MARTIN & ORR
ACCOUNTANTS

Practice Update

September 2019

"Outrageous" deductions rejected

The ATO has published some of the most unusual claims that they disallowed last financial year.

Nearly 700,000 taxpayers claimed almost $2 billion of 'other' expenses, but the ATO's systematic review of claims had found, and disallowed, some very unusual expenses, including:

- claims for Lego sets bought as gifts for children, and sporting equipment or membership fees for their child athletes;
- claims for dental expenses ("believing a nice smile was essential to finding a job");
- some taxpayers tried to claim the purchase of a new car (in excess of $20,000 each), with one "particularly charitable" taxpayer trying to claim for a car purchased as a gift for their mother;
- one taxpayer made a claim for "the cost of raising twins", while another claimed for the "cost of raising three children" (and another taxpayer was shocked at the cost of having children, stating "New born baby expensive" when making their claim);
- other taxpayers claimed child support payments, private school fees, school uniforms, before-school care and other school expenses, as well as health insurance costs and medical expenses; and
- one taxpayer decided to claim the cost of their wedding reception.

The **'other' deductions section** of the tax return is for expenses incurred in earning income that don't appear elsewhere on the return — such as income protection and sickness insurance premiums.

The ATO is reminding taxpayers that, in order to claim an 'other' deduction, the expenses must be directly related to earning income and they need to have a receipt or record of the expense.

ATO guidance regarding incorrect ENCC determinations

The ATO has acknowledged that an incorrect excess non-concessional contribution ('ENCC') determination may issue due to a known system problem with the calculation of some SMSF member's total super balance ('TSB').

Editor: Recent super reforms have meant that individuals are restricted from making non-concessional contributions where their TSB equals or exceeds $1.6 million.

This is due to an individual's pension being incorrectly 'double counted' in the calculation of their TSB (which may have occurred where the individual commenced a pension on **30 June 2017 and/or 1 July 2017**).

If an incorrect ENCC determination *does* issue, the ATO advises that there is no need for the SMSF to amend its reporting — an amended determination should issue within 4 weeks.

ATO watching for foreign income this Tax Time

The ATO is urging taxpayers who receive any foreign income from investments, family members or working overseas to make sure they report it this tax time.

New international data sharing agreements allow the ATO to track money across borders and identify individuals not meeting their obligations.

"This year, the ATO has received records relating to more than 1.6 million off-shore accounts

holding over $100 billion and is now using data-matching and sophisticated analytics to identify foreign income that has not been reported," Assistant Commissioner Karen Foat said.

The ATO has shared data on financial account information of foreign tax residents with over 65 foreign tax jurisdictions across the globe, including information on account holders, balances, interest and dividend payments, proceeds from the sale of assets, and other income.

In addition to a small number of individuals deliberately engaging in tax avoidance, the ATO is concerned about a large number that are unsure of how to meet their obligations.

"If you're an Australian resident for tax purposes, you are taxed on your worldwide income, so you must declare all of your foreign income no matter how small the amount may be. This may include income from offshore investments, employment, pensions, business and consulting, or capital gains on overseas assets," Ms Foat said.

"Even if you have paid tax on the overseas income it must be reported to the ATO, however you may be able to claim a foreign income tax offset to account for any foreign tax paid."

The ATO hits the road

The ATO plans to visit almost 10,000 businesses this financial year in all States and Territories, across a variety of industries, as part of their strategy to deal with the black economy (they visited nearly 9,000 businesses in the 2018/19 financial year).

According to Assistant Commissioner Peter Holt, there are a number of businesses in some areas not registered for GST or PAYG withholding, which can be a sign of the black economy, as well as a number of businesses with overdue tax returns.

Other black economy signs that the ATO looks out for are things like lifestyle and assets far exceeding reported business income, sham contracting, a failure to provide pay slips, reports that employers are paying their workers cash in hand and keeping them off the books, or a lack of merchant payment facilities like EFTPOS.

Some businesses are more likely than others to get a visit from the ATO, including:

- Residential building construction;
- Building completion and installation services, and other construction services;
- Building cleaning, pest control, and gardening services;
- Accommodation;
- Pharmaceutical and other store-based retailing;
- Automotive repair and maintenance;
- Cafes, restaurants, and takeaway food services;
- Personal care services;
- Legal and accounting services;
- Computer system design and related services; and
- Adult, community and other education services

Motor vehicle registries data matching program protocol

The ATO will match the data provided by the State and Territory motor vehicle registering authorities against the ATO's taxpayer records with the objective of identifying those who may not be meeting their registration, reporting, lodgment and payment obligations.

Details will be requested where records indicate a vehicle has been transferred or newly registered during the 2016/17, 2017/18 and 2018/19 financial years where the purchase price or market value is equal to or exceeds $10,000 (approximately 2 million transactional records a year).

This data will allow compliance checks on luxury car tax, FBT and fuel schemes, as well as identifying higher risk taxpayers with outstanding taxation lodgments, and those with undeclared income or concealing the real accumulation of wealth.