MGR Accountants Newsletter July 2013

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Driving you crazy: FBT and cars

In mid July, the Government sparked a frenzy when it announced plans to remove the statutory formula method for salary sacrificed and employer provided vehicles.

The proposed changes

- Applies to salary sacrificed and employer provided cars
- Abolishes the 20% statutory method
- New rules would apply to all new and materially varied contracts from 16 July 2013
- Log book method will apply to all car fringe benefits from 1 April 2014

The announcement has meant that most businesses, and as it turns out Governments, have postponed entering into any new agreements (e.g. novated leases) until there is greater clarity. The reason for the postponement is simple, if the FBT change goes ahead, it may fundamentally alter the tax outcome of the arrangement and impose a higher FBT liability on the employer (which would normally get passed onto the employee). As such, it's impossible to understand the true financial impact of any car packaging arrangements until the result of the election is known.

Under the current fringe benefit rules, you can choose to use the log book method (also called the operating cost method) to physically record the business and private use of the car over a 12 week period, or the statutory formula which provides a flat 20% for personal use. So, if your business use of the car is high and personal use low, you would generally choose the log book method as this would often give you the lower FBT liability. Everyone else tends to use the statutory formula method. Fringe benefits tax applies to the personal use percentage.

Under the announced changes, the option to apply a flat 20% statutory rate would be abolished. Everyone would need to use the log book method from 1 April 2014. The only exception would be for existing contracts as at 16 July 2013 (the date the announcement was made). As long as these arrangements are not materially varied after 16 July 2013, the statutory formula method will continue to be available until the contract ends. While it is unclear what 'materially varied' might mean (there is nothing more than a media release and basic fact sheet at this stage), if we look at other areas of recent FBT change, materially varied could mean renegotiating the residual value of a car, extending the term of the lease or making changes to the salary sacrifice arrangement between the employee and employer.

Who will be affected?

Outside of the car and car financing industry, the change if enacted is likely to apply to almost anyone who has a car salary sacrifice agreement in place, unless they are already using the log book method due to relatively high levels of business use.

What should you be doing now?

Businesses or employees looking to enter into new arrangements should stop and consider whether the arrangements can be postponed until at least after the Federal election. If this is not possible, it will be necessary to work through some worst case scenario calculations and clarify in writing whether the employer or employee will bear the cost of any increased FBT liabilities.

In relation to existing arrangements it will be important to inform employees and other relevant people within the organisation of the risk of making any changes to those arrangements until there is more certainty in this area.

If you need help, please contact us today to discuss your options.

ATO fires first warning shot

The Tax Office has fired the first warning shot in the war against naive, deceptive and dishonest taxpayers, revealing its targets for 2013/2014.

The big picture or big brother?

Fundamentally, the way the Tax Office addresses compliance has changed. Gone are the days of comprehensive audits and visits. Instead, most compliance issues are identified by data-mining. In essence, the Tax Office looks at the information you report relative to a myriad of other information sources. Firstly, to identify differences between the information you report and the information held by third parties. And secondly, to identify whether your information is consistent with industry norms and patterns of behaviour. Once you are identified as being a potential problem, you are contacted by the Tax Office and asked to explain. The issue is then closed if not further action is warranted or progressed to the next step. Human intervention is for high risk taxpayers.

There are very few data sources the Tax Office does not have access to. Past data programs have included bank information (particularly low doc loans), credit card data, car and property sale data and much more. This year the Tax Office are looking at:

- private health insurance rebate claims
- flood levy exemptions
- taxable government grants and payments
- payments to contractors in the building and construction industry.

Trusts under attack

The number of trusts in Australia has grown and with it Tax Office concerns about their use. The Budget provided an additional $217m for a Trust Task Force and the Tax Office plans to put that into good use. Of particular concern to the Tax Office is the use of trusts to conceal income, mischaracterise transactions, artificially reduce trust income amounts and underpay tax. This year, there will be around 5,000 data-matching cases alone.

Building & construction industry

It's the first full year of the new contractor reporting regime for the building and construction industry. The Tax Office will be using this data to review what contractors are reporting to identify under reporting.

The wealthy & complex business structures

The Tax Office has stated that "the blurring of distinctions between business and personal income and expenses is a common issue attracting our attention."

This means that high income individuals who utilise trust, company and other structures will come under close scrutiny. For taxpayers affected, it will be important to make sure that there is clarity and documentation to support the flow of money from various entities to shareholders and beneficiaries.

Self funded retirees and tax planning

It seems that many self funded retirees are accessing tax planning schemes that promise high income returns and significant tax deductions. The Tax Office stands by the adage that if it looks too good to be true it probably is.

Online and global business – including e-business

Profit shifting - where businesses shift profits from Australia to another country to reduce their tax liability - is a major focus for this financial year. Already we have seen legislative changes designed to tighten the Tax Office's controls in this area. Interestingly, it's not just the big boys being targeted but the myriad of Australian online businesses that work globally.

Capital gains

The Tax Office is concerned about businesses reclassifying revenue and capital items to access concessional tax treatments. In other words, they think more people are accessing the CGT concessions than there should be. In addition, they are concerned about reclassifying revenue and capital items. So, if you have sold business assets, you can expect the Tax Office to be looking closely at how those proceeds are managed and taxed.

Income from overseas

Income from foreign sources is on the Tax Office watch list once again. The Tax Office is making sure that all taxable income is reported regardless of its source.

Changing business structures
Simply changing business structure could attract the Tax Office's attention this year. In particular, complex business structures and changes will come under scrutiny where one of the impacts is on the tax paid by the entity.

Quote of the month
"It isn't the mountains ahead to climb that wear you out; it's the pebble in your shoe." *Muhammad Ali*

If you have any queries or require further information on the content please don't hesitate to contact us at MGR Accountants on 03 5443 8888.