

## Claiming deductions for donations to flood relief

The ATO has approved 'bucket donations' for the 2011 Queensland, Northern New South Wales and Victorian floods, as it did for the large number of donations made after the Victorian bushfires in 2009.

People who give to 'bucket appeals' can claim a tax deduction for contributions up to \$10 in their 2010/11 tax return without the usual need to keep a receipt.

Employers will not need to make super contributions on parental leave pay. Also, it will not increase employers':

- payroll tax liabilities; or
- workers compensation premium liabilities.

*Editor: Clients requiring assistance should contact our office.*

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## Paid parental leave scheme

The Government's Paid Parental Leave scheme started on 1 January 2011. Employees with a child born or adopted on or after 1 January 2011 can take 18 weeks of paid parental leave at the national minimum wage, which is currently \$570 a week before tax.

Full-time, part-time, casual, seasonal, contract and self-employed workers may be eligible.

*Editor: Employers' participation in the scheme is voluntary until 30 June 2011 (if an employer does not agree to participate, the employee will receive the payment from the Family Assistance Office (FAO)).*

From 1 July 2011, employers must provide parental leave pay to their eligible employees who have been with their business for at least 12 months before the expected date of birth or adoption of their child.

The FAO will provide employers with funds to pay parental leave to their employees. They will also contact employers to start this process.

Employers just have to provide the parental leave pay to their employee with the usual tax deducted.

## Tax Office data matching program – building industries

The Tax Office has commenced another data-matching program which will request and collect names and addresses of entities within the building, construction and ceiling insulation industries.

It will collect the information from a range of government departments, such as Departments of Education and Training, as well as the following businesses:

- ◆ Richard Crookes Constructions Pty Ltd;
- ◆ Abigroup Limited and Abigroup Contractors;
- ◆ Bovis Lend Lease;
- ◆ Brookfield Multiplex;
- ◆ Hansen Yuncken Pty. Ltd.;
- ◆ Laing O'Rourke; and
- ◆ The Reed Group.

These will be electronically matched with certain sections of ATO data holdings to identify non-compliance with lodgment and payment obligations.

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## **Super Funds: ATO targets loans and in-house assets**

In selecting cases for audit this year, the ATO will focus on superannuation funds with repeated contraventions of the rules regarding loans and in-house assets (IHA) (i.e., related party assets).

### **Loans**

The ATO has found that many members have viewed their super funds as a quick and easy source of temporary (or, in some cases, semi-permanent) funds, particularly during the global financial crisis.

Borrowing money from your super fund is a strict no-no, and is one of the contraventions that the ATO will be taking a long, hard look at this year.

### **Breaches of IHA rules**

In relation to breaches of the IHA rules, the ATO has found that trustees have again been using their retirement benefits to support related businesses and are clearly exceeding the 5% limit.

### **Consequences**

Trustees must be careful not to breach these rules as non-complying funds lose access to concessional tax treatment: their income as well as their total assets (less any member contributions for which no tax deduction has been claimed) are taxed at the highest marginal tax rate, until the ATO reinstates their complying status.

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## **ATO helps full-time students claim study deductions**

The ATO has accepted that the High Court decision in the case of *Anstis* means that taxpayers may be eligible to claim a deduction for their study expenses if they received youth allowance to study full-time.

Tax Commissioner Michael D'Ascenzo said that the ATO will amend tax assessments of eligible taxpayers to include a tax deduction for study expenses for the 2007, 2008, 2009 and 2010 income years.

"We will issue amended assessments to include a deduction of \$550 for each year you are eligible. These deductions represent amounts that people who receive youth allowance would reasonably have incurred."

Where students believe they have incurred expenses of more than \$800 (the first \$250 of education expenses is not deductible), they can seek an amendment for that higher amount, if they have records to support their claim.

*Editor: The ATO will be writing to eligible taxpayers between 1 March 2011 and 30 April 2011. If you don't get a letter by 30 April when you think you should, contact us and we'll try to sort it out.*

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## **Changes to Trust Laws**

The Assistant Treasurer has announced that the Government will update Australia's trust taxation laws as a result of the recent High Court decision in the case of *Bamford*, which highlighted ongoing discrepancies between the treatment of trust income by trust laws, on the one hand, and by the tax system on the other.

A public consultation process will be the first step towards updating the trust income tax provisions and any options will seek to ensure that net taxable income of a trust is assessed primarily to beneficiaries.

The options will not include the taxation of trusts as companies, which would be a major departure from the current law.

### **Changes for farmers with trusts**

The Government also announced that it plans to introduce amendments before 30 June 2011 so that beneficiaries of trusts carrying on primary production activities can continue to use the primary production averaging and farm management deposits provisions in a loss year.

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## **Extra time to lodge for those affected by natural disasters**

The Commissioner of Taxation has announced additional time for tax-related lodgments and associated payments for individuals and businesses affected by the recent natural disasters in Queensland, New South Wales, Victoria and Western Australia.

Those in the affected postcodes will automatically have the following lodgment and payment dates deferred:

- lodgment and payment of the December monthly activity statement from the original due date of 21 January 2011 to 21 March 2011;
  - lodgment and payment of the January monthly activity statement from the original due date of 21 February 2011 to 21 March 2011;
  - lodgment and payment of December quarterly activity statements from the original due date of 28 February 2011 to 28 March 2011;
  - lodgment and payment obligations of income tax due in February 2011 for a period of one month; and
  - lodgment of superannuation guarantee charge (SGC) statements for the quarter ending 31 December 2010 from 28 February 2011 to 28 March 2011.
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### Flood Levy proposed

The Government intends to introduce a temporary flood levy in the 2011/12 financial year, to assist with part of the costs of rebuilding infrastructure following the recent floods.

It is proposed that the levy will not be paid by those affected by the floods or by lower income earners, and will apply only in the 2011/12 financial year.

The rate of the levy will depend on a taxpayer's taxable income (TI) as follows:

- anyone with a TI under \$50,000 will not pay the levy;
- those with a TI between \$50,000 and \$100,000 will pay 0.5 per cent of TI in excess of \$50,000; and
- those with a TI over \$100,000 will pay 0.5 per cent of TI in excess of \$50,000 and 1% of TI in excess of \$100,000.

### Examples

An individual taxpayer on average annual adult full-time total earnings and TI of \$68,125 will pay an extra \$90.63 in tax (i.e.,  $(\$68,125 - \$50,000) \times 0.5\%$ ).

An individual taxpayer with TI of \$120,000 in 2011/12 will pay an extra \$450 in tax (i.e.,  $(\$120,000 - \$100,000) \times 1.0\% + (\$100,000 - \$50,000) \times 0.5\%$ ).

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### ATO targeting GST compliance

The ATO received specific funding in the 2010 Budget to look closely at GST compliance, and will be implementing a dedicated program over the next four years to deal with some specific compliance issues.

They will focus on:

- the timely lodgment of activity statements;
- verifying GST refund claims;
- identifying and dealing with those that deliberately avoid GST; and
- addressing aging GST debts and those who deliberately use debt as a way of avoiding their tax obligations.

They say that they are continuing to expand their ability to identify non-lodgers and detect businesses that overclaim entitlements, deliberately under-report or omit income and use cash transactions to hide income.

They will do this in part by:

- ◆ comparing businesses to small business benchmarks for their industry to select businesses for audit – businesses that do not report within their range may not be recording or paying tax on all their transactions, especially cash transactions;

- ◆ using benchmarks to calculate default assessments where a business provides insufficient or unreliable information or has not met their lodgment requirements; and
- ◆ using new risk filters and risk models to detect incorrect or fraudulent refund claims on activity statement credits.

### **50% Tax Break deduction under new Green Buildings scheme**

The Assistant Treasurer has released a public consultation paper regarding tax breaks for redevelopments that will substantially improve the energy efficiency of existing buildings.

From 1 July 2011, the Tax Breaks for Green Buildings scheme will offer businesses that invest in eligible assets or capital works to improve the energy efficiency of their existing buildings – from 2 stars or lower to 4 stars or higher – the ability to apply for a one-off bonus tax deduction of 50% of the cost of these improvements.

*Editor: For more information on the eligibility criteria and assessment and certification processes, please refer to the Tax Breaks for Green Buildings information page at [www.climatechange.gov.au](http://www.climatechange.gov.au).*

### **ATO looks at limited by guarantee loan arrangement**

The Tax Office has issued a taxpayer alert warning people of arrangements involving loans to members of a company limited by guarantee. Under these arrangements, a company limited by guarantee is established to receive income distributions from a trust and then lend that money to directors, members or associates of that company or related parties.

"The use of a company limited by guarantee makes no commercial sense, aside from the tax advantage sought from these arrangements.

These types of companies cannot distribute profits to members or utilise any franking credits obtained," Michael D'Ascenzo, the Tax Commissioner, said.

He said the ATO believes that people are utilising these arrangements to get income from their trusts without having to pay the required amount of tax and is warning anyone who has participated in these arrangements to come forward prior to 30 April 2011 and before they are contacted by the ATO.

If they do, they will be entitled to a reduction in any tax penalties.

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Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.