



EAGAR EXTRA

November Newsletter 2009

Hello and welcome to your November newsletter. This newsletter is sent to keep you updated with news in the industry and within FWA Eagar&Co. Please forward this newsletter to your staff, colleagues and friends.

IN THE NEWS

TEACHING THE TAX OFFICE A LESSON

HEATH GILMORE HIGHER EDUCATION *Sydney Morning Herald - November 5, 2009*

UNIVERSITY undergraduates will be able to claim educational expenses as a tax deduction after a former student had a landmark win against the Tax Office in the Federal Court yesterday.

Symone Anstis, a former Australian Catholic University student, was successful in her bid to claim \$920 as self-education expenses after fighting the Australian Tax Office through a number of jurisdictions over the past three years.

While studying as a primary teacher full-time, Ms Anstis worked as a part-time sales assistant for retail chain Katies, where she earned \$14,946. She also received a Youth Allowance of \$3622 during the 2006 income year. In a bold move she claimed education expenses including travel costs, supplies for children during teaching rounds, student administration fees and depreciation of her computer.

The Tax Office rejected the claim, so Ms Anstis and her father, Michael, who is a qualified solicitor but does not work as a lawyer, fought them all the way to the hearing in Melbourne yesterday.

The full bench of the Federal Court upheld an earlier decision that because the former student had to be enrolled in a full-time course of study to get her assessable income of Youth Allowance, any costs incurred in the course of studying should be deductible.

CARS AND THE SMALL BUSINESS 50% INVESTMENT ALLOWANCE

For a luxury car, the finance method adopted will be of no significance to the outcome under the investment allowance. For a non-luxury car, leasing should be avoided. Loan, chattel mortgage or hire purchase finance are to be used instead.

The contract under which the Small Business Entity (SBE) will hold the car, must be entered into by 31 December 2009. This means that:

- in the case of an unfinanced purchase, or a purchase with loan finance, the making of a binding purchase order by 31 December 2009 will be sufficient; and
- in the case of hire purchase finance of a luxury car lease, the making of a purchase order will be insufficient. Instead, the hire purchase of a luxury car lease agreement must be made by 31 December 2009.



Salary Packaging

Novated leasing is a popular tool for car arrangements involving salary packaging. Under such an arrangement, the holder of the car will be:

- in the case of a non-luxury car – the finance company; and
- in the case of luxury car – the employee

The finance company will almost invariably have an annual turnover exceeding \$2 million, whilst the employee will generally not be carrying on a business. As a result, neither the finance company nor the employee will be a SBE, in which case the 50% investment allowance would not apply.

Business use requirement

In order to qualify for the investment allowance, at the time the SBE starts to hold the asset it must be reasonable to conclude that the asset will be used principally in Australia for the principal purpose of carrying on the SBE's business.

LEND/ADVANCING FUNDS TO PARTNERSHIPS

In a recent decision the AAT has confirmed the Commissioners view that an advance was a capital contribution to the partnership and not a loan. As a result of this, the AAT held that expenses claimed by the taxpayers in relation to this loan (e.g. interest) were capital in nature and hence were not deductible.

The AAT noted that there was no formal agreement relating to the advance. It also noted the taxpayers' accountant recorded the advance in the books of the partnership as being of a capital nature (i.e. as capital contributed).

SELF MANAGED SUPER FUNDS –GET IT RIGHT!!

"Memo, DIYers: it's not 'all my money'" – Financial Review – Annette Sampson

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tax / consulting / audit

A recent article in the Financial Review discusses a case where a couple was penalised half the value of their fund's assets because of non compliance of their SMSF. It is important to know that you are not automatically entitled to a tax break on your superannuation. The breaks are only available if your money is invested with a complying super fund. If your fund is not complying it's income will be taxed at the top marginal rate, and the asset value in your fund will also be taxed. This will halve your retirement savings. Be sure to check your super fund is compliant with rules and regulations to avoid these hits. If you need assistance, please call the office and speak to one of our accountants

CLUBS SAY TIME FOR PUBLIC TO ACCEPT MORE RESPONSIBILITY

CLUBSNSW – Jeremy Bath, Media 6 November 2009

ClubsNSW has welcomed comments by Police Minister Michael Daley reminding drinkers of the need to accept personal responsibility for their behaviour when drinking at licensed premises.

Figures from the Bureau of Crime Statistics and Research (BOCSAR) show that assaults in clubs are continuing to decline, a trend that has been occurring since 2004.

CEO of ClubsNSW David Costello said for a significant reduction in alcohol related violence to occur, the community needed to accept the same responsibilities government and police expect of licensed premises.

WHAT'S ON SYDNEY – NOVEMBER 2009



Sculpture by the Sea

13TH ANNUAL BONDI EXHIBITION

Sculpture by the Sea, Bondi 2009, the 13th annual exhibition, is on from 29 October - 15 November 2009.

See the spectacular Bondi to Tamarama coastal walk transformed into a giant sculpture park of over 100 sculptures by artists from Australia and across the world.

THE TEAM at FWA EAGAR & CO

Our vision is to be the Company that people look to for financial, business and community success. We value leadership, quality, transparency, diversity and care for our clients.

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