# TAX MATTERS

TAX NEWS FOR YOU AND YOUR BUSINESS

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## A blow for superannuation

**Changes to superannuation laws in the 2012 Federal Budget may cause some Baby Boomers to rethink their retirement plans as increased contributions may now lead to cap breaches.**

Individuals with an income exceeding $300,000 will have a tax concession on their contributions raised from 15% to 30% as of 1 July 2012.

The tax includes all concessional superannuation contributions, including super guarantee payments.

Last year the Government created higher contribution limits for individuals aged 50 years and over with a superannuation balance of less than $500,000.

This would have allowed these people to make up to $25,000 more in concessional contributions than under general concessional contributions cap.

Concessional contributions include employer contributions for members of defined benefit funds.

There will be no changes for people over 50 with an income of less than $300,000 per year. The Government has also announced a deferral of the start date, which means until 1 July 2014, all individuals have a cap of $25,000.

The announcement includes a provision to prevent the new surcharge from applying on top of excess contributions tax. This may be a drawback for those taking advantage of 'transition to retirement' strategies.


The changes could result in accidental contribution cap breaches and lead to further contributions tax assessments for clients.

Many people planning their retirement may need to assess what these changes mean for them, and individuals over 50 may need to re-assess their salary sacrifice arrangements.



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# Loss carry-back scheme to encourage investment

Companies will be permitted to carry-back up to $1 million of losses annually against taxable income arising two years prior.

It is an attempt to stimulate investment and risk taking in new businesses and will enable companies to receive a refund against tax previously paid.

The measures will provide some relief for companies that suffer temporary losses. Whilst this may be seen as a positive step for business owners, there are factors that must be taken into consideration before being able to take full advantage of the new rules.


In 2012/2013 a one year loss carry-back will apply. Tax losses incurred in that year can be carried back and offset against tax paid in 2011/2012.

From 2013/2014 onwards, tax losses can be carried back and offset against tax paid up to two years earlier.

Companies will be able to carry-back up to $1 million of losses each year. This measure may provide a cash benefit of up to $300,000 a year.

Any loss carry-back will be capped at the balance of a company's franking account. This will ensure that a company is only able to claim a refund on tax that was already paid and has not been used to frank dividend payments.

It also avoids potentially troublesome interaction with franking deficit tax (which hits a company when its franking account balance becomes negative).

The loss-carry back tax reform is a recommendation of the Business Tax Working Group.

The Government is expected to hold further discussions in the near future.

# Increased director obligations

Each year the ATO identifies several industries where employers have a higher risk of not complying with their super obligations.

In 2012, the ATO will focus on the following high-risk industries:

- Cafes and restaurants
- Real estate services
- Carpentry services.

Typical mistakes that have been identified by the ATO include:

- Paying insufficient super contributions
- Missing the quarterly cut-off dates for payment
- Failing to meet super obligations for contractors,
- Not keeping accurate records
- Not providing an employee's tax file number on to their super fund.

The Government has recently introduced draft legislation that proposes to increase directors obligations in relation to employee superannuation.

The proposed changes operate to extend penalty regime to make directors personally liable for unpaid superannuation guarantee amounts. It also ensures that directors cannot escape their director penalties by placing their company into administration or liquidation.

The amendments also serve to make directors personally liable when unpaid PAYG withholding or superannuation guarantee remains unpaid three months after its due date.

Company directors now have to deal with an ever changing legal landscape. This means increased understanding of tax, superannuation, human resources and company laws.

These recent changes significantly increase the onus on directors to become aware of what these new laws mean. If you feel any of these issues may affect you or your business, please feel free to contact our office to discuss the matter.

# Write-offs to help drive investment

A range of measures in the budget have been designed to stimulate investment spending. This will benefit small businesses still suffering from the Global Financial Crisis.

The changes relate to previously enacted or announced measures and will directly impact small businesses from 1 July 2012.

These include:

- Allowing small businesses to write-off depreciating assets costing less than $6,500
- The introduction of simplified pooling rules for depreciating assets costing $6,500 or more
- Immediate deductions of up to $5,500 for the cost of a motor vehicle (even if the cost exceeds $6,500)

The Government believes these measures will free up cash flow and encourage businesses to invest. The reforms will reduce compliance costs to some small business tax payers.

However, tax payers must satisfy the $2 million 'turnover test' to qualify as a small business, and those who fall outside the boundary may not be able to access the reforms.

# ATO extends compliance program

The Government has renewed its commitment to the ATO's compliance program after recognising the temptation for many businesses to cheat on their GST.

The Government has announced that it will provide $195.3 million to the ATO in 2014/2015 and 2015/2016 to extend the GST compliance measures that were announced in the 2010/2011 Federal Budget.

This will ensure that the ATO can continue to closely examine issues relating to fraudulent GST returns; under-reporting of GST liabilities; failure to lodge GST returns; and outstanding GST debts.

The extended compliance program is anticipated to result in an additional $432 million revenue in 2014/2015, taking the increase from this measure to $986.2 million over the forward estimates period.

It is clear that while the Government continues to move forward with its GST administration reform agenda, the ATO will maintain a high level of scrutiny of taxpayer compliance.


## TAX FOCUS:
## *LOYALTY PROGRAMS GST*

The role of GST in regards to consumer loyalty programs has been clarified with the passing of the 4 April 2012 ruling.

A loyalty program is an agreement between customers and vendors. The customer benefits from remaining loyal to a brand through a points system or a series of other benefits.

When the customer redeems their points with the vendor, the program's partners are reimbursed for the provision of their goods to the loyalty program.

The ruling determines whether the supply of the product or goods is GST free.

In guidelines applying to loyalty program arrangements, the supply of rights from the operator to the program partner is treated as a taxable income.

In some circumstances the tax is not disputed by the input tax credit entitlement of the program partner.

This ruling is effective immediately. There is an allowance period of six months from the date of issue to allow operators and vendors to adjust their systems.

# SMSF compliance and insurance

**The Government has announced changes to the management of assets in relation to self-managed superannuation funds.**

The new rules relate to insurance and the importance of having the right policy for fund assets. The regulations require all collectables to be insured in the name of the self-managed superannuation fund (SMSF) within seven days of acquisition. The fund may lose its complying status if assets are not adequately insured.

The key items in these changes are the collectibles listed under the SMSF policy, including jewellery, antiques, artefacts, coins, medallions and more.

The items must be listed in the policy in the name of the fund, which has an insurable interest, and cannot be listed under any other insurance policy. The SMSF must be the beneficiary of accidents or damage that listed items may encounter, and the subsequent payout.

A separate policy for each item is not necessary. A 'group' policy can cover all the assets, provided they are clearly identifiable as fund assets.

The rules are effective immediately, although a transitional arrangement is in place for assets that were owned prior to 1 July 2012. Each fund has until 1 July 2016 to implement a policy for all items. Having the appropriate insurance in place for valuable items is a must for any collector of valuables.

# Trust resolution deadlines

**Trustees who distribute the income of a trust by resolution must comply with a new ruling from 30 June 2012.**

This ruling applies where distribution of trusts, through a resolution to beneficiaries must do so by the end of the income year (30 June).

If the trustee does not make the resolutions, beneficiaries will not be entitled to the trust income and the trustee may be assessed on the income of the trust.

# Top 10 budget highlights for 2012


## 1 No standard deduction

The Government will not proceed with the standard deduction for work-related expenses
*Increase revenue by $4269m*

## 2 Family Tax benefit A

Increase to payments for Families with children, as well as individuals living off welfare payments
*Expenditure $1844m*

## 3 No company tax cut

The proposal to lower company tax for small businesses will not proceed
*Increase revenue by $1612m*

## 4 Schoolkids bonus

The education expenses tax offset will be replaced with a new Schoolkids Bonus from 1 January 2013.
*Expenditure $1110m*

## 5 Super high contributor's tax

From 1 July, individuals with income greater than $300,000 will have the tax concession on their contributions reduced from 30% to 15%
*Increase revenue by $1030m*

## 6 GST additional compliance

Funding for additional GST compliance activities will be extended for a further two years until 2015/2016
*Increase revenue by $986m*

## 7 Deferral of contributions cap increase

The start date of the 2010/2011 budget measure increasing concessional contribution caps for individuals over 50 with low superannuation balances will be deferred for two years
*Increase revenue by $860m*

## 8 No 50% discount on interest income

This tax discount will not proceed as promised
*Increase revenue by $795m*

## 9 Company loss carry-back

Companies will be allowed to carry back up to $1 million of tax losses in 2012/2013 to offset against tax paid in 2011/2012
*Increase revenue $700m*

## 10 New Income support supplement

This tax gives extra financial support to low income employees with children
*Expenditure $596m*