

Practice Update

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MARCH 2007

Refunds from the Tax Office may be about to get quicker

Editor: Many of us know how annoying it can be when the Tax Office holds up a refund - usually on a large BAS refund. Well, the Commissioner of Taxation has indicated that that may soon be about to change.

How data matching may help speed up the refund process

Editor: In a recent speech, the Commissioner demonstrated how the ATO's data matching is helping to find the good (and bad) taxpayers.

"Last financial year we used data matching to review more than 10 million taxpayers. By integrating data matching work with our risk profiling, we are making sure that they are working hand-in-glove.

"(For example) a CGT project matches share data against tax returns. While it allows us to check those that may not have reported their income correctly, it also confirms those that have, and they are by far the majority.

"The need for us to make contact with those taxpayers is therefore reduced greatly.

"A good example of how data mining and matching is already benefiting taxpayers is the more timely payment of large refunds up to \$1 million.

"Going forward, more integrated intelligence on prior taxpayer behaviour from our new systems will mean better risk management of large refund payouts, and faster cash flow for taxpayers, particularly individuals, and micro & small businesses."

CPI - December quarter 2006

The CPI indexation factor for the December 2006 quarter is 155.5 (a fall of 0.2% from the September quarter of 155.7).

Inspector General targets objections - can the ATO handle them better?

The Inspector General of Taxation has announced that his office is to conduct a review into the ATO's objection and dispute resolution processes.

Why the IGT decided on the review

The Tax Office receives and finalises around 15,000 to 20,000 objections each year.

In 2005/06, more than half these objections were allowed or settled.

Furthermore, of the objections that were lodged with the Administrative Appeals Tribunal for review, nearly two thirds were finalised in the taxpayer's favour without a hearing.

Focus and Terms of Reference

The review will focus on:

- ◆ what causes objections to Tax Office decisions and how are objections managed in the ATO;
- ◆ the timeliness and quality of how objections are handled "upstream" in the ATO and:
 - if that may be contributing to potentially unnecessary disputes and litigation; or

- whether disputes (and their associated costs) could have been prevented;
- ◆ the extent and reasons for the Tax Office conceding cases after the objection process, focusing on the quality of decision making and processes employed in determining taxpayers' objections.

Submissions to the IGT

The Inspector General is seeking input and submissions from the community to understand the taxpayers' experience and perspective in relation to lodging objections.

Details of the terms and extent of their review are contained on their Website at www.igt.gov.au.

Non-Forestry Managed Investment Schemes

The Tax Office has indicated that it has reconsidered its interpretation of the current taxation law as it applies to non-forestry managed investment schemes (MIS) and is preparing a draft ruling which will apply from 1 July 2007.

The effect of this change of interpretation is that, from that date, investors in an MIS would no longer be able to claim upfront deductions for their contributions to the MIS on the basis that the investor is 'carrying on a business'.

Investments in an MIS that are covered by existing product rulings that allow immediate deductibility for the investor's initial contribution, and for contributions in subsequent years, will be protected.

The effect of the likely change in interpretation by the ATO will be to place investments in non-forestry agri-business MIS on the same footing as other 'passive' investments in agriculture.

The ATO and how it intends to remove red tape

Editor: The Tax Commissioner, Michael D'Ascenzo, has put out a paper on new 'whole-of-government' initiatives which look like tackling and reducing red tape for business.

"Progressing whole-of-government initiatives was a focus for the ATO this financial year and remains a priority going forward."

Three main initiatives should minimise red tape and compliance costs when they are fully operational:

- ◆ working with Centrelink and Medicare to pre-populate tax returns and exploring other sources of data such as share registries and banks;
 - ◆ working with Commonwealth and state agencies to better link ATO systems through the Australian Business Register so that businesses have a one-stop shop for changing their address and other details.
- This also opens the possibility for a single authenticated entry point or portal for business to government; and
- ◆ progressing work on the Standardised Business Reporting concept so that businesses and other taxpayers need only report information and financial data once across the whole-of-government.
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When the SGC need not be applied

The Tax Office has issued a Practice Statement to help their officers decide when to **not** apply the superannuation guarantee charge (SGC).

Basically, this practice statement says that the SGC need not be applied:

"where it is clear that an employer has taken reasonable steps to comply with their obligations by the due date but, for reasons beyond the employer's control the contribution is made late."

Editor: This is very good news because before this Practice Statement, the SGC was applied automatically

Contribution posted on time

Basically, the ATO is now saying that the SGC need not be raised where an officer is satisfied that:

- it is clear from the employer's business practices that:
 - the cheque was posted before the due date;
 - there was enough time for the cheque to arrive by mail, by the due date;
- the cheque was not post-dated or backdated; and
- the cheque was honoured.

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.