

R J C — & Co — E V A N S

Accountants • Tax Agents • Auditors



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Editorial

There can be no doubt that the festive season is approaching. On any trip to the shops you will see Christmas decorations, trees and gifts. Christmas carols are playing in the background. In the lyrics of Christmas Time Bryan Adams noted:

“There's something about Christmas time
There's something about Christmas time
That makes you wish it was Christmas everyday.”

Adams, like many would like to see Christmas themes such as the promotion of goodwill, compassion and peace translated into actions which occur for more than one day in the year. Why wouldn't we want to embrace the Christmas spirit all year round?

Thoughts around this time turn to what gifts to purchase for family and friends. Consumerism is the order of the day. Few references are made to saving. Frugality is not a popular concept at anytime, let alone at this time of the year!

Perhaps this year resist giving your credit card too much of a working over. Consider spending on gifts that count. Benjamin Franklin once said, “An investment in knowledge always pays the best interest.” Educating yourself or a family member is a vital step on the road to financial freedom. It is often said that money brings choice but then so too does knowledge. Gifts such as courses or books might be a different alternative, and assist with long term financial literacy for family members.

The message of Christmas is after all simple. A child born in a manger grew up to lead a humble life and spread a message of love, respect and dignity. What does all that retailing and wrapping paper have to do with peace on earth? Perhaps it is time to revisit priorities of time and spending.

During this season of Christmas and New Year some of us go to great lengths to formulate New Year resolutions.

After the fireworks, partying and palaver that goes with New Years Eve celebrations why not take some timeout on the 1 January 2011 to:

- Make a list of resolutions for a happy, healthy and wealthy New Year.
- Establish a regular savings plan for your first home, repayment of debts or retirement. Save first and then spend.
- Review expenditure. Separate out what you really need as opposed to what you want.
- Budget. A great way to “find” extra money is to complete a budget.
- Set the journey for the year.

It is also important that once these big picture plans have been put into place that you don't let the daily landscape put the horizon out of focus.

All of us at RJC Evans & Co take this opportunity to wish you and your family all of the joy of Christmas.

Merry Christmas
Andrew Evans



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National Paid Parental Leave Scheme

From the 1 January 2011, Australia's first national Paid Parental Leave Scheme will start. Eligible working parents of children born or adopted on or after 1 January 2011 may get 18 weeks of Government-funded pay at the National Minimum Wage, currently \$570 a week before tax, to help them to care for a new baby.

Full time, part time, casual, seasonal, contract and self employed workers may be eligible. You must have worked at least 330 hours (just over 1 day a week) for 10 of the 13 months before your new baby arrives. You can have up to an 8 week unpaid break between 2 working days and still be eligible. You can earn up to \$150,000 a year (individual salary) and still be eligible.

Is it for both parents?

Yes. Usually the mother must apply for Paid Parental Leave. If you are eligible, you can transfer some or all of the pay to your partner (they need to be eligible too).

When can I take it?

You can claim up to 3 months in advance, and your pay can start at anytime you choose from when your child is born or adopted. It will be paid in one continuous period from the start date and must all be taken within the first year after the birth or adoption.

Eligible parents can receive Parental Leave pay at the same time, before or after other employer-provided paid leave or entitlements. The existing minimum entitlement to 12 months unpaid Parental Leave for long-term employees is unchanged.

What does it mean for employers?

From 1 July 2011, employers must provide Government-funded Parental Leave pay through their usual pay cycle to eligible employees who have been with their business for at least 12 months. Other eligible parents will be paid through the Family Assistance Office.

More information can be found at: www.australia.gov.au/paidparentalleave

What is an Interdependency Relationship?

An Interdependency Relationship may exist between two people if they live together in a close personal relationship and one or each of them provides the other with financial and domestic support, and personal care. This may include a parent or sibling with whom you live. An interdependency relationship may still exist between two people if they have a close personal relationship but do not live together because either or both of them suffer from a physical, intellectual or psychiatric disability.

Eligible Dependants for Superannuation Purposes

The definition of who is an eligible dependant for superannuation purposes is not consistent under the superannuation (SIS Act) and income tax legislation.

These differences can pose problems with who can be paid a benefit and whether it is taxed in the hands of the recipient.

The definition of financial dependant for superannuation purposes is quite broad. Whereas under taxation law it is much more restrictive. The situation can develop where a beneficiary who can be paid a benefit under the superannuation definition of dependant, may not be entitled to receive the tax concessions unless also considered a dependant according to the tax interpretation.

For income tax purposes a dependant includes a person who is or was the spouse of the person; and any child of the person, being a child who has not attained the age of 18 years.

If the benefit is paid to a non tax dependant the rate of tax is 16.5% (including Medicare Levy) if it is from a taxed source. If the benefit is from an untaxed source the rate of tax is 31.5% (including Medicare Levy).

Example: A child who is able to receive a death benefit may not necessarily be able to receive that benefit tax-free if the child is over 18 and financially independent of the deceased.

Please contact our office to discuss any concerns you may have when completing your superannuation fund's nominated beneficiary form.

Permanent Reduction to the Superannuation Co-contribution Rates and Maximum Payable

The Government proposes to:

- Permanently retain the matching rate for the co-contribution at 100%, and
- Retain the maximum co-contribution that is payable on an individual's eligible personal non-concessional superannuation contributions at \$1,000.

For the 2010 / 2011 and 2011 / 2012 financial years, the Government will freeze the indexation applied on the income threshold above which the maximum co-contribution begins to phase down.

The matching contribution is up to \$1,000 for people with incomes of up to \$31,920 in 2009 / 2010 with the amount available phasing down for incomes up to \$61,920. This new measure will freeze these thresholds at \$31,920 and \$61,920 for the next two financial years.

Direct Debit for GIC-free Payment Deal

The Tax Office has extended the general interest charge (GIC) free payment arrangement for small business taxpayers (i.e. those with an annual turnover of less than \$2m) with activity statement debts for another year to 30 June 2011.

If you have an activity statement debt, you may be eligible to enter into such an arrangement with the Tax Office to pay the debt over a maximum of 12 monthly GIC-free instalments. However, there are conditions which accepted taxpayers must abide by. Specifically, the Tax Office now expects you to pay the instalments by direct debit.

TIP: This concessionary measure does not extend to activity statement lodgement due dates. In other words, you must still lodge your activity statements on time, or face potential penalties.

Debts Result in CGT Small Business Concessions Being Denied

The Administrative Appeals Tribunal has confirmed that debts of \$3.8m that a taxpayer was owed by related business and investment entities were 'CGT' assets' of the taxpayer that had to be taken into account under the maximum net asset value test. As a result, the taxpayer exceeded the then \$5m test threshold and therefore could not qualify for the small business CGT concessions in relation to the capital gain made on the sale of land and improvements from which he operated a car radio business.

TIP: If a taxpayer is a small business entity, the taxpayer does not need to satisfy the net asset value test (subject to other requirements being met).

Tax Scams on Tax Office Radar

The Tax Office has recently highlighted the emergence of new tax schemes, warning taxpayers to be vigilant and avoid becoming the victim of identity and tax return fraud. The Tax Office said it never sends emails asking for personal information such as banking and credit card details.

TIP: If you receive a suspicious email or telephone call, please contact our office before giving out any personal information.

Raising the SG Age Limit from 70 to 75

The Government proposes to raise the SG age limit from 70 to 75 with effect from 1st July 2013. Currently, an employer only needs to pay SG contributions up to age 70

Court Can't Review Tax Office Decision to Delay GST Refunds Payable

In a recent case, the Federal Court dismissed a taxpayer's application for a review of a Deputy Commissioner's decision to 'withhold' GST refunds that were payable under the GST Act. The Court held the taxpayer had no reasonable prospect of obtaining the relief sought.

TIP: This case demonstrates that in such situations a taxpayer is unable to 'force' the Tax Office to release a refund. If a taxpayer is the subject of a Tax Office audit, a GST refund may be withheld. Also, the Commissioner can apply the refund against any outstanding liabilities.

Share Investor, Not a Share Trader

In a recent case, the Administrative Appeals Tribunal found a taxpayer was not carrying on a share trading business but rather he was a share investor.

During the 2007 and 2008 income years, the taxpayer was engaged in the buying and selling of shares. The taxpayer had lodged his tax returns on the basis that he was a share trader for the relevant income years.

However, after examining the indicators for such a business, the Tribunal was satisfied that the taxpayer was not carrying on a share trading business.

TIP: Shareholders should be aware that the Tax Office has its sights set on share disposals as part of its Compliance Program for 2010-11. It has also issued an alert mid last year warning taxpayers against claiming losses on revenue account when they had previously claimed gains on capital account (Taxpayer Alert TA 2009/12).

GST and Insurance

Recently a client asked the question whether a payment by an insurer to a GST-registered sole trader under an income-protection policy would include GST.

Answer: No. The payment by an insurer to a GST-registered sole trader under an income-protection policy would not include GST. This is because Div 78 of the GST Act treats supplies made by or to insurers in relation to the settlement of an insurance claim as not involving taxable supplies and, therefore, do not attract GST.

ATO Keeps a Close Eye on the Cash Economy

The Tax Office has reminded taxpayers that increased data-matching and benchmarking will be used to identify businesses participating in the cash economy.

The Tax Office says, this year, it will write to 110,000 small business taxpayers which it believes may be participating in the cash economy. It said the majority of the letters sent were to businesses reporting outside the small business performance benchmarks.

However, the Tax Office noted that businesses that fall within the benchmarks should not assume that they are safe from an ATO audit or review.

The Tax Office said the benchmarks complement its recently expanded data-matching program, which now includes data from online auction sites eBay and Trading Post.

TIP: The Tax Office Compliance Program for 2010-11 noted that the cash economy continues to be a major focus. Specific behaviours that the Tax Office is concerned about include: paying cash-in-hand wages; skimming some or all of the cash takings; barter and running part of normal business activities off the books.

Records Relating to Inheritance

When you inherit an asset as a beneficiary of the estate of a person who died on or after 20 September 1985, you must keep special records. These records for varying situations are as follows:

- If the asset was acquired by the deceased person **before 20 September 1985**, you need to know the market value of the asset at the date of the person's death and the amount of any relevant costs incurred by the executor or trustee. This is the amount that the asset is taken to have cost you. If the executor or trustee has a valuation of the asset, get a copy of that valuation report. Otherwise you will need to get your own valuation.
- If the asset you inherit was acquired by the deceased person **on or after 20 September 1985**, you need to know full details of all relevant costs incurred by the deceased person and by the executor or trustee. Get those details from the executor or trustee. Even if you inherit a house that was the family home of the deceased person, you need to keep records of costs paid by the deceased person in case you are not able to claim a full exemption for the house after you inherit it.
- If, **after 20 August 1996**, you inherit a house that was the family home of the deceased and it was not regarded as being used to produce income at the time of death, you will be taken to have acquired the house at its market value at the date of death. If the executor or trustee has a valuation of the asset, get a copy of that valuation report. Otherwise you will need to get your own valuation. Make sure you keep details of any other costs you have paid out for the asset since the date you inherited it.

(Source Australian Taxation Office)

Payment Summaries and Reporting of Incorrect Super Amounts

The Tax Office says some employers have been incorrectly including compulsory superannuation amounts as reportable employer super contributions on their employees' payment summaries for the 2009-10 income year. Reportable employer super contributions should only include additional super contributions made by an employer, for example super contributions made on behalf of an employee under salary sacrifice arrangement. The payments being incorrectly included cover things such as super guarantee contributions and industrial agreement (award) super contributions.

TIP: Employees should review their payment summaries and ask for amended payment summaries from their employers if they incorrectly contain compulsory super amounts as reportable employer super contributions. This is important because incorrect amounts included may effect eligibility for certain tax concessions and Centrelink benefits, and may cause a liability for the Medicare levy surcharge.

TIP: If employers have issued payment summaries to their employees that incorrectly include compulsory super amounts, they can notify affected employees and issue them with amended payment summaries. If employers have also already lodged their payment summary annual reports with the Tax Office, they will need to lodge an amended annual report.

Tax Discount for Interest Income

From 1 July 2011, individuals will receive a 50% tax discount on up to \$1,000 of interest income. This includes interest earned on deposits held with any bank, building society or credit union as well as on bonds, debentures or annuity products. The discount also applies to interest earned indirectly (e.g. via a trust or managed investment scheme).



Lost and Unclaimed Superannuation Rules

From 1 July 2010, the Government will require superannuation providers to report and pay the following accounts to the ATO as unclaimed superannuation:

- Lost accounts with balances of less than \$200 (small lost member accounts)
- Lost accounts which have been inactive for a period of 5 years (insoluble lost member accounts) and have insufficient records to ever identify the owner of the account.

From December 2010, individuals will be able to search for these types of accounts using the ATO's Super Seeker tool and lodge a claim for them with the ATO.

At that time, Super Seeker will display all unclaimed superannuation, including small and insoluble lost member accounts, where a high confidence match with ATO records has been identified.

To complete a search using Super Seeker online you will need to provide your:

- Tax File Number (TFN)
- Family and given names
- Date of birth

If there is a possible match with Super Seeker then:

1. Super Seeker will display details of any accounts listed on the Lost Members Register (LMR) in addition to unclaimed superannuation and other superannuation amounts held by the ATO. Any lost superannuation listed on the LMR is held by the relevant superannuation funds.
2. Where an account is found on the LMR, you may wish to:
 - Contact the superannuation fund to update your personal details or enquire about your lost account.
 - Consolidate your accounts, which may reduce your fees and costs.
3. Where unclaimed superannuation or other superannuation amounts held by the ATO are found, you can use the claim form provided by Super Seeker to make a claim. Alternatively, you may contact the ATO direct by telephone on 13 10 20.

Deductibility of Swimming Instructor's Swimwear

ATO ID 2010/164 is about whether expenditure incurred by swimming instructor in purchasing swimwear is deductible. The taxpayer worked as a part-time swimming instructor. The taxpayer purchased swim suits every 6 to 8 weeks as a result of the damaging effect of the chlorinated swimming pool water on the swim suits.

In this determination the ATO has indicated that the expenditure incurred by the taxpayer in purchasing swim wear is not deductible under section 8-1 of the ITAA 1997 as it is private in nature.

To be deductible under section 8-1, the expenditure must have the essential character of an outgoing incurred in gaining accessible income. It is not sufficient that the expenditure is a pre-requisite to the derivation of assessable income.

The taxpayer wears a single swim suit at work that meets the requirements of modesty and decency. Although specialised, the clothing is conventional clothing. There is nothing to distinguish the swim suit from that used for private purposes such as training or recreation.

There is no principle that expenditure incurred in replacing the clothing worn out during the course of income-earning activities is deductible where the clothing serves a private purpose.

Minimum Repayments for HECS / HELP

Minimum Repayment Rate		
Repay %	HECS / HELP Repayment Income \$	
	2009/2010	2010/2011
Nil	0 – 43 150	0 - 44 911
4.0	43 151 – 48 066	44 912 – 50 028
4.5	48 067 – 52 980	50 029 – 55 143
5.0	52 981 – 55 764	55 144 – 58 041
5.5	55 765 – 59 943	58 042 – 62 390
6.0	59 944 – 64 919	62 391 – 67 570
6.5	64 920 – 68 336	67 571 – 71 126
7.0	68 337 – 75 203	71 127 – 78 273
7.5	75 204 – 80 136	78 274 – 83 407
8.0	80 137 +	83 408 +

Special Occasions

Congratulations to Craig Martin who since our last newsletter has celebrated the 2nd anniversary of his 25th birthday. We congratulate Craig on this special milestone.

It's been a significant year for Paul Anson. In January he celebrated 40 years at RJC Evans and Co. In December he will be celebrating his 60th Birthday. Congratulations to Paul on this special occasion.

Congratulations

Since the 1920's RJC Evans and Co has provided accounting and taxation services to the fishing and seafood industries. In the early days these contacts started in the far West Coast at places such as Thevenard and Ceduna. Today not only do these West Coast links continue, but we also cover many other parts of the South Australian Coast Line.

At the South Australian 2010 Produce Awards Pristine Oyster Farm of Coffin Bay won not only the over all Producer of the Year but also the produce award category, "From the Sea".

You would have thought it was difficult to surpass these two achievements but Pristine also won the award for Australia's Finest Seafood for their native angasi Oysters and Premium Pacific Oysters. We congratulate the business owned by brothers Tony, Brendan and Nick Guidera for these superb efforts.

The delicious 2010 Produce Awards, are known as the Pinnacle Award of the Australian food growing industry.

It is a just reward for the extreme effort which Pristine put into producing their Oysters. It may not be widely known that the finest oysters are produced in winter and need constant attention. This often involves spending hours each day swimming along the Oyster racks. You can only imagine how cold it would be in the waters of Coffin Bay during the middle of winter!

Congratulates to all of the team at Pristine Oyster Farm on these achievements.

Staff News

We would like to take this opportunity to welcome our new staff members at RJC Evans & Co. Christina D'Ettorre to the Financial Planning team, Tom Strout and Jesamine Benn to Stephen's team, Sonia DiFabio and Serena Narain to David's team and Kayla Parr and Sharnii Elliott to our back office.

We offer our congratulations to Dion Venning and his wife, Kate on the birth of their son, Andy.

Office Hours Over the Christmas Period

To enable our staff to enjoy a well earned break over the Festive Season, the office will be operating on a skeleton staff (excluding public holidays and will be closed on Friday 24 December 2010) over the period Wednesday 29 December 2010 through to Friday 31 December 2010, reopening with full operating staff on Tuesday 4 January 2011.

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Fringe Benefits Tax & Christmas Parties

There is no separate Fringe Benefits Tax (FBT) category for Christmas parties. Fringe Benefits provided by you, an associate or under an arrangement with a third party to any current employees, past and future employees and their associates (spouses and children), may attract FBT.

The cost of providing a Christmas party is Income Tax Deductible only to the extent that is subject to FBT. Therefore, any costs that are exempt from FBT (that is exempt minor benefits and exempt property benefits) cannot be claimed as an Income Tax Deduction. It also follows that GST is not able to be claimed in this instance.

Christmas Party (provision of entertainment)

Food and drink supplied to employees as part of a Christmas Party or other social function that fall within the provisions of minor and infrequent gifts, less than \$300.00, as detailed above are not tax deductible to the employer as they involve the provision of entertainment.

Based on the above it is possible to provide a tax-deductible gift valued up to \$300.00 plus a non-deductible Christmas party valued up to \$300.00 to each employee at Christmas time.

How many gifts per year?

The provision of up to four irregular gifts to an employee each year may be considered minor and infrequent. Therefore it is possible to make two further gifts throughout a year in addition to the examples mentioned above. That is a total value of \$1,200.00 in gifts over a year. However if the gift involves entertainment then it is not tax-deductible.

Christmas Party/Gift Summary

Event	FBT?	Deduction	Claim	GST?
Gift for Employee <\$300	No	Yes	Yes	Yes
Gift for Employee >\$300	Yes	Yes	Yes	Yes
Party on Premises - Employee	No - regardless of cost	No	No	No
Party on Premises - Spouse	Only if benefit exceeds \$300			
Party off Premises - Employee	Only if benefit exceeds \$300			
Party off Premises - Spouse	Only if benefit exceeds \$300			

SPECIALISING IN:

Tax returns, Taxation advice, Capital Gains Tax Planning, Accounting, Budget and Cashflow preparation, Company secretarial services, Company and Trust audits, New Business assessments, Estate Planning, Computer and software selection, Financial management, GST Advising and BAS Preparation.

DISCLAIMER:

Important: We suggest that our clients do not act only on the basis of the material contained in this Report because the items herewith are general comments only, and may be liable to misinterpretation in a particular circumstance. Also, changes in legislation sometime occur quickly. We therefore recommend that our advice be sought before acting in any of these areas. This report is issued as a helpful guide to our clients and is for private information. Therefore, it should be regarded confidentially and not be made available to any person without prior approval.