

Client Alert

Tax News, Views & Clues

brentnallsnsw

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PROPOSED TAX LAW AMENDMENTS

The Federal Government has introduced a Bill into Parliament. The amendments contained in the Bill include:

- increasing the aggregated research and development (R&D) expenditure cap from \$1 million to \$2 million for eligibility to the R&D tax offset; and
- making minor technical corrections to the taxation laws, including the small business CGT concessions, and FBT on donations.

R&D offset

Currently, an eligible company can claim a refundable R&D tax offset for its R&D expenditure, subject to satisfying certain conditions.

One of the conditions is that the aggregated R&D expenditure of the company and its affiliates does not exceed \$1 million. The lifting of the expenditure cap to \$2 million provides an incentive for companies to increase their R&D activities.

Minor technical changes

The proposed amendments include:

- ensuring a pre-CGT asset that is deemed a post-CGT asset due to the operation of the CGT provisions of Div 149 of ITAA 1997 can be distributed tax-free under the small business CGT concessions, subject to certain requirements being met; and
- ensuring donations made through salary sacrifice arrangements do not result in an FBT liability.

TAX LAW AMENDMENTS

The Tax Laws Amendment (2009 Budget Measures No 1) Act 2009 has been enacted. The Act:

- amends the income tax exemption on foreign employment income;
- temporarily reduces the superannuation government co-contribution; and
- reduces the superannuation concessional contributions cap.

The amendments took effect from 1 July 2009.



DEEMED DIVIDENDS

In a recent case, the AAT held that a taxpayer, who was a director and shareholder in a private company, was liable to the deemed dividends provision for monies deposited in her bank account. The payments were debts due to the company. The company had directed its debtors to pay the money owed into the taxpayer's account.

Broadly, the deemed dividend provisions treat certain payments, loans and debt forgiveness by a private company to its shareholders (or their associates) to be assessable income in the form of unfranked dividends.

A private company should ensure that all payments are deposited to its own bank account.

GST AND CREDIT CARD SURCHARGE FEES

The AAT has affirmed that the GST treatment of credit card surcharge fees, imposed by a taxpayer when payments are made by credit card, depend on the GST characterisation of the underlying supply.

Simply put, if an underlying supply is GST-free, the fee will be GST-free. Conversely, where the underlying supply is a taxable supply, the fee will attract GST.

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