

# March 2009

## Client Alert

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#### One-off Bonuses

The two Bills implementing the one-off bonuses announced in the Nation Building and Jobs Plan are awaiting enactment.

#### Tax Bonus for Working Australians Bill (No 2) 2009

This Bill ensures that taxpayers who paid tax in 2007/08 after taking into account tax offsets and imputation credits will receive a one-off bonus.

The amount of bonus will depend on a taxpayer's taxable income for that financial year:

- \$900 if taxable income was up to \$80,000;
- \$600 if taxable income was between \$80,001 and \$90,000;
- \$250 if taxable income was between \$90,001 and \$100,000; and
- \$0 if taxable income was more than \$100,000.

The bonus will be paid to eligible taxpayers from April 2009.

#### Household Stimulus Package Bill (No 2) 2009

This Bill ensures that eligible families or individuals will receive the following bonuses:

- \$900 Single Income Family Bonus to families who, on 3 February 2009, were eligible for Family Tax Benefit Part B.
- \$950 per child Back to School Bonus to families who, on 3 February 2009, were eligible for Family Tax Benefit Part A.
- \$950 Training and Learning Bonus to students and people outside of the workforce returning to study.
- \$950 Farmers Hardship Bonus to farmers and rural-dependent small businesses who, on 3 February 2009, received exceptional circumstances-related income support.
- extend the allowance to assets acquired between 1 July 2009 and 31 December 2009, and installed by 31 December 2010, but at a rate of 10%; and
- decrease the cost of the eligible assets threshold for small businesses to \$1,000.

General businesses will also be eligible for the allowance, provided the cost of eligible assets is more than \$10,000.

#### Early Access to Super Benefits

The Tax Office has released an Alert warning people of arrangements offering early release of their superannuation benefits.

Broadly, the arrangements involve the rollover of superannuation benefits into a self-managed superannuation fund (SMSF). The benefits are then released from the SMSF by the organisers of an arrangement without a condition of release as prescribed by the superannuation law being satisfied.

#### Tax Concessions for Businesses

The Government has announced changes to the temporary investment allowance, which was announced in December 2008. Broadly, the amendments will:

- increase the rate to 30% (from 10%) for eligible assets acquired between 13 December 2008 and 30 June 2009, and install ready for use by June 2010;

The Tax Office says that these arrangements may involve a breach of taxation and superannuation laws.

Generally, superannuation benefits must be preserved in a member's superannuation fund until a condition of release, such as the member permanently retiring and reaching her or his preservation age (which depends on the member's date of birth).

An early access of benefits is only permitted in certain restricted circumstances. For example, severe financial hardship and compassionate grounds.

## Main Residence Exemption

In a recent case, the Administrative Appeals Tribunal held that the CGT main residence exemption was not available to a husband and wife (the taxpayers) on a unit they acquired with the intention of it being their main residence, but which they ultimately never lived in.

The taxpayers purchased a unit in June 2000 with the intention of residing in it. However, due to the nature of the husband's work, they said that it only became practicable for them to reside in the unit in January 2006.

The Tribunal's view was the taxpayers did not move into the unit when it was first practicable to do so. It was also the Tribunal's view that the nature of the husband's work was not sufficient to enable the main residence exemption to be invoked.

- TIP: The Commissioner has stated in a Taxation Determination that the mere intention to occupy a dwelling as a main residence is insufficient to obtain the exemption.

## Deferral of HELP repayments

The Administrative Appeals Tribunal has declined a taxpayer's request to defer his compulsory Higher Education Loan Programme (HELP) repayment because the circumstances cited by the taxpayer did not amount to special reasons.

Taxpayers with an accumulated HELP debt may apply to the Commissioner to defer their repayment if making the repayment has caused or would cause serious hardship. Alternatively, the taxpayer may apply if there are other special reasons that make it fair and reasonable to defer the repayment.

If a taxpayer's HELP repayment income is below the minimum repayment threshold for a financial year, no repayment is required.

## Lump Sum Payment and Assessable Income

In another case heard by the Administrative Appeals Tribunal, it held that a lump sum payment received by a taxpayer in arrears of weekly compensation entitlements was assessable income.

The Tribunal found that the lump sum payment was a replacement for loss of income. It also found that the taxpayer was not entitled to reduce his assessable income from the payment or claim a deduction for pension amounts recovered by Centrelink out of the payment.

- TIP: Generally, compensation payments which are a substitute for income will be assessable income, even if received as a lump sum.

## Keep Your Receipts

In two separate but related media releases, the Government and the Tax Office reminded parents to keep receipts relating to expenses incurred on their children's education if they wish to claim the education tax refund.

From 1 July 2008, eligible families can receive a maximum refund of \$375 for each child undertaking primary studies and \$750 for each child undertaking secondary studies.

The Tax Office states that only expenses which are paid for by parents will qualify for the refund. It also states that if an item is used for different purposes, only the amount that relates to a child's education is eligible for the refund.

## Beware — Tax Refund Scam

The Tax Office has issued two separate but related media releases warning taxpayers of two e-mail scams purporting to offer a tax refund.

The scams operate by requesting a taxpayer's credit card and personal details.

Generally, the subject heading of the emails are titled:

- 'Get refunds on your Visa or Master Card';
- 'Notification — Please Read'; or
- 'Australian Taxation Office — Please Read This'.

The Tax Office does not send e-mails requesting personal information including credit card details.

Individuals who receive emails of this nature should immediately delete them.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.