

Taxpayer Alerts

The Tax Office has issued two Taxpayer Alerts warning taxpayers of arrangements that are currently being examined:

1. Arrangements whereby a shareholder of a private company purports to make a repayment of a loan extended by the company via a round robin of endorse cheques. The Tax Office is concerned that these arrangements have been contrived to avoid the operation of the tax legislation which may deem a loan between a private company and its shareholders (or their associates) as an unfranked dividend.
2. Arrangements for the prepayment of service fees from a trading entity to an associate service entity. The Tax Office is concerned that these arrangements have been entered into with the dominant purpose of obtaining a tax deduction.

Data Matching

Luxury cars

The Tax Office will request and collect details of individuals or entities that, between 1 July 2005 and 30 June 2007, have purchased or acquired motor vehicles valued at \$57,009 or higher.

The data collected will be electronically matched with its data holdings to identify non-compliance with tax obligations.

Owner-builder licence registration

The Tax Office will acquire owner-builder licence registration

information from the Victorian and NSW state governments.

This information will be electronically matched with its data holding to identify taxpayers who may not be meeting their tax obligations.

Increase in Pension Thresholds

The assets test thresholds for pensions will increase from 1 July 2008.

Taxpayers who will benefit from the increase include those receiving the Age Pension, Carer payment, and Austudy.

Capital Improvement Threshold

The Tax Office has released the capital improvement threshold for the 2008-09 income year, which is \$119,594.

FBT Car Parking Threshold

The Tax Office has stated that the car parking threshold for the FBT year that commenced 1 April 2008 is \$7.07.

HECS and SFSS Repayment

The Tax Office has released the HECS and SFSS repayment thresholds for the 2008-09 income year.

When a taxpayer's repayment income is above \$41,594, the taxpayer will be required to start repaying his or her HECS debt and/or SFSS debt.

The repayment amount is calculated by applying the

relevant repayment rate that corresponds to the taxpayer's income.

Taxpayer Alerts

The Tax Office has issued two Taxpayer Alerts warning taxpayers of arrangements that are currently being examined:

1. Land impairment trust arrangements which are associated with forestry managed investment schemes.

The Tax Office is concerned about whether these arrangements give rise to a revenue or capital loss and how distributions from the land trust should be treated for tax purposes; and
2. Arrangements that have features which are designed to allow a member of a superannuation fund to circumvent the annual superannuation contributions limits.

The Tax Office is concerned that certain features of these arrangements may give rise to taxation and superannuation regulatory issues.

Fuel Tax Credits

The eligibility for fuel tax credits has been expanded from 1 July 2008 to include all taxable fuels that a taxpayer uses in his or her business activities, provided the fuel is not used in a vehicle with a gross vehicle mass of 4.5 tonnes or less travelling on a public road.

According to the Tax Office, the changes to the fuel tax credits scheme means that most businesses, including those

operating in construction, manufacturing, wholesale/retail, property management and landscaping, will be able to claim credits.

Broadly, fuel tax credits provide a taxpayer with credits for the fuel tax (excise or custom duty) included in the price of the fuel.

Super Rates and Thresholds

The Tax Office has released the 2008-09 indexed superannuation rates and thresholds, which cover contribution caps, concessional taxed superannuation lump sums, employment termination payments, superannuation guarantee and superannuation co-contributions.

The concessional and non-concessional contributions caps are \$50,000 and \$150,000 respectively, which did not change from the 2007-08 income year.

If the assessable income and reportable fringe benefits (if any) of a taxpayer do not exceed \$30,342 for 2008-09, the taxpayer will qualify for the maximum co-contribution of \$1,500.

Child Support and Tax

The Government has announced a range of new measures aimed at boosting the collection of child support payments. The measures include:

- requiring both parents (the liable parent and the recipient parent) to lodge a tax return; and
- stopping salary sacrifice being used to minimise child support obligations.

GST and PAYG Instalment Rate

The Tax Office has advised that the Gross Domestic Product (GDP) factor used to calculate taxpayers' GST and PAYG

instalment amounts will increase to 8% from 1 July 2008.

Taxpayers who use the GDP-adjusted notional tax method to calculate their PAYG or GST instalments may see an increase in their instalment amounts from the first quarterly instalment for the 2008-09 income year.

Division 7A Interest Rate

The Tax Office has stated that the benchmark interest rate for the 2008-09 income year for the purpose of calculating the interest component of a loan from a private company to its shareholders (or their associates) is 9.45%.

The tax laws contain provisions that allow loans by a private company to its shareholders (or their associates) not to be treated as an unfranked dividend if the loan is made under a written agreement. One of the requirements of the agreements is that the interest rate to be used in calculating the interest payable on the loan for a financial year must equal or exceed the benchmark interest rate for that financial year.

Car Limits

The Tax Office states that the car depreciation limit for the 2008-09 financial year is \$57,180.

The Tax Office also states that the luxury car tax threshold for the 2008-09 financial year is \$57,180.

GIC and SIC Rates Released

The Tax Office has released the general interest charge and shortfall interest charge rates for the first quarter of the 2008-09 income year:

Rate	Annual (%)	Daily (%)
GIC	14.75	0.04030054
SIC	10.75	0.02937158

The Tax Office has also released the interest rate for overpayments, early payments and delays in refunds for the first quarter of the 2008/09 income year. The applicable interest rate is 7.75%.

SMSF and Financial Assistance

The Tax Office has released an SMSF Ruling in which it explains the prohibition on trustees of SMSFs giving financial assistance to a member of a fund (or a relative of the member) using the resources of the fund.

The Ruling reinforces that providing financial assistance to a member (or a relative of the member) will contravene the superannuation legislation, regardless of whether such assistance was requested by the member or given through a third party

According to the Ruling, financial assistance includes any arrangement or transaction whereby the assets of the SMSF are converted into other assets, diverted, diminished or put at risk, or there is prejudice to the financial position of the SMSF.

SMSF and Sole Purpose Test

The Tax Office has also released an SMSF Ruling, which outlines the Commissioner's approach to the application of the sole purpose test in the superannuation legislation.

The objective of the sole purpose test is to limit the provision of superannuation benefits to a range of prescribed retirement or retirement-related circumstances, such as on or after a member retiring or attaining 65 years of age. Where an SMSF is maintained for other purposes, it will contravene the sole purpose test.

The Tax Office says that in determining the purpose for which an SMSF is being maintained requires a survey of all of the events and circumstances relating to its maintenance.

The Ruling notes that investments such as works of art, antiques, classic cars and wine will, generally, pose particular issues in relation to the application of the sole purpose test.

- **TIP:** While investments in collectables are not prohibited per se, an SMSF wanting to invest in such investments will need to ensure that the fund's deed permits it and the trustee must show how acquiring these assets will satisfy the sole purpose test.

Self-education Expenses

In a recent case, the AAT has affirmed the Commissioner's decision to deny a taxpayer a deduction for self-education expenses.

The Tribunal held that the taxpayer had not shown that the expenses were incidental and relevant to the gaining of assessable income.

Generally, self-education expenses incurred before employment commences or to obtain new employment are not deductible.

- **TIP:** The Tax Office has indicated that one of the areas it is focusing on is anomalous or "out-of-pattern" self-education claims.

TPD premiums deductions

The Tax Office has stated its preliminary view on the deductibility of total and permanent disability (TPD) insurance premiums where the policy is held through a superannuation fund.

The definition of "disability superannuation benefit" may not be aligned between the tax law and the wording of a TPD insurance policy. Therefore, the Tax Office has said that a fund may not be entitled to a deduction for premiums paid.

Minors and tax-free threshold

The maximum "unearned income" that a resident minor can earn for the 2008-09 income year is \$2,667.

Effectively, a resident minor can receive up to \$2,667 in trust distributions for 2008-09 before incurring a tax liability, unless the minor has other sources of income.

Generally, income derived by a minor is taxed under a separate rate. However, exceptions apply, such as income from full-time employment.

Overpaid income tax instalments

The Tax Office has announced that it has completed a review of credit balances on activity statement accounts of taxpayers.

A taxpayer whose account has a credit balance that arose from overpayments of income tax instalments will have the balance transfer to their income tax account. The credit will then be issued in a taxpayer's next income tax assessment.

Taxpayers who do not want the credit to be issued in their next assessment should contact us to request for a refund from the Tax Office.

Important: This is not advice. Clients should not act solely on the basis of the material contained in the 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.