gifts to your employees at Christmas time:

- it's best to avoid handing out gifts at the office party if you are relying on the minor benefit exemption because the cost of the gift for an employee will directly affect how you calculate his or her cost per head;
- if you don't hand out gifts at the party but at some other time, it's possible that you may still be able to rely on the minor benefit exemption at that time if the value of each gift is less than \$100; and
- as an alternative, if the gifts you give are products that you would normally sell to members of the public, there is another exemption of \$500 per annum for each employee that may apply (called an 'in-house benefit').

FBT changes on the horizon

With effect from the FBT year starting on 1 April 2007, you'll be able to take advantage of increased thresholds for some of the FBT exemptions.

Minor benefits – ***the threshold will increase from the current threshold (less than \$100) to less than \$300 per employee.***

In-house and airline transport fringe benefits – the threshold per employee will increase from \$500 to \$1,000.

REPORTABLE FRINGE BENEFITS

From 1 April 2007, your employees' Payment Summary reportable fringe benefits threshold increases from more than \$1,000 to more than \$2,000.

CUTTING YOUR FUEL COSTS

A new fuel tax credits system commenced on 1 July 2006. If you're eligible, fuel tax credits can help cut fuel costs for your business by providing a credit for the fuel tax (excise duty) included in the price of your fuel.

To be eligible to claim a fuel tax credit, you have to:

- be registered for GST;
- undertake an eligible activity; and
- use eligible fuel.

In addition:

- for some types of diesel vehicles you may need to meet extra environmental requirements; and
- to receive more than \$3 million of fuel credits in a financial year, you have to sign up for the Greenhouse Challenge Plus program. This is a government and industry partnership aimed at reducing green house gas emissions.

ENERGY GRANTS CREDITS SCHEME

If your business was claiming under the Energy Grants Credits Scheme and you were registered for GST, you should have been automatically registered for the new fuel tax credits system.

What's an eligible activity?

You may be able to claim fuel tax credits if you are using the right type of fuel for a range of eligible activities in the following areas:

- road transport (travelling on a public road)
- agriculture
- fishing
- forestry
- mining
- marine transport
- rail transport
- generation of electricity (business or commercial)
- nursing and medical

What's the right type of fuel?

Currently, fuel tax credits mainly cover diesel and petrol that is used in a range of required circumstances (e.g., diesel and petrol for use in vehicle greater than 4.5 tonne if you're making a public road transport claim). Other fuels like kerosene, heating oil and toluene are also eligible fuels in certain situations (e.g., burner applications such as heating).

What about alternative fuels?

Fuels like liquefied petroleum gas (LPG), biodiesel, ethanol and compressed natural gas (CNG), will not be eligible for fuel tax credits until 1 July 2011, when these fuels will also be taxed.

TIP

If you're using these alternative fuels in a vehicle that's at least 4.5 tonne travelling on a public road, you may still be entitled to a grant under the Energy Grants Credits Scheme.

How does it work?

At the risk of oversimplifying the process, your fuel tax credit is calculated by multiplying the number of eligible litres of fuel by the relevant fuel tax credit rate.

At present, the standard rate is 38.143 cents per litre. The rate is reduced to 18.51 cents per litre for fuel you use in travelling on a public road in a vehicle greater than 4.5 tonne and for fuel used by emergency vehicles.

How do I make a claim?

If you use fuel in your business, you'll generally claim any entitlement to fuel tax credits in your business activity statements.

Once you are registered for the scheme, the ATO should include fuel tax credit labels in your activity statements to enable you to make a claim.

Here's a simple example of how the fuel tax credits system might work.

Anne uses a 5 tonne truck in her business; she delivers masses of flowers and plants from the markets in outer Sydney to nurseries spread throughout the CBD and suburbs. She lodges her business activity statements quarterly.

From 1 July to 30 September 2006, Anne buys 2,200 litres of diesel for her truck. Because she is travelling on public roads, the fuel tax credit rate is 18.51 cents per litre. Anne is entitled to claim a fuel tax credit of \$407.22 (2,200 litres x 18.51 cents).

When Anne lodges her business activity statement for the September 2006 quarter, she can claim a fuel tax credit of \$407.

BRINGING HOME THE GOODS

Using your business's trading stock for private or domestic purposes is not uncommon, e.g., the butcher takes home meat for the family.

Were you aware if you do this, the trading stock is treated as if your business has sold it to someone else and your business may end up with some unexpected income?

What's assessable?

As a general rule, when you take trading stock from your business for private or domestic use and it remains owned by the same person who carries on the business, the cost of the trading stock is assessable.

For instance, if you're a sole trader and you take an item of trading stock for your personal use, you have to include the cost of that item of trading stock as assessable income in your tax return.

However, if this trading stock doesn't remain owned by the same person who carries on the business, the market value of the trading stock is assessable.

Example

A farmer with a livestock primary production business will often kill livestock for the family's use and as rations for the employees. The cost of this livestock for both the family and the employees is assessable income for the farmer. However, in respect of the employees' rations, the end result is likely to be revenue neutral because a tax deduction may also be available for the same amount.

What records do I have to keep?

When you take an item of trading stock from your business for private use, the ATO expects you to record:

- the date the item is taken from stock;
- the reason why the item is taken from stock;
- the description of the item; and
- the cost or market value of the item, as the case requires.

Is there an easier option?

If you're a baker, butcher, greengrocer, caterer or you run a restaurant, delicatessen, take-away food shop or mixed business (e.g. milk bar, general store, convenience store), this type of record keeping can be a real hassle. You can do it if you want to but there is another way.

Instead, if you are in one of these businesses you may be able to rely on a standard value of goods taken from your trading stock for private or domestic purposes - these are published by the ATO each year.

Example

Tom is a butcher, and he regularly takes home meat from his business over the income tax year for himself, his wife Margery and son Richard, who is 10. For the 2006-07 income year, the ATO's standard value of goods taken from stock for a butcher is \$980 for every adult/child over 16 and \$490 for every child between 4-16. If Tom can rely on the ATO's standard values, the ATO will consider him to have an additional \$2,450 assessable income for the year (\$980 x 2, plus \$490).

TIP

The ATO's values are only a guide. Even if you use the standard values, you should still be able to demonstrate the value applied to goods taken from your stock for private use is fair and reasonable in light of your own particular circumstances.

EASIER GST FOR SOME

For those of you in a food retail business, it can be really difficult at times to account for GST when a mix of GST-free and taxable food items are sold.

If you're in this situation and using point-of-sale equipment that only provides total sales figures, you may find yourself faced with the nightmare task of having to account manually for your taxable supplies. If this is you, you may need to look at the way you're handling this problem.

You should be aware that there are some alternative GST simplified accounting methods that eligible food retail businesses may be able to utilise in this situation. These may allow you to avoid the manual calculation grind by using estimates (either supplied by the ATO or calculated by you) instead.

Working out the details of these alternative methods is far from a simple exercise; you'll also still have compliance obligations. So if you're in a food retail business consider getting advice about whether you're eligible to use these alternative GST accounting methods and whether they're of any benefit for your business.

STOP PRESS

The Treasurer recently announced that these GST simplified accounting methods are also now available to restaurants, cafes and caterers from 1 October 2006.

ANNUAL COMPLIANCE CHECKUP

This is just a reminder that the ATO has published its Compliance Program for 2006-07. This document is a useful way of finding out what types of issues are on the ATO's radar, so if you have any problems in the following target areas, you can fix them up before the ATO auditor comes knocking:

- tracking assessable income with a particular focus on pursuing business-to-consumer transactions (some strategies the ATO is currently using include matching quote books and appointments to invoices, tracing owner builder transactions through council records and matching information from trade suppliers to business);
- compliance by trustees of self managed superannuation funds;
- checking high risk refunds before they are issued (this can be a problem in the GST area);
- investigating the disclosure of capital gains, particularly on property and shares (the ATO is accessing property title transfer information at a State and Territory revenue authority level); and
- making sure employers comply with PAYG withholding, fringe benefits tax (don't forget the office Christmas party!) and super obligations (especially Superannuation Guarantee).

NON-PAYMENT OF SUPER

The ATO investigates on average 13,000 complaints each year from employees who believe their employers have not fulfilled their Superannuation Guarantee obligations. The ATO investigates all complaints made.

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