

# "In Brief with Elite"

Vol. 9 – March 2007



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Welcome to the 9<sup>th</sup> edition of "In Brief with Elite".

In this edition we have recommendations on boosting super savings, information on deductible gift recipients, record keeping when you make a loss and most importantly the \$1million super window of opportunity.

As we head into the last 3 months of the financial year, now is the time to do some tax planning. Shortly your Client Manager will be contacting you to obtain your business trading information for the 9 months ended 31 March 2007. Please have this information compiled and available so that we can help you implement an appropriate tax minimisation strategy before the end of the financial year.



## NEW STAFF

We would like to introduce the newest staff members who have joined the team at Elite.

Ian Markus - Accountant  
Megan Andrew - Office/Financial Planning Assistant

## IMPORTANT DATES

**February 2007 Monthly IAS/BAS**

21 March 2007

**March 2007 Monthly BAS/IAS**

21 April 2007

**March 2007 quarter BAS/IAS**

Self Prepared 21 April 2007

EFS Prepared 12 May 2007

**April 2007 Monthly BAS/IAS**

21 May 2007

**FBT 2007**

21 May 2007

## RECOMMENDATIONS TO BOOST SUPERANNUATION SAVINGS

The Association of Superannuation Funds of Australia [ASFA] has made various recommendations aimed at boosting the retirement savings of lower and middle income earners.

Be aware of the methods available to boost your superannuation savings.

- The ASFA has made various submissions to the Government to complement the superannuation changes that were announced in the last Federal budget.
- The focus of the Pre-Budget submission is to boost the retirement savings of lower and middle income earners and to encourage young Australians to become more engaged in their savings plan.
- The measures recommended by the ASFA include:
  - Introducing arrangements whereby employees can contribute an additional 1% of salary into super following a pay rise or the commencement of a new job, up to a maximum of 3%;
  - Raising the income threshold at which the full super co-contribution can be received to \$40,000, and phasing out the scheme at \$60,000;
  - Allowing super funds to provide members with projections of their future benefits as a means to assist in their retirement planning; and
  - Legislating for superannuation salary sacrifice practices to ensure that employees are aware of the benefits, and that employers do not deny employees the right to salary sacrifice contributions to super.

There have been many changes made to superannuation over recent months.

Remember to contact us if you require any clarification or advice.

### ***SMSFs – DON'T FAIL THE SOLE-PURPOSE TEST***

A Self Managed Superannuation Fund (SMSF) may breach the sole purpose test if it undertakes certain investments.

The sole-purpose test requires that a SMSF must be maintained for at least one of the following core reasons:

- a. Paying benefits to members on or after retirement from gainful employment, or when they have reached a prescribed age; or
- b. Paying benefits to a member's dependants in the event of the member's death.

In determining whether a fund meets the sole purpose test, it is necessary to examine the character and purpose of the fund's investments.

An often-asked question is whether a business that regularly builds and sells homes is an acceptable activity to be financed by a SMSF.

According to the Tax Office, whether a SMSF breaches the sole purpose test will depend on how the development occurs.

A SMSF which invests in certain business ventures (such as a retail fashion store) will almost inevitably breach the sole purpose test.

However, the fund could own the real estate out of which the business is run.

The sole purpose test may also be breached where a member of a superannuation fund obtains an advantage by using the assets of the fund for his/her personal benefit, such as artwork displayed in a member's home. An example of a prohibited activity would be:

- a) where a member of the fund is a building professional; and a
- b) SMSF makes payments to the member for building a rental property on land owned by the fund; and
- c) the payment is not on an arm's length commercial basis.

The Tax Office is also reviewing certain arrangements described as joint ventures between SMSFs and fund members.



### ***TAX OFFICE ANNOUNCED NEW MEASURES TO MINIMISE REFUND DELAYS***

The Tax Office has been criticised for not being proactive or prompt enough in notifying taxpayers or their tax agent of delays in refunds and the cause of these delays.

In order to meet its benchmark of 28 days in issuing tax refunds the Tax Office has implemented certain measures.

A tax agent may contact the Tax Office fourteen days after lodgment if a refund has not been issued.

The Tax Office will then:

- a. Direct the case to a review section; and
- b. Issue a refund or contact the tax agent to clarify any details within fourteen days.

If the time frame is not met, an enquiring agent will be transferred directly to the review section where the case is handled.

The Tax Office cited several reasons a refund may be held back including incomplete data, error or fraud.

The Tax Office is also considering means to automatically advise taxpayers of delays with their refunds through either the tax agent's portal, telephone or by mail.

Remember the Tax Office's benchmark for issuing tax refunds is 28 days.

Contact us if you have not received your refund within 28 days.

### ***DEDUCTIBLE GIFT RECIPIENTS – WHICH ENTITIES QUALIFY?***

Are you an entity that makes donations or gifts during an income year?

You may be surprised to learn which organisations qualify as eligible gift recipients, making your donation or gift to them deductible.

A gift or donation is an allowable tax deduction as long as it is made to an organisation that is a Deductible Gift Recipient (DGR).

A DGR is either endorsed by the Tax Office or listed by name within tax law.

To be endorsed, an organisation must:

- Have an Australian business number (ABN)
- Maintain a gift fund, and
- Apply to the Tax Office for endorsement as a DGR.

Cultural organisations of a public nature such as libraries, art galleries and museums are generally included within tax law as DGRs.

A donation or gift must also meet several other conditions to be deductible.

A complete list of endorsed DGRs can be obtained from the ABN Lookup website at [www.abn.business.gov.au](http://www.abn.business.gov.au).

Remember to be tax deductible, the donation or gift must not provide material benefit to the donor.

### ***RECORD KEEPING WHEN YOU MAKE A LOSS***

According to a recent Tax Office Determination, a taxpayer who incurs a tax or capital loss should retain records relevant to that loss for longer than the record retention period prescribed under income tax law.

Taxpayers are generally required to retain documents which are relevant to working out their taxable income and deductions for five years (the statutory

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retention period) from when they lodge an income tax return.

The Tax Office has issued a Draft Taxation Determination which states that a taxpayer who makes a tax or capital loss should retain relevant records relating to that loss until the later of:

- The end of the statutory retention period; or
- The end of the statutory period of review for the assessment year for which the loss is fully deductible or the net capital loss can be fully applied.

The statutory period of review is the time during which the Tax Office may amend your tax assessment.

It is generally two years for individuals (including STS taxpayers) and four years for all other taxpayers.

### **COMMISSIONER DISCRETION – NON COMMERCIAL LOSSES**

The Tax Office recently released a draft ruling providing guidelines on how the Commissioner's discretion, contained in the non-commercial loss provisions, may be exercised.

The non-commercial loss provisions prevent taxpayers from offsetting losses generated from a non-commercial business activity (e.g. a hobby farm) against the taxpayer's other assessable income.

There are four tests that apply to determine if a loss can be considered a business loss and hence deductible against the taxpayer's other income.

In addition to these tests, there is also a provision that allows the Commissioner to exercise his discretion in circumstances where he determines it would be unreasonable to defer the loss.

The ruling indicates that the Commissioner may exercise his discretion in the following circumstances:

special circumstances: the business activity has been affected by

special circumstances outside of the taxpayer's control, specifically including: flood, drought or natural disaster;

nature of business: an inherent characteristic of the business would necessarily cause the taxpayer to fail one of the tests mentioned above; and

objective expectation: there is an objective expectation that during a commercially viable period of time, the activity will meet one of the four tests.

### **INDIVIDUAL TAX PAYERS**

The Tax Office have written to 210,000 tax payers to ensure they have a look at their tax returns before lodging them. They have also asked a further 15,000 tax payers to give some substantiation to the claims that tax payers may have or might make. The Tax Office are also looking at tax payers who have high work-related expenses.

65% of investors with rental properties report losses. With that sort of dynamic the Tax Office want to ensure that the losses are appropriate and legitimate so this area remains of focus for the coming year.

With technology the Tax Office can compare tax return information with a whole range of third party information. The Tax Office get information from state revenue offices, other government agencies, the Australia Stock Exchange, share registries, managed funds – so they have a much richer source of data to provide them with the analytical capacity to pinpoint better areas of potential risk.

The Tax Office will be writing to 23,000 individuals who purchased investment properties over the last year again explaining what tax payers' rights and obligations are in relation to capital gains tax if they were to dispose of those properties.

### **DON'T FORGET THE SUPER CO-CONTRIBUTION**

The eligibility criteria for the co-contribution have now been widened to include more people.

You will be eligible for the co-contribution in a year of income if:

- you make personal superannuation contributions to a complying superannuation fund or a retirement savings account (RSA);
- your 'total income' (assessable income plus reportable fringe benefits) is less than \$58,000 (This may be different to your taxable income);
- 10% or more of your total income is from eligible employment;
- you do not hold an eligible temporary resident visa at any time during the year;
- you lodge an income tax return for the year of income; and
- you are less than 71 years old at the end of the year of income.

You do not need to apply for the co-contribution.

Your co-contribution is payable after:

- you have lodged your income tax return
- your superannuation fund has lodged a member contributions statement (MCS) for you, and
- the Tax Office has received any additional information required

The tax office generally receive the required information from superannuation funds by 31 October following the end of the financial year

Once the Tax Office has received all the necessary information, your co-contribution should be paid to your superannuation account within 60 days. The Tax Office will then send you a letter with details of your co-contribution. We will add interest to your co-contribution if we make the payment late.

As long as you make personal superannuation contributions and meet the eligibility requirements, the co-contribution will be paid in to your superannuation account each year.

# The \$1 Million Window of Opportunity

The biggest opportunity in super – maybe ever – is the chance for you to make after tax contributions of **up** to \$1million to your super fund. But you need to act now because the \$1million window closes on 30 June 2007.

From 1 July 2007 you will be limited to annual contributions of \$150,000. The \$1million top up is a last minute concession by the government. It is particularly helpful if you are retiring soon and planning to sell off an asset or two and invest the proceeds in super.

You're eligible to consider the following strategies and make after-tax contributions up to \$1million if you:

- Are under 65, or
- Are between 65-74 and meet the work test requirements, ie up to 40 hours gainful employment over a 30 day period during the relevant financial year.

Note: If you were aged 64 between 10 May and 5 September 2006 you do not have to meet the work test. If you were 74 between these dates you can contribute if you meet the work test in the 05/06 or 06/07 years.

You may not have a 'spare' \$1million lying around but if you're thinking about retiring soon and planned to sell an asset like an investment property to top up your super fund, now's the time to do this – but you need to act quickly!

## CASE STUDY 1:

Jane is 51 and has just sold a property for \$850,000, the proceeds of which she has placed in a high-

interest savings account. She has earmarked these funds for retirement.

Jane is earning \$80,000 per year so is paying 40% tax (her marginal rate) on the interest from her savings. If she were to make an undeducted contribution of \$850,000 to her superannuation fund before 1 July 2007, she would only pay 15% tax on the earnings. On reaching age 60, she could withdraw the balance of her superannuation account as a lump sum tax-free or use the funds to start an allocated pension and provide an income stream which would also be tax-free.

## CASE STUDY 2

James, 52, is an Orthodontist on a \$110,000 salary at a public hospital. He is also employed at a private local dentist clinic on a salary of \$200,000.

In the current financial year, James salary sacrifices the maximum allowable, \$105,113 from both his hospital salary and his private dental practice salary, leaving him with a gross salary of \$99,774 compared with \$310,000.

By doing this he slashes the income tax payable in half from \$124,500 with a nil salary sacrifice to \$60,790. After allowing for contributions tax, that is a net super contribution of \$178,692.

This double deductible strategy of \$105,113 from 2 employment sources, will cease from 1 July 2007. The new rulings means that James will be limited to \$100,000 in total deductible contributions from 1 July 2007. You are limited to \$50,000 in total deductible contributions from 1 July 2007 if you are under 50 years of age.

Contact Christine, our dedicated Financial Planner on 9868 3900 to determine how saving through superannuation can benefit you.

## QUOTE OF THE QUARTER

From the desk of David Harrison:

"Obstacles are those frightful things you see when you take your eyes off your goals".

## FINAL THOUGHTS

Are you looking forward to a comfortable retirement? With the correct advice and retirement planning you could be retired keeping your current life style. Remember it is never too early to plan for your retirement – don't wait till its too late. To ensure you take full advantage of the \$1million superannuation window of opportunity please call Christine Hallowes and organize an appointment to discuss the benefits this will have for you.

From all of us at Elite have a safe and Happy Easter!



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