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TAX ALERT - AUGUST 2023

ATO MOTOR VEHICLE DATA MATCHING PROGRAM EXTENDED

The ATO has extended its motor vehicles data matching program once again to encompass the 2022–2023 to 2024–2025 financial years. For each financial year, the ATO will acquire information from all eight of the state and territory motor registries regarding where a vehicle has been transferred or newly registered during the applicable period, and where the purchase price or market value is $10,000 or more. Records relating to approximately 1.5 million individuals will be obtained each financial year.

While the program is being used to obtain intelligence about taxpayers that buy and sell motor vehicles so the ATO can identify risks and trends of non-compliance with various tax and super obligations, the ATO will also be using the data obtained as an indicator of risk. For example, the motor vehicle data (along with other data) will be used to identify taxpayers who have purchased vehicles with values that don't align with the income they have reported.

Other uses of the data will include identifying taxpayers who may have not met their obligations in terms of GST, FBT, luxury car tax, fuel schemes and income tax.

USING THE CENTS PER KILOMETRE METHOD FOR CLAIMING CAR EXPENSES

The cents per kilometre method is a simple way to work out how much you can deduct for car-related work or business expenses. Only individuals, including sole traders, or partnerships (where at least one partner is an individual) can use the cents per kilometre method. So if you operate your business through a company or trust, the business will have to use the actual costs method to claim car and vehicle running expenses.

The cents per kilometre rate takes into account all your car running expenses (including registration, fuel, servicing and insurance) and depreciation.

To work out how much you can claim, you simply multiply the total work/business kilometres you travelled by the appropriate rate. The rate for the 2022–2023 tax year is 78 c/km, and the rate for the 2023–2024 tax year is 85 c/km.

Importantly, you can't claim more than 5,000 work/business kilometres per car, per year using this method – if you use your car for more than 5,000 kilometres a year for work or business, you need to use the logbook method to calculate your deductible car expenses.

You don't need formal written evidence to show exactly how many kilometres you travelled, but if you use the same vehicle for both work/business and private use, you must be able to correctly identify and justify the percentage that you claim for work/business. You can't claim a deduction for the private use. You can use a logbook or diary to record private versus work/business travel.

TIP: Travelling between your home and your place of work/business is considered private use, unless your home is considered your place of work, or you operate a home-based business and your trip was for work/business purposes.

PAYING CONTRACTORS? GET READY FOR YOUR TPAR

Businesses that make payments to contractors may need to report these payments and lodge a taxable payments annual report (TPAR).

You will need to lodge a TPAR if your business made payments in the last financial year (ending 30 June 2023) to contractors providing the following services:

- building and construction;
- cleaning;
- courier and road freight;
- information technology (IT); or
- security, investigation or surveillance.

Contractors can include subcontractors, consultants and independent contractors. They can operate as sole traders (individuals), companies, partnerships or trusts.

If reportable services are only part of the services your business provides, you need to work out what percentage of the payments you receive are for taxable payment reporting (TPR) services each financial year. You do this to determine if you need to lodge a TPAR.

This doesn't apply to building and construction services you provide.

If the total payments you receive for TPR services are 10% or more of your business income, you must lodge a TPAR. If they are less than 10% of your business income, you don't need to lodge a TPAR.

TPARs are due on 28 August each year. If you don't lodge on time, you may have to pay a penalty. You can help prepare for your TPAR by keeping records of all contractor payments.

If you've previously lodged a TPAR but you don't need to lodge one this year, you can submit a *TPAR Non-lodgment* advice to let the ATO know.

INSTANT ASSET WRITE-OFF: IS YOUR BUSINESS ELIGIBLE?

Remember temporary expensing, which allowed just about every business (unless annual turnover was at least $5 billion) to immediately write off the cost of an eligible depreciating asset? Well, that is no longer available. To use temporary full expensing, you had to acquire and use, or install ready for use, an eligible depreciating business asset by 30 June 2023.

The good news for small businesses is that the instant asset write-off is still available.

What is the instant asset write-off?

Eligible businesses can claim an immediate deduction for the business portion of the cost of a depreciating asset in the year the asset is first used or installed ready for use.

Any small business that uses the simplified depreciation rules can claim the instant asset write-off. A small business is a business with an aggregated annual turnover of less than $10 million.

The instant asset write-off applies to eligible depreciating assets costing less than the specified threshold (these are called low-cost assets).

For 2023–2024, the low-cost asset threshold will be $20,000. To take advantage of the $20,000 threshold, you will need to acquire the asset and first use it, or install it ready for use, between 1 July 2023 and 30 June 2024.

The $20,000 threshold applies on a per-asset basis, so small businesses can instantly write off multiple assets. In certain circumstances, the instant asset write-off also applies to additional expenditure incurred on a low-cost asset.

DEVELOPMENTS IN GST GUIDANCE FOR CRYPTO ASSETS

The ATO has recently issued new GST guidance specifically relevant to crypto assets.

For GST purposes, the ATO considers that digital currency is a crypto asset utilising cryptography and distributed ledger technology to make secure transactions. The ATO has excluded loyalty points, in-game tokens, non-fungible tokens (NFTs), stablecoins, and initial coin offerings (ICOs) (if they fall under securities or derivatives) from this definition.

Digital currency as payment

If receiving digital currency as payment for a taxable supply, the GST amount must be reported in Australian dollars on the business activity statement. Don't forget: the tax invoice should include the GST payable in Australian dollars or provide sufficient information to calculate it accurately.

When using digital currency for purchases and claiming GST credits, be sure to report the GST amount in Australian dollars on your business activity statement. Remember, your tax invoice is key and must providing the necessary information.

Buying or selling digital currency

Identifying the location of your trading partners can be difficult. Thankfully, the ATO accepts using the location of the digital currency exchange as a reliable indicator.

When you trade with Australian residents, it falls under the category of input-taxed financial supply. You don't need to pay GST on these supplies.

When your trades extend beyond Australian borders or involve foreign digital currency exchanges, GST takes a back seat. Trading with non-residents qualifies as a GST-free supply, freeing you from GST obligations.

Be warned! While GST-free supplies spare you from paying GST, there's a vital checkpoint to remember. If you supply digital currency, carry on an enterprise and exceed the GST annual turnover threshold (generally $75,000), you must register for GST.

BEWARE SMSF SCHEMES: RESIDENTIAL PROPERTY PURCHASE

The ATO has warned taxpayers against entering into a scheme through their self managed superannuation fund (SMSF) which claims to allow individuals to purchase property using money from their super.

This sort of scheme typically involves the rollover of a member's super benefits from an existing fund into a new or existing SMSF, which then invests in a property

trust for a fixed period and rate of return, being a contributory fund with other investors. However, the money from the property trust is then on-lent to individuals from a third-party in the form of a loan to assist in the purchase of real property secured by mortgages over the property.

Depending on the type of scheme, the money on-lent to the individual may be used for all or part of the deposit, the balance of the purchase price, costs relating to the purchase, or even to help consolidate a member's personal debts to enable them to secure a home loan. The scheme promoter will usually charge a high fee to the fund and establish both the SMSF and the property investment, as well as organising the purchase of the property (in some cases house and land packages).

The ATO notes that these arrangements are established and promoted under the guise of a genuine SMSF investment with the added benefit of helping individuals purchase a home, but they are not in fact legitimate investments. They often contravene one or more of the super laws by providing members with a current day benefit while also being set up in ways that don't comply with the sole purpose test.

TIP: The "sole purpose test" means that the SMSF needs to be maintained for the sole purpose of providing retirement benefits to members, or to their dependants if a member dies before retirement.

The ATO will apply a "look through" approach when considering this type of scheme. That means if an SMSF's fund money is used to help purchase a property for a member, whether it be indirectly through the SMSF's investment in other entities, it will be treated as an illegal early access of super benefits by the member. The amount used to help purchase a property will be included in the member's assessable income and taxed at their marginal rate, and tax shortfall penalties may apply.

People who may have been persuaded by slick marketing or promoters and inadvertently entered into these schemes are urged to contact the ATO to make a voluntary disclosure, which will be taken into account.

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