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Welcome to the Spring issue of the Veale Partners newsletter. Spring, the season of new beginnings, creates the perfect platform to start building momentum towards achieving your own version of financial success. In this issue, we cover a number of ATO rules to help you remain ATO compliant whilst improving your financial position. Veale Partners now offers new financial planning services through Veale Financial Group; make an appointment to see Gavin Thompson so that we may help you put the changes in place which will allow you to hop into the 'driver's seat' and improve your financial position.

Home to work travel

*Brandon and Commissioner of Taxation
[2010] AATA 530 (15 July 2010)*

A soldier in the Australian Defence Forces was denied a travel deduction on the basis that the transportation of his 'Deployment Priority 1' kit was not considered applicable to the bulky equipment travel exception for home to work travel.

The AAT found that while the DP1 was 'bulky', it found there was secure storage at both sets of barracks he was required to attend.

The AAT also found there was no evidence that the taxpayer transported his DP1 to barracks on a daily basis or that daily DP1 inspections were held or required to be held by soldiers in his unit. In relation to the taxpayer's claim that the kit was required as part of his 'readiness' requirement, the AAT said 'this was not at the heart of his income-earning operations'. The AAT also noted there was no directive that required any soldier to transport their DP1 to and from work, and that the taxpayer had made a

personal choice to store his DP1 at home (rather than having a compelling employment-related reason for doing so).

Note: Generally home to work travel is not deductible. However a deduction for travel between home and work may be allowed in certain exceptional circumstances. For example where the taxpayer is required to carry bulky equipment to work. But no deduction is allowable if a secure storage area is provided at the workplace.

Share trading; investor or trader?

*Smith and Commissioner of Taxation
[2010] AATA 576 (5 August 2010)*

The tribunal affirmed that based on the facts before it, the taxpayer did not carry on a share trading business and was correctly classified by the ATO as an investor. Relevant facts included the shareholder holding on to shares, investing in dividend reinvestment plans and receiving dividends.

Note: If you are classified as a share trader, you account for gains/losses on

revenue account. However if you are an investor, you account for them on capital account.

Shareholders should be aware that the Tax Office has its sights set on share disposals as part of its Compliance Program for 2010-11. It had also issued an alert mid last year warning taxpayers against claiming losses on revenue account when they had previously accounted for gains on capital account.

OTHER DEVELOPMENTS:

Education tax refund limits increased

For the financial year ended 30th June 2010, eligible families can claim the 50% offset for eligible education expenses up to:

- \$780 per primary school child (providing a maximum refundable tax offset of \$390 per child)
- \$1,558 per secondary school child (providing a maximum refundable tax offset of \$779 per child)

Medicare Levy Surcharge – Income thresholds for 2010-11

The single surcharge threshold is \$77,000.

The family surcharge threshold is \$154,000.

ATO Data-matching –eBay and Trading Post

A new data matching program focusing on data from eBay Australia and Trading Post Australia has begun with the aim of assessing the level of taxation compliance of individuals and businesses that sell goods or services online.

Payment Summaries and Reporting of Incorrect Super Amounts

The ATO has warned that some employers have been incorrectly including compulsory superannuation amounts as reportable employer super contributions on their employees' payment summaries for the 2009-10 income year. Reportable employer super contributions should only include additional super contributions made by an employer; for example, super contributions made on behalf of an employee under a salary sacrifice arrangement. The payments being incorrectly included cover things such as super guarantee contributions and industrial agreement (award) super contributions.

***TIP:** Employees should review their payment summaries and ask for amended payment summaries from their employers if they incorrectly contain compulsory super amounts as reportable employer super contributions. This is important because incorrect amounts included may affect eligibility for certain tax concessions and Centrelink benefits, and may cause a liability for the Medicare levy surcharge.*

***TIP:** If employers have issued payment summaries to their employees that incorrectly include compulsory super amounts, they can notify affected employees and issue them with amended payment summaries. Where employers have also already lodged their payment summary annual reports with the ATO, they will need to lodge amended annual reports.*

New SMSF Member Verification Process in the Pipeline

The ATO has announced that later this year, it expects to implement, a new self managed super fund (SMSF) member verification process, which is designed to enable authorised APRA-regulated super funds and other authorised entities to confirm whether or not the member requesting a rollover is actually a member of the SMSF.

The new process adds another plank to efforts by the ATO to deter schemes which seek to obtain illegal early access to or release of superannuation benefits. The first plank, which has been in operation since January this year, involved upgrading the SMSF registration process so that new SMSFs may not be displayed on the Super Fund Lookup (SFLU) website for up to seven days while the Tax Office carries out a risk assessment of the SMSF.

***TIP:** The new process is expected to make processing member rollovers from superannuation funds to SMSFs more efficient and secure. However, it would be important for the ATO to be notified quickly of any SMSF membership changes. For example, it would be prudent to ensure name changes are appropriately dealt with before a rollover is attempted by a member.*

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