

RHODES DOCHERTY & CO

Chartered Accountants



Client Newsletter

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End of Year

IT IS HARD TO BELIEVE but another year has flown by. 2009 has been a tumultuous year that has seen plenty of changes in the Australian markets and economy.

In this issue you can find about a university student that took on, and beat, the Australian Taxation Office (ATO).

- On **page 2**, we remind you of the details of the new Education Tax Offset, claimable for the first time in your 2009 individual income tax return.
- On **page 3**, we look at which areas the ATO will be focusing on in 2009/10 – find out if you will be under the Tax Office's microscope! Also on page 3 is an important reminder regarding the reduced superannuation contribution limits imposed for 2009/10. Please take a moment to review this article, to ensure that any automatic superannuation payments made on your behalf will NOT trigger excess tax in your fund's 2010 tax return. Page 3 also contains a short update on the Ken Henry Review.
- Finally, on **page 4**, we give you an overview of our experience of the Global Financial Crisis, how it has affected our clients and how the GFC has changed the way we will be doing business in the future.



Office Update

WE WOULD LIKE TO congratulate Jae Cho on the birth of his first child in July. Jae and his wife Suzana had a bouncing baby boy, and all are doing well.

John Docherty, Mark Tunstall and all the staff would like to wish all our clients a very Merry and safe holiday season.

Office Hours

THE OFFICE WILL BE CLOSED over the Christmas break for everybody to have some well earned rest. We will be closed from 24 December 2009 to 10 January 2010.



If you require urgent assistance during this period, please leave a message on our office phone number (02) 9988 4033. Messages will be checked during the period and a staff member will get back to you.

IMPORTANT -

This newsletter is presented in summary form as a guide only for clients of Rhodes Docherty & Co. It should not be relied on as a substitute for detailed advice or solely as the basis for making business decisions.

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Are you claiming your Education Tax Refund?

DON'T FORGET that the 2009 tax return is the first tax return you can use to claim a tax offset on eligible education expenses. So pull out those education receipts and bring them in to us, if you satisfy the following criteria:

1) Who is eligible?

You are eligible to claim an Education Tax Refund (ETR) for the period 1 July 2008 to 30 June 2009 if:

- you had eligible education expenses for a child, **and**
- the child was in primary or secondary school, **and**
 - you received family tax benefit (FTB) Part A for the child, **or**
 - a payment was made for the child that stopped you from receiving FTB Part A for that child, **or**
 - your child stopped full-time school during the year and received sufficient income to stop you receiving FTB Part A.

If you are an independent student attending secondary school or a secondary course of education provided at an educational institution such as a TAFE, you may also be eligible.

2) What are eligible education expenses?

Eligible education expenses are items that support a child's or independent student's primary or secondary school education. They include the purchase, lease, hire or hire-purchase costs, repairs and running costs of:



- laptops, home computers and associated costs
- computer-related equipment such as printers, USB flash drives, as well as disability aids to assist in the use of computer equipment for students with special needs
- home internet connections, including the costs of establishing and maintaining them
- computer software for educational use
- word processing, spreadsheet, database and presentation software, internet filters and antivirus software
- school textbooks and other paper-based school learning material, including prescribed textbooks,



associated learning materials, study guides and stationery, and

- prescribed trade tools - for example, tools required to complete a school-based apprenticeship.

3) How much can I claim?

The ETR is 50% of eligible education expenses incurred for the period 1 July 2008 to 30 June 2009. You can claim up to:

- \$750 for each eligible child in primary school - that is, a refund of up to \$375
- \$1,500 for each eligible child in secondary school - that is, a refund of up to \$750.

4) How can I claim?

If you are required to lodge a tax return you can claim your Education Tax Refund (ETR) at question T6 in the 'Tax offsets' section of your tax return.

Uni Student beats the ATO



A university student recently celebrated a victory in the Federal Court against the ATO, when she claimed the education expenses from her full-time teaching degree as a tax deduction. The claim was based on her receipt of the Youth Allowance, which she could only receive if she was studying full-time.

The student, who worked part-time as well as studying full-time, initially had her education expense deduction rejected by the ATO. However, the Federal Court upheld earlier court decisions that, because she had to be studying full-time to earn the assessable Youth Allowance income, any education expenses she incurred during her studies were tax deductible.

This decision opens the door for other full-time students to consider claiming their education expenses as a tax deduction, if they receive the Youth Allowance. Expenses that could be claimed include textbooks, stationery and depreciation of computers.

Who is the ATO watching this year?

EVERY YEAR, the ATO takes a special interest in certain classes of taxpayers, checking to ensure that those taxpayers are meeting all of their obligations. For the 2009/10 year, they have received \$300 million in extra funding in the Federal Budget. Here is a glimpse at how they will be using the extra money – this year they will focus their audit activities on:

- company executives and directors, especially private and overseas company executives and directors;
- data matching property sales and share transactions, to ensure individuals declare the correct income;



- industry benchmarking, to highlight instances of potential under-reporting of income or over-reporting of expense;
- untaxed private company distributions, including loans or payments to shareholders / partnerships / trusts, including debt forgiveness, where these payments may be distributions of private company profits without paying the correct amount of tax; and
- business sales/retirements/exits, to ensure individuals are paying the appropriate rates of tax on the profits made from sale of their business.

Self-managed superannuation funds (SMSFs) do not escape the ATO's notice, either. Based on their findings in recent reviews, the ATO will be looking for the following specific breaches:

- loans to a member, or a relative of the member, of the fund;
- breaches of in-house assets rules; and
- assets not being in the same name as the fund.



In addition, the ATO is looking closely at undeclared offshore income and offshore capital gains. As an incentive, they are offering to significantly reduce any penalties that may apply to taxpayers who have not declared overseas income if they make a voluntary disclosure by 30 June 2010.

If you have not declared offshore income, or are unsure whether you need to declare certain types of income, please contact Rhodes Docherty & Co for assistance.

Don't contribute too much into superannuation in 2009/10!

WE WOULD LIKE TO REMIND YOU that the limits for concessional contributions to superannuation have been reduced in 2009/10.

It is important for you to review the contributions made to your superannuation fund(s) by you and/or your employer(s) for the six months to December 2009, to ensure that you are not in danger of breaching the new limits.

The new limit for concessional (i.e. tax deductible) superannuation contributions for 2009/10 is \$25,000 – or \$50,000 for those aged 50 and over. This is half the 2008/09 limit, so if you or your employer make superannuation contributions by automatic cash transfer, you should confirm that the transfer amount has been adequately reduced.

The limit for non-concessional superannuation contributions (i.e. personal contributions for which you do not claim a tax deduction) remains at \$150,000. However, it is important to note that if your concessional contributions exceed the new limit, the excess is counted towards your non-concessional contribution cap, meaning it is even easier to breach this contribution cap.

Why worry about contributing too much? Well, excess concessional contributions are taxed at an additional 31.5% (on top of the standard 15%), so that it is effectively taxing the contribution at 46.5% - the highest marginal tax rate. On top of that, if your excess contribution causes you to also exceed the non-concessional contribution limit, you are then taxed a further 46.5%. This means that you could be paying 93% tax on your excess superannuation contribution, if you exceed both contribution caps.

If you think you will have a problem with excess contributions in 2009/10, or if you already have such a problem, please contact your fund (or our office, in the case of a SMSF) immediately.

What is Ken Henry up to this week?

Well, no doubt Ken Henry is a very busy man this week, as he will be finalizing the most comprehensive report into the Australian Taxation System (including both Federal and State taxes) in over 50 years. Dr Henry was commissioned to prepare the report in May last year, and since then over 1,000 submissions have been received. The final report is due to be delivered this month.

Dr Henry has only a few restrictions on his report, namely:

1. that it should not increase the rate, nor broaden the base, of the GST; and
2. that it should preserve tax-free superannuation for those over the age of 60.

There has been plenty of speculation in the media as to what proposals will be contained in the final report, but nothing will be known for certain until the report is handed down. See page 4 of his newsletter for some of the likely changes that will have a major impact on our tax system.

Any recommendations contained in Dr Henry's report may take years to implement, and Rhodes Docherty & Co will keep you informed of any changes and how they will impact you.



The Global Financial Crisis (GFC)

– Our Experience

By operating as an integrated advice firm we were able to see what was coming early. This early warning system helped us advise clients to pay down debt, concentrate on core business, protect cash flows, build reserves, avoid unnecessary risks and be flexible with staff. Through understanding what was happening in credits markets and knowing how this area needed to turn around before any recovery in equities and the economy could take place we have been able to guide clients well.



— You may recall this time last year we wrote that it was **NOT 1929** and subsequent events have shown this to be correct.

For small business clients knowing your costs and having the best information systems means you are most likely to make the right decisions at the right time.

You may recall this time last year we wrote that it was **NOT 1929** and subsequent events have shown this to be correct. Likewise after what has been a remarkable recovery do not feel you have “missed the boat”. There are always good buying opportunities - the main determinant is to ensure that the acquisition suits you or your business.

We are now much more comfortable that a double dip recession will not occur and that growth in Australia will be reasonably strong. We can also be confident that the Reserve Bank will do whatever is necessary to moderate inflation and prevent excessive asset price rises in areas such as residential property.



Remember the future path of interest rates and the value of the Australian dollar, both of which are likely to continue rising, needs to be factored into your business and investment decisions.

Another important determinant to making good decisions will be how you anticipate the changes arising from this banking led crisis as well as from recommendations of the Henry Review. As mentioned previously, it is a comprehensive review into Australia’s taxation system, with the aim “to redesign our tax transfer system to meet the profound demographic, social, economic, and environmental challenges of the coming decades”.

Recommendations to watch for include:

- Decreasing company tax rate, but not below 25%
- Restrictions on superannuation contributions,

- Abolition of Capital Gains discounts for certain investors, and
- Allocating costs to previously “free” resources.

Finally, make sure you factor in an extended period of lower world growth and greater uncertainty. Major imbalances still need to be worked through such as less credit availability, lower consumption in the developed world, a reorientation of China towards domestic consumption rather than the US consumer and China no longer acting as a world anti inflation mechanism via cheaper and cheaper products.

Our general advice for business and investment decisions is to focus on how much income can be generated. With subdued growth do not expect any level of significant capital gains, and if credit is harder to obtain you cannot live on capital growth like in the past. The rules that worked for the past fifteen years of credit driven bubbles won’t work well in the future. The big rally we have experienced can mislead. The bounce in the markets that has occurred recently was always likely to occur as it was **not 1929**, however things have changed. Interest rates are artificially low and liquidity is artificially abundant, neither of which will last.

In summary, our experience during the GFC has been that institutions have learnt from past mistakes and steps were taken to avoid exacerbating the credit and confidence crisis.



The Australian Taxation Office and the Australian banks have worked smarter in keeping everyone engaged and the rapid coordinated response from the RBA and Treasury have been appropriate and sufficient to resolve the financial panic.

Worst affected clients have been property developers, commercial real estate agencies, conservative investors (credit and listed property exposures), retail stockbrokers and smaller service firms (cleaners, handymen, labour agencies etc).

The least affected clients were medical, larger retailers, bigger businesses and high net worth individuals.

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