



The Charter

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Frankly Speaking

There has been much written and spoken about Labor's proposed plan to deny refunds of franking credits to SMSFs and individuals not in receipt of at least a part Age Pension. Various groups with vested interests are either proclaiming the economic virtues of the reform or expressing fears about the potential loss of income and the impact that may have on those affected.

Before we take a look at some of the possible consequences of this policy it is important to remember that, before anything happens, Labor needs to win the next election and form a government. After that, legislation will need to be prepared and introduced into Parliament. From there it needs to be passed by both the lower house, where many expect Labor to have a comfortable majority after next May, and then through the Senate, which probably won't be such an easy task - especially without amendment and further carve outs. In reality, we have no idea what the final legislation may look like nor if or when it might come in to effect.

At this stage, there are only a couple of things that we can be certain about. The first is that we will see numerous strategies emerge to either eliminate or significantly reduce the impact on the variously affected groups. We may see trust distributions used to absorb excess franking credits, changes in investment strategies and asset allocations, movement of SMSF pension interests back to accumulation phase, realisation of capital gains to reset asset cost bases which will use up current franking credits that would otherwise be lost and reduce future capital gains tax liabilities - and there are sure to be many, many more.

We can also be fairly sure that Labor's proposed policy will have either little or no direct, adverse effect on:

- SMSFs with a member who was in receipt of an Age Pension at 28 March 2018,
- Age Pensioners,
- Members of Retail and Industry Super Funds,
- Individuals who have sufficient other income to use up all of their franking credits, e.g. the wealthy and very wealthy,
- Those whose investments are held in assets other than shares, and
- Australians who were working, saving and investing to fund their own retirement before the advent of self-managed super.

From a tax perspective, the biggest losers look likely to be Self-Managed Super Fund members and individual investors who fall into the middle ground between age pensioners and the wealthy.

If you are one of those likely to be adversely affected by this proposed reform, we suggest that you wait to see the final form of any legislation before making any decisions about changing investments or strategies.

What's in a Name?



With the transfer of the administration of business names from a State based system to a national system under ASIC a few years ago, many people looking to set up a business now believe that, once they have chosen a suitable name, checked with ASIC that the name is available and registered the new company, they are then entitled to trade under their new company name.

Unfortunately, that is not automatically the case. In fact, ASIC will register any company name that is not identical to an existing one. For example, adding a simple word, such as ‘Holdings’ or ‘(Aust.)’, to an already existing name may allow your name to be registered but, if another business is already operating under a very similar name, you could be infringing on their trademark or other intellectual property which could, in turn, result in costly rectification or cessation of trade.

When setting up a new business it is critical that all the appropriate searches are conducted to ensure the proposed name is unique, that you can secure all the desired domain names and register your trademarks before you start operating.



‘tis the Season to be Jolly

The festive season is a time for celebrating the year’s achievements and thanking your customers, as well as your employees and their families, for their efforts, support and commitment to your business throughout the year. Of course, this time of year is also when we do a lot of entertaining and, therefore, the office Christmas party and gift giving should be a time for having a jolly good think about entertainment expenses, tax deductions, GST and Fringe Benefits Tax too.

FBT applies to entertainment provided to your employees and their families. It includes entertainment provided both by way of meal entertainment and recreation. These benefits may include a Christmas function or restaurant vouchers as well as event based gifts, such as movie tickets, concert tickets or a voucher for a round of golf.

Other gift items, whilst potentially still subject to Fringe Benefits Tax, are not considered to be in the nature of meal entertainment or recreation; these are treated as “property” fringe benefits. Gifts that are not considered to be entertainment benefits may include shopping gift cards, EFTPOS gift cards, food hampers and a bottle of spirits or perfume.

It is important to properly identify the type of benefit being provided as the FBT, tax deductibility and GST implications may differ. It also essential to consider the value of each benefit being provided. If the benefit is infrequent and irregular, e.g. a Christmas gift, and its GST inclusive value is less than \$300, it may well be exempt from FBT.

The following table sets out the FBT implications, tax deductibility and the availability of GST credits for both client gifts and employee meal entertainment/recreation and property fringe benefits.

		Gifts that ARE NOT entertainment e.g. food hamper, bottle of perfume, bottle of wine, EFTPOS voucher.		Meals and gifts that ARE entertainment e.g. Christmas lunch, concert tickets, movie tickets, restaurant vouchers.		
		GST inclusive value is < \$300	GST inclusive value is \$300 or more	GST inclusive value is < \$300	GST inclusive value is \$300 or more	
Recipient	Client or Customer	FBT	NO		NO	
		Tax Deductible	YES		NO	
		GST Credits	YES		NO	
	Value of each benefit, per person		GST inclusive value is < \$300	GST inclusive value is \$300 or more	GST inclusive value is < \$300	GST inclusive value is \$300 or more
	Employee or their family	FBT	NO	YES	NO	YES
		Tax Deductible	YES	YES	NO	YES
GST Credits		YES	YES	NO	YES	

The table above assumes the Actual Method for determining entertainment benefits is being used. The FBT exemption for minor entertainment fringe benefits is not available if the 50/50 split method is being used.

Your Holiday Travel Guide

Work-related expenses in general, but travel expenses and car expenses in particular, have both been fixtures on the ATO list for Tax Time attention in recent years.

Over the last few tax seasons, the ATO has adopted an education and information approach to notifying taxpayers about work-related expenses. The ATO regularly releases tips for correctly claiming work-related expense deductions and provides examples of incorrect claims.

In March 2018, the Commissioner noted in his keynote address to the Tax Institute National Convention 2018, that a random analysis of claims for deductions in the ‘individuals-not-in-business market’ revealed a level of incorrect claiming and over-claiming of work-related expenses that was concerning. The Commissioner attributed the result to ‘complacency’ about the following three golden rules of deductions not being observed:

- You must have spent the money and not been reimbursed;
- It must relate to your work (not be private expenditure); and
- You must be able to prove your expenditure, if asked.

The ATO’s technology now enables it to scrutinise every tax return to identify and investigate claims ‘that differ from what is normal across all industries and occupations’ after lodgement. In fact, technology now brings these high-risk claims to the taxpayer’s attention before they even lodge their return. Since Tax Time 2016, the ATO has used real-time data to compare taxpayers in similar occupations and income brackets, to identify higher than expected claims for certain expenses, relevantly including motor vehicle and travel expenses.

The ATO has announced that it will be focusing on work-related car expenses for 2018 tax returns.

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*To all our clients, colleagues and friends - thank you for your continued support throughout the year and we look forward to 2019.*  
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Our office will be closed over the Christmas break from noon on Friday, 21 December 2018 and will re-open on Monday, 14 January 2019.

During this time, if your matter is urgent, please contact either Jeremy Clifton on 0408 939 829 or Simon Baildham on 0407 082 406.

From all of us at *Charters*, we wish you and your families a safe and happy festive season and a peaceful and prosperous New Year.

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