R & G
Tax Report
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Tax News, Views and Clues

GST & Pricing

The Federal Court has recently held that the failure to show a GST-inclusive price for goods and services could, in some circumstances, be considered misleading or deceptive and, as a result, contravenes the *Trade Practices Act 1974*.

➢ **TIP:** Where GST is applicable to the provision of goods and services, the full price inclusive of GST, or the exclusive price together with the GST payable, should be shown.

Where GST exclusive prices are used, substantial prominence should be given to alerting purchasers that the prices do not include GST.

Contact us for further information.

Motor Vehicle Kilometre Rates 2002/03

New rates have been published for claiming car expenses on a cents per kilometre basis for the 2002/03 income year. The new rates apply to claims for no more than 5,000 business kilometres and are also used to calculate the taxable value of some fringe benefits (such as remote area holiday travel).

Rates for a small car

- Non-rotary engine not exceeding 1600cc — 50¢/km
- Rotary engine not exceeding 800cc — 50¢/km

Rates for a medium car

- Non-rotary engine 1601-2600cc — 60¢/km
- Rotary engine 801-1300cc — 60¢/km

Rates for a large car

- Non-rotary engine 2601cc and above — 61¢/km
- Rotary engine 1301cc and above — 61¢/km

➢ **TIP:** Where more than one vehicle is used during the year, taxpayers may use the cents per kilometre method for deduction claims for up to 5,000 kilometres travelled for *each* motor vehicle.

Rollover Relief for STS Partnerships

The Government has announced that rollover relief will be available for Simplified Tax System (STS) partnerships where a change in the partners of a small business partnership occurs. A change in partnership causes a change in the ownership of partnership assets which can trigger taxable gains in relation to depreciable assets.

Rollover relief will ensure that such gains are not taxable so that a taxable gain will only arise when the business ultimately disposes of its depreciable assets.

Rollover relief amendments will be effective from the start date of the STS, 1 July 2001.

Compensation for Damage to Depreciable Asset Not Assessable

The Tax Office has released an Interpretative Decision (ID) outlining its view on whether a compensation payment received by a taxpayer for damage to an item of depreciable plant is assessable income.

The Tax Office considers a case where a taxpayer received a compensation payment from a supplier for permanent damage, not capable of repair, to an item of plant. According to the Tax Office, the compensation amount received does not possess the characteristics of income and is thus not assessable.

The ID also states that the amount is not assessable as a capital gain because the depreciable asset is considered to be the underlying CGT asset, rather than the right to seek compensation.

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The ID thus stipulates that a CGT event has not occurred in relation to that asset.

Finally, the compensation received does not reduce the asset's 'cost' for depreciation purposes.

- **CAUTION:** In many cases, compensation amounts can be assessable either as income or a capital gain. The facts and the law need to be carefully considered in each case.

Contact us for further information.

Increase Allowed to Opening Value of Trading Stock

The Federal Court has allowed a taxpayer to increase its opening value for trading stock in the 1993 income year despite the fact that its closing stock value for the 1992 income year was different.

The taxpayer was a mining company which exercised its option to value its trading stock at 'cost price' in its 1992, 1993 and 1994 income tax returns.

However, in the 1996 income year, it lodged objections to its assessments for the 1993 and 1994 income years, contending that the opening and closing value of trading stock for each of those years should be increased to include certain indirect costs that had been incorrectly omitted by the taxpayer.

The Commissioner agreed that the stock figures were incorrect and allowed the closing value of stock to be increased for the 1993 and 1994 income years.

However, no increase to the opening stock value for the 1993 income year was allowed, as by that time, it was too late for the Commissioner to make a corresponding amendment to the closing stock value for the 1992 income year.

The Court held that on the basis that the stock value was incorrect, to prohibit the taxpayer from correcting this error would knowingly put the taxpayer in the wrong tax position.

Accordingly, the Court had no choice but to allow the taxpayer to revalue its opening stock value for the 1993 year to its correct value, although a corresponding change could not be made to the 1992 closing value.

- **TIP:** The three methods for valuing stock on hand for income tax purposes are: 'cost', 'market selling value' and 'replacement price'.

  Different methods may be used to value the same item of trading stock in different income years. However, the opening value of trading stock must equal the closing value for the same stock in the previous income year.

  By revaluing stock, taxpayers may be able to reduce or increase their tax liability in a particular year. Care should be taken when a stock revaluation results in a reduced tax liability (due to a lower closing stock value) as this benefit will ultimately reverse in the following year.

Capital Losses: Dividend Rebate Adjustment

In a recent case, the Federal Court allowed the Commissioner to reduce the capital losses transferred to a subsidiary company from its parent company. The adjustment came about because of an incorrect calculation by the parent company of its reduced cost base for shares sold in other subsidiaries, therefore overstating its capital loss.

When working out its capital loss, the parent company was required to reduce the cost base of the shares by the amount of rebateable dividends received from the subsidiaries that were paid out of preacquisition profits.

The rebateable dividend adjustments made by the parent company only took into account dividends that were paid out of realised preacquisition profits of the subsidiaries, and not those that were paid out of profits that were unrealised at acquisition date. The taxpayer submitted that it was not correct to describe the unrealised increase in the market value of the subsidiaries' assets as profits 'derived' before the acquisition.

The Court disagreed with the taxpayer on the grounds that the law does not require any distinction to be made between realised and unrealised profits. Thus, all dividends paid out of profits that accrued to the subsidiaries prior to their acquisition by the parent company should be taken into account in making the rebateable dividend adjustment to the cost base of the shares.

Shareholder Loans

The Tax Office has released a Taxation Determination concerning certain deeming provisions in the shareholder loan rules.

Broadly, where a trust has declared distributions to a private company and the distributions remain unpaid, the private company can be deemed to make a loan if the trust lends to certain related parties. The shareholder loan (deemed dividend) rules then apply.

Secondly, if the trust makes a loan to another entity, which in turn lends to a shareholder or associate, the loan can be deemed to be one made directly by the private company beneficially to its shareholder, in the Tax Office's view.

- **TIP:** These arrangements are quite complex. The shareholder loan rules should be very carefully considered any time a loan is made out of a company or trust to a related party.

Contact us for further information.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.