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Tax Office Scans Car and Real Property Purchases

The Tax Office has advised that it will collect records relating to motor vehicle purchases and real property transfers from relevant government authorities building on data previously collected as part of its ongoing data-matching projects. The data will be used as part of the Tax Office's compliance activities to identify cash economy participants, that is, those who are deliberately not declaring income to the Tax Office. The Tax Office will also focus on ensuring taxpayers involved in property transfers are meeting their GST obligations.

Specifically, the Tax Office said it will request data from motor vehicle registries where a motor vehicle was sold, transferred or newly registered between 1 July 2009 and 30 June 2010 and the value of the vehicle was $10,000 or greater. In relation to real property transfers, the Tax Office said it will collect identity and transaction details from state revenue authorities relating to property title transfers between 1 July 1999 and 30 June 2010.

TIP: The Tax Office uses its data-matching abilities to identify potential cases for investigation. Not declaring income and not meeting GST obligations are just a couple of areas of non-compliance behaviours the Tax Office is focusing on. Other focus areas include taxpayers not declaring capital gains, and not meeting superannuation guarantee and fringe benefits tax obligations, when required.

TIP: State revenue authorities can share information with the Tax Office where it is permitted under the law. For instance, in relation to property transfers, a state revenue authority may compare information with the Tax Office to identify non-compliance with stamp duty obligations.

Compromised TFNs Still a Problem, Says Ombudsman

The Commonwealth Ombudsman, Allan Asher, has released a report which expressed his concerns about how the Tax Office had handled complaints about compromised tax file numbers (TFNs). The report examined eight cases where taxpayers' TFNs had been compromised or incorrectly linked by the Tax Office to another person's TFN.

Mr Asher made reference to the case of Mrs D. He said her difficulties began when the Tax Office wrongly determined she had two TFNs which led to income being incorrectly attributed to her. This was upsetting for Mrs D and difficult to resolve, Mr Asher said. The Tax Office said it has already taken action to improve its response to TFN compromises. However, Mr Asher said, based on further complaints he had received, the problems 'are far from solved and the actions taken by the ATO to date, while a start, do not fully address our concerns'.

TIP: If you believe your TFN has been compromised or incorrectly linked to another person's TFN, please contact our office.

Bonus Units from Employee Benefits Trusts: Tax Office Outlines Tax Issues

The Tax Office has issued a ruling dealing with the tax issues surrounding the issue of bonus units to employees as part of an employee benefits trust arrangement. The ruling sets outs the tax consequences for employers, employees and trustees involved in such arrangements.

Tax Office Highlights Errors in Claiming Deductions for Superannuation

The Tax Office has recently highlighted common errors made by individuals when claiming tax deductions for their personal superannuation contributions. These include not lodging the notice to claim the deduction with their superannuation fund on time and incorrectly claiming their contributions as business or partnership expenses. The Tax Office reminded individuals that personal superannuation contributions are not work-related expenses.

TIP: The Tax Office said the errors came to light after it had matched superannuation contributions data it received from super funds with individual and partnership returns. As a result, the Tax Office said it will take a closer at these claims for the 2009-10 year.

Unit Trust Arrangement Ineffective to Avoid Tax Bill on Shares

In a recent complex case, the Administrative Appeals Tribunal held a trust arrangement entered into by a taxpayer where he transferred the equitable interest in his shares in a company to related units trusts before the sale of the shares did not remove from him either the legal or beneficial ownership of the shares. As a result, the Tribunal found the taxpayer was liable for capital gains tax on the sale of the shares.

HELP Debt Deferred as Special Circumstances Existed

A taxpayer has been successful before the Administrative Appeals Tribunal in seeking a deferment in repaying his accumulated Higher Education Loan Program (HELP) and financial supplement debts for the 2007 and 2008 years. The Tribunal took into account the taxpayer's medical and psychological conditions and low family income and held that special circumstances existed in the case to allow the deferment.

Excess Superannuation Contributions: Superannuation Law Changes on the Way

A Bill is currently before Parliament which proposes to amend the tax law to allow the Commissioner of Taxation to exercise a discretion to disregard or allocate to another financial year all or part of a person's contributions for the purposes of excess contributions tax before an assessment is issued. Currently, investors have to wait until after the excess contributions tax assessment has been issued.

TIP: It should be noted, however, that there is no proposed change to the criteria used by the Commissioner to determine whether the determination should be made, that is, the Commissioner must still be satisfied that 'special circumstances' exist.

TIP: In a recent case, the Administrative Appeals Tribunal decided it could only review the Commissioner's refusal to exercise his discretion to reallocate superannuation contributions if the discretion could be applied before an excess contributions tax assessment was issued. While the proposed amendments (if enacted) will not reverse the Tribunal's decision, they could potentially ensure the refusal to exercise the discretion would be a reviewable decision in the future.

GST and Dodgy Property Arrangements: Tax Office Spells Out Views

Entities sometimes enter into dodgy arrangements that use their associates in an attempt to secure input tax credits on the construction of residential premises for lease and then defer the corresponding GST liability, in some cases indefinitely. The Tax Office has issued a ruling which sets out the Commissioner of Taxation's views on how the general anti-avoidance rules in the GST law would apply to these arrangements.