

"In Brief with Elite"

Vol. 8 – December 2006



Inside this Issue

New Years Resolution

Important Dates

Too many super funds

Contribution Rules

Make a New Years Resolution!

Pros & Cons of Purchasing

Business Premises

WorkChoice and who is covered

*WorkChoice and termination of
employment*

Making Tax Compliance easier for

Small Business

Merry Christmas

Don't Respond to this "ATO" letter!

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*From all the staff at Elite,
we wish you a very merry
Christmas and a safe and
prosperous new year!*



Welcome to the summer 2006 edition of our quarterly newsletter. This edition covers issues regarding pros and cons of purchasing business premises, superannuation and work choices.

NEW YEARS RESOLUTION

Make a New Year's resolution to get your finances in order. We can help you put a plan in place to maximise your wealth and get the most from investing. Whether you are saving for your first home, a holiday, the kids, or for retirement, we can help you achieve your goals.

OFFICE CLOSING DATES FOR THE CHRISTMAS PERIOD

Our office will be closed for the Christmas break from 3.00pm, Wednesday, 20 December 2006 and will re-open at 9.00am on Monday, 8th January 2007.

IMPORTANT DATES

November 2006 Monthly IAS/BAS

21 December 2006

December 2006 quarter BAS/IAS

Self Prepared 21 January 2007

EFS Prepared 28 February 2007

January 2007 Monthly IAS/BAS

21 February 2007

February 2007 Monthly IAS/BAS

21 March 2007

TOO MANY SUPER FUNDS, SAYS CHOICE

According to a *Choice* research report into the growth and costs of having multiple superannuation accounts, members are losing billions of dollars as a result of holding multiple superannuation accounts. The report states that members are paying more than \$1 billion each year in unnecessary fees on about 13 million unnecessary accounts. It also says that members lose further millions through 'lost' superannuation associated with multiple accounts.

Industry response

The Association of Superannuation Funds of Australia (ASFA) has responded to *Choice's* research report saying it supports the report's objective in encouraging the consolidation of superannuation accounts, however, ASFA notes that it is important not to overstate the costs to members. ASFA also says multiple accounts are not a windfall for the superannuation industry.

At Elite we can help you consolidate your funds. Please call Christine Hallows of our office for more information.

CONTRIBUTION RULES- NON CONCESSIONAL (POST TAX) CONTRIBUTIONS

The removal of benefits tax and RBLs will increase the concessions provided to superannuation. These changes, in conjunction with the current tax exempt status of superannuation pension assets, will make superannuation an attractive vehicle in which to retain assets to avoid paying tax. There will also be an incentive for high-wealth individuals to transfer large amounts of assets currently held outside superannuation to the concessional tax system.

To ensure the concessions are targeted appropriately, from 1 July 2007, a cap of \$150,000 a year (this will remain at three times the level of the cap on concessional contributions and will increase as the concessional cap moves with indexation) on the amount of non-concessional superannuation contributions a person can accrue will apply.

To accommodate larger contributions, people under age 65 will be allowed to bring forward two years of contributions. For example, a person under age 65 will be able to make up to \$450,000 of contributions in the 2007-08 financial year but will then be unable to make further non-concessional contributions until the 2010-11 financial year.

Once a person turns age 65 they will be able to make \$150,000 of non-concessional contributions each financial year provided they satisfy the work test. This will ensure that people will not inadvertently breach the cap by not meeting the work test in the future two years. To simplify the operation of the cap, people aged 63 and 64 who contribute \$450,000 will not be required to meet the existing work test in the two years after they make the contribution. The current rules prohibiting contributions by people aged 75 and over will remain.

Contributions in excess of the cap will be taxed at the top marginal tax rate (plus Medicare levy). The tax liability

will be levied on the individual who will nominate a superannuation fund to release monies to pay the liability. The balance of the excess contribution will be able to remain in the fund.

To limit breaches of the cap, superannuation funds will be prohibited from accepting contributions in excess of the maximum allowable non-concessional contributions in a year. If a person makes a genuine mistake, the ATO will be able to reduce the amount of the excess subject to the tax.

People who have made contributions in excess of the transitional limits outlined below before 7 December 2006 will be able to apply to withdraw these amounts without penalty prior to 30 June 2007. Contributions in excess of the transitional limits made on or after 7 December 2006 will be subject to the tax on the excess unless it is a genuine inadvertent breach.

Are there any exemptions from the cap?

There are some exemptions from the cap, being:

- the proceeds from the disposal of eligible small business assets up to a lifetime limit of \$1 million (indexed). The \$1 million exemption from the cap may include up to \$500,000 of capital gains that are disregarded under the CGT exemption (known as the retirement exemption) and proceeds from the disposal of assets that qualify for the CGT exemption. The latter includes pre-CGT assets and assets disposed of after the permanent disablement of the owner: and
- the proceeds from a settlement for an injury resulting in permanent disablement.

What transitional arrangements are there?

There will be a transitional cap of \$1 million for non-concessional contributions made between 10 May 2006 and 30 June 2007. This will be available to all individuals eligible to contribute to superannuation in the relevant year and will include any contributions already made during that period.

MAKE A NEW YEAR'S RESOLUTION – GET A FINANCIAL 'HEALTH' CHECK

While some of us are just getting over the 'silly season', many of us are trying to get over our first post-Christmas credit card bill!

Christine Hallowes, Financial Planner, says, "That first credit card bill of the year is hard proof of all the spending we have done over the festive season. On the positive side, the new year is an ideal time to have a financial 'health check'. Putting your finances in order will not only help you get on top of your debts and save more money but also help effectively plan for the future." So how can you make some positive changes to your financial 'health' this year? Christine has some tips.

1. **Pay off your credit card bill as soon as possible and set up an automatic savings plan.**
2. **Set goals** for the year ahead and longer-term. Whether you want to pay off your home, buy a new car or save for a holiday, setting goals is the first step towards achieving your dreams. Once you have goals, put a plan in place to achieve them.
3. **Implement a tax-effective investment strategy** – The sooner you start a wealth creating investment plan the better, however, Christine recommends reviewing your tax position carefully. "Some investment strategies are more tax effective than others, so it is worthwhile getting professional advice. Investing in super, targeting Australian shares or gearing are examples of tax-effective strategies, but whether

"In Brief with Elite"

they are suitable will depend on your individual circumstances and tax position."

4. **Review your superannuation.** The beginning of this year brings changes to the super system so find out if you can gain from these. "From this year, couples can now split super contributions with their spouse, which can potentially minimise tax and increase their income on retirement. Also, for retirees, Term Allocated Pensions now have new features to provide payment flexibility. Whether you are near or far to retirement it is never too late to seek advice about how you can improve your position."
5. **Don't set and forget** – Once you have your savings and investment plan on track, review it at least once a year, says Christine. "Legislation changes, world events and even marriage, divorce or redundancy can affect your investments. The New Year is a perfect time to do this to ensure your savings and investment plan stays on track."

Call Christine Hallowes on 9868 3900 to get a financial 'health check' for 2007.

Christine Hallowes is an Authorised Representative of Count Wealth Accountants an Australian Financial Services Licensee (No. 227232) and Australia's largest independently owned network of financial planning accountants and advisers.

THE PRO'S AND CON'S OF PURCHASING BUSINESS PREMISES

Buying business premises gives you control over one of your major financial investments. As an owner-occupier, you can choose to stay in the premises forever. If need be, you can raise money through selling, taking out an additional mortgage or letting part of the premises.

Why Buy?

Putting down a large deposit may seem expensive, compared with the low start-up costs involved in renting. But if you believe in the long-term future of your business, there may be good reasons to buy.

1. The property is an investment for your business, which may give you a good return.
 - o Over the long term, property owners have generally achieved excellent returns on their investments.
2. The long-term cost of buying premises is generally less than the rent you would pay.
3. Some business owners purchase the premises as part of their superannuation scheme. We strongly advise that you contact us before heading down this path.
4. You may gain operational flexibility by owning your premises.
 - o You can design the premises to suit your business. If you are building from scratch, you can specify aspects of the premises in detail.
 - o You may be able to extend or rebuild parts of the building as your business expands.
 - o You can let part of the premises to another business.
 - o If necessary, you can re-mortgage the premises to provide funding.
 - o You can arrange a 'sale and leaseback' deal to raise finance. You then become the tenant of the person/company you sell to.
5. There could be depreciation allowances available.

Why choose not to buy?

Before you go into property ownership, consider the possible disadvantages.

1. Can you afford to invest so much?
 - o Buying premises ties up cash that could be used to grow the company.
 - o If you are borrowing money to buy, interest rate increases could hit you hard. You may consider an interest rate strategy to minimise your exposure to interest rate increases.
2. Do you understand the commercial property market?
 - o By buying your premises, you make property ownership a core part of your business. You become exposed to an unpredictable market.
 - o If you buy at the wrong time, or in the wrong area, or the wrong type of building, you may end up losing money.
 - o In a recession, it may be hard to let or sell your premises without a significant loss.
 - o But that may be the exact time when you are forced to sell.
3. Will you want to relocate, or change the size or layout of your premises?
4. Are you prepared to handle the extra work and expense that will be involved in maintaining your premises?

There are many other issues to consider for small business. We would welcome the opportunity to work through the decision making process with you.

WORKCHOICES AND WHO IS COVERED

Employees and employers covered by the new federal system

The new WorkChoices legislation draws on a combination of constitutional powers to cover the majority of employees and employers in Australia.

Employees who are not eligible to be covered by WorkChoices including employees of unincorporated busi-

"In Brief with Elite"

nesses, some state government employers, sole traders and partnerships (apart from those in Victoria and the territories), will be covered by relevant state laws.

Many employees and employers who were covered by the federal system prior to WorkChoices will be able to receive the same entitlements and conditions that they are currently receiving.

There will be a separate transitional system for employers and employees who are not a constitutional corporation in the federal system prior to commencement of WorkChoices. This transitional system will operate for up to five years to provide employers that run unincorporated businesses a chance to decide whether they want to incorporate and join the new federal system. At the end of the transitional period, employers and employees that have not moved into the new federal system will move into the state system.

Constitutional corporations and other employers who are not currently part of

the federal system, but who are covered by WorkChoices, will move into the new federal system.

For further information about the provisions available for employers and employees who will be moving between federal and state systems please contact us.

WORKCHOICES AND TERMINATION OF EMPLOYMENT

Unfair dismissal

Under WorkChoices, employers who employ up to and including 100 employees will be exempt from unfair dismissal laws.

An employee may lodge an unfair dismissal claim with the Australian Industrial Relations Commission (AIRC), if he or she has worked for the employer for six months or more and is:

- employed by a constitutional corporation (see the 'WorkChoices and who is covered' fact sheet); or
- employed in Victoria or a territory; or
- a Commonwealth employee; or
- employed in interstate or overseas trade or commerce as a waterside worker, maritime employee or flight crew officer.

Exclusion from federal unfair dismissal laws

Employees that are excluded from federal unfair dismissal laws include:

- seasonal workers;
- employees engaged under a contract of employment for a specified period or a specified task;
- employees on probation;
- casual employees engaged for a short period;
- trainees; and
- employees earning \$98,200 or above.

Employees who are dismissed for a genuine operational reason are also not allowed to pursue an unfair dismissal claim. Genuine operational reasons include economic, technological, structural or similar matters relating to the employer's business.

MAKING TAX COMPLIANCE EASIER FOR SMALL BUSINESS — THE NEW SMALL BUSINESS FRAMEWORK

The Treasurer and Minister for Small Business announced that the Government will introduce legislation to standardise the eligibility criteria for small business tax concessions from 1 July 2007.

Separate eligibility tests currently exist for GST, the Simplified Tax System, capital gains tax (CGT), fringe benefits tax (FBT) and pay-as-you-go (PAYG) small business concessions.

As a result of the announcement, any business with annual turnover of less than \$2 million will be able to access any of these concessions.

Small businesses will only have to apply one eligibility test to access a range of small business concessions. This demonstrates again the Government's commitment to reducing red tape and compliance costs for small businesses.

This proposal incorporates and goes beyond the package of measures to assist small businesses announced in this year's Budget.

Small businesses meeting the \$2 million annual turnover test will not need to make any further decisions to enter into the new arrangements, nor will they be obliged to adopt any concessions not suited to their requirements. Any business meeting the new small business definition will be able to choose those concessions that meet its business needs.

A single definition of small business will result in reduced compliance costs for some 2 million Australian small businesses, or 96 per cent of all Australian businesses.

Businesses with existing access to CGT, FBT or PAYG small business concessions will not lose out under the new arrangements. Those benefits will apply to businesses that meet the new small business definition *or* that meet other existing eligibility criteria.

The measure will apply from 1 July 2007. The Government will be consulting publicly on the draft legislation in early 2007.

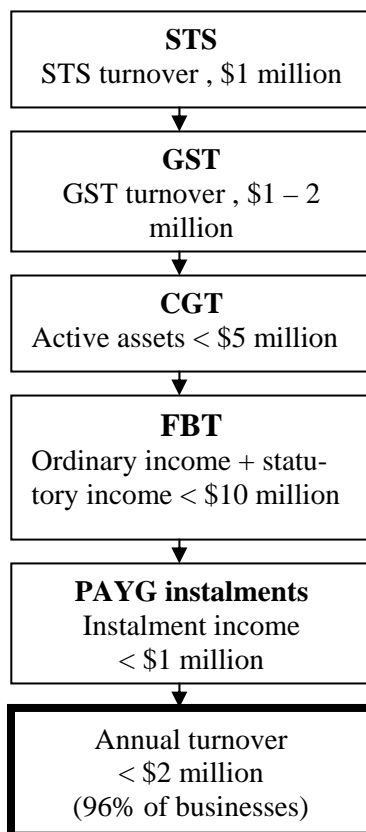
The announcement represents further cuts in tax of \$150 million to small business, bringing the total cost of aligning the definition of small business in tax laws to \$277 million.

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THE NEW SMALL BUSINESS FRAMEWORK

Current structure

5 different small business tests



Small businesses would be eligible for:

Simplified trading stock rules
 Simpler depreciation rules
 2-year amendment period
 Immediate deductions for certain prepaid business expenses
 Entrepreneurs' tax offset
 Choice to account for GST on a cash basis
 Choice to pay GST by instalments
 Annual apportionment of GST input tax credits
 Simplified accounting methods for GST
 CGT 15-year asset exemption
 CGT 50% active asset reduction
 CGT retirement exemption
 CGT roll-over provisions
 FBT car-parking concession
 PAYG instalments based on notional tax

MERRY CHRISTMAS?

Christmas may be a time for giving, but employers should know that they don't have to apply the 'giving' principle when dealing with the Tax Office. Paying tax on employee entertainment and gifts is a sure fire way to take some of the cheer out of Christmas. Tax practitioners should advise clients who want to reward their staff for a year's worth of hard work that there are a few things they can do to make Christmas a little less taxing.

An office Christmas party

Throwing a Christmas party for staff can be problematic for employers. For example, your client, Frank, who runs a printing business recently asked you whether the costs of hosting a lavish Christmas party for his staff at their business premises would be deductible. You set about informing him of all the potential tax implications he faces if he carried out this 'simple' exercise.

The cost of providing a Christmas party for staff at work is non-deductible but exempt from FBT. That is, unless the employees bring a spouses or friends. The costs of entertaining 'associates' of employees are deductible but subject to FBT. By contrast the costs of entertaining clients and business contacts is not subject to FBT but is non-deductible. What began as a simple Christmas offering to staff suddenly became a maze of rules with differing tax outcomes - all before apportionment is even considered!

A restaurant party

Frank, not overly impressed by this advice, then asks whether it would be easier having the party at a local restaurant.

Unfortunately, from a tax viewpoint, it is not easier. The complexity of the FBT rules means that, if the function is not held at Frank's premises, the costs of entertaining employees remains non-deductible and becomes subject to FBT. It appears that 'it's not what you eat and drink but where you consume

it' which, at least partially, determines the tax outcome.

A cheaper party

However, Frank's Christmas function will be treated as an exempt minor benefit if it costs less than \$100 per employee. But don't rejoice too quickly. Nothing is quite this simple. The \$100 threshold applies per employee including associates. This reduces the exemption for couples to \$49 per head, or even less if a family function is held.

To make matters worse, all benefits associated with a Christmas function must fit within the 'minor and infrequent benefits' cap of \$100 per employee. For example, the cost of bottles of wine and hampers distributed at a Christmas function become benefits associated with the function itself. That outcome may be different if, for example, the hampers were distributed in the office two days before the Christmas party.



DON'T RESPOND TO THIS 'ATO' LETTER

Employers are being warned to be on the lookout for hoax ATO letters seeking personal information about their employees.

The letter states that the ATO has responsibility under the Workplace Relations Act 1996 for ensuring federal awards, agreements and legislation are observed, but the ATO does not

administer this Act.

The letter suggests the employer is being audited, and asks them to provide personal information about their workers, including employees' names, dates of birth, addresses, sec, tax file numbers, gross annual salary, and Australian citizenship details.

DISCLAIMER

The information contained in this newsletter is of a general nature and is not constituted as advice.

Elite Financial Solutions take no responsibility for clients who act upon the information contained in this newsletter without consulting us first.

QUOTE OF THE QUARTER

From the desk of James Solomons:

Long range goals keep you from being frustrated by short term failures "J.C. Penney"

FINAL THOUGHTS

At Elite, we want to grow your business and your personal wealth. Let's face it, at this time of year we all need that extra bit of money to get through Christmas and the holidays, and what better time to start a savings plan to prepare for next year!

Elite has always focused on helping small businesses to achieve their full potential. Often the hardest part is identifying exactly what direction you want your business to go forward in and also how these goals are directly related to and affect the achievement of your personal goals. We will help to get you thinking about your goals and develop a business plan which will set out what needs to be done to achieve these goals.

For more information, please call our office and speak with one of our financial services consultants.

