

FEBRUARY 2016 PRACTICE UPDATE

This practice update includes some articles that we thought you might find interesting. If you would like more information in relation to any of the articles in this update, please do not hesitate to contact our friendly and professional team. If you would like to receive an email in relation to these updates, or if you would prefer not to receive them, please email your request to hancocks@hancocks.com.au.

ATO announces two important data matching protocols

The ATO has just announced that it is starting a new "asset" data matching protocol, and extending another CGT and rental protocol that has been running successfully for the last ten years.

Data matching on insurance taken out on certain assets owned by "wealthier" taxpayers

The ATO has advised that it is working with insurance providers to identify policy owners on a wide range of asset classes.

These include:

- marine;
- aviation;
- enthusiast motor vehicles;
- fine art; and
- thoroughbred horses.

It said that this will provide them with a more accurate estimate of taxpayers' wealth.

Editor: And therefore income. Taxpayers who have used untaxed monies to acquire such assets might be well advised to get on the front foot and disclose it to the ATO, rather than waiting for a call from the taxman.

They advise that they expect to receive 100,000 records where the different asset classes meet certain threshold amounts.

Property sales and rental income

The ATO has also advised that it is continuing its ongoing "Real property transactions 1985–2017 data matching program protocol".

It is undertaking this program to basically ensure that taxpayers are correctly meeting taxation obligations in relation to their dealings with real property, i.e., CGT on property sales and income tax on rental income.

For the period 20 September 1985 to 30 June 2017, data will be obtained from all State and

Territory Revenue authorities, as well as many Finance departments, and Land and Residential Tenancies authorities.

The ATO will obtain the data on:

- ❖ landlords, properties, rental income, etc., from the rental bond authorities; and
- ❖ taxpayer details on property valuations, sales, purchases, etc., from the revenue and land titles authorities.

Number of records

It said that, based on current data holdings, it is estimated these records will identify approximately 11.3 million unique individuals.

Tax help for people affected by recent bushfires

The ATO has advised that, for people affected by the recent Victorian and Western Australian bushfires, refunds will be fast-tracked and they will have additional time to lodge income tax returns and activity statements.

No need to apply

The Tax Commissioner said taxpayers do not need to apply for a deferral or a faster refund.

"If your business or residential address is in one of the identified affected postcodes it will happen automatically. You can visit our website to see the new lodgment dates and check if your region is included. Further postcodes may be added as needed, so check our website for more information," Commissioner of Taxation, Mr Jordan, said.

Warning to employers to withhold tax from some car allowances

The ATO has reminded taxpayers that, in relation to claiming car expenses, the one-third of actual expenses method and 12% of original value method were abolished from 1 July 2015.

The cents per kilometre method now uses a standard rate of 66 cents per kilometre for all cars, rather than a rate based on a car's engine size.

Employers should be aware that the ATO set the approved pay as you go (PAYG) withholding rate for cents per kilometre car allowances at 66 cents per kilometre from 1 July 2015.

Employers should withhold tax from any amount above 66 cents for all future payments of a car allowance, as failure to do so may result in the employee having a tax liability when they lodge their tax return.

Employees, who from 1 July 2015 have been paid a car allowance at a rate higher than the new approved amount, should consider whether they need to increase their withholding to avoid any tax liability at the end of the year.

Editor: If this applies to your business, please contact our office if you need help with the calculations.

Taxpayer misses out on small business CGT concession

A taxpayer's claim that a related trust was entitled to the small business 15-year exemption* was rejected because a loan from his trust had to be included in the net value of his CGT assets.

Note (): One of the requirements to get this concession is to satisfy the "maximum net asset value test" (MNAV), whereby the net value of CGT assets of a taxpayer (and their connected entities and affiliates) must not exceed \$6 million.*

It was agreed between the ATO and the taxpayer that the total net value of the taxpayer's other assets in 2008 was \$5.93 million.

The parties disagreed, however, as to whether an amount of \$1.14 million shown as a loan in the 2008 balance sheet of the taxpayer's trust should be included as an asset – the taxpayer claimed that he was "statute-barred" from recovering the loan by the *Limitation of Actions Act 1936 (SA)*.

If it was an asset, then the net value of the total assets for the purposes of the small business exemption exceeded \$6 million, and the taxpayers were not entitled to CGT relief.

Decision

The Federal Court held that any action by the trust against the taxpayer to recover the pre-1998 loan would be an action to recover "trust property", and the *Limitation of Actions Act* does not prescribe any limitation period in respect of claims of that kind.

Therefore, "the contention that the pre-1998 loan was statute-barred and did not have to be brought into account in the calculation of the MNAV must be rejected".

March quarter GIC and SIC rates

The ATO has published the 2016 March quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC):

GIC annual rate	9.22%
GIC daily rate	0.02519126%
SIC annual rate	5.22%
SIC daily rate	0.01426229%

Extra time for foreign investors to register agricultural land

The ATO has advised that foreigners who own land in Australia now have until 29 February 2016 to come forward and register their agricultural land holdings.

All foreign individuals, companies and trustees are required to notify the ATO if they:

- have an existing interest in agricultural land;
- have a new interest in agricultural land; and/or
- no longer have an interest in agricultural land.

If agricultural land is purchased or the ownership of land is changed on or after 1 February 2016, the ATO must be notified within 30 days.

Disclaimer: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.