

NEWSFLASH BOOKLET

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WAGE EARNERS

Depreciation for wage earners

Ruling TD 93/145 states that an employee is entitled to claim depreciation on an item of plant used for income producing purposes even though his/her employer has reimbursed him/her the purchase price of the plant. Further if the purchase price is \$300 or less the depreciation rate is 100%. The reimbursement is not taxable income in the hands of the employee as section 51AH applies to reduce the amount claimable by the reimbursement but this does not apply to reduce the cost base for depreciation purposes.

This ruling combined with the exempt fringe benefits legislation can be used to acquire a laptop at only 3% of its original purchase price. For example:

A is a sole trader who employs B. Both A and B are in the maximum tax bracket. B buys a laptop computer for \$5,000, which will be solely used to produce income for A (if some private use then claim needs to be pro rata). A fully reimburses B for the expense and as laptops are an exempt fringe benefit A claims the full \$5,000 as a tax deduction but no FBT is payable. As a result of the tax deduction A receives a tax refund of $\$5,000 \times 48.5\% = \$2,425$. B can still claim depreciation on the laptop at a prime rate of 27% for the next 3.71 years until the whole \$5,000 is claimed, resulting in another \$2,425 from the ATO.

Note you cannot be an “employer” to yourself but if you have an interposed entity such as a company or trust you can become an employee of it and take advantage of this ruling. Note the maximum tax rate for companies is 30%. Therefore, the laptop can only be acquired for 21.5% of its original purchase price.

Rebates

The amount of rebate claimable for a dependant spouse is determined by his or her separate net income. Page 63 of the 1999 taxpack discusses this in detail. Of particular interest is that a spouse's separate net income can be reduced by childcare fees and the costs associated with going to work such as clothing, meals and travel expenses. Travel expenses can be the costs of a motor vehicle between home and work. This can be measured on the cents per kilometre method i.e. up to 53.8 cents a kilometre. However, unlike tax deductible motor vehicle expenses, there is no 5,000km limit.

A rebate is available for medical expenses exceeding \$1,250. This includes items purchased from a chemist that are prescribed by a doctor. A written prescription is not necessary. For example if a doctor recommends you take iron tablets and you buy them from a chemist they qualify for the rebate. Further Chiropractic care can be included in the calculation provided a medical doctor suggests you see one. This can be done retrospectively.

Motor vehicles – Cents per kilometre

The cents per kilometre method of motor vehicle substantiation is only limited to 5,000km per car per owner. In other words, a taxpayer can claim for more than one car if he or she is the owner of more than one car and uses it for deductible purposes. Further, if two taxpayers own the same car they can claim 5,000km each providing they are not the same 5,000kms. For example:

A and B are brother and sister and both are required to carry bulky tools to and from work each day because there is no secure storage provided by either of their respective employers. A and B buy two cars each car in both their names. Both of them travel 10,000km per year to and from work. If they swap cars half way through the year they will each be able to claim 10,000km at the 5,000km rate. If the cars have an engine capacity exceeding 2.6 litre that is a tax deduction (based on 2001 rates) of \$5,590 each.

On a related issue, Case S29 states that tools weighing more than 20kg are considered bulky. Therefore, transporting them to and from work, if there is no secure storage at work, is deductible. Weight is not the only determinate of bulky. Difficulty in carrying on public transport is also relevant. For example two light but large boxes of say teaching aids would still be considered bulky, as it is impossible to carry them both at once.

Motor vehicle expenses

Wage earners can claim their motor vehicle expenses when they meet the substantiation requirements and they travel as follows:

1) Bulky Equipment – Home to work travel is claimable if there is no safe storage at work and as a result you transport bulky equipment between home and work. Safe storage is defined as similar to your own

personal locker. Therefore a container on a building site to which all and sundry has a key is not safe storage. Case S29 prescribed more than 20kg was bulky. Taxpack gives the example of a ladder and drum kit not because they weigh more than 20kg but because they fulfill the difficulty to carry side of bulky.

2) Abnormal workplace, this is defined in Taxpack at D1 as:

From your normal workplace to an alternative workplace – for example, a client’s premises – while still on duty and back to your normal workplace or directly home. From your home to an alternative workplace for work purposes and then to your normal workplace or directly home.

This would include being sent to another branch or shop to relieve providing you were not employed predominantly to relieve. This covers seminars and visits to customers etc. It also includes work related tasks performed on the way home or to work but, note MT 2027, the task cannot be insignificant such as dropping off the mail at the post office. Though if you drop off the mail on the way home you can claim for the distance off the track this takes you. Also refer TD 96/42 and TD 96/43.

3) Itinerant work refer TR95/34 which is available from the ATO web site or our office.

For example more than one workplace each day on most days.

Note: The above can also apply to the self-employed possibly in addition to other claims. If claiming for a car on the kilometre basis the limit is 5,000 kilometres per car, not per taxpayer.

Medicare levy surcharge and child maintenance

Many taxpayers are being charged the Medicare levy surcharge incorrectly. The surcharge applies if you do not have private hospital insurance with a low or no excess and your income is more than \$50,000 for singles or \$100,000 for families. The threshold includes taxable income and fringe benefits. The definition of family is based on whether you have dependants i.e. contribute to a spouse or child’s (under 16 or full time student under 25) maintenance. Spouses are automatically considered dependants of each other. In the case of separated couples the normal Medicare levy only entitles you to consider a child your dependant if you would be entitled to claim Part A benefit from Centrelink in other words you shared custody of the child. But for surcharge purposes this area is widened and a child would be considered a dependant even if he or she does not live with you but you contribute to his or her maintenance. In particular a single person without private hospital insurance who earns more than \$50,000 but less than \$100,000 is not liable for the 1% surcharge if they pay child maintenance. Reference ITAA1936 Section 251V.

Warning if you are receiving workers compensation

If you are receiving workers compensation income either directly from your state’s workers compensation board or indirectly from your employer and you eventually receive a lump sum settlement you will probably have to repay all the income you have received. The problem is you would have already paid tax on the income you received. As you have repaid the amount out of your lump sum the weekly payments you received are no longer income but your own capital which is not taxable. According to IT2623 you can get the tax you have paid or that has been deducted from your payments, back by amending the income tax returns for the years in which you made the repayments. But there is a limit that amendments can only be made up to 4 years after the due date on the assessment notice. In many cases it may take longer than 4 years before you receive your lump sum. To ensure you can still amend back further than 4 years you will have to keep the assessment notice alive. This can be done by making a small amendment to the old years which will result in the ATO having to issue a new currently dated assessment notice. Note you do sign the tax return and amendment notice to say that it is true and correct so you will need a legitimate reason for amending. Maybe you missed a few dollars interest on an old bank account.

Paragraph 22 of IT2623 deems you to have repaid the whole amount once you start making repayments. Possibly this paragraph could be used to avoid the 4 year limit as well. The paragraph states “where arrangements are in place to ensure that payment occurs (eg the employer is deducting an agreed sum from the weekly wages), the repayment is by installments and has commenced, it is accepted that the amount has been “repaid” for the purposes of this Ruling”. In other words starting to repay the amount before the settlement will allow you to immediately amend the tax return and receive the tax refund.

The above also applies to Centrelink payments.

Assessment notices issued after 1st July, 2001 can be subject to a shorter amendment period of only 2 years if the tax return was relatively simple. If this applies to your assessment it will be written on the assessment notice.

Travel allowance

TR 2000/13, the ruling that deals with the current year's reasonable travel allowances, actually states that you can claim a deduction, against a travel allowance that you receive, in excess of that allowance, if the allowance is under the amount the Commissioner considers reasonable. At paragraph 21 the ruling states: "A domestic or overseas travel allowance expenses claim is considered to be reasonable if the amount of the claim covered by the allowance received by an employee, does not exceed the relevant reasonable amount shown in the Ruling." To further emphasise this point, at paragraph 105 the ruling gives an example of an employee travelling overseas who is paid \$100 per day for meals when TR2000/13 states that \$141.99 per day is reasonable. The employee incurs \$120 per day in meal expenses. As the \$120 per day is under the reasonable amount of \$141.99 the employee is entitled to claim this amount i.e. \$20 per day in excess of the allowance paid, without the need to keep any written evidence, providing any other requirements such as a travel diary are met.

Note there may be other prerequisites to qualify for a travel allowance claim without substantiation. The above is just highlighting a point in those rules that is not often realised.

Diaries and home office expenses

The ATO has released practice statement PS2001/6 which reinforces the importance of keeping diaries to substantiate claims, whether you are a wage earner or in business. Diaries should be kept for one month **every year**. They are necessary when an item has both business and private use. The diary must record both the business and private use. Examples of expenses that this ruling could apply to are telephones, computers, photocopiers, etc. A record should also be kept as to the number of hours an office is used for business.

The ruling points out that a deduction is allowable only where additional running costs are incurred. For example if the family room is also used as an office there would be no deduction for the electricity to light the room if the room was also being used, at the same time, by family members to watch TV.

Claims for non variable expenses such as rent, mortgage interest and rates are only deductible if you business fits the definition of a place of business. Due to a recent case one of the main deciding factors is whether clients or customers regularly visit the premises. Note this is not decisive as you home can still be a place of business without seeing clients or customers there but you would have to be strong on the other points which are:

Whether the area is clearly identifiable as a place of business

Whether the area is not readily suitable or adaptable or use for private or domestic purposes

Whether the area is used exclusively or almost exclusively for business purposes

The essential nature of the area and the nature of the taxpayer's business

A more detailed discussion on this matter can be found in TR 93/30.

Note you may not wish to have your home considered a place of business, as this will make it subject to capital gains tax. So this is only beneficial if you are renting or purchased the house before 19th September, 1985. Claiming electricity, depreciation of equipment and telephone will not trigger capital gains tax.

Death benefits in your super – Tax consequences

Careful consideration should be given to who you nominate as beneficiary of the life insurance component of your superannuation policy. A dependant will receive the death benefit tax free if the benefit does not exceed the pension reasonable benefit limit of the deceased which is over a million dollars (140ZF(5)). The definition of dependant defined at section 27AAA(3) as:

"Any person who is or was the spouse of the taxpayer, and any child or the taxpayer who has not attained the age of 18." Refer 27A(1).

Note the definition is not limited to this (refer IT2168) and it is recognised that a dependant does not have to be solely dependant on the deceased to qualify. For example a brother living with the deceased but receiving a social security payment would still be considered a dependant if it was proved that the social security payments were not enough to cover the dependant's share of living expenses. Further, a parent has

been found to be a dependant of a deceased child, not on the basis of financial dependence but on the fact the parent was reliant on the deceased for nursing care.

If the payment is received by a non dependant it will be taxed at 15% (subject to some exceptions) in the beneficiary's hands if the payment is from a superannuation fund. If the payment is from the deceased's employer it will be taxed at 30% if paid to a non dependant.

If the death benefit is just paid to the estate of the deceased you are at mercy to the Commissioner's discretion. Section 27AAA(3) states that the only tax free component is:

“such amount (if any) as the Commissioner considers appropriate having regard to the extent to which dependants of the deceased taxpayer may reasonably be expected to benefit from the estate.”

Otherwise the amount is taxed in the deceased estate. Note a deceased estate can be taxed at the deceased tax rates (i.e. the first \$6,000 tax free then only 17% until \$20,000) for the first three financial years after death if the winding up of the estate is not unreasonably delayed. So if your beneficiary does not fit any of the exempt definitions it is better to pay the amount to the estate then directly to them.

In same sex relationships it is important to consider if the definition of spouse extends this far. If it doesn't, you should, if your spouse has income, leave the benefit to your estate with provisions in your will dealing specifically with death benefits of your superannuation fund. In many cases the definition of dependant is left up to the trustees of the superannuation fund. If you are truly concerned about providing for your family, look into your superannuation funds rules before you fill out the beneficiary form.

If you have only been in the work force a short time superannuation entitlements may be minimal and you may disregard this article. But note your death benefits can be significant even if you are new to the fund.

In short, your will should specifically deal with your superannuation death benefit in the most tax effective way subject to your circumstances (i.e. paid to dependants only). Any generalisations will only result in the ATO being a beneficiary of your estate. And if you thought you hated paying the ATO while you were alive and able to provide for your family.....

In conclusion we need to further look at your superannuation contract and your will to ensure the ATO does not benefit. Now you have your family in order it is ideal to name beneficiaries in your will. Further, having recently done a course on deceased estates, if you are making any changes to your will and considering the possible conflict with John's family I would like to be given the right to ensure your family, as you intended, benefits.

7,000 reasons to read Newsflash

We can't help but boast about this one because it makes us feel like Robin Hood.

A client has just received a refund of over \$7,000 after reading the Newsflash article on people receiving lump sum compensation but part of the amount is used to repay income they have received while injured (IT2623). This article is now available in the Wage Earners Newsflash Booklet. It goes to show there are more tax advantages in knowing all your entitlements than expensive and risky schemes. Reading Newsflash is one way of making sure you don't miss out. Please pass it on to all your e-mail addresses and beat the ATO legally.

Bad habits

Did you know that, if, instead of consuming the following items over a 25 year period you invested the money on a monthly basis in a well diversified growth portfolio you would achieve the following returns plus tax credits depending on the performance of the portfolio:

Bad Habit	Avg 9%	Avg 12%
20 packets of cigarettes per month @ \$8	\$181,000	\$304,000
A monthly subscription to cable TV @ \$45	51,000	85,000
Buying your lunch on weekdays say 22 days per month @ an increased cost per day of \$4 compared with bringing it from home	99,000	167,000

It is the small but regular expenses that really cost in the long run. Likewise a small but regular investment that compounds will really add up over time. If you expect your working life to be 40 years and you don't buy your lunch too often and invest the money instead you could have between \$417,000 and \$1,050,000 at the end of your working life. So by not buying your lunch and investing the money you could have over a million dollars when you retire if your portfolio averages 12%pa.

Salary packaging

If your salary package reduces your gross pay to less than \$125,000 you can improve your take home pay at the ATO's expense by making employee contributions. Fringe benefits tax is based on the assumption that if you received the money for the benefit in your pay packet all of it will be taxed at the maximum bracket. So if your salary package before the sacrifice is over \$125,000 but under \$125,000 once the sacrifice is deducted please contact our office and we will calculate the optimal employee contribution you should make as the formula is too complicated to explain here.

Note there are special concessions for employees of hospitals and public benevolent institutions which make salary sacrificing attractive no matter what your income as long as the package is within the limits of the concessions. This issue will be addressed in another article.

If your package is under \$125,000 before deducting the salary sacrifice you should make employee contributions to reduce the "taxable value" of the benefit to zero. An employee contribution is not necessary with exempt fringe benefits that are salary sacrificed such as superannuation, laptops, mobile phones, minor benefits etc. because their taxable value is already zero. The "taxable value" is normally the market value of the benefit you receive, so, if your package is under \$125,000, the only items worth salary sacrificing are the exempt benefits or in most cases a car (providing it is unlikely to have much business use and it will travel a reasonable amount of kilometres). The first worksheets below will help you calculate the taxable value of a car and therefore the employee contribution necessary. The second worksheet helps you work out how much it will cost your employer to provide you with the car and therefore how much your salary will need to be reduced by in order to receive the car.

This also applies to the self-employed that operate through a company or trust. The employee contribution is normally done by journal entry when the tax returns are done.

Note you will not be able to claim a tax deduction in your personal income tax return for the cost of using a salary sacrificed car for your work.

Salary sacrifice and employees of hospitals or public benevolent institutions

Employees of Hospitals and Public Benevolent Institutions can receive a limited amount of fringe benefits without their employer being liable to pay fringe benefits tax. This effectively means the benefit is received tax free just like the good old days. There is a limit of \$7,984 taxable value for hospitals and \$14,090 taxable value for Public Benevolent institutions. The taxable value is normally the actual cost of the benefit supplied. A statutory formula can be used to calculate the taxable value of a car the formula works as follows:

		Statutory Fraction	
Taxable Value of Vehicle		Total kilometres p.a. less than 15,000	0.26
GST Inclusive Coat of Vehicle		Total kilometres p.a. 15,000 to 24,999	0.20
Multiply by the Statutory Fraction	_____	Total kilometres p.a. 25,000 to 20,000	0.11
Taxable Value		Total kilometres p.a. over 40,000	0.07

Exempt fringe benefits such as superannuation, laptops, mobile phones and minor benefits are not included in the limit and are not subject to FBT so these are effectively tax free as well, though superannuation is taxed in the hands of the superannuation fund.

If your taxable income after salary sacrifice is under \$125,000 make sure you only salary sacrifice exempt benefits and otherwise only up to the limit. If you do more than this it will be necessary to make an employee contribution to cancel the taxable value of the extra benefit down to zero. Otherwise you are effectively paying the maximum tax rate on the excess benefit when if you had received the cash instead it would have been taxed at a lower rate.

Note you will not be able to claim a tax deduction in your personal income tax return for the cost of using a salary sacrificed car for your work.

Taxable Value of Vehicle

GST Inclusive cost of the vehicle		Statutory Fraction
Multiply by statutory fraction		Total kilometres pa less than 15,000 0.26
		Total kilometres pa 15,000 to 24,999 0.20
Taxable Value	_____	Total kilometres pa 25,000 to 40,000 0.11
		Total kilometres pa over 40,000 0.07

Calculate The Cost to the Employer of Providing the Car:

Lease Payments		Actual Running Cost*
Fuel		Add: GST Payable on Employee
Registration		Contribution
Insurance		Add FBT Payable
Repairs and Maintenance		Less: GST on Running Costs
Tyres		Less: Employee Contribution
Total Costs GST Inclusive	_____ *	
For GST on Above Divide by	11	
	_____	Real Cost to Employer and normally
GST on Running Costs		the amount of the salary sacrifice

How to claim a tax deduction for life insurance

Normally life insurance premiums are not tax deductible. If your income insurance does provide life insurance as well you are required to dissect the premium and not claim the portion applicable to life insurance. This requirement to dissect the premium does not apply if it is through a superannuation policy. So if you qualify to claim a deduction for your superannuation contributions i.e. you are self employed you can ask your superannuation fund to provide you with life insurance and the increase in premium is just as deductible as the superannuation contribution. Note the self employed are only entitled to a full tax deduction for the first \$3,000p.a., only 75% of any premium over \$3,000p.a. is deductible up to your age base limit.

If you are an employee you could salary sacrifice into superannuation to cover yourself for life insurance. If you are a low income earner you won't get a tax deduction for your superannuation contributions but you will get a rebate of 10% of the amount paid. The rebate is limited to a maximum of \$100 in any one year.

There are superannuation funds that will permit you to make superannuation contributions small enough just to cover your life insurance. So you don't even need to invest extra into superannuation to get life cover.

Tony Townsend Registered Life Broker has offered to review all our clients insurance needs free of charge. He provides a detailed evaluation of all your insurance needs and can see you in your home or our office. Refer the advertisement at the end of this Newsflash.

Secret plans and clever tricks

Claiming Meals as a Tax Deduction when not Travelling

How Employees can Claim:

RE Pollak Partners – Had the cost of lunch consumed during computer training courses been incurred by the computer trainers (rather than by their employer) such cost would have been allowable because the trainers were required to consume lunch with the course participants and to perform their duties while eating lunch.

How Employees can Maximise a Meal Allowance Claim:

TR 2000/13 – “Overtime meal allowance expense claims up to an amount of \$17.90 per meal are considered to be reasonable for the 2000-2001 income year where the overtime meal allowance is paid

under an industrial instrument. If a deduction claimed is more than the reasonable amount, the whole claim must be substantiated with written evidence, not just the excess over the reasonable amount.”

The ruling does not limit the claim to the amount of the allowance received but to what the Commissioner considers reasonable i.e. \$17.90. TR1999/7 is the ruling for the 1999/2000 year and the reasonable amount is \$16.20. The wording of TR1999/7 is basically the same as TR2000/13

Motor vehicles

Wage earners can claim their motor vehicle expenses when they meet the substantiation requirements and they travel as follows:

1) Bulky Equipment – Home to work travel is claimable if there is no safe storage at work and as a result you transport bulky equipment between home and work. Safe storage is defined as similar to your own personal locker. Therefore a container on a building site to which all and sundry has a key is not safe storage. Case S29 prescribed more than 20kg was bulky. Taxpack gives the example of a ladder and drum kit not because they weigh more than 20kg but because they full fill the difficulty to carry side of bulky.

4) Abnormal workplace, this is defined in Taxpack at D1 as:

From your normal workplace to an alternative workplace – for example, a client’s premises – while still on duty and back to your normal workplace or directly home. From your home to an alternative workplace for work purposes and then to your normal workplace or directly home.

This would include being sent to another branch or shop to relieve providing you were not employed predominantly to relieve. This covers seminars and visits to customers etc. It also includes work related tasks performed on the way home or to work but, note MT 2027, the task cannot be insignificant such as dropping off the mail at the post office. Though if you drop off the mail on the way home you can claim for the distance off the track this takes you. Also refer TD 96/42 and TD 96/43.

5) Between Jobs - note this includes travel from home when home is the base of operations or work begins there. In Payne’s case a pilot was successful in claiming travel from home to the airport because he ran a primary production business from home. Note the ATO will probably appeal against this case. Home can also be considered a base of employment if employment related duties have begun before leaving there, providing those employment related duties did not begin merely for the convenience of the taxpayer. Taxpack provides the example of a computer programmer contacted at home to fix a problem over the internet. When this wasn’t possible, she then proceeded to work, hence the travel was deductible. Another example is a doctor contacted at home regarding a hospital emergency. He gave advice as to treatment and contacted other staff before leaving for the hospital so the trip to the hospital was deductible because he had already begun work when he left home.

6) Itinerant work refer TR95/34 which is available from the ATO web site or our office.

For example more than one workplace each day on most days.

Note: The above can also apply to the self-employed possibly in addition to other claims. If claiming for a car on the kilometre basis the limit is 5,000 kilometres per car, not per taxpayer.

Secret plans and clever tricks

Turning Post 1983 superannuation into Pre 1983 superannuation is as easy as an undeducted contribution.

The formula for apportioning post and pre 1983 contributions is quiet arbitrary to any real events other than the number of days you were contributing to superannuation before 1983 and the number of days after 1983. For example lets assume that you have exactly the same amount of days post 1983 and pre 1983 and you had \$300,000 invested in your superannuation fund. The formula would consider that you had \$150,000 in pre 1983 and \$150,000 in post 1983. Now for the clever trick. If you were to make an undeducted contribution to this superannuation fund of \$150,000 this would bring the balance up to \$450,000. The formula would still calculate the pre 1983 as half the total value of the fund i.e. \$225,000 then the next \$150,000 would be considered your undeducted contribution. This leaves only \$450,000 - \$225,000 - \$150,000 = \$75,000 as the post 1983 portion.

When you retire and are over 55 years of age you are only taxed on 5% of your pre 1983 component. There is no tax on the undeducted contribution and there is no tax on the first \$105,843 (indexed) of the post 1983 but 15% tax on the excess. So the above scenario saved at least \$5,681.25 in tax.

Note the ATO has stated that if this procedure is used immediately before retirement they will attempt to use Part IV to void the transaction. Accordingly, it is recommended that you take this action at least a year before retiring. **Thanks to Raegan Durch of Whittaker Macnaught for enlightening me on this subject**

Tax minimisation schemes alert

The Australian Securities and Investment Commission has warned that advertisements by Richard Sherland and SMC, claiming to give people access to their superannuation before retirement are misleading. They state that Members of superannuation funds who wish to access their superannuation before retirement can do so only on grounds of severe financial hardship or compassionate grounds. Further, the arrangement involves investing funds offshore through SMC which is not an Australian registered Superannuation Fund.

Sun protection now tax deductible

Hats, sunglasses and sunscreen will now be tax deductible if you use them for work. The Cancer Council has backed a successful case in the Melbourne Federal Court. This deduction can be claimed for 2001/2002 and you can amend previous tax returns up to four years back. The victory does not extend to protective clothing such as long sleeve shirts. The ATO may issue a ruling discussing how much time a taxpayer needs to spend outdoors in their job before they qualify for a tax deduction.

Changes to depreciation rates

The ATO have just announced a change to the depreciation rates for some plant and equipment. Most of these would not worry the average taxpayer as it includes helicopters and equipment for the mining and gas industry. The main change of concern relates to cars. Previously they could be depreciated over 6 and 2/3rd years prime rate. The effective life has now been extended to 8 years. This will change the depreciation rate for cars purchased after 30th June, 2002 to 18.75% diminishing or 12.5% prime rate.

Reader's question

Investment property sold at a loss

A reader has sold an investment property for less than the amount he borrowed. He wants to know if he can still continue to claim the interest on the balance of the loan. The ATO has lost a few cases in this regard lately so there is a good chance that the reader will qualify for a tax deduction. The ATO states the contrary to this in TR 2000/17 but in light of FC of T v Jones, 2002 ATC 4135 and FC of T v Brown, 1999 ATC 4600 this will have to be withdrawn. TD 95/27 has already been amended as the ATO recognizes that an employee using a car for work purposes that sells for less than the outstanding loan can continue to claim the interest.

Everything you can do to bring yourself into line with the positive points of the cases mentioned above should be done. Some of the relevant facts that you may be in a position to do something about are:

- 1) All the proceeds of the sale should be used to repay as much of the loan as possible.
- 2) Endeavor to appear to be unable to repay the loan from other assets other than the family home. This may mean as a couple if only one member owned the property sold at a loss the other member should hold any further investments.
- 3) Don't refinance the loan to extend its term or increase the interest rate. You must appear to be doing all that is possible to eliminate the loan. So refinancing to reduce the interest rate is ok. On the other hand if you have to change the loan from principle and interest to interest only because that is the only way you can afford the repayments you may be able to justify changing the loan.
- 4) If the loan is already fixed at the time the investment is sold, then you have an argument that you could not pay it out. This is a factor to consider if you are refinancing before the sale.

The above also applies if the investment was shares or if a business was sold for less than what is owing on it. In the case of a business the ATO has issued a statement that division 35 cannot work to quarantine the interest in these circumstances as the taxpayer is no longer in business. Division 35 is discussed in our

Miscellaneous Small Business booklet. But all you really need to know is that Division 35 will not stop you claiming the interest.

Self managed superannuation funds

If you have over \$150,000 in superannuation, a self-managed fund can be a viable option. Not only does a self managed fund allow you to have more say in how your superannuation is invested but it also gives you considerable flexibility when you retire. For example, if you buy an annuity with your superannuation the amount invested in the annuity is not taken into account for the pension asset test. The problem normally with this strategy is if you die earlier than the statistics say you should, the superannuation fund holding your annuity gets a windfall and your heirs get nothing. There are some safeguards such as a residual pension going to your spouse if he or she out lives you and some annuities offer a safety net payout to your family if you die very early in the policy. A better solution to betting against your life expectancy is to setup the annuity through your own superannuation fund and make your heirs members of that fund. If you die early your heirs receive the residual as they are the only other members of the fund.

Reader's question

Nursing care in your home

A reader has a friend who is paying Nurses to provide around the clock care to his bedridden wife in their own home. He has been advised that this is not a medical expense for the purposes of the medical expenses rebate. I question this in view of the legislation, in which the definitions found at 159P(4) states a medical expense is payments to:

- (a) a legally qualified medical practitioner, nurse or chemist, or a public or private hospital, in respect of an illness or operation; and at
- (h) a person for services rendered by him as an attendant of a person who is blind or permanently confined to a bed or an invalid chair.

Section 159P(5) widens the above to include payments to the employers of the people listed in (a) but does not extend this to (h). So if the carer is not a registered nurse or medical practitioner, the payment will not be a medical expense if paid to an agency rather than the person actually giving the care. For example in Case S57, 85 ATC 412 payments to a city council for its home help service were not rebatable because it was not direct to the person providing the service.

For the 2002 financial year a rebate applied to any medical expenses over \$1,250, in 2003 the threshold will be \$1,500. This threshold applies only once in the year to all the medical expenses of all the family members i.e. parents and children under 21 regardless of the fact that these family members may have plenty of income in their own right. In very limited circumstances the medical expenses of grand parents and invalid relatives can be included in the threshold.

Secret plans and clever tricks

18% return overnight guaranteed

The rebate for making super contributions for your spouse is \$540 if you contribute \$3,000, providing your spouse's assessable (**not** taxable) income is under \$10,000 (shading provisions apply after that). If your spouse is retired from the workforce and over 55 years of age, he or she will be entitled to draw all that money straight back out. Effectively netting you an 18% return on an overnight investment. Note if your spouse has never held paid employment they will have to wait until they are 65 years of age. Spouse super contributions can only be made until the spouse reaches 65 years of age. The rebate is only available to offset tax so if your taxable income is too low to pay tax this will not benefit you.

Working overseas

If you work overseas for less than two years you could still be considered a resident of Australia for taxation purposes. But section 23AG exempts from Australian taxation employment income earned overseas providing the following conditions are met:

- 1) The employment is for a continuous period of 91 days. Note continuity is not broken by absences due to accidents or illness or recreation leave, which is part of the terms of your employment contract.

Weekends, public holidays, compassionate leave etc do not break continuity nor do business trips for the foreign employer. But continuity is broken by long service leave or leave on reduced or no pay. More detail can be found in TR96/15 which also addresses the absentee credit system.

and

2) You are taxed on this income in the foreign country. Note Australia has different double tax agreements with each country so you will need to know exactly what applies to your country.

But note while section 23AG exempts the income earned overseas it does not exempt from Australian tax your other income such as interest, royalties, dividends, rent etc., if you are still considered to be an Australian Resident for tax purposes. That is you intend to return to Australia within less than 2 years. This 2 year rule is not hard and fast it boils down to a question of fact. You will be taxed on any interest, royalty, dividend and rent income as if you were a resident but your net overseas income (calculated in accordance with Australian Tax Law) will be taken into account in determining your tax bracket.

Salary packaging a car – Sometimes it can go wrong

Note the following is not for employees of hospitals or public benevolent institutions.

Recently we have come across some salary packaging of cars that has actually made the employee worse off. About a year ago we published some articles on the calculations to work out the actual benefits of a salary package and these are still available in the FBT booklet. We understand that the calculations are quite complicated so the following is a list of **some** of the pit falls. If you think these could apply to you it is worth reading the booklet or talking to us. Note the following is not conclusive just some examples we have come across. To really know if your package is right you must crunch the numbers.

1) The ATO determine the FBT payable by your employer by a formula that increases the amount of FBT payable if the kilometres travelled by the car are low, the higher the kilometres travelled the more business purpose the ATO assumes the car has. The formula takes the purchase price of the car (assuming less than 4 years old) and multiplies it by one of the following:

Total kilometres p.a. less than 15,000	0.26
Total kilometres p.a. 15,000 to 24,999	0.20
Total kilometres p.a. 25,000 to 20,000	0.11
Total kilometres p.a. over 40,000	0.07

If your car is only doing 15,000 kilometres and it cost \$38,000 the ATO considers you to be receiving a benefit worth \$9880 per year or \$823 per month. Now unless your lease payments, fuel, repairs, registration and insurance are more than this your salary package is being reduced by FBT your employer has to pay on a benefit you are not really receiving. In other words the ATO's formula calculates the benefit of the car to you to be greater than the cost of running the car. So you would be better paying the tax on your package and providing the car for yourself.

A log book can be used stop the negative effects of the above but it will only restore equilibrium. A log book will not put you in a better position than if you provide the car for yourself.

2) If your gross wage after the salary sacrifice is less than \$60,000 you will need to make an employee contribution to reduce your fringe benefit to zero or at least bring your salary up to \$60,000. The tax your employer pays on your non exempt salary sacrifices is at 48.5%, the maximum personal tax bracket and is not reduced just because your own personal tax rate is lower. Therefore it is important that you make an employee contribution to bring the taxable value of your benefit to zero as you will pay less tax on the money than your employer. There is still a benefit in salary packaging a car even if you are under the maximum tax bracket threshold. If you are doing a high amount of private kilometres as discussed above the ATO assumes in its formula that there is a high business portion and reduces the FBT payable accordingly. If your package is under \$60,000 the only fringe benefits that are worth sacrificing are exempt benefits (laptops, superannuation, minor etc) or a car doing high kilometres. In the latter case it is imperative that the numbers are crunched to ensure there is a real benefit.

3) If you pay some of the car's expenses yourself the ATO does not reduce the amount of FBT your employer pays under the formula in point 1) above. So you must keep the receipts and give them to your employer to include in the FBT calculation as employee contributions. If you don't do this you are effectively being double taxed because you have already paid tax on the money you use to buy the fuel etc but you employer is also deducting from your package the FBT he or she has to pay on the ATO's

estimate of what the fuel expense will be. If you are in the maximum tax bracket and you pay \$100 in fuel out of your own pocket you have had to earn \$194.17. On top of that the ATO in its formula discussed in 1) above have taken into account that car will use that in fuel so will charge your employer FBT which your employer will take out of your pre tax salary package. You are effectively paying tax twice on the same tank of fuel not to mention the fuel tax we all pay.

We also have a Microsoft Works spreadsheet that will allow you to do some analysis for a salary packaged car. We do not recommend basing your final decision on the results of the spreadsheet without consultation with us as the spreadsheet was only written for use by accountants who can identify unusual circumstances.

Home to work travel an exempt fringe benefit

Most fringe benefits are effectively taxed at 48.5% so there is no real advantage in receiving them and a big disadvantage if you are not in that tax bracket yourself. Some may gain an advantage from reducing their taxable income as Fringe Benefits are not included in your taxable income but the grossed up value of them is included on your group certificate and in your income tax return. Whenever your taxable income is relevant, the authority you are reporting to will probably request the Fringe Benefits Tax Amount as well. Therefore the only real advantage gained by arranging a Fringe Benefit Package is from those benefits that are either exempt, concessionally taxed or not reportable

Exempt use includes "Non Cars" – Providing the following vehicles are only used for home to work travel, business purposes and other minor, infrequent and irregular travel. The benefit received is exempt, MT 2034.

- a) Motor Cycles
- b) Vehicles designed to carry a load of at least one tonne
- c) Taxis, panel vans, utilities and commercial vehicles designed to carry a load of less than 1 tonne but not principally designed to carry passengers. According to MT 2024 this includes Nissan Navara Dual Cab Ute DX, Mazda Bravo 4WD Dual Cab Ute DX5, Toyota Hilux 4x2 Dual Cab Ute, Ford Courier 4x2Crew Cab pick-up GL and Holden Ute Series III 179kw V8. Other vehicles that have more load space than passenger space may well qualify.

If you have a long way to travel to work and cannot make that trip otherwise deductible (i.e. carry bulky tools due to no safe storage at work) it may be worth purchasing a vehicle that fits into one of the classes above, if you have another car to use for private. This will effectively allow you a tax deduction for your entire home to work travel. Or in dollar terms halve your costs for running the vehicle if you are at the maximum tax rate.

Cashing in leave

Annual Leave – Some Federal Awards allow employees to receive the cash value of their annual leave rather than taking the time off. In Western Australia employees can cash in up to 50% of the annual leave they have accrued. Employers in NSW are specifically prohibited from paying their employees for their annual leave rather than them taking it.

Long Service Leave – Some Federal Awards allow employees to receive the cash value of their long service leave rather than taking the time off. In Queensland, South Australia, Tasmania and Western Australia can cash in all or part of their long service leave entitlement.

Teachers - Work related travel

Newsflash 65 & 66

It is not normally worthwhile for a Teacher to keep a full log book and receipts unless they are itinerant. Usually a teacher will do less than 5,000 deductible kilometres per year. To claim these the kilometre method can be used which does not require receipts or a logbook but simply a detailed reasonable estimate. If the Teacher travels to similar areas each term or month a record of the purpose of each journey and the kilometres travelled in the period multiplied to cover the whole year is a sufficient record. Also keep a record of one off trips. For the 2003 year you will be entitled to 50 cents per kilometre if your car has a cubic capacity of 1.6 litres or less. Over 1.6 litres up to 2.6 litres 60 cents. Over 2.6 litres is 61 cents per kilometre.

If you go do over 5,000 kilometres a log book may be beneficial but usually a better claim is available by rotating cars if you have more than one car. For example you are a member of a couple and use your spouses car sometimes. You can claim up to 5,000kms per car under the kilometre method. You must be the owner of the car to claim it under the kilometre method. If the car is only in your spouses name you can make a declaration of joint ownership. If the car is in your parent's name but you pay all the associated costs because it is really your car you are considered the owner of the car.

You cannot claim a deduction for travel between home and your normal school unless you carry bulky equipment. A trip from work to home carrying bulky papers to mark would not be deductible if you take them home as a matter of convenience. That is you could mark them at school but you would prefer to work at home.

TR 95/34 covers a lot of the circumstances where a car can be claimed as a work related expense. Of particular interest to teachers would be paragraphs 23 to 35. This ruling is available on the ATO web site. Tax deductible work related travel falls into the following categories:

Itinerant - In FC of T v Wiener 78 ATC 4006; (1978) 8 ATR 335 a teacher was required to teach at a minimum of four different schools each day, and comply with a strict timetable that kept her on the move throughout each of these days. The court found that she was itinerant and therefore able to claim her travel costs from the moment she left home until she returned home. A minimum of two workplaces in one day will class you as itinerant unless one was your normal workplace. If you first go to your normal workplace you can only claim for travel after you reach there.

Travel After You Have Started Work If you go out from your normal workplace and then return you can claim for that trip but not the trip to and from your home and your normal workplace. Examples of this sort of travel would be meetings at other schools, inspecting sporting fields etc. If you go home, rather than back to your school, after these meetings etc you can also claim the trip home.

Abnormal Workplace – Taxpack at item D1 and MT 2027 paragraphs 32 to 35 discuss claiming travel to an abnormal workplace. It is important to note that you must first have a normal workplace to have an abnormal one. You can claim for travel from home to an abnormal workplace and back home or to another workplace or vice versa. In FC of T v Genys (1987) 17 FCR 495; 87 ATC 4875; (1987) 19 ATR 356 the Federal court made it clear that if you are a relief teacher without a normal workplace you cannot make this claim if you only visit one school for the day. For a teacher with a permanent position the abnormal workplace claim would cover travelling to other schools for meetings, inspecting sports grounds, excursions, etc. even if they spent the whole day there. In other words the travel was merely home to work travel but because they have a normal workplace and this travel is to an abnormal workplace they are entitled to claim home to work travel. If you regularly teach at one school on Monday and Tuesdays and another the rest of the week both these schools would be considered your normal workplace so no abnormal workplace claim is available for either place.

Bulky Equipment – In case S29 it was accepted by the court that equipment weighting more than 20kg was considered bulky. If there is no safe storage at work you may be able to claim a deduction for taking your equipment to and from school. Relief teachers may be able to have a field day with this one. Safe storage means somewhere you can lock up your belongings that other people do not have a key to. It is not sufficient that you take the equipment home for your own convenience it must be out of necessity. Bulky equipment does not have to be heavy it can just be impossible to transport on public transport, for example a ladder or drum kit.

If you have salary packaged the car you use for deductible purposes you cannot claim a deduction for these trips in your income tax return because you are not the owner of the vehicle. This article will be continued in the next edition of Newsflash.

Transporting Students – Whenever you are transporting students in relation to your work the trip is tax deductible including the leg between their home and yours. This is the case even if you are transporting them to your normal place of work. TR 95/14 gives an example of a coach picking up players on his way to his normal school for a Saturday football match. He is entitled to claim the whole trip from when he leaves home to pick up the students

Work Related Tasks on the Way to or From Work - MT 2027 states that the task cannot be insignificant such as dropping off the mail at the post office. Though if you drop off the mail on the way home you can claim for the distance off the track this takes you. Also refer TD 96/42 and TD 96/43 available on the ATO web site. If you perform a significant work related task on the way home you can claim the whole trip. For

example checking the condition and availability of a sports ground on the way to work will make the whole trip deductible.

Home a Based of Operations – In case W4 a semi retired University Lecturer was allowed a claim for home to work travel because he did not have an office at the University where he could prepare his Lectures so his home was the base where most of his work was performed. This case is very narrowly interpreted by the ATO.

Casual Teachers - In FC of T v Genys (1987) 17 FCR 495; 87 ATC 4875; (1987) 19 ATR 356 an agency nurse was not permitted to claim the cost of attending a different hospital each day because it was merely home to work travel. She only went to one hospital each day and as she had no normal workplace she could not claim travel to an abnormal workplace. Casual teachers can claim their travel to and from work if they attend more than one school during a day without returning home. The most likely justification a casual teacher will have for claiming home to work travel is the transportation of bulky equipment. For example, if they are only in the school for a day they will need to take teaching supplies with them. It is then a matter of getting these supplies up to the state of "bulky". An example would be a guitar, story books and sports equipment.

If you have salary packaged the car you use for deductible purposes you cannot claim a deduction for these trips in your income tax return because you are not the owner of the vehicle.

Drawing on your super before 65 due to invalidity

Newsflash 66, September 03

If you retire early for health reasons you are entitled to receive part of your superannuation payout tax free. The tax free portion is calculated by working out the percentage of your working life that has been cut short and applying this percentage to your superannuation payout. Your superannuation fund trustee should work this out and give you an a Eligible Termination Payment Statement (ETP) with an invalidity component. It has been our experience that some Superannuation Funds do not bother making this apportionment. The best option is to try to get the Superannuation Fund to prepare the ETP correctly. If they will not, you can ask the ATO to change it. The ATO simply require a certificate from two doctors stating that you are permanently unable to work. Making this effort can save you thousands of dollars in tax so if you are under 65 years of age, unable to work due to ill health and have received a Superannuation payout you should check that your ETP statement shows an Invalidity Component.

It is also important that you do not use the hardship provisions to draw out your superannuation. The payout must be as a result of termination of employment to qualify for this concession.

Relocation costs

Newsflash 66, September 03

The cost of relocating your home when you are transferred is not considered by the ATO as tax deductible even though a taxpayer in case T92 was successful in claiming her relocation expenses. Nevertheless, a simpler method is to salary sacrifice the relocation costs as they are exempt fringe benefits to your employer. This will mean that you will be paying for the relocation out of before tax dollars, which is exactly the same as receiving a tax deduction for that amount. Relocation costs covered under the FBT exemption include:

- Travel, Meals and Accommodation en route including family members
- Temporary Accommodation in the old or new location
- Home sale and purchase costs. For example Stamp Duty, Legal Fees and Commissions.

Make sure your employer pays the actual costs. No exemption is available if you are only given a relocation allowance rather than reimbursement for the actual expenses.

Self education

Newsflash 67, October 03

To be deductible against your income the course you are doing must be related to your work obligations either because it is improving the skills you need in your current job or keeping you up to date. You can also claim for expenses that will qualify you for advancement with your current employer but you cannot

claim expenses relating to study that will lead to a job with a different employer. If you quit work to undertake the study or work is simply as a result of your study (i.e. prac) no deduction will be available.

If you attend a place of education as opposed to a professional membership body that also provides some courses on the side, you can not claim the first \$250 of Text books, stationery, Car expenses under the log book or 1/3 method, Student Union and Course Fees (not including HECS). But there are many ways that you can use up this \$250 without having to reduce your claim. For example;

- 1) Expenses that you do not have receipts for or are related to the study but not deductible such as childcare cost, still reduce the first \$250.
- 2) The cost of capital items purchased that year reduce the first \$250 as well as qualifying for a depreciation deduction.
- 3) Car expenses calculated under the kilometer or 12% method reduce the first \$250 as well as being fully claimable without reduction.
- 4) Refer below for deductible travel in relation to self education. The journeys not covered by this can be utilized to reduce the first \$250. For example travel from the place of education to work.

The following journeys are deductible:

Home – Place of Education – Home

Work – Place of Education – Work

Work – Place of Education – but not the home journey if next

Home – Place of Education – but not the work journey if next

The confusion created by the above is best explained by taking into account that the ATO does not want you claiming for any trips that are purely between your home and work.

Uniforms

Newsflash 67, October 03

To be able to claim a deduction for the purchase and/or laundry of clothing it must fit into one of the following categories:

Compulsory Uniform – A uniform is compulsory if there is a strictly enforced policy compelling you to wear it. To the extent that if you did not turn up to work in it you would be reprimanded or sent home. It needs to be unique and distinctive to your organization. For example have the employers name on it. Once you have met the requirements of a compulsory distinctive uniform other items of clothing can also be claimed if the compulsory uniform policy specifies their colour, style and type. This extends to items of clothing that do not have the employers name on them such as pants, shoes, socks and stockings. An example would be the requirement to wear black, closed in leather shoes. But you must meet the first requirement that you have a distinctive, unique and compulsory uniform.

Non Compulsory Uniform – If the uniform is not compulsory you will only be able to claim for items of clothing that are part of a registered design. Information on registered designs is available on the Ausindustry web site www.ausindustry.gov.au

Protective – This can be used to protect either yourself or the clothes you are wearing underneath. It also covers steel cap boots. Claims under in this category do not have to be part of a uniform.

Occupationally Specific – A dentist's shirt is not considered occupationally specific because Pharmacist also wears the same shirt. If you wear something under the Dentist/Pharmacist's shirt you could class it as protective. Chef's chequered pants are considered occupationally specific. According to the ATO occupation rulings a traditional nurses uniform and a graduation gown for a teacher are occupationally specific.

Note simply having a logo on an item of clothing does not make it claimable. The clothing must be part of a compulsory uniform policy or the logo must be a registered design to qualify for a claim.

Wage earners claiming travel to work

Newsflash 69, November 03

For full details refer to our claiming a motor vehicle booklet. Employees can claim travel from home to their normal place of work if they have begun their work at home so their home is either another workplace or a base of operations. The following is an example of successful cases on this principle:

Case W4 - a semi retired University Lecturer was allowed a claim for home to work travel because he did not have an office at the University where he could prepare his Lectures so his home was the base where most of his work was performed. This case is very narrowly interpreted by the ATO.

In Collings Case 1976 – A computer programmer was required to be on call at all times and her employer installed a computer terminal in her home so that she could access the main computer through the telephone line. On the occasions that she couldn't fix the main computer from home she would have to travel into work. The court found that the trips into work were tax deductible because she had already started work before she left home, in that she had tried to fix the computer through the telephone line. This changed the nature of the journey. Instead of being travel to work it became travel on work because her duties had already commenced.

Owen V Pook 1970 – A medical practitioner required to be on call in the case of an emergency at the Hospital where he is employed. When contacted on the telephone he would give instructions on the patient's care before travelling to the hospital. Accordingly, the court found that his responsibility for the patient began before leaving home so the travel was while working not to get to work.

IT112, which is available on the ATO web site (www.ato.gov.au) discusses this matter in great detail.

Sports People

Newsflash 69, November 03

The Australian Olympic Committee funded the taxpayer in Stone v Commissioner of Taxation 2003, because it was concerned about the non-taxable status of its medal incentive scheme. This case gives some good guidelines into the tax treatment of payments received by Athletes and other Sports People. The ATO has appealed but in the mean time TR 1999/17 should no longer be considered an authority on the subject.

The ATO accepted that a payment from Little Athletics as "role model of the year" was not taxable. The court found that Sponsorships and appearance money was normal taxable income because they were clearly for services performed.

The court did not consider services to be performed when the athlete is competing unless they received appearance money. The prize money could not be considered a fee for entertainment. Prize money, goods, services, grants, non sponsorship bonuses and incentives such as the Australian Olympic Committee Medal Incentive Scheme could only be considered taxable income if the athlete was considered to be carrying on a business. Due to the following factors Stone was not considered to be carrying on a business:

- 1) She had a full time job in the police force and only trained and competed in her spare time.
- 2) She chose the events she competed in on the basis of experience gained rather than the amount of the prize money or her chances of success.
- 3) Seeking sponsorship did not change the athletes status to a business
- 4) Neither the amount of success or money received had any bearing on whether the athlete was in business.
- 5) Even the ATO conceded that the profit motive was not her predominant purpose but argued that it was sufficient that she desired to obtain income. The court felt this was not enough and looked to other factors such as businesslike methods, repetition and a purpose of profit making.

This case may also reduce the number of sports people who have to pay GST on their winnings according to GSTR 2002/3.

Claiming your trip around Australia as a tax deduction

Newsflash 73, 1st February 04

We have just released a new booklet particularly for Fruit Pickers and Shearers called Claiming Your Trip Around Australia As A Tax Deduction. The concepts can apply to other itinerant travellers, so whatever your means of making your way around Australia it is worth a read and its free. Just e-mail us for a copy on admin@bantacs.com.au or visit our web site at www.bantacs.com.au.

Medical expenses rebate tips

Newsflash 73, 1st February 04

Taxpayers are entitled to a rebate for Medical Expenses if the family's expenses for the year exceed \$1,500. Section 159P(1) excludes from the definition of medical expenses amounts that have been

reimbursed by “a government or public authority or a society, association or fund”. Accordingly, Medical Expenses reimbursed through a compensation claim are still available to be counted towards the rebate. Reference ID2003/95.

Medical Expenses as discussed above can include the cost of an Electric Scooter if the taxpayer has mobility problems and the scooter is prescribed by a doctor. The claim can also include cost of compulsory third party insurance and maintaining the scooter. The costs of insuring the scooter against damage and theft cannot be included as a Medical Expense. Reference ID2003/978 & 979.

Spouse rebate

Newsflash Issue: 78 2004, April 15th

A spouse's separate net income is different to taxable income. Separate net income (SNI), not taxable income determines whether a spouse is dependant for dependant spouse rebate purposes. If your spouse does not qualify for FTB Part B from Centrelink but has a low income or travels a long way to work or has high child care costs, you should consider claiming them as a dependant spouse in your tax return.

Separate net income is more aligned to the spouse's income after deducting the costs associated with going to work. Accordingly, deductions that are not normally allowable against taxable income are allowable against separate net income. Examples of these include, child care expenses, clothing used exclusively for work, lunch while at work. But the most lucrative claim is for the cost of travel to and from work and child care if applicable. This can be claimed using the ATO kilometre rate of around 60 cents a kilometre but there is no 5,000km limit. On the down side you cannot reduce your income by costs that are not associated with earning it. For example tax agent fees or superannuation contributions that your spouse may have claimed as a tax deduction cannot be used to reduce his or her income for SNI purposes so they have to be added back.

As a dependant spouse rebate can increase your refund by around \$1,400 it is worth keeping track of these expenses. The substantiation rules do not apply so receipts or log books are not necessary just a record or calculation.

Operating cost method can save a fortune in FBT

NewsFlash Issue: 79, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, May 1st

When calculating the FBT payable on a car the employer has a choice of two methods:

- 1) The operating cost method which is the actual costs apportion between business and private use according to a log book.

Or

- 2) The formula method which is a percentage of the original price of the vehicle (unless more than 4 years old). The percentage applied depends on the number of kilometres travelled by the vehicle. The formula assumes that the more kilometres travelled by the vehicle the higher the ratio of business use to private use.

As you can see from the above if a car does not travel many kilometres yet the travel is mainly for business a better FBT result will come from a log book. This is also the case if the vehicle has a very high percentage of business kilometres. On the other hand the formula method can allow some of the cost of a car used solely for business to be exempt from FBT.

In short if the vehicle that is subject to FBT does less than average kilometres or has a very high percentage of business use it is worth doing the calculation to see if the operating cost method gives a better result.

Don't forget that if the employee is not in the maximum tax bracket and employee contribution should be made to reduce the FBT to zero. **Note** GST is payable on the employee contribution.

Year end tax planning for individuals

NewsFlash Issue: 82, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 6th May

Take the speedo reading, as at 30th June, 2004, for each car you want to claim using the log book method. If you have not kept a log book and want to claim more than 5,000kms per car make sure you start a log book before 30th June, 2004.

Consider spouse superannuation contributions if your spouse's assessable income is under \$10,800. If you make a contribution of \$3,000 for him or her, you will qualify for a rebate of \$540. The rebate shades

out between \$10,800 and \$13,800 Note the assessable income is the gross income before tax deductions but does not include exempt payments such as Centrelink's family payment.

If you have made a capital gain it is worth considering selling other assets (such as shares) that you know will create a capital loss on disposal and are unlikely to improve so that the loss can offset the gain. A loss in the future without a gain to offset it against may take a long time to recoup. If you are currently holding onto shares that, if sold, would realize a capital loss, but you want to hold onto them as you feel they have potential, simply sell them and buy them straight back.

Consider purchasing stationery and other deductible consumables that will be used up within the next 3 months (IT333). But note as this only moves a deduction from next year into this year you should only do this if you are going to be in the same or lower tax bracket next year as you are in this year.

The most important tax strategy is to keep receipts. Without receipts your claim for work related expenses is limited to \$300 in most cases. Cars are one of the exceptions, you can claim up to 5,000kms for work related travel in your car. But note the 5,000km is per car so if you have two and rotate your cars correctly you can claim up to 10,000kms on a detailed reasonable estimate without receipts or a log book. Assuming you have kept or can get copies of your electricity and phone bills, you should consider keeping a diary, for a month of the business of these utilities. To claim electricity you need to record the average number of hours you are using electricity at home for the business. For example, working in the study but not in the family room that is also used for private purposes. To claim STD phone calls and calls to mobiles, made on your home phone, you just need to dissect the bill based on the numbers listed. As local calls are not listed individually you will need to keep a record for one month to determine the ratio of local business to local private calls and apply this to the total charge for local calls.

These items need to be attended to before the end of this financial year. In July I will write more about what you should be claiming in your tax return.

The new government superannuation co contribution

NewsFlash Issue: 82, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 6th May

New legislation effective retrospectively from 1st July, 2003 replaces the old maximum \$100 rebate for low income earners who made undeducted superannuation contributions for themselves. The government will match dollar for dollar a superannuation contribution made to your account, up to a maximum of \$1,000, if your income is under \$27,500. The Government contribution reduces as your income increases beyond \$27,500 and no co contribution is payable if your income exceeds \$40,000. Note the income threshold quoted above is not taxable income but assessable income plus reportable fringe benefits. Assessable income is your taxable income (ie wages, rent, interest, capital gains etc) before tax deductions.

The contribution cannot be claimed as a tax deduction and must be paid by you, not your spouse, not your employer and not by salary sacrifice. Neither your contribution or the Government's will be subject to tax when it is received by the superannuation fund and both will be held by the super fund as an undeducted contribution. Neither yours or the government's contribution will count towards your RBL.

In addition to the above to qualify you must:

- 1) Be under 71 years of age at 30th June.
- 2) Lodge a Tax Return
- 3) Be a permanent resident of Australia
- 4) Be employed in such a way that you qualify for employer support under the superannuation guarantee. Note the government is changing the rules in that if you don't qualify for employer support simply because you earn less than \$450 per month you can still qualify for the Co contribution.
- 5) Note substantially self employed people will not qualify for the Co Contribution,

Note if the person who made the superannuation contribution dies before the government pays their share, the co contribution will not be paid unless the executor makes a specific written request together with evidence that the contribution has been made.

	Super contribution made:			
	\$1000	\$800	\$500	\$200
You Assessable Income	Government Kicks in:			
\$27,500 or less	\$1,000	\$800	\$500	\$200
\$28,000	\$960	\$800	\$500	\$200
\$29,000	\$880	\$800	\$500	\$200
\$30,000	\$800	\$800	\$500	\$200
\$31,000	\$720	\$720	\$500	\$200
\$32,000	\$640	\$640	\$500	\$200
\$33,000	\$560	\$560	\$500	\$200
\$34,000	\$480	\$480	\$480	\$200
\$35,000	\$400	\$400	\$400	\$200
\$36,000	\$320	\$320	\$320	\$200
\$37,000	\$240	\$240	\$240	\$200
\$38,000	\$160	\$160	\$160	\$160
\$39,000	\$80	\$80	\$80	\$80
\$40,000	\$0	\$0	\$0	\$0

Claiming protective items

NewsFlash Issue: 83, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 1st July

TR 2003/16 is based on Morris' case which gave us sunscreen deductions last year and has opened up the possibilities for claiming protective items.

Basically you can claim for a protective item if, by its nature, it would be reasonable to conclude that it will protect you from the risk of injury or illness in your workplace and that risk is not remote or negligible. This is unlikely to apply to items of clothing that are conventional in nature and you need to have a risky workplace so office workers haven't got a chance.

The item can be conventional in nature providing it is used principally for your protection. An example of this would be moisturiser with sunscreen included. This also opens up the opportunities to claim special non slip shoes if they are required for your work. Conventional clothing such as rain coats, woollen underwear and jumpers are protective if your job exposes you to water or extreme temperatures whether mechanical or climatic.

Long sleeve shirts and jeans are not considered protective but this would change if they had reflective stripes, a UV rating or the material was heavy duty and your job necessitated that protection.

The risk of injury must be as a result of your work not a personal factor such as poor eyesight, however prescription sunglasses are claimable if you need protection from the sun. A claim for prescription sunglasses offers a field day especially if you have private health insurance. For example a truck driver can claim the full cost of prescription sunglasses, as per the receipt made out to him, even if his health fund has reimbursed part of the costs. He can then also claim the non reimbursed portion as part of his medical expenses rebate. Effectively claiming the expense twice.

If the protective item is also used for private purposes, such as sunglasses, a diary should be kept for 1 month so that the cost can be apportioned between business and private use on a time basis.

This ruling does not change the law, just clarifies it. Accordingly, you can amend previous tax returns up to 4 years back to make any claims you have previously missed.

Tax tips for wage earners

NewsFlash Issue: 84, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th July

Without receipts your claim for work related expenses is limited to \$300 in most cases. The following are some of the more interesting issues you should be considering when preparing your 2004 income tax return.

Claiming Interest After Business or Investment Sold - If you have sold an investment property or a business for less than what you owed on it you can claim the interest on the remaining loan as a deduction against your wages income, providing you stick to the following guidelines:

- 1) All the proceeds of the sale should be used to repay as much of the loan as possible.
- 2) Endeavour to appear to be unable to repay the loan from other assets other than the family home. This may mean as a couple if only one member owned the investment or business sold at a loss the other member should hold any further investments.
- 3) Don't refinance the loan to extend its term or increase the interest rate. You must appear to be doing all that is possible to eliminate the loan. So refinancing to reduce the interest rate is ok. On the other hand if you have to change the loan from principle and interest to interest only because that is the only way you can afford the repayments you may be able to justify changing the loan.
- 4) If the loan is already fixed at the time the investment is sold, then you have an argument that you could not pay it out. This is a factor to consider if you are refinancing before the sale.
- 5)

Reference: FC of T v Jones, 2002 ATC 4135 and FC of T v Brown, 1999 ATC 4600

Claiming a Motor Vehicle - Even if you have not kept a log book there are other methods of substantiation that you can use to claim a motor vehicle. For example the kilometre method only requires a detailed reasonable estimate but it is limited to 5,000km per car you own. You should consider a claim if you have to carry bulky equipment for work, if you have days when you work at more than one place or use your car during your working day. You may also be able to claim travel if you go to an abnormal workplace or your home is a base of operations. For more information refer our Claiming Motor Vehicles booklet which is available on our web site.

Telephone – Assuming you have kept or can get copies of your phone bills, you should consider keeping a diary, for a month of the business use of these utilities. To claim STD phone calls and calls to mobiles, made on your home phone, you just need to dissect the bill based on the numbers listed. As local calls are not listed individually you will need to keep a record for one month to determine the ratio of local business to local private calls and apply this to the total charge for local calls. The ATO is getting very pedantic about diaries as it recently was successful in persuading a court to disallow a taxpayer any claim for mobile phone calls because the taxpayer did not have a diary yet the taxpayer used the phone 95% for business.

Electricity – You can claim electricity based on the number of hours you have used a room solely for work related purposes. The rate is 26 cents an hour and includes other costs associated with the room such as furniture and carpet wear. You will need to keep a diary for a month to substantiate this claim.

Uniforms – To be able to claim a deduction for the purchase and/or laundry of clothing it must be compulsory as part of a strictly enforced uniform policy and it is unique and distinctive to your organization. If the uniform is not compulsory it must be part of a registered design. Note simply having a logo on an item of clothing does not make it claimable. The clothing must be part of a compulsory uniform policy or the logo must be a registered design to qualify for a claim. You can also claim for occupationally specific clothing such as Chef's chequered pants but not for a Dentist/Pharmacist's shirt as this applies to many occupations.

Reader's question – Rebatable employers

NewsFlash Issue: 84, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th July

Your employer paying the interest on your rental property has created quiet a problem and it has cost you because your salary package would have been reduced by more than just the amount of the interest. This is probably best explained by way of an example.

Lets say your package is \$80,000 per year and you salary sacrifice \$1,000 in interest on your rental property. Your employer will reduce your available package by the cost to them of providing this benefit. Because your employer has not applied the otherwise deductible rule to your interest the whole amount has been subject to FBT though at a reduced effective rate because they are rebatable. The \$1,000 would have reduced your package as follows:

Actual expense paid by employer	\$1,000
FBT on the grossed up amount $\$1,000 \times 1.9417 = 1,942 \times 48.5\%$	942
Less Rebate because your employer did not receive a tax deduction on the FBT $942 \times 48\%$	<u>(452)</u>
	\$1,490

This means that for every \$1,000 of interest you have sacrificed your employer would have reduced your package by \$490 more than it should have because they have not taken into account the otherwise deductible rule. A refund of this amount over the years will be huge.

It does not matter if the rental property and loan is in your husband's name as well, as long as it is in joint names the otherwise deductible rule will apply to the whole amount. Note the rebate is only available on the taxable fringe benefits you receive up to a grossed up amount of \$30,000. Exempt benefits such as your super and rental property interest should not contribute to this taxable threshold. You also need to check that this problem has not also caused your employer to miss out on some of the rebate.

To correct this, your employer will need to go back and amend their FBT returns.

I know the above is complex. This is why I have taken so long to get back to you. It has not been easy to find the words to explain it. While you may not fully understand it I hope the person who works out your FBT will.

Austudy

NewsFlash Issue: 85, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 1st August

Students on Austudy sometimes get quite a shock when they lodge their tax returns.

If a student has only Austudy income all year, it is not a problem; they don't even need to lodge a tax return if they have not had tax deducted from their payment. If they did ask Centrelink to deduct tax they will need to lodge a tax return to get that tax back.

The problem arises if the student takes on part time work. Unless they are a foreign resident, a minor with passive income or a student who has just given up full time education for the first time, they are entitled to receive their first \$120 per week in income, tax free. If their Austudy is more than this and it is the only income they have, they are allowed the whole amount tax free.

In most employment relationships the employer will not deduct tax from the first \$120 earned per week. This is called the tax free threshold. If a student is receiving Austudy and working part time the Austudy payment will have already used up their tax free threshold unless they are having tax deducted from it. They will be stuck with a tax bill unless their employer taxes them as if it is their second job. In other words, does not allow them the tax free threshold. The student can formally organise this by completing a Tax File Number Declaration form (NAT 3092-10.2002 off the ATO web site). Item 9, on this form, must have the NO box ticked then they can be reasonably confident of having nothing to fear from their tax return.

If and when you start to receive your Austudy payment you are not sure whether you will be working, it is a shame to have the tax taken out as this locks you into having to prepare a tax return. It also deprives you of money when you need it most. A better strategy is to wait until you get part time work and give your employer the form excluding the tax free threshold from your tax calculation. This should ensure a positive tax return but make sure you also advise Centrelink, regularly, how much you have been earning in wages before tax. Otherwise you could be asked to pay back some of your Austudy allowance.

Basic Austudy for a single person with no children is \$318.50 per fortnight and the student can earn another \$236 per fortnight without the payment being reduced. To qualify the student must be 25 years of age or over and undertaking an approved full time course. Students under 25 can apply for Youth Allowance but this will be subject to a parental means test unless they qualify as independent.

Double dipping a motor vehicle claim

NewsFlash Issue: 86, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th August

I am a great fan of double dipping tax deductions and claiming a deduction for expenses you would have had to incur for private purposes anyway. Wage earners have a lot of opportunities to do this when claiming their car for work. If fully utilised they can claim home to work travel and work travel during the day using the kilometre method to claim up to 62 cents a kilometre for more than 5,000kms if they use both their's and their spouses car. Then they can arrange for their employer to reimburse them, tax free for all their motor vehicle expenses anyway.

Stage 1: Keep a log book on your car determining the business to private use of the vehicle and keep receipts for all expenses relating to the car. If you have a spouse, do this for his or her car as well and endeavour to use the cars equally. You can claim a tax deduction for your car when it is used for travel to and from work if it is to an abnormal workplace, you are carrying bulky equipment or you have more than one workplace in the day. Once you have arrived at work you can claim a deduction for your car for any work related travel during the day.

Stage 2: This stage involves your employer parting with cash so you may have to “salary sacrifice” some of your wages to cover your employer’s costs. This is to your advantage as you will end up receiving the money tax free back into your pocket. Having come to this arrangement with your employer you submit to him or her all your car expense documents and a declaration, supported by your log book, stating the percentage the car is used for business purposes. If you have a spouse, do this for both cars. Your employer then reimburses you tax free for the expenses and the otherwise deductible rule means your employer does not have to pay FBT on the amount but can claim it as a tax deduction. As this is the reimbursement of actual expenses it does not appear on your group certificate as either an allowance or reportable fringe benefit. GST provides another benefit here in that your employer can claim the GST back on the expenses so should only reduce your salary by 10/11ths of the amount claimed.

Stage 3: The fact that your employer has reimbursed you for the deductible portion of all your motor vehicle expenses does not prevent you from claiming for the motor vehicle/s on the kilometre basis in your tax return as well. Accordingly, you can still claim your work related travel in the car, up to 5,000kms per car. If your car has an engine capacity of more than 2.6 litres this could mean a further tax deduction of up to \$3,100 per car.

Note you cannot double dip if your employer reimburses you on a kilometre basis rather than for the actual expenses you have incurred. You cannot utilise this arrangement if the vehicle you are driving is provided by your employer including via a novated lease.

If you can't BAN TACS at least minimise it legally. Kisses and hugs to the ATO.

Salary packaging

NewsFlash Issue: 86, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th August

With the maximum tax bracket Threshold lifting to \$70,000 in the 2004/2005 year it is time to re evaluate your salary package. If you are receiving fringe benefits as part of your package your employer will be paying FBT on these at the maximum tax rate. If you are not in the maximum tax bracket any more it is important that you make an employee contribution to bring the taxable benefit down to zero. This will effectively mean the benefit is taxed at your tax bracket rather than the maximum bracket.

Overtime meal allowance

NewsFlash Issue: 86, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th August

The award overtime meal allowance for most awards has increased to \$9.60. Some employers pay this amount straight out of petty cash and don't bother recording it on their employee's PAYG Summary. It is worth your employee knowing how many meal allowances they have received during the year. They have to include it as income but they can claim back expenses they have incurred, far in excess of this amount without receipts. The employee does not have to consume the meal at work they can stop on the way

home. For the 2003/2004 the ATO allowed employees to claim up to \$19.75, without receipts, for each overtime meal allowance they received.

Making the most of allowance concessions

NewsFlash Issue: 88, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th September

This article is for the benefit of both employers and employees. By making the most of the ATO concessions for reasonable allowances employers can increase their employees' tax deductions for food that they are probably not claiming at the moment. Organising salary packages around these concessions can increase employee loyalty at no extra cost to the employer.

If an employee receives a travel allowance or overtime meal allowance under an award, the employee is entitled to claim a tax deduction without receipts providing they have some method of showing that the amount was incurred. Further the employee is entitled to claim more than the actual allowance received providing they do not exceed what the ATO considers reasonable.

Full details of what the ATO considers reasonable are available in TD 2004/19 on the ATO web site. Examples would be \$20.55 for an overtime meal, \$67.55 for meals for a truck driver who sleeps in his truck and earns less than \$78,750 per year. Employees, that are not truck drivers and are earning less than \$78,750 per year are entitled to \$245.55 per night to cover meals and accommodation while travelling to Sydney. Not only are employee truck drivers not permitted the concession for accommodation because it is assumed they will sleep in their truck they are allowed considerably less than other employees for the food component of their allowance. If a truck driver wishes to claim a tax deduction for accommodation they must provide receipts.

In TD 2004/19 the ATO states that neither the allowance or the expenses need to be shown in the employees tax return if the allowance does not exceed the reasonable amount and it was fully expended. Both the allowance and the expenses need to be included if the allowance is more than the reasonable amount or more than the amount expended. If the amount expended exceeds the allowance received but the claim is limited to the amount that the ATO considers reasonable both the allowance and the expenses need to be included in the employees tax return.

The employer does not have to pay the actual amounts the ATO consider reasonable but they must pay a "bona fide amount". For example the ATO tried to argue that a truck driver who only received \$39 per night was not actually in receipt of a bona fide travel allowance because the amount was not enough to cover the cost. The ATO lost this argument in the courts but we recommend that the allowance received should be at least half of the amount the ATO states as reasonable in TD 2004/19.

Employees required to work overtime and who are entitled to a meal allowance under their award do not need to sleep away from home or eat the meal while working. They can stop at a restaurant on the way home from working overtime and spend the money then. They do not need to keep a receipt but it is advisable that on at least one occasion they get a receipt as evidence of the amount normally spent.

The employer needs to show the allowance clearly on the employee's PAYG Summary to assist in the calculation of the claim. It is important that the employee knows how many days the allowance was paid for and what type of allowance was paid. The employee will need to keep a travel diary if they are away for more than 5 nights in a row. The employee must keep a record to show he or she has incurred expenses. Don't try and claim you stayed in a Motel if you didn't. The Motel register can be easily checked. The ATO will not accept a flat claim that the allowance is fully expended, you will have to show how you worked out the claim. For example an employee truck driver who is required to sleep away from home and receives an allowance is entitled to a claim of \$67.55 per day. Ideally the truck driver should have receipts for one day showing that such an amount is normally expended but a detailed estimate such as the following will suffice.

Breakfast Mixed Grill with Eggs, Toast & Coffee	\$18.00
Coke and Mars Bar for the Road	5.00
Burger and Chips & Coke for Lunch	10.00
Coke and Mars Bar for the Road	5.00
Dinner Steak & Salad	16.00
Desert & a Beer	7.00
Two Cokes and Mars Bar for Midnight snack	<u>7.00</u>
	68.00

Providing the truck driver reduces his or her claim to \$67.55 per day he or she can claim this amount, without receipts, for each day he or she sleeps away from home. Note sleeping away from home would include truck drivers who leave home in the afternoon and drive to the markets early so they are at the start of the queue to be unloaded and then sleep while they are waiting. They may be home again in less than 24 hours but nevertheless they are entitled to the meal allowance concessions.

Baby bonus strategy

NewsFlash Issue: 90, By: Julia Hartman B.Bus CPA – Tax Accountant; Last Updated: 2004, 15th October

Care needs to be taken when choosing the base year for a baby bonus claim. It may be better to delay the claim a year so that a higher income year can be used as the base. The base year can be the year in which the child was born or the year before. The base year is the benchmark by which the formula determines a parent's eligibility to the bonus which is intended to compensate the parent for a drop in income as a result of the birth. For example when the claimant's taxable income is over \$25,000 and exceeds the taxable income in the base year the parent will no longer receive the bonus. If this happens consideration should be given to transferring it to the other parent if their income is lower than the previous year. Regardless of when a claim is started or whether it switches to the other parent the bonus can only be claimed for 5 years from the date the first claim is made. The baby bonus applies to children born after 30th June 2001 and before 1st July 2004.

Super co contribution alert

If during 2004 you made an undeducted superannuation contribution for yourself that was not salary sacrificed, in other words it was made out of after tax dollars and your assessable income plus reportable fringe benefits was under \$40,000, you will be entitled to a Co Contribution from the government.

Your superannuation fund should apply to the Government on your behalf. After October, 2004 the ATO started paying the Co Contribution to qualifying people who have lodged their 2004 income tax return. It has come to our notice that if the ATO cannot find your account they will not make the Co Contribution and they will not notify you that the Co Contribution has not been made. This problem can arise when you have changed superannuation funds or retired before the Co Contribution is received. In some cases superannuation funds close the account if the amount is too small and transfer the funds to an unclaimed superannuation fund account. If this is the case your Co Contribution will not find its way to your new account.

The ATO will notify you in writing when your Co Contribution has been made. If you do not receive this notification by the end of December or within 2 months of lodging your 2004 income tax return (whichever is the latest) please follow the matter up.

Home to work travel for miners

Many miners travel to remote areas to work for several weeks and then return home for a week or two. Because the mines are in remote areas they expect that they should be entitled to claim any costs of getting there as a tax deduction. Just like an office worker cannot claim travelling to their normal place of work each day neither can miners.

In ID 2001/80 the ATO discusses the example of a miner who works two weeks on for one week off, whose employer pays for the air fares back to a capital city but not all the way home. The ruling states that the miner cannot claim for the cost of travel from the airport because travelling to the job happens before the income earning activity starts so it is not part of the cost of earning income, regardless of how far the distance. The same rule would apply if the miner had to pay the air fare.

The only opportunity a miner has to claim travelling expenses, in these circumstances, is if he or she requires tools to do his or her work, the tools are bulky, there is no safe storage at the mine site and he or she uses his or her car to transport them. If this is not the case it is better to negotiate a salary package that covers all of your home to work travel costs even if it means a lower take home pay. When working on a remote mine site any cost your employer incurs in transporting you to and from that site is an exempt fringe benefit. This effectively means that if your employer pays the travel costs it is out of pre tax dollars. If you pay the travel costs they will be payable out of after tax dollars. For many miners that are in the maximum tax bracket this means the travel costs will cost them twice as much as it would their employer.

When negotiating this in your salary package refer your employer to TD 95/49. Warning, an employer does not technically have to pay super on anything you salary sacrifice and only the cash portion of your salary package is covered under Workcover so make sure your agreement includes some compensation for this.

Changes to Centrelink family payment thresholds for 2004/2005

Even if one parent is earning hundreds of thousands of dollars a year Centrelink's Family Tax Benefit Part B is still payable if the lower income parent earns less than \$18,947 per year and they have a child under 5. If the youngest child is over 5 the low income parent can earn up to \$14,421 per year and still receive some Part B. Neither the high income earner's income or the family's assets are taken into account. To qualify for full Part B the low income parent must have an income below \$4,000. The payment is reduce by 20 cents for every dollar of income, the low income parent receives, above the \$4,000. Previously the threshold was \$1,825 and the payment was reduced by 30 cents for every dollar above the \$1,825. These changes, only introduced this financial year, certainly allow a lot more room for the low income parent to hold profitable investments in their name.

Following from our discussion on how negative gearing is less attractive now that the maximum tax bracket threshold has increased. Consider just how attractive a profitable investment is when no tax is payable on the income because the owner is earning below the taxable amount. Further any franking credits will be refunded by the ATO.

The only catch is finding the profitable investment. The idea is simple enough make sure the income exceeds the expenses associated with earning it. Usually the most significant expense is interest. If you have a decent deposit the investment may be profitable for tax purposes. Or you could consider a monthly investment into a managed fund with spare cash. If you owe money on non tax deductible debt it may be better to borrow for the investment and use your spare funds to reduce the non deductible debt. Don't limit your thoughts to houses and please remember return is normally a reflection of the risk. To get the optimum strategy see a financial planner.

ATOs latest attack on workers

The ATO is reviewing 2004 income tax returns and comparing the amount of wages actually earned to the amount of expenses claimed for earning the wages. In true public service fashion they are asking "why doesn't your employer pay these costs? You shouldn't have to incur such large expenses to work". In one case they have even asked a taxpayer, who claims for carrying his tools in his car, to provide them with a letter from their employer to explain why the employer does not provide him with a vehicle.

Taxpayers who claim their motor vehicle are the most vulnerable to this sort of questioning. After all the ATOs rate of over 60 cents a kilometre can really add up. Especially if you claim for two cars. The kilometre method is limited to 5,000kms per car so you can claim up to 10,000kms if you rotate cars with your spouse.

A popular car claim is for carrying bulky equipment to and from work because there is no safe storage at work. Most ATO publications give a ladder and a drum kit as an example of bulky. But bulky can be based on weight as well. For example, bulky equipment was defined in the following cases as:

Cestani AAT 13169 1998 – One tool box weighing 27 kilograms 10 inches wide by 10.5 inches high by 22.5 inches long.

AAT case S29 1985 – Shearers equipment weighing 18 kilograms

Unreported Tribunal Decision – Tool box of 11 kilograms and a fridge of 15 kilograms was bulky for a truck driver. The Fridge was 55 centimetres long and 31 centimetres wide. The toolbox was 41 centimetres long and 23 centimetres wide.

There is even AAT case 75 in 1987 which states "where the employment creates the need, as a matter of practical necessity, for a worker to transport his own tools, of a bulk which makes it impractical (or indeed illegal) to carry them on public transport, the expense thus incurred constitutes an allowable deduction".

Tax offset for workers over 55

When lodging their tax return at the end of this financial year employees and business owners, who operate as sole traders or in partnership, will be entitled to a Tax Offset of \$500 if their income is under

\$58,000. The threshold of “income from employment” at which this cuts out is \$58,000 for the 2004/2005 financial year but it reduces at the rate of 5% once you cross the \$48,000 mark. The rebate is 5% of net income up to a maximum of \$500. Income from employment includes net income from partnerships and sole traders but only includes wages income from trusts and companies. As distributions from your trust or dividends from your company are excluded, clients who are over 55 should be careful how they draw their income from their business. Income from employment includes Reportable Fringe Benefits but does not include investment income.

Tax offset for workers over 55

The threshold at which this cuts out has been increased to a net income of \$63,000 for the 2005/2006 financial year but it reduces at the rate of 5% once you cross the \$53,000 mark. The rebate is 5% of net income up to a maximum of \$500. The trick is in the definition of net income. It is only income from working plus reportable fringe benefits. So if you work for your own company or trust it is worth keeping your wage under \$53,000 and taking the rest of the profits as a trust distribution or company dividend.

The money is in the paper work

Despite the chaos you may find your life in, as a result of having a child, do not lose sight of your bureaucratic obligations. It’s all about keeping receipts and getting the forms in on time and there is too much money at stake to miss out.

In the 2005 budget the Government increased the Maternity payment from \$3,079 for children born in the 2005 and 2006 financial year to \$4,000 (indexed) for children born in 2006/2007 and 2007/2008, then \$5,000 (indexed) for children born in 2008/2009. The catch is Centrelink will not pay up unless you apply within 26 weeks of your child being born. In the case of adoption you need to apply within 26 weeks of the child being placed in your care. Currently the adopted child must be less than 27 weeks old when it came into your care but the government intends to extend this age to 2 years. If you are a foster carer you need to be entrusted with the care of a child less than 14 weeks old, apply within 26 weeks of the care beginning and expect to continue to care for the child for at least 13 weeks.

Unlike the baby bonus this payment is not income tested and is not just for the first child born after the introduction date but for all children born after 1st July, 2004. You are also entitled to the payment if you deliver a stillborn child of at least 20 weeks gestation. The payment is not taxable.

The Government’s new childcare tax offset available through the tax system is even better than claiming a tax deduction for childcare for many parents. It has long been a complaint of working parents that they are not entitled to claim child care as a cost of earning their income. The offset allows parents to reduce their tax on other income by 30% of any childcare fees they incur that are not reimbursed under the Child Care Benefit. Parents earning less than \$21,600 per year would only be entitled to a tax refund of between 15 and 18.5% if they could claim the deduction so they are better off with the offset. A parent has to earn more than \$58,000 in the 2005 financial year to pay more than 31.5% tax and Medicare. In 2006 it is \$63,000 and in 2007 it is \$70,000. With the responsibilities of a child it would be hard to earn enough to be taxed higher than 31.5%. So the offset really does address this issue very effectively for low to medium income earners. The maximum amount of offset you can receive is \$4,000 per child. Qualifications for the offset are basically the same as for the Child Care Benefit. An offset can only be used to reduce tax on other income for either parent. It applies to childcare expenses paid in the 2004/05 year but be warned, you can't claim them until you do your 2006 tax return. That's right you have to wait up to 2 years to get your money and worst still keep your receipts for that long.

Tax concessions for charity auctions and dinners

Fund raising events should have even greater appeal now that payments for goods, entertainment and/or meals, in excess of their value, can be claimed as a tax deduction.

Previously the rule was, if you received some benefit for a contribution you made to a charity it was not considered a donation so no deduction was available for any portion of the amount even if all you received was a pen. The new concessions are directed at charity auctions and gala dinners where the true value of the benefit received is less than \$100 (GST Inclusive), less than 10% of the amount paid and the amount paid exceeds \$250. Of course the event has to be held by a charity that is registered as tax deductible. The

deductible portion of the amount contributed is the difference between that and the market value of the benefit actually received. The organisers of such events are required to provide you with the market value of the benefit on their receipt.

Self education

When you are collecting together your receipts for your tax return don't forget enrolment fees for a course of study that is related to your income earning activities. This is so even if you never finished the course. Tax Office decision ID 2005/69 states that even if you never attended the course the fees are still deductible if they have not been refunded.

When is a choice not really a choice?

When one looks at the amount of exemptions from the choice of superannuation fund legislation you really have to wonder why the government is spending so much money on advertising it to the public. The sceptical amongst us would say they were really just spending taxpayers' money promoting the Federal Government.

After years of waiting finally on 1st July, 2005 employees were going to be able to direct their employers to make their superannuation contributions to the fund the employee chose. But this is not possible if the employee is caught within one of the many exemptions from the legislation. In fact some employers may be misled into thinking they can offer a choice when they are really breaching the award by doing so.

Your employer is not required to allow you to choose your superannuation fund if your employer makes superannuation contributions for you under a:

- A certified agreement
- An Australian Workplace Agreement.
- A state award or industrial agreement.
- The Coal and Oil Share Mine Workers Superannuation Act
- A Local Government Act
- Most Defined Benefits Plans
- Most Public Service agreements

Makes you start to wonder who on earth will qualify. Basically employees who are likely to qualify are those that are employed under a Federal award yet are not public servants. Also employees who are not employed under an award or one that does not address superannuation.

If you want to get into the nitty gritty go to www.superchoice.gov.au/employers/eligibility or as the site suggests ask your employer!

So what was all the noise about again? Better to ask what they were trying to divert our attention from at the time.

If you would like to check if you have any unclaimed superannuation benefits go to www.ato.gov.au or ring 131020. You will need your tax file number. **Note** if you have reached 65 years of age your unclaimed superannuation contributions will be transferred to the Unclaimed Moneys Register. If you would like more information about your award you are employed under go to www.wagenet.gov.au

Medical expenses relating to your job

Many clients ask why they cannot claim a tax deduction for medical expenses they incurred as a result of their work. Depending on the nature of the expense you may be entitled to claim it as part of your medical expenses rebate but not as a direct deduction against your income. Examples of these types of expenses would be glasses required to bring your less than perfect vision up to 20:20 standard to be able to clearly see the work in front of you or physiotherapy for a back problem caused in the workplace. The ATO will always argue that there is something fundamentally wrong with you in the first place for you to need the treatment and the cost of bringing yourself to the state of physical fitness necessary to do your job is a private expense and therefore not tax deductible.

Naturally many clients have found this unbelievably unfair. Recently a taxpayer challenged this issue and lost in *VBI v Commissioner of Taxation* (2005) AATA 683 (19 July 2005). The taxpayer was a registered nurse working in specialist medical units dealing with children who were seriously ill and sometimes died. The taxpayer found that he was engaging in substance abuse in order to cope with the pressures of his job. Soon after seeking the help of a Psychologist the substance abuse ceased and his

career advanced. The ATO successfully argued that the expenditure was private in nature in that “the psychology was necessary to strengthen his personality in order to enable him to cope more effectively with life itself. All of the applicant’s life problems needed to be dealt with and was not limited to the performance of his employment. Good physical and mental health may well be a pre-requisite to the derivation of employment income, but are also relevant to many other life activities. It is difficult to accept that the essential character of outgoings related to treatment of personality and mental well being can be considered as a working expense with the required connection or nexus to the derivation of salary income. The outgoings were related to his overall mental outlook and not the specific professional skills involved in his employment Here the finding is that the required essential character of the outgoings cannot be found in the income earning activity nor is it incidental and relevant to that activity. It is relevant to the overall mental health and life skills of the applicant. Treatment for physical or mental health is inherently of a private nature.”

The taxpayer had spent nearly \$10,000 a year on Psychological care. To add insult to injury the taxpayer was not even entitled to claim the expense as a medical expense rebate because the money was paid to a Psychologist not a Psychiatrist. To claim a medical expense it must be paid to a medical practitioner or to a therapist who is recommended by a medical practitioner. A Psychiatrist is recognised as a medical practitioner but a Psychologist is not. Though if the taxpayer had simply gone to his doctor and asked for a referral to the Psychologist the fees could have been included in his claim for all his medical expenses rebate.

Doing the double dip

We are coming up to the silly season when people start to spend unreasonable amounts of money just for the sake of avoiding paying tax on it. This is all very well if you are buying something that you would buy anyway. But if you wouldn’t normally spend your money in this way you are giving up the whole dollar to, at the very most, receive 48.5 cents back from the ATO. Under the new tax scales you will have to earn over \$150,000 this year before you even qualify for the 48.5% if your taxable income ends up under \$150,000 you may only get 43.5% or 31.5% back.

I much prefer doing the double dip. This is where you claim a tax deduction for an expense but you are not actually out of pocket because your employer has reimbursed you for it. As these expenses are tax deductible to you, your employer does not have to pay FBT on the reimbursement. This secret plan and clever trick does not work for all expenses, only items that are claimed under arbitrary methods. For example if you own a car, keep a log book of your business use and ask your employer to reimburse you for the business use portion of the running expenses of the car. Your employer does not have to pay FBT nor deduct PAYG tax from the money he or she pays you. You do not have to include this money in your tax return, not even as a reportable fringe benefit. So effectively you have that portion of your car expenses paid out of tax free dollars. Then you can use the kilometre method to claim the very same business kilometres in your personal tax return, up to 5,000kms per car. This could give you a further tax deduction of over \$3,000 despite the fact that you have been reimbursed for the cost of travelling those kilometres.

This trick works well with laptops and the ATO have even issued a public ruling approving this one. Once a year your employer is allowed to provide you with a laptop as an exempt fringe benefit. If you actually purchase the laptop yourself and ask your employer to reimburse you the full amount, your employer will be entitled to claim the GST back and get a full deduction for the price. This does not stop you keeping a diary on the business use of the laptop and claiming depreciation on it in your personal tax return. This also works for tools of trade.

Changes to double dip

The ATO has withdrawn TD 93/145 and issued TD 2005/D17. This is a draft ruling so we cannot be sure of the final outcome. Nevertheless it is important to warn clients immediately as it is the ATO’s intention to apply the ruling retrospectively.

TD 93/145 is the ruling on which we based our laptop double dip. This is where the employer reimbursed the employee for the value of the laptop but was not subject to FBT on the payment even if the employee only used the laptop for private purposes. If the employee did use the laptop for work purposes they would also be able to claim depreciation in their personal tax return. Accordingly, the employer and employee both claimed a tax deduction for the same laptop. The legitimacy of this arrangement has not

changed with the withdrawal of TD 93/145 and the issue of the draft ruling. Laptops are still able to be packaged this way. But the use of this type of arrangement with other tools of trade is now a problem.

The draft ruling in the first 2 paragraphs accepts that section 51AH which would normally prevent double dipping does not catch expenses amortised over more than one year. Such as depreciation on a laptop. In paragraphs 3 and 4 the ruling declares that the same limits apply to the otherwise deductible rule in FBT legislation. The otherwise deductible rule means that employers do not have to pay FBT on any thing they provide to an employee that would be deductible in the employee's personal tax return. The catch is this only applies to a one off deduction in the year of purchase. Therefore it cannot apply to items that are subject to depreciation.

This opens a whole can of concerns. The first being employers need to be very much aware of an employee's entitlement to a tax deduction (not whether they have claimed it or not) before applying the otherwise deductible rule to reduce their FBT liability. If the item in question has a life expectancy of more than 12 months and cost more than \$300 the employee would only be entitled to claim depreciation on the item. This means that the employer would be subject to FBT on the value of its supply to the employee. As FBT effectively taxes the benefit at the 48.5% tax bracket and only 10% of the population will be in this bracket next year, this is a very bad outcome. Employers in most cases would be better off paying the employees a tool allowance and the employees buying these items themselves. Alternatively the items could remain the property of the employer.

The reason laptops are not caught is because they do not require the otherwise deductible rule to exempt them from FBT. Laptops and their printers are specifically named in FBT legislation as exempt items.

Based on the comments of the judge in the NAB case 1993 we see there is support for the argument that the otherwise deductible rule can only apply to expenses incurred in that year that qualify for a one off deduction so we agree with the draft. This is a major issue for employers of tradesmen who set their apprentices up with tools. On this basis there may be some compromise in the final ruling. Nevertheless laptops and other exempt fringe benefits are still up for the picking.

Non lodgers beware

There was a time when all the PAYG summaries the ATO received from employers were simply reviewed from the employers point of view and stored. The ATO didn't bother matching them to the employee's file. This is one of the reasons people have been able to not lodge tax returns for years and not hear anything from the ATO. The ATO is now entering PAYG summaries into their computer by employee tax file number. The computer will now, very easily, be able to check who has worked yet not lodged a tax return. So now is the time to get your affairs in order. We recommend starting at the most recent year and working backwards. Once you have lodged the current year's, the ATO will probably notify you of the years they think are outstanding.

A win for meat workers' car expenses

The ATO challenged a claim we made for a meat worker's car expenses to travel to and from work. The ATO normally considers travel to and from work to be private in nature. Our argument is that the trip was deductible because the client was required to carry bulky equipment to and from work. We have just received notification that the ATO accepts our argument. The relevant points that made our client's claim successful were:

- 1) There was no safe storage at work i.e. the employer did not provide personal lockers for tools
- 2) The client carried a set of knives, sharpening stone, mesh apron, mesh gloves, protective boots, hardhat, knife pouch and chain. These weighed between 25 to 30 kilograms and required a bag 100cm x 40cm x 40cm in which to carry them.
- 3) The client owned the tools and took them home each night for no other purpose than safe keeping.
- 4) These tools were used each day in the clients work.

Initially the ATO was of the opinion a meat worker could not possibly have tools of a bulky nature. But occupation is completely irrelevant it is simply a question of size and necessity.

The moral of the story is to make sure you have a mesh apron because they are worth their weight in tax deductions. These claims are very lucrative as you can claim over 60 cents per kilometre up to 5,000 kilometres per car. It really adds up over the year.

Workers' tax deductions

The following is intended as a quick summary of the information the average worker needs to collect for them to be able to claim work related expenses as a tax deduction. It is certainly not conclusive as many occupations have peculiarities but it is a basis to start from.

Car Expenses: Wage earners are entitled to claim a tax deduction for using their motor vehicle to travel between work places, travel to an abnormal workplace, course or trade night when they have a normal workplace, when they travel to more than one workplace before returning home or if they carry bulky equipment (over 18kg or awkward such as a ladder) from home to work or between work sites. As a minimum you need to keep a "detailed reasonable estimate" of the kilometers traveled. An example of this would be keeping a diary (similar to the sample enclosed) for 1 month of the typical journeys undertaken, multiply it by 12 and add unusual journeys to it. If you travel more than 5,000 per year per car you own you may want to consider keeping a log book. Full details of this are in our Claiming a Motor Vehicle booklet under free publications on our web site.

Uniforms and Protective Items: Simply having a logo on an item of clothing does not make it claimable. The clothing must be part of a compulsory, strictly enforced, uniform policy or the logo must be a registered design to qualify for a claim. The uniform needs to be unique and distinctive to your organization, a logo covers this if the uniform is compulsory. Once you have passed the distinctive and compulsory test If you have a compulsory distinctive test, other, non logoed, items of clothing can also be claimed if the uniform policy specifies their colour, style and type eg black, closed in leather shoes. If the uniform is not compulsory you will only be able to claim for items of clothing that are part of a registered design. Information on registered designs is available on the Ausindustry web site www.ausindustry.gov.au Occupationally Specific clothing, ie chef's chequered pants, are also deductible but note a dentist's shirt is not considered occupationally specific because Pharmacist also wear the same shirt. If you wear something underneath the Dentist/Pharmacist's shirt you could claim as protective. According to the ATO occupation rulings a traditional nurses uniform and a graduation gown for a teacher are occupationally specific. Protective items are deductible if there is a real chance of injury that the item is designed to protect you from. For example UV protective clothing, King Gee work wear, steel caps, non slip shoes, sunglasses and sunscreen. If the item is also used for private purposes such as sunglasses, you will need to keep a diary for one month to show the ratio of work to private use. If an item qualifies you can claim the cost of purchase and maintenance such as laundry and dry cleaning.

Home Office: Claiming the running costs (not rates, interest and building insurance) will not effect your CGT exemption, unless part of your home is clearly a place of business and you see the public there. Running cost such as telephone, computer and electricity are claimable for the portion that relates to work. A diary like the sample enclosed will need to be kept for one month.

Tools: Tools costing less than \$300 can be claimed in full the year they are purchased. Otherwise they will have to be depreciated over their effective life. If the tool is part of a set the set must cost less than \$300. Identical items are grouped together and their total price must be under \$300 so it may be worth buying less than \$300 of them in one year and buying less than \$300 worth the following year.

Other Work Related Expenses: The trick here is keeping the records. Keep the receipt when you buy stationery, parking and tolls when you go to seminars & courses. Keep the itemized account for your mobile.

Self Education: Costs associated with courses that you do at a place of education are treated differently to seminars and courses run by organisations that are not primarily educational institutions. The main difference is that you are not entitled to claim the first \$250 of these expenses. This does not apply if you have incurred \$250 in relation to the education that is a motor vehicle expense claimed on the kilometre basis, a capital purchase, child care expense or educational items for which you don't have a receipt. We

will sort this out for you when doing your tax return. The main point is that you include any records you have of these items in this envelope.

The following journeys are deductible:

Home – Place of Education – Home

Work – Place of Education - Work

Work – Place of Education – but not the home journey if next

Home – Place of Education – but not the work journey if next

Note the non deductible leg of the journey above is still allowable to reduce the first \$250.

If you feel you have missed out in 2005 your tax return can be amended. If you want to get it straight for next year we can help by providing you with an envelope in which you can keep the relevant information and covered with reminder notes. Just ring the office closest to you. The next edition of Newsflash will discuss what records you need to keep to be able to claim the above.

ATO concessions for work related expenses

Last edition we detailed the typical work related expenses claimed by wage earners. Usually a receipt showing the item purchased, the amount, the date and the name of the supplier is required to claim a tax deduction for the expense. If there is a private portion of the expense the amount claimed will have to be apportioned. The ATO has made some concessions regarding apportionment and expenses that are difficult to receipt. These are:

Laundry – You can claim 50 cents per mixed load and \$1 per full load of qualifying uniforms or protective clothing, up to \$150 per year. Simply work out how many loads you average per week and multiply it by the number of weeks you worked.

Less Than \$300 – If you claim less than \$300 in work related expenses such as self education, tools, uniforms, protective items, stationery, union fees etc you do not need to substantiate your claim with receipts at all. Any claim you make for motor vehicle expenses or travel costs (includes tolls and parking) is not counted towards the \$300 limit.

Less Than \$10 – If each individual expense is less than \$10 and the total of all such expenses does not exceed \$200 you do not need to keep a receipt but must have a diary entry showing the name of the supplier, date, amount and a description of the purchase. This concession also applies if it would be unreasonable for the ATO to expect you to keep a receipt such as tolls and parking meters, even when they exceed \$10.

Allowances – Each year the ATO produces a list of what it considers reasonable travel allowances. If your employer pays you an allowance and you do not claim more than the amount listed by the ATO as reasonable you do not have to substantiate with receipts the amount you incurred. But you do have to have incurred the expense. For example don't try to claim for a motel when their register does not show that you stayed there. On the other hand a diary entry of your food expenses is sufficient. If you are away from home for more than 5 nights you will need to keep a travel diary of what you did each day. You can still claim up to the ATO reasonable amount even if your employer paid you less as long as it was a bona fide allowance (ie not just \$5 per night but sufficient to live off). The ATO also releases what it considers a reasonable overtime meal allowance each year. Again you can claim up to this amount even if your employer pays you less but you must be paid the allowance under an award.

Electricity - The ATO allows you 26 cents per hour for every hour you are working at home in an office separate from the rest of the family. This covers electricity and maintenance on the room. You need to keep the diary for 1 month, showing how much the office is used.

Motor Vehicle - By keeping a diary for one month each year you can claim up to 5,000 kilometres per vehicle you own. If you own a car together with another person and it is only their name on the registration papers they can complete a declaration of joint ownership so you can claim it. You are also considered to be the owner of a car even if it is registered in the name of another family member but you are the one who pays all the expenses relating to it.

Telephone – To claim STD and mobile calls from your home phone go through one month's itemised account and work out the numbers that are work related. This percentage of work related calls can be applied to the mobile and STD calls in the other months. Local calls can be apportioned after keeping the diary for 1 month. Each time you or anyone else makes a local phone call simply tick whether it was

private or work related. To claim a portion of the rental look at the overall percentage (on dollar value) the work related calls are for the sample month and apply this percentage to the rental for all months.

Mobile Phones – Take a representative phone account and go over each number dialled to determine the percentage of calls that are work related. Apply this percentage to your mobile bills for the year or the relevant period if that is shorter.

Commissioner’s Discretion – If you have sufficient evidence that you have incurred the expense and would be have been entitled to a deduction if you had a receipt then the ATO must still allow you the deduction but it needs to be beyond doubt that you incurred the expense.

For next tax year we will have an envelope available for workers to collect their receipts in. This envelope also contains sample diaries.

Allowances

Allowances really only fall into two categories. Those that are not included in your taxable income and those that are. The only allowances that are not included in your taxable income are those on which your employer has already paid Fringe Benefits Tax or the allowance is exempt from Fringe Benefits Tax for example Living Away From Home Allowance. Any allowance that falls into the Fringe Benefits Tax category should not appear in the Allowance box on your PAYG summary. If it is in the allowance box on your PAYG summary it must be included in your tax return as income. With the exception of an overtime meal or travel allowance. The fact that you receive an allowance does not in anyway enhance your chances of claiming a tax deduction in relation to the expense the allowance covers. Your tax deduction must stand on their own merit ie they must be a cost of earning your income whether you receive an allowance or not.

Relocation expenses

The cost you incur transferring your household to another work location are not deductible but they are an exempt fringe benefit so you should negotiate with your employer to have them pay these costs even if there is a corresponding reduction in your income before tax.

Back Issues & Booklets

To obtain free back issues of the fortnightly BAN TACS Newsflash or any of the following booklets visit our web site at www.bantacs.com.au/publications.php. You can also subscribe to our Newsflash reminder.

Alienation of Personal Services Income

Claim Your Trip Around Australia

Death and Taxes

Defence Forces [Military]

Goods and Services Tax

Insurance and Superannuation

Overseas Backpacker Fruit Pickers

Real Estate Agent

Secret Plans and Clever Tricks

Solicitors Selection

Wage Earners

Buying a Business

Claimable Loans

Divorce

FBT for PBIs

Home Loans

Investors

Overseas

Rental Properties

Selling a Business

Subcontractors

With Attitude

Capital Gains Tax

Claiming a Motor Vehicle

Division 35

Fringe Benefits Tax

How Not To Be A Developer

Key Performance Indicators

Professional Practices

Retirees

Small Business

Teachers

Year End Tax Strategies

Disclaimer: Please note in many cases the legislation referred to above has only just passed through parliament. The full effect is not clear yet but it is already necessary to make you aware of the ramifications despite the limited commentary available. On the other side of the coin by the time you read this information it may be out of date. The information is presented in summary form and intended only to draw your attention to issues you should further discuss with your accountant. Please do not act on this information without further consultation. We disclaim any responsibility for actions taken on the above without further advice as to your particular circumstances.

INVESTMENT NETWORKING

FOR YOUR
BUSINESS AND YOU



some **work** others **network**

learn how to

drastically advance **your financial future**

through property and personal investment



Australian Property Investors Network (APIN)

www.apin.com.au

What does APIN offer ?

Seminars & Workshops

Why is that most people aren't taught how to be rich or happy? We are trained to do most things in our lives, in order to do them well enough to get by. We are taught how to read and write, how to cook, how to drive. We are taught how to do incredibly complex and challenging tasks like designing and building bridges over wide spaces, how to cure diseases, to fly airplanes, yet when it comes to creating personal wealth and happiness, we're left to find out for ourselves.

There's another, more subtle reason why most people don't achieve wealth and happiness. Deep down they don't believe that there is a choice to be made between being rich and being happy. They believe that somehow you can't have both, which is why in the end they don't get either.

The money that slips through your fingers could make you wealthy if spent more wisely.

Our free seminars and information evenings will provide you with leading edge valuable and up to date information. As a bonus you will be able to meet other like minded people who are either starting out on the road to success or are avid investors sharpening their investment knowledge. As a further advantage we encourage you to meet and freely talk with our alliance

partners. These hand picked people both male and female are leaders in their own right, they are also licensed, qualified and independent.

These evenings are fun and informative plus you will have access to lots of support material in the form of e-books, books and cd's on a wide range of topics. Come and learn the many strategies used by successful investors NO SECRETS just sensible plain English techniques that really work in any market at any time.



Education

It's true what they say "the difference between the rich and poor is what they know and what they do". Property is more than houses and unit investing. Do you know how to buy a property using an option, how about knowing all the ins and outs of being your own "DIY Developer"?

There are many ways to make money in real estate and with the correct tools and strategies you too can play with the best.

TIME x INTENSITY = SUCCESS.

You can't expect to get results in life if you have all the information but fail to apply the principles needed to succeed.

Our programs, e-book, books and home study kits will give you the ability to learn and gather what you need at your own pace in your own time. We encourage you to learn from our expert alliance partners all that you can, so when you are ready to act you will have the education to get into your first investment or do your own JV building renovation makeover.





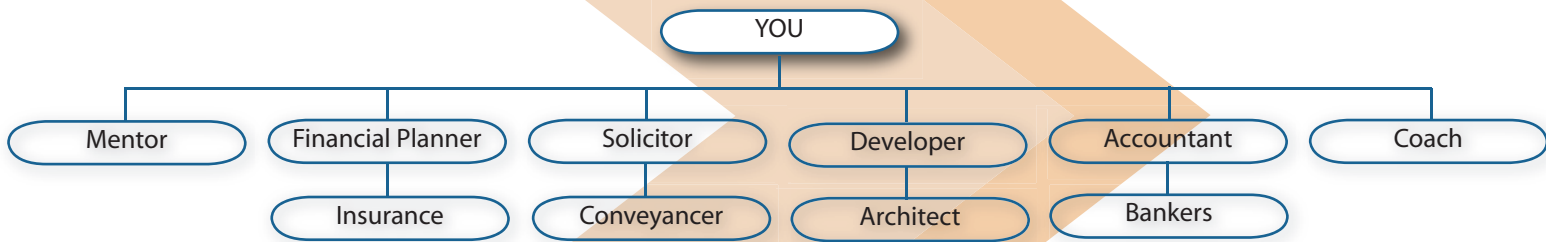
On going Support

Through APIN's Alliance Partners and Discussion Forums you can fortify your ideas and gain strength by exchanging information. Creating alliances generates business opportunities increasing your network and of course - your cashflow.

We have a mentoring service for those that are not quite ready to take those steps without guidance, extra information and some affirmation. Helping you to create a "safe" environment for your first steps.

Who is on your team?

When looking at people who are successful, you will notice they have a hand selected group of people to support and advise throughout the journey to success.



Property Opportunities

Through our Australia wide network we select opportunities that "stack up". We use an independent Research company (Guardian) who are licensed financial planners and real estate agents to use our pre selection due diligence program. From investment properties, development sites, future land subdivisions, building makeovers to even golf course resort projects.

APIN also align ourselves with a select group of builders and developers where we negotiate wholesale purchasing, saving you 10% off the retail price. These opportunities are not available to the public but only members of the APIN site. We can introduce you to the key people who are experts in their fields, saving you thousands of hours of frustration and heartache. Very shortly APIN will also be offering FREE property advertising on our site through resisearch.com who are one of our alliance companies. APIN is fast becoming the most exciting site in Australia.