TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

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INSIDE

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Using the margin scheme correctly

The margin scheme is a way of working out the GST you must pay when selling property as part of your business.

The amount of GST normally paid on a property sale is equal to one-eleventh of the total sale price. If the margin scheme is used, the GST is calculated on the difference between the sale price and your purchase price of the property or the property's value. You can only apply the margin scheme if the sale of the property is taxable.

The margin scheme has been designed by the ATO to help reduce the amount of GST that would normally be payable on sales of new property. It is not an automatic concession and the sale must be eligible for it to be applied.

The margin scheme can be applied to subsequent property sales depending on the original date of purchase and how GST was applied at that time. Property purchases prior to 1 July 2000 are eligible, as the property had not been subject to GST previously. For property purchases after 1 July 2000, the margin scheme may only apply to a subsequent sale when:

- The original seller of the property wasn't registered for GST.
- The property was purchased as an existing residential premises.
- The original seller sold the property as a GST-free supply and was eligible to use the margin scheme, or;
- The seller sold the property and applied the margin scheme at that time.

There are limitations to the margin scheme in some situations such as; inheritances, the supplier being a member of a GST group or the property is GST-free (going concern or farmland). In these situations, if the supplier wasn't eligible to use the margin scheme, the scheme cannot be used when selling the property.

When purchasing a new residential property with the margin scheme being apart of the property transaction, withhold 7% of the contract price, including GST and the market value of non-monetary consideration. This amount will then be paid to the ATO at settlement.

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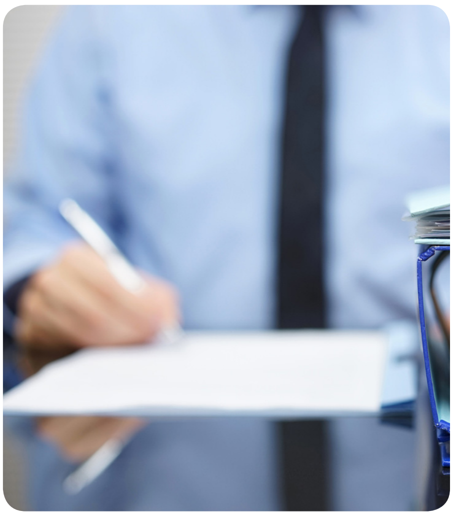
Tax implications of termination payments

When making an employment termination payment (ETP), employers should be aware of the tax implications for different circumstances.

An ETP is a lump sum payment that can include a tax-free portion, concessionally taxed portion and taxed portion. ETPs are concessionally taxed at a certain limit, with two caps:



- ETP cap: this is indexed each year, so for 2019-20 the cap is $210 000. This cap is reduced by any earlier ETPs paid in the same income year.
- Whole-of-income cap: this cap is $180 000, and is reduced by any other taxable payments given to the employee in the same income year.

The concessional tax rate is 17% for employees who have reached their preservation age, which is determined by when they were born (if they were born after 30/6/1964, their preservation age is 60).

For genuine redundancy payments and early retirement scheme payments, there is a tax free limit depending on the employee's service amount with the employer. The tax free amount is not part of the employee's ETP and is provided as a lump sum in their PAYG payment summary. Any amount above this tax free limit is part of the employee's ETP. The tax free limit is calculated through the formula: Tax free limit = base amount + (service amount x years of service).

The ETP payment summary that reflects the payment amount and any associated withholding must be supplied to the employee within 14 days of the employer making the payment.

Time limit on GST refunds

Small businesses entitled to refunds of GST may not be aware of the four-year time limit on claiming those refunds.

Your entitlement to a GST credit ends four years from the due date of the earliest activity statement in which you could have claimed it.

GST refunds are claimed under the indirect tax concession scheme (ITCS), which also covers luxury car tax (LCT), wine equalization tax (WET) and excise. They are a form of "outstanding indirect tax refunds", which are tax refunds that are entitled to the taxpayer but are yet to be claimed. "Outstanding indirect tax refunds" can be claimed in the following cases.

Refund of a net amount for a tax period:

This applies to those that have yet to lodge an activity statement for a tax period. Small businesses that have GST entitlements that amount to $2,500, (which exceeds the net GST, WET and LCT liabilities for that period $2,000), are able to claim an outstanding indirect tax refund of $500.

Refund of an overpayment of a net amount:

Due to a clerical error, a business owner reports and pays $4,600 net GST for a tax period instead of the actual amount of $4,060. The excess amount of $540 is an outstanding indirect tax refund which the business can claim.

Refund due to an underreported initial net refund entitlement:

A business claims a net GST refund of $3,000 for the tax period and receives the refund. Afterwards, however, it is realised that the actual refund entitlement was $3,200, the excess $200 represents an outstanding indirect tax refund that can be claimed.

Refund of indirect tax relating to an importation:

$200 GST is overpaid for an importation. This $200 represents an outstanding indirect tax refund that can be claimed.

Limiting tax deductions for holding vacant land

The Treasury Laws Amendment (2019 Tax Integrity and Other Measures No.1) Bill 2019 received royal assent on the 28 October 2019.

The new tax law creates limitations for deductions related to the expenses of holding vacant land from 1 July 2019. This is likely to affect those who acquire land for investment purposes and begin developing for rental investment purposes.

The amendments will only apply to holdings on 'vacant land', meaning that it will not apply to any land that has a substantial and permanent structure in use or ready for use, or is a residential premise that is lawfully able to be occupied. Land is considered vacant if both of these are not true.

The changes will not apply to vacant land held by 'excluded entities,' which are:

- Corporate tax entities.
- Managed investment trusts.
- Public unit trusts.
- Superannuation plans other than self-managed superannuation funds (SMSFs).
- Unit trusts or partnerships where all members are of the excluded entities listed above.

The law will also be inapplicable if:

- Structures affected by natural disasters or similarly exceptional situation.
- The land is in use or available for use in carrying on a business by the taxpayer or their affiliates, connected entities, spouse or child under 18.
- The land is in use or available for use for business purposes under an arm's length rental arrangement.