

Practice Update

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APRIL 2008

Cash economy benchmarks

The ATO has developed new cash economy benchmarks for the building industry. It consulted widely with the building industry and, depending on the size of the business, has developed expected levels of income, expenditure and profits.

These benchmarks help them try and establish how much income a business has generated by looking to the amount spent on purchases of stock, and other materials used in the business.

The new industries for which benchmarks have *initially* been developed are:

- ◆ Bricklaying
- ◆ Concreting
- ◆ Fencing
- ◆ Roofing
- ◆ Floor sanding
- ◆ Painting

The Tax Office is adamant that the benchmarks will not be used by tax auditors, but will be available to encourage taxpayers to comply with the law once they are aware of their existence.

Protecting clients' tax file numbers

The Tax Office has reminded taxpayers to keep their tax file number (TFN) as safe as they would a passport or bank account details.

It said that people are increasingly being asked to provide their TFN when it isn't needed and the ATO

has seen instances of bogus job advertisements on the internet and in newspapers that ask for all sorts of personal details including TFNs.

Only certain people can ask for a taxpayer's TFN. The most common are:

- the Tax Office when discussing a taxpayer's tax records;
- a new employer once a person has started work;
- a bank or other financial institution;
- tax agents;
- Centrelink; and
- a taxpayer's superannuation fund.

It does not have to be provided to *potential* employers.

The ATO says that anyone who believes their TFN has been stolen or misused should contact their tax evasion line on 1800 060 062 for help.

ATO says don't hide income or assets offshore

The Tax Commissioner has issued a statement warning people against hiding income or assets offshore.

Mr D'Ascenzo said that "The message is simple – people should be cautious when considering whether to use offshore structures or tax havens, including Liechtenstein, for abusive purposes."

"People who use offshore structures to deliberately

hide assets or income in tax havens, such as Liechtenstein, can face serious penalties including criminal prosecutions."

Editor: For those clients who haven't heard, a former employee of a bank in Liechtenstein has sold the details of thousands of account holders to investigators in Germany.

Revenue authorities around the globe are lining up for information which may result in scores of potential prosecutions.

The Commissioner stressed that taxpayers who contact the ATO before they are the subject of an audit will be entitled to substantial reductions in shortfall penalties under its offshore voluntary disclosure initiative.

ATO targets deposits to super funds

In a recent speech, the Commissioner of Taxation has indicated that the ATO are now focusing on looking into the source of deposits made to superannuation funds.

He said that "The strong flow of funds into self managed super has prompted us to examine their sources. We are identifying taxpayers who use under-reported or concealed sources of income."

"We are also investigating cases where real property has been placed into self managed funds without paying capital gains tax on the transfer."

Using available data, the Tax Office is also checking that the 2000 or so trustees who accessed the transitional \$1 million contribution cap last year met their obligations in respect of capital gains tax.

Health insurance policy holders to get CGT relief

The Government intends to change the law, from 1 July 2007, to provide CGT relief for policy holders of health insurers who receive shares when their health insurer demutualises.

In addition, shares for 'lost policy holders', who, for example, are unable to receive shares because they reside overseas or have not agreed to receive their shares, will be held on trust for them.

The cost base for policy holders will be either:

- based on their share of their health insurer's net tangible assets; or

- market value cost base where they are pre-CGT policy holders.

A similar cost base will also be provided for any rights that post-CGT policy holders surrender for a cash payment as part of their health insurer's demutualisation.

When can a shed be a residence?

Editor: This is the case of a taxpayer who bought and sold land for a profit. She personally went before the Administrative Appeals Tribunal (AAT) and

- ◆ *was able to obtain the CGT principal residence exemption on a shed;*
- ◆ *narrowly missed out on almost a full CGT exemption; and*
- ◆ *was able to have the cost base of the property increased on estimated costs.*

The Facts

Basically, the taxpayer purchased a vacant block of land on 31 July 1996 for \$166,000 and in June 2002, entered into a contract with a builder to erect a dwelling on the land.

In September 2002, the building contract was terminated, but, in the meantime, the builder had erected a two room shed on the property which had been built as a storage and lunch room.

Even though there was no electricity or gas and she had to use candles for light, the taxpayer moved into the two room shed for approximately four months from (about) 1 January 2003.

In June 2004, it was sold for \$380,000.

Editor: Apparently, such accommodation was not unusual for the taxpayer who was in the habit of showering at work every day. The AAT accepted her evidence that it had been her residence for four months.

Had she moved into the shed immediately after it had been completed, under the CGT provisions, she would have been able to treat it as her residence for the four years previous.

However, she waited 4 months and unfortunately lost that exemption. She did represent herself and maybe doing so cost her winning that point.

Although the taxpayer was unable to produce receipts for certain expenditure, the AAT was prepared to accept that the additional expenditure of \$19,475 had been incurred for fence repairs, mowing costs, sales commission, advertising, etc.

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.