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Client Information Newsletter - Tax & Super March 2013

What can small businesses claim this year?

As a small business owner, there are a plethora of tax benefits, incentives, concessions and offsets that can potentially be used. This represents a significant challenge when you have 1,001 matters to think about and an enterprise to run. Here are three changes to the simplified depreciation rules that you may have missed (they apply from July 1, 2012).

1. Increase to instant asset write-off threshold

Eligible small businesses that use the small business pooling rules can now claim an outright deduction for most depreciating assets purchased that cost less than $6,500 each – an increase from the original amount of $1,000.

Case study

Catherine runs a small business as a photographer. She has elected to use the small business pool method for depreciation purposes. She buys a $5,900 camera and a $4,500 high resolution printer. Both the camera and printer are depreciating assets used entirely for the business. As each costs less than $6,500, she can claim a deduction of $5,900 for the camera and $4,500 for the printer in the 2012-13 income year.

2. Accelerated deduction for motor vehicles.

A small business from July 1, 2012 can claim a $5,000 deduction for a motor vehicle if they satisfy the following conditions:

- they are an eligible small business (turnover under $2 million)
- they choose to use small business pooling in order to work out their depreciation
- the car is worth more than $6,500 (if the car is worth less than $6,500 and you satisfy the previous two conditions, you will be able to write it off under the increased instant asset write-off threshold)

The remainder of the cost is deducted through the general small business pool at 15% for the first year and 30% for later years.

Case study

Ali runs an eligible small business and uses pooling to calculate his depreciation. He bought a $37,080 truck in the 2012-13 income year which was used 50% for business purposes. Ali calculated his depreciation deduction for the 2012-13 income year like this: $5,000 + 15% x [(50% x $37,080) -$5,000] = $7,031.

3. Simplified depreciation pooling rules

For the 2012-13 income year, the long life small business pool and the general small business pool have been consolidated into a single pool to be written off at one rate. After the pools are consolidated the new increased opening pool balance is subject to the general pool rate of 30%. This means that from July

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Welcome to Collison Accounting's client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. Should you require further information on any of the topics covered, please contact us.

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Also in this issue:

Top 10 cheapest super funds revealed 3
Investing: Growth versus income 4
A-Z on public rulings, and how they can help you 5
Changes to employers' super obligations in 2013 6
Ease into retirement, but still earn income 8

What can small businesses claim this year? (cont)



1, 2012, most depreciating assets that cost $6,500 or more (regardless of their effective life) can be pooled under the simplified depreciation rules and deducted at 15% in the year they are added and a single rate of 30% in subsequent years.

Case study

Gina's Pizzeria is a small business. At the end of the 2011-12 income year the closing balance of its long life pool was $8,000 and the closing balance of its general small business pool was $10,000. For the 2012-13 income year, Gina's Pizzeria's long life pool no longer exists but its general small business pool is now $18,000 ($8,000 + $10,000).

During the year, Gina's purchased a new wood-fired oven for $7,500. The business can deduct 15% of the cost of the oven in the 2012-13 income year.

The calculation of the total deduction for the general small business pool for the 2012-13 income year is made up of the following items:

Opening Pool Balance
[($10,000 Old General Pool
+ $8,000 Old Long Life Pool) X 30%] $5,400

ADD
Depreciation of assets acquired during the year
[($7,500 wood-fire oven) X 15%]..... $1,125

EQUALS
Total deduction $6,525

The closing pool balance is calculated by adding the opening pool balance and the cost of all new assets acquired during the year minus the total deduction calculated above. For Gina, the closing pool balance is calculated as follows:

Opening pool balance:..... $18,000

ADD
Assets acquired during the year $7,500

LESS
Total deduction
(from previous calculation) .....($6,525)

EQUALS
Closing pool balance..... $18,975

Below are some concessions that have been available to small businesses since before July 1, 2012:

- **Expenses paid in advance** – Eligible small businesses can use the prepayments concession to claim a deduction for expenses they prepaid provided they receive the goods or services in full within 12 months of making the prepayment. Some prepaid expenses can be claimed even if the goods or services are not received within 12 months. They are as follows:
  a. goods and services costing less than $1,000
  b. a prepayment of salary or wages (under a contract of service), or
  c. required to be incurred by:
     i. a law of the Commonwealth, a state or a territory (for example, statutory fees or charges payable to a government body such as vehicle registration fees), or
     ii. an order of a court of the Commonwealth, a state or a territory.

- **Expenses you can claim in the income year you incur them** – Working or operating expenses you incur for the everyday running of your business are called revenue expenses. Revenue expenses can sometimes include office stationery, rent of office premises, and salary or wages. You can generally claim a deduction for these expenses in the year you incur them.
  Consult this office for a more exhaustive list of expenses you can claim in the same income year you incur them.

- **Expenses you can claim over time** – These include the cost of assets that have a longer life (typically longer than one income year) or that relate to establishing, replacing, enlarging or improving the structure of your business – typically referred to as capital expenses.
  These can include depreciating assets that have a limited life expectancy such as computers, electrical tools, furniture, carpets and curtains, motor vehicles, and plant and equipment.
  Also includes borrowing costs (other than interest which may be deductible in the year it is incurred) which are deductible over either the life of the loan or five years, whichever is less. This is provided the funds borrowed are used for the purpose of producing your income.

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What can small businesses claim this year? (cont)

Some of the more unusual deductions that businesses can claim include:

- environmental protection activities
- exploration or prospecting
- trees in carbon sink forests
- expenses of managing tax affairs i.e. the fees you pay this office for managing your tax affairs, and
- water facilities and horticultural plants.

Some expenses you can never claim include:

- private or domestic expenses, such as childcare fees or clothes for your family
- expenses relating to income that is not taxable, such as money you earn from a hobby
- expenses that are specifically non-deductible under the tax law, such as parking fines.

Consult this office for more advice on the new simplified depreciation rules and information on other deductions that small business owners can claim. ■

Top 10 cheapest super funds revealed

With a vast number of superannuation funds out there spread across an array of sectors, it can be hard to decide which fund to join. Luckily, superannuation information provider SelectingSuper has compiled a list of the best fee deals for superannuation funds calculated for a member earning around $50,000 per annum with $50,000 in their fund's default investment option. The table below contains the top 10 out of 146 super funds as of November 2012 in all segments that any one individual can join.

Rank	Fund name	Segment	Total expense ratio
1	First State Super Personal Division	Industry fund	0.60%
2	Club Plus Super Personal Division	Industry fund	0.62%
3	Bendigo SmartStart Super	Master trust	0.64%
4	AMP Flexible Super – Super Account	Master trust	0.68%
5	AMIST Personal Division	Industry fund	0.73%
6	ASSET Super – Personal	Industry fund	0.77%
7	HESTA Super Fund – Personal	Industry fund	0.79%
8	Nationwide Super Fund – Personal	Industry fund	0.80%
9	Media Super Personal	Industry fund	0.81%
10	AustraliaSuper Personal Plan	Industry fund	0.81%

For the best deals across all superannuation funds however, government and corporate funds top the list. Australia Post Super Scheme (government), Shell Australia Super Fund (corporate), State Super NSW (government), Military Superannuation and Benefits Scheme (government) and South Australian Ambulance Service Superannuation Scheme (government) are the top five funds with the best overall fees.

As the whole point of selecting a superannuation fund is to earn enough to either retire or leave the workforce completely, choosing a superannuation fund with reasonable fees is crucial so the fees do not erode your investment returns. If you do however choose a fund with higher fees, ensure you use the fund to your advantage by capitalising on its more flexible investment choices and more diverse insurance options. Above all, remember that there is no point paying for a service you do not use – your fees do not buy you better returns unless you use your fund astutely.

Also note that the above 'Total expense ratio' shows the percentage of fees charged per earnings. Another valid consideration is actual fund performance. This is because a fund that earns you very little may also charge you very little in fees and so would score well on this ratio but not actually help you save for your retirement in the most effective way. ■

Investing: Growth versus income

Every investor goes in with dreams of a pot of gold, but there is a fundamental dichotomy of investor types – one looks to line their pockets with investment returns along the way, and another who is patient to wait until the end of the rainbow to reap the rewards.



The distinction between investing for growth or investing for income should not be confused with a "them or us" alignment – it's not a version of PC versus Mac rivalry. Rather, investing for growth or investing for income will depend on the personal circumstances of the individual.

The needs of each person naturally differ, and the type of investment they prefer will depend on these needs. Many investors simply need capital growth, and are looking to grow their portfolio for later use, say with the aim of securing a more comfortable retirement. Others, for example people already retired, will be looking to receive earnings from their investments, perhaps to replace income from employment.

Naturally, as needs and priorities change, the approach to investing may change as well – such as shifting a portfolio's emphasis from growth to income as one's longer-term goals are achieved.

Investing for growth will tend to require a longer time commitment, as assets such as shares or property will be anticipated to increase in capital value over time rather than provide a quick return. Investors wanting to build wealth over the long term will want to put more money into assets that should increase in value. Having a longer time horizon will also allow some shock-proofing for the inevitable ups and downs of markets.

Investing for income will have more appeal for people who are counting on some cash to meet living expenses or meet some short-term goal. While the aim should include keeping the principal base stable, the idea is to have a predictable income stream from interest payments or dividends that are earned on the value of that principal amount.

Of course there is also the idea that a healthy investment portfolio will have a balance of both growth and income assets, with part of the portfolio geared for growth while another part is tailored towards income producing investments.

Many investment assets will have elements of both growth and income, and the sharemarket abounds with examples of stocks that will offer both capital growth and dividend generation. The likely difference between different shares will be the emphasis given to delivering returns – of either the growth or the income variety.

One company, for example, might review profit more regularly and distribute it via dividend payments. Making a return on an investment will therefore not rest entirely on selling the shares, and if the company pays regular dividends the investor can continue earning over a prolonged period. The negative here however is that dividends can always diminish or even dry up.

A company that emphasises growth will more likely re-invest profits back into the company, and so not allocate the same amount of earnings for dividend payments to shareholders. However it is that re-investment that should see increased company value (and share price), which will translate into cash for the investor when the stock is eventually offloaded.

The risk of course is always that the share price could head south, and fall below the price that an investor paid for it, resulting in a capital loss rather than a capital gain.

The tax consequences of each differ too, with interest earnings counted towards assessable income (although share dividends can be treated differently due to the imputation system, which sees tax paid in the hands of the issuing company). Earnings from growth (capital gains) will come under the CGT rules.

See this office for more detailed guidance on your best investment options. ■

A-Z on public rulings and how they can help you



Unbeknownst to many a taxpayer, the ATO issues public rulings that provide advice on the interpretation of various tax laws. Public rulings deal with priority issues that require clarification, so you may find that many of your concerns are shared by others and may have already been addressed.

Public rulings provide taxpayers with certainty and protection if they follow the ruling as it applies to them. However, taxpayers who ignore public rulings may face severe penalties unless they can demonstrate that the ATO incorrectly interpreted how the law would apply to circumstances covered by the ruling.

Tip: *As a general rule, only public and private rulings are binding. In other words, they offer some protection against having to pay a tax shortfall in the event that the ruling is found to be incorrect. The ATO will not impose penalties where the taxpayer has drawn upon and relied on incorrect information contained in other publications – such as booklets and pamphlets. However where these booklets and pamphlets are not classed as publically binding rulings, a tax shortfall resulting from a taxpayer relying on them when they may be incorrect would still need to be paid.*

Type of public rulings

Public rulings can sometimes include:

- tax determinations and tax rulings
- return form guides, including TaxPack
- information booklets
- ATO media releases, and
- speeches or statements by senior officers of the ATO which must say that it or selected parts of it constitute a public ruling.

Public rulings can cover a number of taxes which may include any of the following:

- income tax
- Medicare levy
- fringe benefits tax (FBT)
- franking tax
- withholding taxes
- petroleum resource rent tax
- mineral resource rent tax (MRRT)
- indirect tax – including goods and services tax (GST), wine tax and luxury car tax
- excise duty
- the administration or collection of the above taxes, levies and duties; certain product grants or benefits
- a net fuel amount, or the administration, collection or payment of a net fuel amount
- a net amount or the administration, collection or payment of a net amount; and
- a wine tax credit, or the administration or payment of a wine tax credit.

Rulings are treated as binding public rulings when they are made available to the public (through Freedom of Information units located at each branch and the ATO website) and they explicitly state that they are public rulings.

Date of effect of a public ruling

Public rulings state the ATO's interpretation of tax laws (which is binding) and is taken to have always applied unless:

- the ruling states that it applies only after a particular date, or
- the ATO feels it is unfair to disturb arrangements existing before that ruling.

What happens if you disregard a public ruling?

There is no compulsion on a taxpayer to follow a public ruling. However, if a taxpayer is subject to a tax shortfall penalty, a public ruling is a relevant authority in determining whether the taxpayer has a reasonably arguable position and if reasonable care was exercised. If there is a tax shortfall because a ruling was not followed, penalties can be imposed unless the taxpayer can demonstrate reasonable care was taken and they had a reasonably arguable position.

Tip: *If in doubt, follow the public ruling and then lodge an objection against the assessment or seek a private ruling. By using either of these two strategies, the taxpayer protects their rights and avoids the possibilities of tax shortfall penalties.*

A-Z on public rulings and how they can help you (cont)

What if there are conflicting rulings?

If two public rulings are issued on the same topic, the earlier ruling still applies to arrangements which started before the issue of the new ruling.

Rulings under each tax type (for example, income tax) are treated separately and there can be no conflict between them. If there is any conflict in interpretation of the law between two public rulings, the taxpayer can rely on either ruling.

Tip: *If an arrangement had started when a public ruling was issued, the taxpayer can usually adopt whichever ruling gives greatest benefit. Be careful however, as a new public ruling can overturn that earlier favourable interpretation.*

Warning: A conflicting public ruling issued before a scheme commences will override any private ruling issued to the taxpayer.

What happens when a ruling is withdrawn?

In the case of withdrawal of part of a public ruling, the portion which was not withdrawn continues to hold effect for both past and future arrangements. For any arrangement that started before the withdrawal, the former ruling will apply – provided it is favourable to the taxpayer.

Example: *A public ruling dealing with expenditure incurred by an employer-sponsored super fund says deductions are allowed if the expenses are incurred on behalf of the fund by trustees of the super fund or the sponsoring employee. A further public ruling is issued, withdrawing the previous ruling as it affects trustees. In that case, the earlier ruling continues to apply to expenditure incurred by sponsoring employers.*

When should I use a tax determination?

A tax determination (TD) is a type of ruling regarding a very specific point of law and has the same status as a public binding ruling. The difference between a TD and a public ruling is that a TD deals with single issues whereas a public ruling looks at all of the tax implications that might be involved in an arrangement or transaction. For example, a TD might deal with the assessability of a receipt to advise whether that receipt is income under ordinary concepts. A public ruling, on the other hand, would also consider whether the receipt was a capital receipt and subject to capital gains tax.

Do TaxPacks and information booklets constitute a public ruling?

As a general rule, a published booklet or other information issued does not become binding on the ATO unless the document or information specifically states that it is a public ruling. ■

Changes to employers' super obligations in 2013

With the new year well underway, businesses should watch out for the changes below, all of which are effective from July 1, 2013:

a. Changes to the super guarantee rate

As you most probably make super payments on behalf of your employees based on the minimum 9% super guarantee rate, you will need to increase this to 9.25% from the start of the new financial year. Update your payroll and accounting systems to include the increase to the super guarantee rate.

b. Removal of super guarantee upper age limit

There is no upper age limit for paying super for an employee from the start of the next financial year. This means you may need to make super guarantee payments for eligible employees 70 years or older. Check if you have any employees 70 years old or older who may be eligible to receive super payments and arrange to pay super contributions into their chosen fund from the start of July.

c. New payslip obligations

You may be required to report more information about the super contributions paid to your employee on their payslip when the calendar flips over to July 1. This change is still subject to consultation with the industry and a further announcement will be made by the government.

If you are unsure of your general superannuation employee obligations, read the following table.

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Employers' super obligations	
Are you an employer for super purposes?	Yes, if you employ a person under a verbal or written employment contract on a: • full-time basis • part-time basis • casual basis You may also be an employer for super purposes if you make payments to a contractor
Do you have to pay super for your employees?	Generally, you have to pay super for your employees if they: • are between 18 and 69 years old inclusive (set to change on July 1, 2013) • are paid $450 or more (before tax) in salary or wages in a calendar month • work full-time, part-time or on a casual basis
Are you self-employed?	If you're self-employed, you don't have to make super contributions for yourself. However, you may consider super as a vehicle for retirement savings. Most self-employed people can claim a full tax deduction for contributions they make to their super until they reach 75 years old
Do you have to pay super for contractors?	You may have to seek specific advice in relation to contractors
When do you pay super contributions?	• Quarter 1 (Jul-Sep) – by October 28 • Quarter 2 (Oct-Dec) – by January 28 • Quarter 3 (Jan-Mar) – by April 28 • Quarter 4 (Apr-Jun) – by July 28 If a cut-off date for a payment falls on the weekend or a public holiday, you can make your payment on the next working day after that date
How much super do you pay?	Until the end of the 2012-13, you need to pay a minimum of 9% of each eligible employee's ordinary time earnings. From July 1, 2013, the rate will increase to 9.25%
Can you claim a tax deduction?	Super contributions are generally tax deductible in the financial year you pay them
Where do you pay super contributions?	You need to pay contributions into a complying super fund – which may be a super fund chosen by your employee – or a retirement savings account
Do you need to offer your new employees a choice of super fund?	You need to provide a Standard Choice Form (NAT 13080) to new employees who are eligible to choose a super fund within 28 days of the day they start working for you
Do you need to report additional employer super contributions on the employee's payment summary?	If your employees choose to salary sacrifice some of their before-tax income in addition to compulsory contributions, you will need to report this
What records do you need to keep?	You need to keep records that show: • the date and amount of super you paid for each employee • how you worked out the level of super you paid • that you have offered your eligible employees a choice of super fund • the details of the super fund that you paid your employee's super into
What if you don't meet your super obligations?	You'll have to pay the ATO a super guarantee charge

Ease into retirement, but still earn income

There is a provision under the superannuation rules to access some of your retirement savings held in your super fund under a "transition to retirement" arrangement. Under this plan, a super fund member can ease into retirement by reducing their working hours without reducing their income.

If you are aged between your relevant preservation age (age 55 if you were born before July 1960) but under 65 years, you are allowed to withdraw some of your super each financial year (no more than 10% of each year's opening balance) and place it in an account that gives you regular payments, called an 'income stream', to supplement your other income – say from part-time work. A transition to retirement income stream allows you access to some superannuation benefits without having to retire or leave your job, and still be able to 'draw down' regular payments from your super fund (however these payments are 'non-commutable', which means it cannot be withdrawn as a lump sum).

A self-managed superannuation fund (SMSF) can pay a transition to retirement income stream provided its trust deed allows it. Also, once a transition to retirement income stream is commenced, the fund assets that support the income stream attracts no tax on investment income.

The ATO says a transition to retirement income stream must satisfy the following requirements:

- it must be an 'account-based' income stream, which means an account balance must be attributable to the recipient of the income stream
- the payment of a minimum amount is to be made at least annually – which is 3% of the account balance under a 'pension drawdown relief' program for 2012-13, but thereafter is expected to return to 4%
- total payments made in a financial year must be no more than 10% of the account balance at the start of each year. This is the maximum amount of income stream benefits that can be drawn down each year
- the income stream is non-commutable
- it can be transferred only on the death of the member to one of their dependants, or cashed as a lump sum to a dependant or the estate
- the capital value of the income stream and the income from it cannot be used as security for borrowing.

Work and pension

If you are receiving a transition to retirement income stream and are continuing to work, your fund (SMSFs included) may also be receiving contributions such as superannuation guarantee payments on your behalf. There should be two accounts to make this arrangement work – one for paying the transition to retirement income stream and the other for receiving contributions.

Allowing a lump sum

While no lump sum payments are allowed while receiving a transition to retirement income stream (as it is non-commutable), once a member decides to retire or turns 65, the income stream converts to a normal account-based pension and the member can then take out a lump sum as required.

Pension changes tax take

Once a transition to retirement income stream has begun, the income from that portion of the super fund's balance generally attracts no tax. With an SMSF, for example, if there are two or more members of the SMSF and only one has taken a pension (that is, the other members are still in accumulation phase), then only the portion of the fund assets attributable to the pension payments escapes paying tax.

Maximum and minimum drawdowns

There is an annual maximum permitted amount of 10% of a fund's asset balance that can be taken as a transition to retirement income stream, but there is also a minimum, which is a set percentage of the balance at the start of the financial year.

After the global financial crisis (GFC), the government adjusted down the annual minimum amounts fund members were required to draw down, a measure put in place to assist funds in their recovery from capital losses associated with the GFC. The adjusted minimum for under 65s was set at 3%, but will revert to the pre-GFC rate of 4% in 2013-14. ■

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