Edwards O'Connor

CHARTERED ACCOUNTANTS

DECEMBER 2009 NEWSLETTER

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MORE TAX OFFICE AUDITS WITH NEW SMALL BUSINESS BENCHMARKS

The Tax Office has released a whole host of "Small Business Benchmarks" in October – 38 in all. The ATO says they provide a snapshot of what, on average, is happening in businesses operating in a particular industry by comparing various business costs to sales.

For example, depending on the size of the business, they compare costs, such as labour, cost of goods sold and rent, to sales.

Where a business's costs as a percentage of sales fall outside the benchmarks, it may find itself looking down the barrel of a tax office audit.

Selected industries

There were 38 benchmarks issued for businesses operating in the following industries:

- Manufacturing;
- Construction;
- Retail trade;
- Accommodation and food services;
- Transport, postal and warehousing;
- Rental, hiring and real estate services;
- Administrative and support services (such as pest control)
- Other services (such as barbers, hairdressers and nail salons).

If you are interested to know if benchmarks have been issued for your industry please contact our office.

Case Study

The Tax Office has provided an example of how the benchmarks have been applied. In this case a Melbourne based tradesman received a tax bill for $115,953 after an audit revealed he had omitted $142,000 from his tax return.

The taxpayer came to the ATO's attention because he had been reporting very low levels of income for a number of years. The particular trade benchmark helped the Tax Office to understand the taxpayer's business relative to the rest of the industry.

During the audit, the taxpayer said his business was based on smaller suburban work, for which he received very little cash. He said he always issued tax invoices to his customers.

He had declared a taxable income of $18,000 for the year. He recorded only four supplier purchases during one of the quarters.

Third party data acquired from his supplier for that quarter showed eighteen large purchases, some of which were paid for in cash. Further examination showed.

- Many of his jobs were for cash;
- They were not recorded in his records; and
- His customers did not receive tax invoices

As the taxpayer's record keeping was inadequate, the auditors calculated his income by applying his normal sale price per square metre to his actual purchases.

The audit resulted in tax liabilities of $67,000 and additional penalties of nearly $50,000.

CHRISTMAS/YEAR END PARTIES AND GIFTS

The year end is on the way and many employers will be planning to celebrate Christmas with their annual year end "bash". In addition, many businesses will be considering what gifts, if any, they will provide to clients and employees.

However, an important issue to consider is the possible Fringe Benefits Tax (FBT) and Income Tax implications of providing "entertainment" to staff and clients.

One major consideration is the "less than $300" minor benefit exemption and the fact that the Tax Office now accepts that different benefits provided at (or about) the same time are not added together when applying this threshold.

This means that a Christmas party and gift may be exempt from FBT, even if provided at the same time, as long as each costs less than $300!

Gifts which ARE NOT entertainment –

- A Christmas hamper, a bottle of whiskey, wine, etc; and
- Gift vouchers, a bottle of perfume, flowers, a pen set, etc.

Gifts which ARE entertainment –

- Tickets to attend a theatre, live play, sporting event, movie or the like;
- A holiday airline ticket or admission ticket to an amusement centre.

Example of a party and gifts

An employer holds an external Christmas party for employees and their spouses.

The cost of food and drink per person is $250, and no other benefits provided.

Assuming the actual method is adopted:
- For employees attending with their spouse – no FBT is payable (i.e., the per head cost is less than $300); and
- For employees attending alone – no FBT is payable (i.e., the per head cost is less than $300)

In either case, no tax deductions will be allowed.

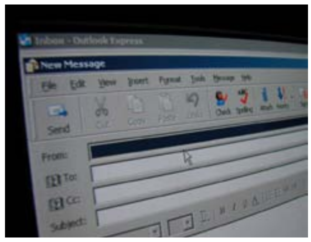
Assuming the 50/50 method is adopted:
- 50% of the total expenditure is subject to FBT and is tax deductible.

WEB SITE

The Edwards O'Connor web site has now been launched. We encourage our clients to visit the site and we welcome any suggestions for improvement.

www.e-oc.com.au

WARNING - TAX EMAIL SCAM AND IDENTITY THEFT



The tax office is warning people about another bogus email circulating that claims to offer a tax refund. The email claims to be from the ATO, and shows a Tax Office email address as the sender.

The email uses the Tax Office logo and includes the words 'You are eligible to receive a tax refund of $250.50' in the subject heading and the following text (though there may be variations):

Dear Australian Taxation Office customer,
After the last annual calculation of your fiscal activity we have determined that you are eligible to receive a tax refund of $250.50 AUD.
Please submit the tax refund and allow us 3-5 business days in order to process it.

The email asks people to complete a refund form by clicking on a link in the email which directs them to a bogus Tax Office Website and asks for personal and credit card details.
The ATO advises that anyone who entered their credit card information into the bogus site should immediately report it to their credit card provider.

The Commissioner of Taxation has advised that identity theft is a particular problem that can take a year to put right.

For this reason, tax file numbers (or TFNs) must be kept safe.

Only certain people can ask for a taxpayer's TFN, including the Tax Office, Centrelink, their super fund, bank or financial institution, and their employer.

The warning from the Tax Office is that if anyone is asked for their TFN through an email, phone call or suspicious door knocker, they should not offer any information and should call the Tax Office on 13 28 61.

While the Tax Office does send emails or SMSs promoting new services or alerting to due dates, it will never send an email requesting a taxpayer to confirm, update or disclose confidential details such as their name, date of birth, address, passwords or credit card and bank account details.

MINORS TAX FREE THRESHOLD

A child less than 18 years of age is taxed differently to resident adults. Monies derived from salary and wages or interest on the earnings of salary and wages are taxed the same as adults, however, earnings from passive sources such as interest or dividends are taxed as follows;

Div. 6AAA Income $	Tax Payable $
0 – 416	Nil
417 – 1,307	66% of excess over $416
1,308 +	45% of the entire amount

However, applying the low-income tax offset of $1,350 means that no income tax will be payable until the minors' taxable income exceed $3,000.

SUPERANNUATION CO-CONTRIBUTION RATES

Where taxpayers are eligible and make personal superannuation contributions to a complying superannuation fund, the Government matches their personal contributions with a co-contribution up to certain limits.
From 1 July 2009, the Government made temporary changes to these measures. The new matching rates will be;

- $1 for $1 for the 2009/10, 2010/11 and 2011/12 years with a maximum co-contribution of $1,000
- $1.25 for every $1 for the 2012/13 and 2012/14 years with a maximum co-contribution of $1,250
- $1.50 for every $1 from 2014/15 onwards, with a maximum contribution of $1,500.

For the 2010 financial year, the lower income threshold is $31,920. The maximum entitlement of $1,000 is reduced by 3.333c in every dollar of total income over this threshold up to $61,920 the point at which the co-contribution is phased out.

PAYG-ARE YOU PAYING TOO MUCH? PAYG INSTALMENT VARIATIONS

In the current economic climate, we are encouraging taxpayers to review their tax positions and to vary their PAYG instalments downwards in line with their likely end of financial performance.
If you use the instalment rate method for PAYG instalments, you could end up paying more than you need to. You may want to consider varying your instalment rates where the proportion of the business and investment income you will pay as tax has changed substantially. You can then apply any overpaid instalments from previous quarters to meet your current PAYG instalment.
Clients using the GDP adjusted instalment amount method can also vary their instalment amount if it doesn't reflect your expected liability.
The ATO will not impose the general interest charge if you take reasonable steps to get the variation right.
Some Instalment Activity Statements have an earlier due date than Business Activity Statements. Should you wish to vary your quarterly PAYG Instalment your lodgement date is on or before the due date on the statement. Please contact this office within this period if we can assist.

THE BUSINESS TAX BREAK

-TIME IS RUNNING OUT

The business tax break is an extra tax deduction available on the plant and equipment you need to buy to keep your business running.
The tax break covers new tangible depreciating assets. It also covers improvements or additions you make to existing assets.
As the tax break is temporary, there are deadlines that apply, so you must buy and use or install the asset within a set timeframe.
The tax break is in addition to the deduction for the decline in value your business is entitled to claim for an eligible asset.

To qualify for the 50% tax break, you must:

- be a small business (have an annual turnover of less than $2 million)
- buy an eligible asset between 13 December 2008 and 31 December 2009
- meet the $1,000 minimum threshold
- use or install or improve the asset by 31 December 2010
- use the asset principally in Australia and principally for business, and
- be able to claim a deduction for the asset's decline in value under section 40-25 of the Income Tax Assessment Act 1997.

The purpose test needs to be considered – that is, the assets need to be acquired principally for the use in a business. Care needs to be taken that the assets are acquired by the entity actually conducting the business. Taxpayers that separate the entity owning their assets, for asset protection purposes, from the entity conducting the business must ensure that the business acquires the asset in order to be eligible. Further, Investors such as taxpayers that own rental properties are not eligible.

The method of financing the purchase is important in relation to the investment commitment time. Where assets are financed by Hire Purchase the date of entering into the agreement is the relevant date. Accordingly, even if you entered into a purchase contract before 31st December, 2009, if you finance the asset by hire purchase after this date, you will not be entitled to the Tax Break. Using a Chattel Mortgage to complete a purchase contract entered into prior to the 31st December 2009 will ensure that you receive the tax break.

HELPING SMALL BUSINESSES MEET TAX PAYMENT OBLIGATIONS

The Australian Taxation Office has introduced new measures to help small businesses that are struggling to meet their tax payment obligations in the current economic climate. From now until 30 June 2010, eligible businesses with an annual turnover of less than $2 million can apply for:

- 12-month general interest charge (GIC) free payment arrangements
- deferred activity statement payment due dates – we can request deferrals of up to
– two months for quarterly and annual payers
– one month for monthly payers.

For debts of $25,000 or less, small business clients can use the ATO online calculator to work out a payment arrangement that meets their circumstances. Once you have calculated a suitable payment scenario, you can use this as a guide to propose a payment arrangement.

FURTHER DRAWDOWN RELIEF FOR RETIREES

From 1 July 2009, the minimum payment amounts for account-based pensions have been halved for the period 2009–10. This measure extends the pension drawdown relief provided by the Government for 2008–09.

The following table shows the minimum percentage factor for each age group.

Age	Minimum % withdrawal (other than for the years 1 July 2008 to 30 June 2010)*	Minimum % withdrawal for the years 1 July 2008 to 30 June 2010 for certain pensions and annuities*
Under 65	4%	2%
65–74	5%	2.5%
75–79	6%	3%
80–84	7%	3.5%
85–89	9%	4.5%
90–94	11%	5.5%
95 or more	14%	7%

* The reduction in the minimum payment amounts for the years 1 July 2008 to 30 June 2009 and 1 July 2009 to 30 June 2010 applies to account-based annuities and pensions, allocated annuities and pensions, and market-linked annuities and pensions.

Disclaimer
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Liability limited by the Accountants Scheme, approved under the Professional Standards Legislation.

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Everyone at Edwards O'Connor wish all our valued clients a safe and happy Christmas & prosperous New Year.

Please note our office will be closed from 23rd December 2009 and will re-open 4th January 2010.