

New era for Workplace Regulations

The 1st July 2009 saw the end of the former Howard Government's WorkChoices legislation and the introduction of the Federal Government's new Fair Work regulations.

One of the features of the new system is that small business will no longer be exempted from unfair dismissal laws. Under the former system, businesses with less than 100 employees were

exempted from the unfair dismissal laws, but not under the new system, although there are some limited concessions for businesses employing less than fifteen people.

The new industrial relations umpire, Fair Work Australia (formerly the Australian Industrial Relations Commission), will have greater powers to enforce "good-faith" bargaining.

Business commentators have emphasised the responsibility placed on small

businesses, which typically have limited resources, to have an understanding of the impact of the new legislation.

We are committed to assisting our business clients to come to terms with the impact of the new system, and are currently planning information briefings. If you would like to register your interest, please email us at contact@rdl.net.au or ring Shashi Emerson of our office on 9878 1477.

Investment Allowance...time is running out!



In this edition

- » Exceed Super Limit – Taxed up to 93%
- » New tax sting for Aussies working overseas
- » Q&A
- » Visiting Our Office?
- » The Good Oil on Insolvent Trading

It is December 31, 2009... New Years Eve, the fireworks have faded away and we have just said goodbye to the noughties...Don't spoil your celebrations by realising your business has just missed the deadline for the Investment Allowance. So, in the interests of a good New Year's Eve party this year, let's just revisit some of the main points:

Who is eligible?

Small businesses (i.e. those with a turnover of less than \$2 million) will be eligible for a tax deduction (not a cash payment) worth 50% of the value of any eligible assets which cost **\$1,000 (\$1,100 with GST)** or more. Other businesses will be eligible for a 10% tax deduction for eligible assets which cost **\$10,000 (\$11,000 with GST)** or more.

What assets are eligible?

- » New items
- » Used principally in the business
- » Depreciable (not capital works on buildings)
- » Under a contract to buy, or bought before **December 31, 2009**

- » Installed, ready to use before **December 31, 2010**

Other Things to Consider:

- » Sets of assets, substantial improvements to existing assets and artworks may be eligible.
- » Leased assets will miss out so get the financing right.
- » Intangible assets, like Computer Software, are ineligible.

The Early Bird

No one wants to be running around organising a big purchase in the pre-Christmas madness, or worse still, when they could be watching the Boxing Day Test! Do yourself (and your friendly accountant) a favour by getting organised early.

Some businesses, like car dealerships, will be very busy as the deadline nears, so getting in early may also ensure a better deal.

Can we help?

Not sure? Talk to us about how this incentive can benefit your business.

Exceed Super Limit – Taxed up to 93%



Exceeding the superannuation contribution limits can have harsh consequences.

The limit for concessional contributions is \$25,000 (\$50,000 for those age 50 and over until 30/6/2012). Concessional contributions include superannuation guarantee contributions, salary sacrifice, employer contributions and personal deductible contributions.

Exceeding the concessional contributions will result in a penalty of 31.5%. This is after having paid 15% contributions tax; hence the total tax amounts to 46.5%. It can actually be worse.

If you exceed both your concessional and non concessional contribution limits tax is payable at three levels:

1	Contributions Tax	15.0%
2	Penalty on exceeding concessional cap	31.5%
3	Penalty on exceeding non concessional cap	46.5%
		93.0%

Those who have utilised the non concessional \$450,000 cap limit over three years are particularly at risk.

Any clients over age 50 that have salary sacrifice arrangements where they have contributed more than the \$450,000 in the past will need to change those arrangements if they have not already done so.

New tax sting for Aussies working overseas

For a number of years most Australian residents employed (and paying tax) abroad have been exempted from Australian tax on their overseas income.

The aim of this exemption was to avoid international double tax complications. While this goal was achieved, the exemption also resulted in an increase in the number of top executives moving to corporate branches in low taxed havens on winter-long secondments.

In the May 2009 Federal Budget, the Government announced significant changes to these provisions. As a

result, the exemption has now been restricted to those working on public fund or charitable overseas aid projects, Australian Government overseas aid projects, or other Government workers serving abroad such as defence personnel and members of the police force.

Broadly, those who do not come within the limited exemption will now be taxed in Australia while receiving a tax credit for tax paid overseas. While there is no intention to tax income twice, the benefit obtained by some from working in low tax countries is now a thing of the past.

The changes, which took effect from 1st July 2009, are expected to result in an increased tax obligation on many in the private sector, including missionaries working abroad. Unfortunately, some employers will be confronted with additional paper work as a result of the new system.



Sharon Veerasamy

Sharon is the youngest graduate of Renshaw Dawson Lang and has been

part of the team since August 2008. The eldest child of a family of four, she arrived from Mauritius in 2006 to pursue her tertiary studies.

She completed a Bachelor of Commerce from the University of Melbourne, majoring in accounting and finance and is now impatiently waiting for the first semester of her CA program to kick off.

During weekends, she likes trying new cafes for brunch in the city, having the occasional Yum Chas in China Town and visiting craft markets. Sharon is

enjoying the Australian culture and is hoping to travel interstate to discover the fantastic landscapes and sceneries.

She has been attending Bridge Church, Richmond for the last few years and loves her very dynamic youth group.



Questions and Contributing Answers

Question: I am over age 50 and my employer made a superannuation contribution of \$50,000 on 30 June 2009. It was received by the fund on 3 July 2009.

Does this mean that any further contribution during the 2009/10 financial year will result in me exceeding the concessional contribution cap limit?

Answer: Yes. As the fund received the contribution on 3 July 2009 they will report it to the ATO as a contribution for the 2009/10 year, even though your employer made the contribution on 30 June 2009.

Question: If a further contribution is made in the 2009/10 year, what will happen?

Answer: It is likely you will receive an Excess Contributions Tax Assessment after 30 June 2010. If this occurs, we can apply to the Commissioner of Taxation to have the first contribution re allocated to the 2008/09 financial year as it is appropriate that it relates to that year.

It is important to make sure that contributions made in late June are received by the fund prior to 30 June to avoid the situation described above. There is no guarantee that the Commissioner of Taxation will allow contributions to be treated as if they were made in the previous financial year.

Visiting our office?

Don't forget that we have off-street parking available for clients behind the office. Please feel free to use any parking space marked 'RDL'.





The Good Oil on Insolvent Trading

In the present economic climate it is wise to revisit directors' responsibilities regarding insolvent trading. In December 2008 The Australian Securities and Investment Commission (ASIC) released Information Sheet 42 outlining directors' responsibilities when a company is in financial difficulty. Generally, a company is insolvent if it is unable to pay its debts when they fall due. There are very harsh penalties imposed on directors who allow a company to trade while insolvent.

Some of the issues covered in the information sheet include:

1. Directors have a duty to prevent a company from trading while insolvent.
2. Directors must keep adequate financial records. A company will be presumed to be insolvent for the period it fails to keep adequate financial records.
3. If a director suspects that a company is in financial distress, they should seek professional advice promptly.
4. An insolvency practitioner can give directors advice about various options to keep the company solvent. If the company is unable to make these changes, it may be appropriate to appoint an external administrator.

5. An external administrator is able to conduct and organise a voluntary administration, liquidation or receivership. Directors have an obligation to assist the external administrator by giving them access to all financial records.
6. Insolvent trading can result in penalties against directors, including civil penalties of up to \$200,000, compensation orders against a director personally to pay outstanding debts to creditors, and criminal charges leading to imprisonment and fines of up to \$220,000.

Therefore the moral is, if in doubt ask and get help early. Where necessary, Renshaw Dawson Lang can refer clients to qualified insolvency practitioners.



Tax File Numbers for kids

As originally announced in the 2009 Federal Budget, the government will enact changes to require that beneficiaries of private Trusts (including children) quote a tax file number to the Trust. The Trust will then be required to disclose this in its tax return, thus enabling the ATO to match Trust distributions to income declared for a beneficiary. In the past, it has been common practice to quote a date of birth or address for children in place of a tax file number, but this will cease from 30th June 2010.

Failure to obtain a tax file number will require that the trustee of the Trust withholds tax at 46.5% and remits it to the ATO. There are some minor exemptions, but it would seem that in most cases children will be required to apply for a tax file number.



Renshaw Dawson Lang ABN 84 164 947 290

60-64 Railway Road, Blackburn 3130
PO Box 189, Blackburn 3130

Phone 03 9878 1477 Fax 03 9894 1798

Email contact@rdl.net.au www.rdl.net.au