



Welcome

In this edition you'll find an ATO update on service arrangements and rules for hobby farmers, information on Small Business Entity concessions and National Employment Standards and more.

I trust you enjoy the read.

Jarrod Bramble
PARTNER

What the ATO are saying about dental service arrangements

In late 2009, under the cover of Christmas the ATO released a fact sheet clarifying their position with respect to general dental practice arrangements. The publication specifically detailed the ATO's view on what they consider to be commercial and less-risky Dental Service Arrangements and the treatment of Laboratory Fee in calculating service entity or facility charges.

Service entity arrangements are not new and have long been utilised by dentists to provide operational efficiency, tax efficiency and some asset protection. The ATO publication did not change any of the rules by which dental service arrangements should have been operating by but did provide some clarity as to what they consider to be commercially realistic service fees.

In general terms, service fees of 40% to 60% of gross earnings may be considered commercial, subject to the level and extent of the dental service entity provided by the service entity. The ATO suggests that service fees of less 40% will generally not warrant further examination whilst service fees in excess of 40% will be subject to greater scrutiny and the ATO may request an explanation of the level of dental services provided to justify the higher service fee.

With the capital intensive nature of most dental practices a 40% service fee may not be financially viable and there will be a temptation to charge a higher fee. Practices need to ensure that the higher fee correlates to the suite of dental services provided. Where there is a lack of correlation the ATO can seek to deny tax deductions for inflated service fees paid by the dentists.

The publication concludes with its view the there should be no mark up by the service entity on laboratory fees incurred.

For assistance with structuring your dental service arrangement and determining what is a commercial service fee for your practice please contact Stuart Chan or Jarrod Bramble on 1800 988 522.

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Revised rules for hobby farmers

Measures preventing losses incurred from non-commercial activities, carried out by an individual taxpayer (either alone or in partnership), being applied against other assessable income have been in place for a number of years. The intent of these measures has always been to improve the integrity of the taxation system by requiring losses incurred as a result of non-commercial business activities to be quarantined until such time that the business activities were deemed to have occurred on a commercial basis. To this end, a taxpayer was required to satisfy one of the following four tests in order to be eligible to deduct personally incurred business losses against their other income:

- 1. Assessable Income Test – assessable income for the loss year must be at least \$20,000; or**
- 2. Real Property Test – land and or buildings used to conduct the business must be worth at least \$500,000; or**
- 3. Other Assets Test – Total value of other assets used in the business (excluding motor vehicles) must be worth at least \$100,000; or**
- 4. Profits Test – the business has made a taxable profit in at least three out of the last five years.**

Effective from 1 July 2009, a taxpayer will also be required to derive less than \$250,000 in 'adjusted taxable income' from other sources in the relevant year in addition to satisfying one of the above tests. This may mean a number of sole proprietor or partnership businesses that previously passed the tests may no longer continue to do so.

Consider the situation where John, a dentist with a net taxable income of \$300,000 per annum, has acquired a rural property worth \$2,000,000 several years ago on which he runs a primary production business, as a sole proprietor. The business typically turns over \$200,000 per annum. However, due to the interest costs incurred from the loan used to acquire the land used in the business, he typically makes a loss of \$100,000 per annum.

Prior to 1 July 2009 John would have satisfied both the Assessable Income Test and the Real Property Test allowing him to offset his primary production loss against his partnership distribution, thus reducing his taxable income from \$300,000 to \$200,000. However, from 1 July 2009, he will be required to quarantine his loss as he has derived income from other sources in excess of \$250,000. As such, he will not be able to offset his loss against his partnership distribution for the year ended 30 June 2010 onwards. In this situation it would be prudent for John to give consideration to alternative ways he can structure his primary production business in order to ensure he continues to gain access to the losses it generates.

Small Business Entity concessions make life easier

If your practice turns over less than \$2 million per annum, the Small Business Entity concessions should be making life easier for you.

The small business entity concessions allow small businesses to take advantage of a number of rules that simplify life for taxpayers. These include concessions for Income Tax, Capital Gains Tax, Goods and Services Tax, Pay As You Go Installments and Fringe Benefits Tax. The below table summarizes these concessions.

In general, a small business is defined as one whose aggregated turnover is less than \$2 million. Turnover refers to your gross income or proceeds, rather than your net profit.

Small Business Entity Concessions

<p>Income Tax Concessions</p>	<p>Simplified trading stock rules – you can choose whether or not to do a stocktake at the end of the year if the value of your trading stock has not changed by more than \$5,000</p> <p>Simplified Depreciation Rules – allows pooling of assets and set depreciation rates as well as immediate deduction for assets less than \$1,000.</p> <p>Immediate Deduction for prepaid expenses</p> <p>Small Business Tax Break</p> <p>Two year amendment period</p>
<p>Capital Gains Tax Concessions (CGT)</p>	<p>CGT 15 year exemption – if you are 55 or older and your business has owned an asset for at least 15 year you wont pay Capital Gains Tax.</p> <p>CGT 50% active asset reduction – if you have owned an asset to conduct your business you will only pay 50% of the capital gain when you sell the asset.</p> <p>CGT retirement exemption – there is a CGT exemption on the sale of a business asset up to a lifetime limit of \$500,000. You must be at least 55 and payment must be made to a complying Superannuation Fund.</p> <p>CGT rollover – if you sell a small business asset and buy a replacement or improve an existing asset you can defer your capital gain until a later year.</p>
<p>GST Concessions</p>	<p>GST Cash Accounting – account for the GST on Sales in the same period you receive payment.</p> <p>GST Installments – pay GST by installments worked out by the ATO.</p>
<p>PAYG Installments</p>	<p>GDP adjusted PAYG and GST installment amounts – worked out by the ATO.</p>
<p>FBT concessions</p>	<p>FBT on car parking benefits exemption – if you don't provide a car park in a commercial car park, you aren't a government body or a listed public company you may be exempt from FBT car parking.</p>



June

- 21** May Monthly Activity Statement payment and lodgment due.

July

- 21** Annual Payroll Tax reconciliation due for lodgment and payment.

October

- 21** Annual PAYG Instalment Notice due for payment and lodgment.
- 31** 2009 Income Tax Returns due for lodgment for companies with a 31 October due date (letters will be sent out in August 2010).

National Employment Standards – a quick overview

Following the change from the Workplace Relations Act to the Fair Work Act from 1 January 2010, sole traders, partnerships, other unincorporated entities and non-trading corporations in NSW, QLD, SA and TAS will now join employers in VIC, ACT and NT in following the National Employment Standards (NES) and Modern Awards.

Previously, employers in NSW, QLD, SA and TAS were covered by the existing State Awards, however, from 1 January 2010, all states, except for WA, will be aligned and the NES and Modern Awards will apply to all employers.

Those not generally covered by the NES are:

- WA sole traders, partnerships or other unincorporated entities;
- WA corporations whose main activity is not trading or financial; and
- Most state government public sector employers and most local government employers

Transitional Rules

To help move into the NES, the following transitional rules will apply to employers and employees:

- Employers and employees who were covered by state awards before 1 January 2010 will continue to apply, however, on 31 December 2010, these will automatically terminate. On termination, employers and employees will be covered by a relevant modern award.
- Employers and employees covered by State employment agreements made in the State system will continue to operate until terminated or replaced.

What are the ten NES entitlements?

- Maximum weekly hours of work
- Parental leave
- Personal/carers'/compassionate leave
- Long service leave
- Termination and redundancy pay
- Fair work information statement to be provided to employees
- Flexible working arrangements
- Annual leave
- Community service leave
- Public Holidays



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Using your Super fund to invest in property

Do you have the right strategy in place to get the most out of your Self Managed Super Fund (SMSF)?

There are a number of opportunities available to Medical Practitioners including borrowing in SMSF to purchase your own rooms.

One of the key benefits of borrowing within a SMSF to purchase property is the ability to reduce the debt quicker than outside super. SMSFs are extremely tax effective vehicles with a maximum rate of tax of 15%.

In addition to the advantage of being able to reduce the debt quicker there are other long term tax benefits of investing with a SMSF such as tax-free capital gains.

To find out how you can leverage to purchase property in your SMSF, contact our medical specialists Jarrod Bramble or Stuart Chan on 1800 988 522.