



Welcome...

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Partner

We would like to take this opportunity to wish all our readers a Merry Christmas and a safe and prosperous New Year!

Our office will be closed from 12 noon Friday 22 December 2006, and will reopen on Tuesday 2 January 2007.

Our investment services division will remain contactable over the Christmas period.

We hope you enjoy our December issue.

Is it time to step out of the corporate shell?

The debate has long raged over whether professionals should operate via a company or as a sole trader.

With the recent changes to rules relating to superannuation deductions for sole traders, the corporate structure may not be as advantageous as it once was.

From 1 July 2007 sole traders will be on equal footing with corporate structures in being able to claim 100% of eligible superannuation contributions as a tax deduction. Previously the deduction was limited to \$5,000 plus 75% over \$5,000 for eligible amounts. For example, the deduction for an eligible superannuation contribution of \$100,000 for a sole trader was limited to \$76,250 as compared to \$100,000 for the company.

Without this advantage of additional superannuation deductions, is the corporate structure the most advantageous model for you?

The benefits from the corporate veil and its asset protection will dictate for many



professionals that a corporate structure is to be used. But for others who can be held personally liable regardless of the corporate structure, operating as a Sole Trader may have become more attractive due to the removal of superannuation (9%), payroll tax (6%) and workers compensation liabilities on their remuneration.

The removal of restrictions on drawings for Sole Traders provides opportunities to use the working capital of the business to reduce debt. For those with home loans, this could create a large saving in non-deductible interest.

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Comparison of Structures	Company	Sole Trader
Separation of ownership between business assets and personal assets	Yes	No
Personal liability for obligations of the business	Limited	Unlimited
Proprietors income subject to SGC, payroll tax and workers compensation (note 1)	Yes	No
Tax rate	Flat 30%	Marginal rates
Ability to income split (note 2)	Limited	No
50% Capital Gains Tax Discount available	No	Yes
Restrictions on drawings (debit loans / Div 7A)	Yes	No

Notes

1. Income for Sole Traders is distributed via drawings of profits as compared to payment of wages in companies. Payroll tax applies where \$600,000 annual assessable wages threshold is breached.
2. Both structures allow for market value remuneration to be paid to related parties

Super Age Base Cap Will End Double Dip

When the global cap on deductible superannuation contributions comes into effect from 1 July 2007 it will put an end to double dipping for those with more than one employer.

Currently, if you have two non-associated employers, then each one could make deductible contributions up to your maximum aged-based limit.

The maximum amount in the current financial year for salary sacrifice contributions for those aged 50 or over is \$105,113, but if you have two non-associated employers you

can make \$210,226 in deductible contributions this year.

But come next year, the new global cap will come into effect and this means you will no longer be able to double dip.

For those aged 50 or over, the cap is \$100,000 through to 2012 when it will revert to \$50,000 a year regardless of your age.

So \$100,000 or \$50,000 will be the total amount you can salary sacrifice from next year.

To illustrate this let's look at an example. David, a 56 year specialist who has salary income of \$100,000 from a public hospital, who is also employed by his private company



through which he conducts his medical practice which generates net earnings of \$300,000.

In the current financial year, David might choose to salary sacrifice the maximum allowable, \$105,113, from both his hospital salary income and his private practice salary, leaving him with a gross salary \$194,887.

By doing this, he slashes the income tax payable by more than half from \$166,350 to \$70,973. Although the contributions tax on the \$205,113 of \$30,766 is paid by his superannuation fund he is still better off by \$64,611.

In contrast, the new rulings mean that in the following year he is limited to making a maximum deductible contribution of just \$100,000.



New arrangements were announced in May 2006 in relation to new grouping provisions for workers compensation purposes for policies commencing on or after 30 June 2006.

Workers Compensation Insurance: New Grouping Provisions

The grouping provisions for workers compensation purposes are similar to the Payroll Tax grouping provisions. Practices entities, related service trusts and other entities with employees employed by both entities and/or that are controlled by the same persons with combined wages and superannuation of more than \$600,000 are now required to be grouped for workers compensation purposes. All members of a group

may still have separate policies for each entity but are required to have:

- The same insurer.
- The same renewal date for all policies.

WorkCover has sent out correspondence in relation to this issue. If you have not received this information and believe you may be affected you should discuss this with your contact person at Cutcher and Neale.

The new WorkChoices record keeping requirements: is your practice ready?

As a result of the WorkChoices legislation that came into effect on 27 March 2006, the record keeping provisions for employers have changed and are effective immediately. These regulations are designed to ensure that employees' receive wages and conditions consistent with the Australian Fair Pay and Conditions Standard.

Retention of records

The employment records must be retained by an employer for seven years. The records must be in a form that is plain English, can be readily assessed by an inspector and allows the inspector to easily understand the employee's entitlements.

The records must indicate the following to ensure compliance with the new requirements:

General employee information and payments

- The instrument under which the employee is covered ie. workplace agreement, award.
- The required hours of work based on annual salary, excluding any additional entitlements and superannuation payments.
- Details of any additional entitlements such as bonuses, overtime loading, or other identifiable entitlements and the hourly rate of pay and period to which payment were made.
- Basis on which rate of pay was determined for employee.
- the amount of superannuation contributions made for the employee and the details of the fund to which the payments were made.

Leave records – includes annual, personal or other forms of leave

- Records of the nominal amount of hours worked by the employee.
- Details of the employees' type of leave taken and the amount .
- The balance of leave entitlements for each type of leave.
- A copy of the written leave request for annual leave.

Pay Slips

Pay slips must be issued within one day after the payment by the employer and must contain the following information:

- Details of the employee and employer.
- Date of payment, and period to which the payment relates.
- Hourly rate of pay for the employee or salary expressed as a rate of pay.
- The gross and net amounts.
- Details of any additional payments such as overtime, bonuses, or other penalty rates.
- Details of any superannuation contribution payments including the fund details and the amount/s paid.

Termination of Employment

Where an employee is terminated from their employment the record must detail the reasoning for the termination of employment and the name of the person who terminated the employment.

Breaches and penalties

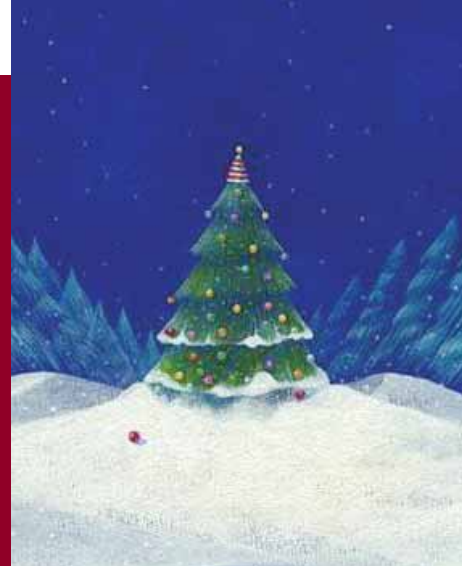
The regulations have provided a twelve month transition period for businesses affected to ensure that records comply with the standards set out in the regulations.

The record keeping requirements will be strictly administered from 27 March 2007. Any non-compliance will result in a civil penalty. Where there is a breach in the regulations, the inspector will issue an infringement.

For more information call the WorkChoices Infoline on 1300 363 264 or visit www.workchoices.gov.au



Tax Tips and Traps to Consider At Christmas



Christmas is only days away which means you need to start planning your Christmas presents and parties soon to avoid an unpleasant Fringe Benefits Tax (FBT) bill in early 2007. Our quick reference table below will make planning presents and parties simple and will hopefully take the stress out of deciding how much to spend on these items without incurring FBT.

FBT Developments

As a result of the May 2006 Federal Budget, the following FBT developments apply from 1 April 2006 (i.e. the 2007 FBT year).

- As the highest marginal income tax rate for individuals has decreased from 48.5% to 46.5%, the FBT rate has also decreased from 48.5% to 46.5%.
- The FBT gross-up factors have also changed. The gross-up factor for Type 1 benefits (i.e. benefits with GST included in the price) has decreased from 2.1292 to 2.0647. Similarly, the gross-up factor for Type 2 benefits (i.e. benefits with no GST included in the price) has decreased from 1.9417 to 1.8692.

The following FBT developments apply from 1 April 2007 (i.e. the 2008 FBT year).

- Increase in the minor and infrequent benefits exemption threshold from less than \$100 to less than \$300.
- Increase in the reportable fringe benefits amount threshold from \$1,000 to \$2,000.

FBT Quick Reference Table		
Circumstance	FBT Payable	Tax Deductible
Party On Premises		
Employees	No	No
Employees & spouses – total cost <\$100 – total cost >\$100	No Yes – on benefit to spouse only	No Yes – on benefit to spouse only
Clients	No	No
Party Off Premises		
Employees – cost <\$100 – cost >\$100	No Yes	No Yes
Employees & spouses – total cost <\$100 – total cost >\$100	No Yes	No Yes
Clients	No	No
Gifts to Employees		
<\$100	No	Yes
>\$100	Yes	Yes
Gifts to Clients		
All	No	Yes

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