



ML | Partners Pty Ltd

COMBINING ACCOUNTING & WEALTH MANAGEMENT

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Practice Update

Please read this update and contact this office if you have any queries

January - February 2016

New staff in Townsville, Ayr & Home Hill

Townsville Office – ML Partners welcomed Rosemarie Horan to the ML Partners team in December. Rosemarie completed her business degree in 2015 and has commenced work in the Townsville office on a part-time basis (currently 2 days per week on a Monday and Tuesday 9-3).

Ayr Office – Jessica Furlong & Teena Butler both commenced work in the Ayr office in January & February respectively. Jessica is currently completing her business degree externally through USQ while working as a full-time trainee accountant. Teena commenced work in February as a part-time administration assistant with the Financial Planning team. Teena has a Bachelor of Commerce Degree. Welcome Jessica & Teena.



L – R Jessica Furlong & Teena Butler

Home Hill Office – Cheryl McNee & Lily Woodlock commenced work in the Home Hill Office recently. Cheryl is our full-time accounts receivable administration officer and commenced work in February, replacing Corinna Power. Lily is currently completing

year 11 at Home Hill State High School and works 2 days per week after school as a receptionist/trainee administration assistant. Welcome Cheryl & Lily. Carmel Fiamingo has returned from maternity leave and is working part-time as an administration assistant with the financial planning team. Alaina Dale has also recently returned from maternity leave and is working in the Home Hill office on a part-time basis in the SMSF area. Welcome back Carmel & Alaina.



L-R Lily Woodlock, Cheryl McNee, Carmel Fiamingo (absent Alaina Dale)

ATO announces two important data matching protocols

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

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

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

These include:

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

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

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

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

Property sales and rental income

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

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

For the period 20 September 1985 to 30 June 2017, data will be obtained from all State and Territory Revenue authorities, as well as many Finance departments, and Land and Residential Tenancies authorities.

The ATO will obtain the data on:

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

Number of records

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

Help for people affected by drought

A range of government assistance packages are available for those areas affected by drought. The Department of Agricultural & Fisheries website lists all shires that are currently drought declared:

<https://www.daf.qld.gov.au/environment/drought/drought-declarations-and-revocations>

Assistance available includes:

- Freight subsidies
- Water infrastructure rebates
- Land rent rebates & water licence waivers
- Farm household allowance
- Drought recovery concessional loans

Details of assistance available can be found at:

<https://www.daf.qld.gov.au/environment/drought/assistance/new-package>

The ATO is also offering tailored payment plans and extensions of time for lodgements or payment of tax bills. Details of this assistance can be found at:

<https://www.ato.gov.au/general/financial-hardship/in-detail/drought-assistance/>

Warning to employers to withhold tax from some car allowances

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

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

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

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

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

Deadline looms for SMSFs and collectibles

Does your self-managed superannuation fund (SMSF) own a motor vehicle, artwork, wine, coins, jewellery or other collectibles?

More stringent rules for how these collectible and personal use assets are managed come into effect for all funds from 30 June 2016. While it's important for all SMSFs to ensure that they are compliant with the rules, funds with collectibles

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purchased before 1 July 2011 have had a grace period to get their house in order. This grace period ends on 30 June 2016.

There is around \$407 million worth of these collectible and personal use assets sitting in SMSFs in Australia. The Tax Office's main concern is that it's really easy for fund members to forget that these assets – like artwork and cars - are owned by the fund and must be held for retirement purposes. That means members of the fund (or anyone related to them) can't use or enjoy that asset.

If you have these assets in your fund (or are looking to acquire them), here's what you need to ensure:

1. The asset must not be leased to a related party - a related party includes a member of the fund, their relatives, business partners, the spouse or child of these business partners, or any company or trust that the fund members control or influence.
2. The asset must not be stored in the private residence of the related party - this includes sheds and garages etc.
3. The trustees must keep a written record of where, how, and why the asset is to be stored.
4. The asset must be insured in the fund (trustees) name. If your SMSF is buying a collectible, insurance needs to be in place within the first seven days. If the fund already owns the asset it must be insured in the trustees name before 1 July 2016.
5. The asset must not be used by a related party. For example, if your fund owns a vintage car, you cannot drive it for any reason, not even to go to the mechanic.
6. If the asset is sold to a related party, the asset must be sold at a market price determined by a qualified and independent valuer.

A few issues come out of these requirements. Sometimes insurance is difficult or impossible to get for collectible assets. If you can't secure insurance, the asset may need to be sold. If a collectible asset needs to be sold because the rules can't be met, the sale process can sometimes be protracted – this could be an issue if you need to sell the asset pre 30 June.

Before your fund acquires a collectible asset, it's also important to ensure that the fund Trust Deed allows for collectibles to be acquired, the Investment Strategy of the fund allows for the collectible to be acquired, and that the sole purpose of acquiring the collectible is to provide retirement benefits for members.

What is a collectible and personal use asset?

The definition of a collectible is quite broad and will often capture assets that many fund members don't realise qualify as collectibles.

A common example is motor vehicles. The definition of a collectible includes motor vehicles such as utes, not just classic cars that are generally considered collectors items.

When the Tax Office talks about collectibles, they mean: artwork – including paintings, sculptures, drawings, engravings and photographs; jewellery; antiques; artefacts; coins, medallions or bank notes (coins and banknotes are collectables if their value exceeds their face value, and bullion coins are collectables if their value exceeds their face value and they are traded at a price above the spot price of their metal content); postage stamps or first-day covers; rare folios, manuscripts or books; memorabilia; wine or spirits; motor vehicles and motorcycles; recreational boats; and, memberships of sporting or social clubs.

Taxpayer misses out on small business CGT concession

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

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

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

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

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

Decision

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

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

Reminder of Accelerated Depreciation for Primary Producers and Small Business Entities

Primary producers can immediately deduct capital expenditure on fencing and water facilities such as dams, tanks, bores, irrigation channels, pumps, water towers and windmills. This measure took effect from 7.30pm, 12 May 2015.

Primary producers can also depreciate over three years the cost of fodder storage assets such as silos and tanks used to store grain and other animal feed.

This is in addition to increasing the instant asset write-off threshold to \$20,000 (up from \$1,000) for small businesses with an aggregated annual turnover of less than \$2 million.

For each eligible depreciating asset, primary producers who meet the definition of a small business may choose to use the accelerated depreciation deduction for small businesses, or accelerated depreciation for primary producers.

Tax Planning – pre 30th June



For those of you who would like assistance with tax planning strategies, would like to know what options are available to you while there is still time or who simply who don't like unpleasant surprises then ML Partners can work with you to assist in these areas. We offer a tax planning service that provides clients with a written report detailing their estimated tax position for the current financial year and options to assist with tax minimisation and cash flow management. Please contact us if you would like further information.



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

March quarter GIC and SIC rates

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

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

Quote of the month

"Things don't have to change the world to be important."

Steve Jobs