TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

SPRING 2022

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Clarity Taxation & Business Services

Why Do I Have To Fill Out A Tax Return For My Deceased Loved One?

At the worst time of your life, the last thing you want to think about is tax.

When a loved one dies, however, their affairs must be dealt with at some stage. This includes their tax obligations.

To deal with a deceased loved one's affairs, the help of a solicitor is highly recommended. Someone will be granted the role of executor or administrator of the estate of the deceased person (this is usually stipulated in a will).

From a tax perspective, there are a few things that the executor or administrator has to do.

The Australian Taxation Office (ATO) must be contacted and informed that your loved one has passed away. When you notify them of the death, they can tell you if the person had any outstanding tax returns for prior income years.

All their financial documents must be compiled, and you must lodge a date of death (or final) tax return. This will only need to be lodged if your loved one had tax withheld from their income or had earned more than the tax-free threshold.

This final tax return differs from a normal tax return as it doesn't cover the full financial year - it only covers up to the day that the person died. All income and tax deductions until that day are inputted into the final tax return.

There are still tax obligations that can occur after that day, such as income earned from investments or the sale of assets that may or may not be subject to capital gains tax.

In these circumstances, the executor or administrator of the estate will need to apply for a separate and new tax file number for the estate. The estate is treated as a separate taxpayer and will pay tax as if it was an adult individual resident taxpayer.

This special treatment of the estate is received for up to three tax returns after the date of death (in fact, it is for two years from the date of death).

We know that this time is very stressful, even without these additional obligations. The support of a tax professional during this process can ease the burden, as this is a role we are accustomed to taking. Contact us to find out how we can aid you, even if we weren't the accountant for your loved one. We're here to help.

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2022-2023 Federal Budget: Tax Announcements

Last month, the 2022-23 October Federal Budget was handed down with several announcements involving tax.

These tax-related Budget measures included:

INTANGIBLE ASSETS DEPRECIATION

There was a reversal of the previously announced option to self-assess the effective life for certain intangible assets (for example, intellectual property and in-house software), and instead, will continue to be set by statute.

DIGITAL CURRENCIES WILL NOT BE CLASSED A FOREIGN CURRENCY

Legislation will be introduced to clarify that digital currencies (such as Bitcoin) continue to be excluded from the Australian income tax treatment of foreign currency.

DENIAL OF DEDUCTIONS FOR PAYMENTS BY "SIGNIFICANT GLOBAL ENTITIES" FOR INTANGIBLES

An anti-avoidance rule will be introduced to prevent significant global entities (entities with global revenue of at least $1 billion) from claiming tax deductions for payments made directly or indirectly to related parties concerning intangibles held in low- or no-tax jurisdictions.

COVID GRANTS TREATED AS NANE

The latest Budget lists certain State and Territory COVID-19 grant programs eligible for non-assessable, non-exempt treatment.

PENALTY UNIT INCREASE

The amount of the Commonwealth penalty unit will increase from $222 to $275 from 1 January 2023. A penalty unit is what the fines the ATO issues are comprised of. For example, a failure to lodge penalty for small entities is calculated at the rate of one penalty unit for each period of 28 days (or part thereof) that the return or statement is overdue, up to a maximum of 5 penalty units.

OFF-MARKET SHARE BUY-BACKS TAX TREATMENT

The tax treatment of off-market share buy-backs undertaken by listed public companies will be aligned with the treatment of on-market share buy-backs. Current rules around share buy-backs by companies off-market mean that a proportion of the consideration for off-market purchases is treated as a dividend. However, the change will make that entire consideration for off-market buy-backs to be treated as capital proceeds, with no associated franking credits.

ADDITIONAL FUNDING TO THE TAX AVOIDANCE TASKFORCE

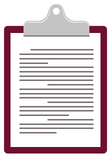
The Taskforce will continue to be focused on compliance activities that target multinationals, large public and private groups, trusts and high-wealth individuals. The government has announced a further $200 million in funding per year for the next three years to extend the Taskforce and, in 2025-26, there is to be a significant increase of $534.5 million for that year.

End Of The Lamington (LMITO)

Next year's tax return may look a little different to previous years for low and middle-income earners, with an end to the Low-MIddle Income Tax Offset (LMITO).

It has been confirmed that the 2021-22 income year will be the final year for the LMITO to be applied to returns, and it will not be available for future income years.

How Did The LMITO Work?



The LMITO acts as an offset, meaning that it reduces the tax you pay (known as your tax payable) on your taxable income. Your taxable income is your total income minus any deductions you claim.

In your 2021-22 tax return,

nothing additional had to be completed for you to receive the low and middle-income tax offset.

If your taxable income was $18,201 or more,

the Australian Taxation Office works out how much tax you need to pay based on what you have earned.

The low and middle-income tax offset was not a cash refund. If you didn't pay any tax during the year, you wouldn't get the low and middle-income tax offset.

Offsets are not used to reduce your Medicare levy & Medicare levy surcharge (if there is any). The LMITO did not affect this part of your tax return.

What Does This Mean For Next Year?

While the LMITO will not be available for the 2022-23 income year, the Low Income Tax Offset (LITO) may still be available (pending any further rulings or changes). This will automatically be applied by the ATO after you lodge your tax return next year.

The amount of the low-income tax offset (LITO) you receive will depend on your taxable income.

If your taxable income is:

$37,500 or less

you will get the maximum offset of $700

between $37,501 and $45,000,

you will get $700 minus 5 cents for every $1 above $37,500

between $45,001 and $66,667,

you will get $325 minus 1.5 cents for every $1 above $45,000

Consulting with a tax agent or professional like us can be of great assistance for tax returns and preparation for the coming year, particularly regarding any offsets or deductions you may be eligible for.
Why not start a conversation with us today?

PAYG Withholding Or PAYG Instalments?

As a taxpayer, you may have come across the term pay-as-you-go (PAYG).

PAYG is generally a good thing, but there can be confusion between PAYG withholding and PAYG instalments, particularly if you're an individual who is eligible for both. Both are amounts by which your tax bill at the end of the financial year can be offset.

So there's no need to worry - the ATO is not stealing your money. Here's how to distinguish between the two types of PAYG you may have encountered as a taxpayer.

PAYG Withholding

As an employer, you have a role to play in helping your payees meet their end-of-year tax liabilities. You do this by collecting pay-as-you-go (PAYG) withholding amounts from payments you make to:

- your employees
- other workers, such as contractors that you have voluntary agreements with
- businesses that don't quote their Australian business number (ABN).

This is to assist in minimising the impact of your employee's tax bill at the end of the financial year. If you're an employee, there's no need to worry about this amount - it is what is used to work out how much tax you may owe or be owed by the Australian Taxation Office at the end of the year.

Payments other than income from employment may also need tax withheld, including:

- investment income to someone who does not provide their TFN
- dividends, interest and royalties paid to non-residents of Australia
- payments to certain foreign residents for activities related to gaming, entertainment and sports, and construction
- payments to Australian residents working overseas
- super income streams and annuities
- payments made to beneficiaries of closely held trusts.

PAYG Instalments

Pay-as-you-go (PAYG) instalments are regular tax prepayments on your business and investment income.

They're a way to offset your tax bill at the end of the financial year by paying regular instalments. This way, you should not have a large tax bill when you lodge your tax returns.

If your financial situation has changed, your expected tax may also change. This means your current PAYG instalments may add up to more or less than your tax at the end of the year.

When Do You Have To Pay PAYG Instalments?

If you are an individual (including a sole trader) or trust, you will automatically enter the PAYG instalments system if you have all of the following:

- instalment income from your latest tax return of $4,000 or more
- tax payable on your latest notice of assessment of $1,000 or more, and
- an estimated (notional) tax of $500 or more.

A company or super fund will automatically enter the PAYG instalments system if any of the following apply:

- it has instalment income from its latest tax return of $2 million or more
- it has an estimated (notional) tax of $500 or more, or
- it is the head company of a consolidated group.

PAYG Varying Instalments

You can vary your PAYG instalments if you think your current payments will result in you paying too much or too little tax for the income year. Variations must be made on or before the payment due date (28 days after the end of each quarter, generally).

You do not have to vary your PAYG instalments at all. It will not change how much income tax you pay for the year.

After you lodge your tax return, if your instalments were:

- too high, the excess is refunded to you
- too low, you pay the shortfall.

Your varied amount will apply for all your remaining instalments unless you make another variation before the end of the income year.

You might need to vary your PAYG instalments if the 2022 floods or other disasters impacted you.

If you cannot pay your instalment amount, you should still lodge your instalment notice and discuss a payment arrangement with the ATO. You may wish to obtain advice from a tax agent (like us) on whether you should vary your instalments.

End Of Year Workplace Events & Their Tax Deductibility

While your business may not be planning an extravagant bash, a Christmas party may still be on the menu for your hard-working employees.

Planning your end-of-year event for the office with a little knowledge of the potential tax deductions you could be able to claim back can make the giving a little sweeter this year.

THE VENUE

You can take advantage of the $300 (including GST) minor benefit and exemption rule to hold a Christmas function for your current employees and their spouses. To do so, the party would need to be held on the premises of the business and during a business day. If your costs are below $300 per person, FBT will not be incurred, but you will not be able to claim tax deductions or GST credits.

However, fringe benefits to employees over $300 will incur fringe benefits tax (FBT). This means if the Christmas party that you hold is priced at over $300 per person (for the cost of food and drink consumed by employees and spouses) at your in-house party, you will incur and need to pay FBT on the expenses of your employee's spouse or family members only.

If the party is being held at a restaurant or venue, you will not need to pay FBT if the costs remain under $300, as it is considered a minor benefit. If the costs rise to over $300, you will need to pay FBT for your employees, their spouses and their family.

TRANSPORTATION

You may also provide your employees with transportation to the Christmas party. Taxis provided to an employee will attract FBT unless the travel is to or from the employee's place of work. If the party is held off-premises and you pay for your employee to travel by taxi to the venue and their home after the event, only the first trip is FBT exempt.

The second trip may be exempt under the minor benefits exemption if you adopt to value your meal entertainment on an actual basis.

You can also provide transportation to the venue, such as buses. These costs will form a part of the total meal entertainment expenditure and be subject to FBT. If the threshold is not breached, it may fall under the minor benefits exemption.

WHAT ABOUT MEAL ENTERTAINMENT?

If your Christmas party does not include recreation, you may choose the value of food, drink, associated accommodation or travel as 'meal entertainment'. This potentially allows you to pay less FBT by claiming meals and drinks consumed in a restaurant/cafe or provided at a social gathering.

The taxable value of the meal entertainment can be made using a 50:50 method, 12-week method or actual method.

- **50:50 method** - a 50:50 split where the taxable value is 50% of your total expenditure when providing entertainment to your employees, associates or clients during an FBT year.
- **12-week method** - involves tracking the taxable value of each fringe benefit and is based on the percentage of meals and entertainment provided to employees as registered in a log for a 12-week representative period.
- **Actual method** - best used when the exact number of attendees at most meals and entertainment provided or the total value of all meals and entertainment during the FBT year is based on actual expenditure.

Want to know more about how you can make this merry time of the year more FBT tax-friendly to your business? Please consult us about how we can make your Christmas parties and employee benefits work best for your tax purposes.

What Kind Of Legal Expenses Are Tax Deductible?

Claiming a legal expense as a tax deduction differs on whether or not you are a business or an individual. When a legal expense is incurred concerning the operation of a business to produce assessable income, it is generally allowable as a deduction. Legal expenses can only be deductible for individuals if they are incurred in deriving accessible income.

The following legal expenses are not deductible under the general deductibility provisions because they are of a capital or private nature. Instead, they are made deductible under a specific provision in tax law:

- the preparation of an income tax return, the disputing of a tax assessment and the obtaining of professional tax advice
- the preparation of lease documents
- certain borrowing expenses, and
- certain mortgage discharge expenses.

Other common legal expenses include

Business Lease Expenses

The cost of preparing, registering and stamping a lease is deductible if the taxpayer is using or will use the property for earning assessable income.

Valuation expenses

If the valuation is used to support an application to borrow money for use in the business, those expenses can be claimed as borrowing costs immediately if under $100 or over the life of the loan or five years from the date of the loan, whichever is shorter.

Fines & Breaches Of The Law

While fines and penalties imposed as a consequence of a breach of any Australian or foreign law are not deductible, the costs incurred in defending an action may be deductible.

Circumstances, where legal fees are usually deductible for businesses, can include:

- negotiating current employment contracts (including disputes) in respect of existing employment arrangements
- defending a wrongful dismissal action bought by former employees or directors
- defending a defamation action bought against a company board
- arbitration in settling disputes (depending on the facts)
- recovering misappropriated funds of the business
- opposing neighbourhood developments that are likely to affect the taxpayer's business adversely (depending on the facts of the case)
- evicting a rent-defaulting tenant
- recovering wages of an employee as a result of a dishonoured cheque
- defending a libel action provided the case was directly related to comments in pursuit of the company's business
- pursuing claims for workers compensation, and
- defending the unauthorised use of trademarks (depending on the facts of the case).

Legal expenses can be a complicated deduction to try to claim. !

By consulting with a professional adviser for your tax questions, you can get the help you need for the best way to proceed.

What To Do If You Lose Your Tax File Number

Your tax file number (TFN) is an incredibly important piece of information in your possession and should be a constant companion throughout your life. However, there are times when a TFN is misplaced or forgotten. What are you supposed to do?

If you forget your TFN or lose it, this can be a major issue. A TFN can be used for opening bank accounts, tracking super savings, applying for government benefits, and to give to higher education providers. It's also required if you begin new employment, as you have 28 days to provide your new employer with your TFN before they start withholding tax from your pay at the maximum rate.

What Can You Do?

Your first avenue of inquiry, if you use the services of a tax agent or accountant, will be to ask them for your tax file number, as you will have previously provided it to them. If not, however, you can call the Australian Taxation Office (ATO) to find out what you can do to get your TFN.

The ATO will need to make certain you are who you say you are and that you're the correct person with whom to be discussing your tax affairs (identity theft can and does occur) – so be ready to answer a few identifying questions.

You may also (if you haven't done so already) be invited to record a short "voiceprint", which is another layer of security that can identify you the next time you call.

Another option is to fill in a form provided by the ATO to apply for or inquire about a TFN. But as the ATO will only process the paperwork it provides taxpayers, you will need to order an actual paper form.

Check The Document Trail

Before you grab the phone to track down your lost TFN though, you should check other places that it may have been entered into.

You might want to rifle through your paperwork and check the following, as your TFN should be on them:

- your income tax "notice of assessment" for a previous year
- any correspondence sent to you from the ATO
- a payment summary from your employer
- an account statement from your superannuation fund.

What If Your Tax File Number Was Stolen?

If your TFN has been stolen or accessed by an unauthorised third party, inform the ATO as soon as possible. Your TFN can be used for identification purposes and may be used to steal your identity.

The ATO's Client Identity Support Centres can give you further information, advice and assistance to re-establish your identity. They may also apply security measures that will monitor any unusual or suspicious activity on your account.