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Client alert

tax news | views | clues

Income Tax Reform

Readers will recall that in the February 2008 newsletter, we highlighted some of the proposed reforms to the income tax system, which the Labor Government promised as part of its election campaign. The Government has since introduced into Parliament a Bill proposing income tax rates cuts.

For the 2008/09 income year, the proposed personal tax rates and tax payable for resident taxpayers are set out in the table below:

Taxable income ($)	Tax payable ($)
0 – 6,000	Nil
6,001 – 34,000	15% of excess over 6,000
34,001 – 80,000	4,200 + 30% of excess over 34,000
80,001 – 180,000	18,000 + 40% of excess over 80,000
180,001 +	58,000 + 45% of excess over 180,000

The low income tax offset (LITO) for the 2008/09 income year will increase from $750 to $1,200. Therefore, taxpayers will be entitled to the LITO if their taxable income is less than $60,000.

As a consequence of the increase in the LITO, senior Australians who are eligible for the senior Australian tax offset (SATO) will have no tax liability until their income reaches $28,867 for singles and $24,680 for each member of a couple for the 2008/09 income year.

The Medicare levy threshold amount for senior Australians who are eligible for the SATO will also increase in line with the LITO for the 2008/09 income year. The threshold amount will increase from $25,867 to $28,867. The Medicare levy phase-in limit for senior Australians who are eligible for the SATO will increase from $30,431 to $33,961. The Medicare levy phase-in limit that applies to couples eligible for the SATO will increase from $44,647 to $49,412.

Tax Law Changes

In February 2008, the Government introduced into Parliament a Bill seeking to:

- remove tax deductibility for contributions and gifts to political parties, members and candidates, including membership fees;
- remove an inconsistency in the tax law relating to farm managed deposits, thereby ensuring eligible primary producers will be able to access the concessions;
- ensure that a superannuation lump sum payment paid to a person who has a terminal medical condition is tax-free; and
- ensure the Equine Workers Hardship Wage Supplement Payment received by individuals is tax-free.

First Home Savers Accounts

The Government has formally approved the establishment of the First Home Savers (FHS) Accounts scheme. It is anticipated that eligible first home buyers will benefit from the scheme. The scheme will be offered through banks, building societies, credit unions and life insurers.

Although the detailed features of the scheme have not been finalised, key features will include:

- co-contribution from the Government of a minimum of 15% on after-tax contributions of up to $5,000;

- individuals aged between 18 to 65 will be able to open an account with an initial contribution of at least $1,000, so long as they comply with the eligibility criteria for the First Home Owners Grant;
- the minimum savings period for the scheme is four years;
- interest earned will be taxed at a rate of 15%; and
- withdrawals will only be permitted for the purchase of an eligible first home and will be tax-free. Alternatively, individuals can roll over the full amount of the account to their superannuation fund at any time.

Simplified Tax System

The Tax Office has released a fact sheet outlining the eligibility criteria for the small business entity concessions and how the changes affect former simplified tax system (STS) taxpayers.

The STS was replaced by the small business entity regime from the 2007/08 income year. The concessions available under the former STS are still available. In addition, where a taxpayer has been classified as a small business entity, they can choose to access other various concessions, including accounting for GST on a cash basis and the FBT car parking exemption.

The requirements to be classified as a small business entity differ from the STS.

CGT on Holiday Unit

In a recent decision, the Administrative Appeals Tribunal (AAT) has affirmed that a holiday unit that was used for short-term holiday accommodation was not an active asset for the purposes of the CGT small business concessions.

Two basic conditions must be satisfied before a taxpayer can access the concessions — the taxpayer must be a small business entity or satisfy the ‘maximum net asset value’ test, and the CGT asset must be an active asset. Depending on the concession being accessed, further conditions must also be satisfied.

Where the conditions are satisfied, the capital gain arising from the disposal of a CGT asset can either be disregarded or reduced.

A CGT asset is an ‘active asset’ if it is used, or held ready for use, in carrying on a business by a taxpayer, an affiliate or a connected entity.

Shed Qualifies as Main Residence

In a bizarre decision by the AAT, it was held that a shed used by a taxpayer qualified as a main residence despite the fact that the taxpayer only moved her bed into the premises.

If a dwelling, which a taxpayer owns or acquires, qualifies as their main residence, any capital gains arising from the disposal of the dwelling will be disregarded or reduced.

In-house Assets and SMSFs

The Tax Office has recently issued a fact sheet explaining what an in-house asset is, the transitional rules that apply to certain assets owned by a SMSF before 11 August 1999 and the changes that will apply after 30 June 2009.

The in-house assets rule states that a trustee of a superannuation fund must not acquire in-house assets if to do so would increase the ratio of such assets to over 5% of total assets, or if the ratio already exceeds 5%.

The Tax Office has stated that a trustee of a SMSF, which has assets affected by the transitional rules, needs to review their fund investment structure to ensure compliance with the in-house asset rules after 30 June 2009.

Multiple Birth Allowance

The eligibility for the multiple birth allowance has been extended from 1 January 2008.

The changes will allow families with at least three children born in the same multiple birth to be eligible for the allowance until:

- the children are 16 years of age; or
- if at least three of the children are in full-time study, until the end of the calendar year in which the first born of the three children turns 18 years of age.

IRAs and Assessable Income

In a recent Interpretative Decision, the Tax Office states that a lump sum distribution paid to a resident individual taxpayer upon closing a traditional Individual Retirement Account (IRA) held in the United States is included in the taxpayer’s assessable income. However, the reportable amount in the taxpayer’s income tax return is reduced by any amounts previously reported as notional income under the Foreign Investment Funds measures and where certain exceptions are met.

The assessable income of a resident individual taxpayer includes any ordinary and statutory income derived in or out of Australia.