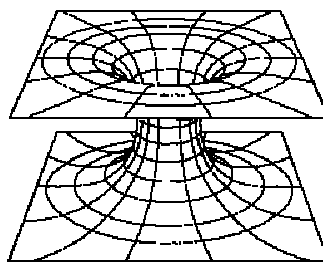


*Please note: The information in this newsletter is to highlight issues of general interest for Clients and must not be used as a basis to formulate decisions. Please call us for more detailed advice that will be applicable for your specific circumstances. In line with our Privacy Policy, that can be viewed on our web site at [www.holbol.com.au](http://www.holbol.com.au), you can elect not to receive further issues of this publication by notifying us of your request.*

### Black holes shrink

While enjoying some Christmas cheer, consider the opportunities to come with the shrinking of black holes.

A black hole is a region of space in which the pull of gravity is so strong that nothing can escape. It is a "hole" in the sense that things can be "black" so that not even light can escape.



Black hole expenditure are those non-deductible capital expenses, e.g. consultant's fees to research a new business.

Now new deductions have arisen as a result to changes in the capital allowance rules. There will be some allowances specifically for

the set up of a business to produce assessable income and be allowable in the current year.

The expenses will not be part of a depreciating asset and not be deductible under another provision. For example, the costs of incorporating a company or creating a trust will be deductible over 5 years, however costs incurred in buying a franchise or establishing a distributorship may not. We will keep you informed as the amendments come to light.

From all the team at Holden & Bolster, we wish you and your families the best of health and happiness over Christmas and the New Year.



Ray Beath,  
Managing Partner

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## This Issue

- ◆ **Black holes shrink**
- ◆ **Around the Tax Traps**
- ◆ **Tax simplification**
- ◆ **Super Choice**
- ◆ **Lodgement Dates**

# Around the Tax Traps

## Deduction for building report

As a result of faulty repairs, a rental premises became temporarily unfit for occupation and the tenant was obliged to move out. On advice from the taxpayer's solicitor, the taxpayer incurred costs in obtaining a defective building works report from a building consultant in order to establish their legal position in relation to:

- ◆ recovering costs from the builder (who performed the faulty repairs); and
- ◆ their lease obligations to the tenant.

Where the legal expenses arise as a consequence of the day-to-day activities of a business, and the object of the expenditure is devoted towards a revenue purpose, legal expenses are deductible. The taxpayer, a landlord, was found to be entitled to a deduction for the cost of the defective building works report prepared by a professional building consultant.

Source: Case ATO 2002/1027

## Tax on "ResidenSea"

The website for this luxury liner says that residents will not have to pay income tax, business duties or import duties. However even though you may become a world

citizen for the sum of US\$1.4m, like entrepreneurs Bill and Imelda Roche (property developments with former investment in Nutrimetics), you lose your acquired domicile of choice such as a tropical tax haven and revert to your domicile of origin.

Sources: AFR 02/03/2002, ATO IT 2681 & 2650, [www.residensea.com](http://www.residensea.com)

## Institutions play the transparency game

Offshore assets can't be considered a tax haven as governments exchange information to reduce tax competition. Recently, the Bank of Ireland passed the details of over 8,000 UK customers with funds in an offshore Jersey Trust to the UK Taxman. Source: Adrian Huston, (Huston & Co Tax consultants) The Belfast Telegraph, 24 Sept. 2002.

## Refund of Imputation Credits

People who receive dividends or distributions from shares, non-share equity interests or managed funds may be entitled to a tax refund, even if they don't normally lodge a tax return.

Imputation credits attached to dividends or distributions can be used to offset an individual's tax liability. If the imputation credits exceed the tax liability, the difference can be claimed back as a refund. Excess imputation credits can be claimed at any time after the end of the financial year in

which the dividend distribution was made. This applies to franked dividends paid on or after 1 July 2000.

- ◆ Excess imputation credits are now refundable through the tax system.
- ◆ Imputation credits exceeding an individual's tax liability can be claimed back as a tax refund.
- ◆ Trustees that receive section 98 assessments are only entitled to a tax offset for imputation credits and are not entitled to a refund of excess imputation credits. Presently entitled beneficiaries remain eligible to claim refunds of excess imputation credits.

## Cash Economy

The Tax Office are working to ensure people who do the right thing are not disadvantaged by people who don't by having 2700 field staff involved in audit or verification activities. The current range of identified cash industries are: building and construction, cafes, restaurants and takeaways, cleaning services, clothing and textiles, clubs and pubs, hairdressing and beauty salons, road freight transport, and taxi services. They recommend to:

- ◆ Keep good records
- ◆ Have an Australian business number (ABN) and be registered for the GST where necessary
- ◆ Keep activity statements and tax returns lodgements up to date
- ◆ Record all income received and payments made – including cash



## Tax Simplification – we're still waiting

The new legislation was said to use simplified language and structure. This is certainly debatable, for example a recently issued Interpretive Decision on Thin Capitalisation says "For the purpose of calculating the attributable safe «harbour» «excess» amount in section 820-920(4) of the Income Tax Assessment Act 1997 (ITAA 1997), can a Step 1 amount, which is zero, when reduced by a negative adjusted average debt amount give rise to a positive Step 2 amount?"

The Answer is Yes.  
Source: ATO ID 2002/942

## Pay Off for ATO

An extra \$4billion was netted by the ATO after improving their compliance activities for 2001/02. Most of this was raised as a result of audit verification on large business and high wealth individuals. Penalties for high wealth individuals reached \$451 million though appeals are likely to effect collection amounts.

Source: ATO Commissioner of Taxation Annual Report 2002

Partner **David Odewahn** assists in team Tax Training as well as his Business Guidance and Audit roles.



## Super Choice

Choice of Fund is still a Bill into the House of Representatives at this stage so not all details will be available until Regulations are made, so the following could change also.

From 1 July 2004, employees will be given greater choice over which fund will receive compulsory employer superannuation contributions made on their behalf. It's designed to:

- ◆ provide employees with greater control over their retirement savings
- ◆ allow employees to choose the fund or retirement savings account (RSA) which best suits their needs
- ◆ enhance competition between funds and improve fund performance, and
- ◆ make it possible for an employee to maintain their superannuation fund or RSA when they change employers.

## Superannuation and Divorce

Previously, when deciding the distribution of assets due to marriage breakdown, the Court may have taken into account a superannuation interest held by the respective parties, and would adjust other property on the basis that one of the parties will have superannuation available as a financial resource. However, a superannuation interest itself could not be divided on marriage breakdown.

The changes introduced in the Family Law Legislation

Amendment (Superannuation) Act 2001 provide that a superannuation interest can be divided by agreement or a court order on marriage breakdown. The Act commences on 28 December 2002 and may also apply in certain circumstances to marriages that were dissolved before 28 December 2002.

Parties will be able to make a 'flagging' agreement. This agreement defers the final agreement about how to split the superannuation interest to a later date. It prevents the trustee from paying out any benefit to the member spouse without first asking the parties how they wish to split the benefit.

## Super reminder

The ATO reminds employers that quarterly superannuation guarantee takes effect from 1 July 2003. From this date, employers must pay 9% of an eligible employee's earnings into a super fund or RSA on their behalf on at least a quarterly basis by 28<sup>th</sup> of month after quarter. Source : ATO

**Alex Koutzoumis** is the Partner responsible for Investment planning and wealth generation



**"It is only when the rich are sick that they fully feel the impotence of wealth."**

**Charles Caleb Colton**

## Ecommerce rewards

SME's are finding a main benefit of ecommerce is being able to pay for services and products online. More than 41% of SME's purchase online. Technology investment costs had been recovered by 56% of the businesses surveyed.

Source: Yellow Pages May 2002 ebusiness Report

## Privacy Act

From 21 December, 2002 some small businesses with an annual turnover of \$3 million or less will be covered by the Privacy Act. Businesses such as a health service provider, those trading in personal information, related to a larger business or a contractor to Commonwealth agencies, may need to comply.

See the Office of the Federal Privacy Commissioner's website for checklists and guidelines at [www.privacy.gov.au/business/small/index.html](http://www.privacy.gov.au/business/small/index.html)



## Avoiding Delegation Mistakes

- ◆ Explain tasks completing, including the context rather than rushing

- ◆ Demonstrate your confidence in the person's skill to complete what you want
- ◆ Having courtesy and respect rather than having an bossy attitude
- ◆ Think about your tone of voice, not barking
- ◆ Keep in touch to make sure your person is on track and understands what their doing.

## SWOT What ?

SWOT stands for Strengths, Weaknesses, Opportunities, Threats - and is a simple and effective marketing tool to analyse areas in your business that could benefit from attention.

The SWOT analysis is an analytical tool which is predominately used in corporate appraisal, as part of a strategic planing exercise. In a financial management scenario, the SWOT can be used to analyse the effectiveness of the small business in terms of its strengths, weaknesses, opportunities and threats. Strengths and Weaknesses are internal factors and relate to your business. Opportunities and Threats are external factors relating to other businesses. Strengths can then be built upon and consolidated, strategies to strengthen any weaknesses can be drawn up, strategies to capitalise open any opportunities can be formulated and contingencies can be made for any identified threats.

## Read or weed

If you have 4mm or more of papers, memos, mail, magazines, articles and more waiting to be read, then you've probably set your reading ambitions way too high for your current schedule. Weed through the pile. Toss most of it in the recycling container, until you have only the most important and interesting reading material left before Christmas.

## A Must for every business

A comprehensive succession plan for your business is essential. This is to meet its ongoing needs and effectively manage tax issues. Brian can assist you with yours.

**Brian Willett** is one of the Partners providing Clients with Business Guidance.



## Lodgment Dates

### 15 January 2003

Taxable Large Business taxpayers – all entities other than individuals  
Large Business trusts where one or more prior year returns were outstanding as at 30 June 2002

### 31 January 2003

Individuals and trusts where one or more prior year tax returns were not lodged by 30 June 2002  
Partnerships where one or more prior year returns were outstanding as at 30 June 2002

