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Luxury Car Tax Increase

The legislation increasing the luxury car tax rate from 25% to 33% effective from 1st July 2008 has received Royal Assent. The legislation was amended however during its passage through Parliament and provides for a number of concessions.



The concessions mean that:-

1. In certain circumstances primary producers and tourist operators can claim refunds of the additional luxury car tax (LCT) on certain luxury cars up to a maximum of \$3,000 per car. You should note legislative regulations about these refunds are still being drafted.
2. If a purchase or import of a luxury was made before 7.30pm AEST on 13th May 2008, the LCT payable remained at 25%, regardless of when the vehicle is delivered.
3. LCT does not apply to fuel efficient cars under the fuel efficient car limit (\$75,000 for the 2008/09 year)

[More information will be provided as the details are released.](#)

Government Deposit Guarantee



The global financial markets have experienced unprecedented turbulence over the past 12 months and more particularly in the recent months.

In response to this volatility, the Federal Government announced on 12th October 2008, deposit and wholesale funding guarantees.

The Federal Government guarantee on deposit funds will operate for a period of

three (3) years and the wholesale funding guarantee will be withdrawn once market conditions stabilize.

The guarantees apply to the Australian owned banks, Australian authorized deposit taking institutions, subsidiaries of foreign bank, credit unions, building societies and foreign branches of Australian banks, but **not** their subsidiaries.

The deposit guarantee applies to deposits held in eligible ADIs by all types of legal entities including individuals, partnerships, businesses, trusts and companies and in all currencies.

For example it includes savings, passbook, cheque, pensioner deeming, mort-

gage offset, farm management, first home saver and retirement savings accounts and term deposits.

From 28th November 2008, deposits over \$1 million and wholesale funding will only be guaranteed upon application to the Reserve Bank of Australia and the payment of a fee. The fee charged for deposits over \$1 million and for wholesale funding facilities will vary according to the credit rating of the institution. The \$1 million threshold for deposits applies per depositor per institution. It applies to the total of the funds held in the same institution in separate deposit accounts. The premium will be charged only

on the amount above the fee free threshold. For example a deposit of \$1.5 million will only attract the fee on the \$500,000 that exceeds the \$1 million fee free threshold.

We suggest that if you have any queries in relation to the Federal Government Guarantee in relation to your own deposit holdings, you should contact your bank directly and seek reassurance as to the position of those deposits with your bank.





**AUSTRALIAN SECURITIES & INVESTMENTS
COMMISSION REQUIREMENTS**

• Changing Addresses

Clients who operate trustee or trading companies need to be mindful that when addresses are being changed, be they addresses of the directors or changes in business or residential addresses for the company, then the appropriate notifications need to be made to the Australian Securities & Investments Commission within 28 days of the change being made.

Failure to provide ASIC with the appropriate notifications about change of addresses will result in a late lodgment penalty being imposed.

• Payment of Annual Company Fees

Clients should also be mindful of the need to ensure that the Annual Company return fee is paid within two (2) months of the due date.

Failure to pay the nominated annual fee within the required time will incur late payment penalties and these penalties increase the longer the fee remains outstanding.

• There is no provisions to seek a remission of any penalties.

Personal Service Regime (PSI)

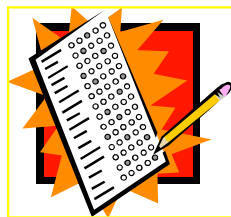
The Personal Services Regime (PSI) came into force on 1st July 2000 as an integrated measure to restrict the ability of individuals to reduce tax by diverting personal services income to a business structure, mainly a company.

Personal Services Income is defined as ordinary or statutory income that is gained mainly as a reward for the personal efforts or skills of an individual, regardless of whether that income is earned by the individual, under a contract or through a business structure.

The ATO provides an extensive list of factors to help identify whether the income earned should be classified as PSI including the following:-

1. The nature of the tax payers activities.
2. The extent to which income depends upon the personal efforts or skill of a particular individual.
3. The extent of the income producing assets used to derive the income.

4. The market price of equipment used in deriving the income.
5. The nature, size and significance of assets used in relation to the activity.
6. The uniqueness and value of the assets in relation to the income generated.
7. The level of skill or degree of specialization required.
8. The existence of goodwill.
9. The size of business operations.
10. The number of employees and others engaged in the activity.



The law includes several basic tests to determine whether an entity is conducting a personal services business (PSB) and if any of the following tests are satisfied, the taxpayer will be conducting a personal service business:-

1. Obtain a PSB determination.
2. Results Test OR
3. 80% rural and one of the other tests being:-
 - unrelated clients test,
 - employment test OR
 - business premise test

80% Rule

This test ensures that the PSI flows to the individual provided in the personal services where 80% or more of the income is gained from the same client, unless a PSB determination is in place.

Results Test

An individual or entity will satisfy the first hurdle of the results test if at least 75% of the PSI is earned to produce a result .

Unrelated Clients Test

An individual or entity will satisfy the unrelated clients test if services provided to two or more unassociated entities stem from the advertising of those services to the public.

Employment Test

An individual entity will satisfy the employment test if at least

one employee who is not an associate performs at least 20% of the principal work or an apprentice was employed for at least half the year.

Business Premises Test

An individual entity will satisfy the business premises test if at all times during the year the business premises was used exclusively for personal services activity.

The Australian Taxation Office is currently undertaking reviews of business arrangements to see if the PSI legislation applies.

Should you be concerned about the ramifications of the PSI legislation to your business, kindly do not hesitate to contact this firm.

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