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Super deductions for self employed contractors

Proposed amendments to the Superannuation Guarantee (SG) legislation have raised the possibility that employers will be able to deduct contributions made to self-employed contractors.

The Bill - Tax Laws Amendment (Loss Recoupment Rules and Other Measures) expands the meaning of an 'employee' to include any persons under contract wholly or principally for labour.

As a result, SG payments made to contractors who are engaged principally for labour will be deductible for the employer.

Superannuation age based contribution limits

Generally, superannuation contributions are deductible for income tax purposes in the year they are incurred, up to certain limits.

The following limits apply to employers and their associates claiming deductions for contributions made for the benefit of an employee, and for individuals claiming a deduction for personal superannuation contributions.

Below are the ATO key superannuation deduction limits for 2005/2006

Age	
Under 35	$14,603
35 – 49	$40,560
50 and over	$100,587

Check with our office for the age based contributions limit required for self employed people.

For more information on paying superannuation to contractors or deductible limits please either Sharryn or Andrew.

Your superannuation death benefit

You might assume that your will controls how all your money will be divided when you die.

That is not necessarily enough to decide what happens to money in your super fund, even if you have started drawing on your super as part of your retirement, for example through an allocated pension. In fact, special rules control how your super fund trustees are allowed to distribute the money, and how that money will be taxed. Under those rules, various people may be entitled to claim a share of your super benefits.

Tips on how to make it easier for everyone

You can take a few simple steps to make things easier for

everyone if you die while you are in a super fund:

1. Nominate to the fund trustee who you want to receive your death benefit.

   You may be allowed to make a 'binding nomination', which the trustee must follow, in which case you can use your will to manage the way your benefit is distributed. Otherwise, you can at least make a 'non-binding nomination' to guide the trustee.

2. Keep your nomination up to date, especially if your wishes or personal situation change (for example, you re-marry) or for binding nominations.

   This can stop people from arguing that your nomination is no longer useful or relevant.

3. Let your fund know if you have several dependants.

   You can explain your wishes for each of them, which is far more helpful than giving your fund no guidance at all.

4. Explain your wishes to your dependants, to help prevent any disputes after you die.

5. Talk matters over with people who may need to prove their financial dependence on you.

   It can help to give them easy access to relevant financial records or written agreements about the support you were giving them, in case they need to prove their claim.

The list above is not exhaustive. In some cases there can be additional complexities when dealing with nominations. Ultimately the decision as to who can receive your death benefits will be influenced by the superannuation law, taxation law and the rules of your superannuation fund combined. For further information contact us.

Dealing with debt

In the unfortunate event that you are contacted by a debt collector, you should be aware that the collector has guidelines on how to appropriately behave towards you.

ASIC and the Australian Competition and Consumer Commission have released a publication which recommends appropriate frequency of face-to-face meetings, telephone calls and other contacts.

A second publication has also been published to help individuals dealing with debt problems, or being contacted by debt collectors, understand their rights.

To review these publications, please go to www.fido.gov.au/asic/asic.nsf or contact our office.

Insurance checklist

No one believes they will really need insurance until an unlikely event occurs and your business is put at risk. This is the whole point of insurance - to protect against the unthinkable and unforeseen.

What insurance do you need for your business?

The main types of insurance that a business owner should consider are:

- Personal sickness, accident or permanent disability
- Liability for products, services, faulty workmanship
- Damage to customers and their property (public risk)
- Workers' compensation (compulsory)
- Property damage caused by fire, smoke, accident, storm and tempest
- Loss from theft, burglary, fraud and loss of cash
- Business interruption or consequential loss
- Electronic equipment
- motor vehicle third party (compulsory)
- Motor vehicle third party property
- Credit insurance
- Life insurance.

There may be additional areas of insurance which we can advise you on to meet your specific circumstances.

How to ensure your business thrives and is profitable

Owning and operating a business is a challenge at the best of times. To ensure your business thrives keep the following dot points in mind:

- Know where you want your business to be in 12 months, three years and 10 years and document this plan
- Make periodic assessments of each area of your business
- Constantly review and refine your business plan
- Develop a checklist with implementation plans to ensure smooth transition through each stage of your business' growth

- Ensure your financial budgets and marketing plans reflect your implementation plans
- Periodically assess the risks faced by your business and develop an ongoing risk management strategy
- Ensure you comply with OHS practices and you have a safe workplace.

Having made your business thrive how do you grow it further and make it profitable?

- Ensure that all staff are committed to your business objectives, services, products and culture
- Implement and monitor a Code of Customer Service and telephone protocol
- Undertake market research and be prepared to alter your product's direction or focus to respond to the results
- Use salespeople who understand and represent what you are marketing
- Train your staff to maximise every customer encounter
- Professionally manage customer complaints and use them as an opportunity to improve your business
- Listen to your customers, be accessible, know what they want and communicate with them.

Rental property tax tips

When determining what you can and can't claim it is recommended that you consider the following general tax tips.

These are guidelines only, and you should discuss them with your Chartered Accountant to determine how they apply to your particular circumstances.

1. **Be able to justify your claim**
   Make sure you have receipts to justify the deductions you are claiming, and can justify the connection between the expense and deriving the rental income (eg it wasn't also for a private purpose).

2. **Low cost depreciable assets of $300 or less**
   You generally get an immediate deduction for depreciable assets costing $300 or less. However, if you purchased other items during the same tax year and together they form part of a set, or are substantially identical and the combined cost is more than $300, each item must be separately depreciated.

3. **Depreciable assets of between $300 and $1,000**
   Subject to certain conditions, these assets can be ‘pooled’ and the total cost depreciated at 37.5 per cent, which may be more favourable than separately depreciating them.

4. **Allocating total purchase price**
   If you purchase property with depreciable assets (eg. dishwasher, clothes dryer etc.), you must allocate the total purchase price between the property and other items on a reasonable basis. If the sale contract does allocate the purchase price, the ATO may challenge it if the amounts allocated appear unreasonable.

5. **Part of the building**
   Items such as built-in wardrobes, swimming pools, electric cabling and security screens are treated as being part of the building and are not depreciable assets. Expenditure on ‘capital works’ (eg. the building and surrounding structures, driveways etc) is generally deductible over 40 years at 2.5 per cent. There are restrictions on claiming it on capital works already constructed when you purchased the property.

6. **Improvements**
   The cost of repairs to the property that amount to an improvement, and don't merely restore it back to its original condition, is generally considered capital and not deductible.

7. **Repairing existing wear / damage**
   The cost of renovations or repairs to fix damage or wear in existence at the time you purchased the property are generally considered capital and not deductible.

8. **Renovate and sell**
   If your intention was to renovate and sell at a profit, rather than a long-term income producing investment, you may be taxed on the entire profit as a ‘profit-making scheme’. This falls outside the capital gains tax (CGT) rules so you will not be eligible for the 50 per cent CGT concession.

9. **Body corporate fees**
   These fees are generally deductible. However if a component is for a special-purpose sinking fund rather than general running of the complex, it may be considered capital and not deductible.

10. **Travel to inspect property**
    You can claim a deduction for the cost of travel to inspect the rental property. If there was also a private purpose to the trip (eg a holiday or to visit family or friends) then you can only deduct a portion of the travel cost and potentially none if the property inspection was merely incidental to the private purpose for the trip.

11. **Below market rent**
    If the property is rented to family or friends for below market rent, the ATO may treat this as a 'private' arrangement and only allow you to claim sufficient deductions to offset the rent, but not to make a tax loss.

12. **Mortgage with redraw facility**
    If the mortgage to purchase the property has a redraw facility, think carefully before re-drawing to fund something private such as buying a car or a holiday. The interest expense must be apportioned between the 'deductible' and the 'private' portion of the total borrowings, and the calculations can be complicated.

13. **Selling the property**
    Make sure you declare in your tax return any capital gain when you sell the property. If you owned it for more than 12 months and it wasn't a 'profit making scheme' as mentioned above, you are only taxed on 50 per cent of the capital gain after first offsetting it against any capital losses. If you lived in the property at some stage as your main residence, it is recommended that you speak to a Chartered Accountant about whether you qualify for the main residence CGT exemption (the rules can be complex).

Deductions for sponsorship

The ATO issued an interpretative decision (ID) on deductions and expenses: sponsorship of motorcycle racing (ATO ID 2005/284).

In this case the taxpayer operated a business and intended to sponsor motorcycle racing to gain exposure from the sponsorship in the form of advertising to benefit his business.

The ATO's summary was as follows:

The taxpayer was entitled to claim a deduction for sponsoring the motorcycle racing because the arising exposure would benefit his business in the form of advertising. In this case the advertising included having the taxpayer's business name on the motorcycles, a support vehicle as well as the clothing and caps worn by the riders.

It is the taxpayer who determines the nature of the expenditure to be undertaken in conducting their business (Snowden & Willson's Case).

Advertising in the form of sponsorship directed to enhance the income producing activities of the business are deductible under section 8-1 of the Income Tax Assessment Act (ITAA) 1997.

Estate planning

Planning for blended families

Divorce is at best of times a difficult and tumultuous time, and when combined with potential remarriage and children from more than one relationship can lead to significant estate planning implications.

To ensure that you estate is allocated the way you want it to consider who you wish to benefit from your estate, and some of the options available to you.

Identifying the potential beneficiaries

It is crucial when planning a review of your estate that you take time to review some really basic questions to assist you in coming to terms with:

> Who do you want to take care of?
> Who is legally able to make claim on the estate?
> Are there former spouses or children from previous relationships?
> Have there been previous property or other settlements to take into consideration? (ie is child support being paid).

Once you have established the above you can then prepare a list of specifically who you want to prepare for and the specifics of what you want to provide.

DISCLAIMER: The contents of this publication are general in nature and we accept no responsibility for persons acting on information contained herein

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