

General Tax Information

[Allocating funds earned in self-managed super funds](#)

Information to help you work out how to allocate funds earned in your self-managed super fund (SMSF).

[Capital gains tax update 2008-09 income year](#)

Update on CGT developments for the 2008-09 income year. Current as at 31 October 2008.

[Consumer Price Index \(CPI\) rates](#)

Consumer Price Index (CPI) rates updated to include September 2008 quarter figure.

[Capital gains tax relief for the demutualisation of friendly societies](#)

This measure will provide relief from capital gains tax for policy holders of friendly societies, including joint health and life insurers, which demutualise to for-profit entities.

[Superannuation and insolvency administrations](#)

The following information sets out how superannuation affects various Insolvency administrations. Updated to include the maximum superannuation guarantee charge amount afforded priority in bankruptcy situations, in respect of the year beginning 2008.

[Tax and superannuation debt - frequently asked questions](#)

Frequently asked tax and superannuation debt questions and responses to assist tax agents manage their clients' tax obligations.

[Fringe benefits tax \(FBT\) - exempt car benefits](#)

Explanation of when the use of certain motor vehicles is exempt from FBT, and a list of vehicles that qualify for the exemption and those that do not.

Tax Determinations

[TD 2008/D16 - Income tax: is interest on a loan fully deductible under section 8-1 of the Income Tax Assessment Act 1997 when the borrowed moneys are settled by the borrower on trust to benefit the borrower and others?](#)

Interest on a loan used to settle moneys on trust to benefit the borrower and others cannot be deducted in full under section 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997).

Tax Alerts

The following Tax Alerts have been released by the ATO in the past month that is of relevance to financial advisers:

[TA 2008/19 - Foreign residents attempting to avoid Australian capital gains tax by certain "staggered sell down" arrangements](#)

This Taxpayer Alert describes certain 'staggered sell down' arrangements designed to result in disregarded capital gains tax where there is an indirect disposal of Australian real property under Division 855 of the *Income Tax Assessment Act 1997* (ITAA 1997).

TA 2008/20 - Foreign residents exploiting asset valuations to avoid capital gains tax

This Taxpayer Alert describes certain arrangements where foreign residents seek to avoid capital gains tax from the indirect disposal of Australian real property under Division 855 of the *Income Tax Assessment Act 1997* (ITAA 1997), circumventing the principal asset test by exploiting the valuation of non-taxable Australian real property assets (non-TARP).

ATO Interpretative Decisions

The ATO have released the following interpretative decisions over the past month of relevance to financial advisers:

ATO ID 2008/150 - Assessable income: South African double tax agreement - trust income

The income derived by the SA entity will be assessable to Ausco (as trustee) under subsection 98(3) of the ITAA 1936. The income will also be assessable to the SA entity as a beneficiary under section 98A of the ITAA 1936, but a deduction is allowed against the income tax assessed to the SA entity for the tax paid by Ausco as trustee.

ATO ID 2008/151 - Assessable income: United Kingdom double tax agreement - trust income

The income derived by the UK entity will be assessable to Ausco (as trustee) under subsection 98(3) of the ITAA 1936. The income will also be assessable to the UK entity as a beneficiary under section 98A of the ITAA 1936, but a deduction is allowed against the income tax assessed to the UK entity for the tax paid by Ausco as trustee.

ATO ID 2008/152 - Assessable income: United States double tax agreement - trust income

The income derived by the US entity will be assessable to Ausco (as trustee) under subsection 98(3) of the ITAA 1936. The income will also be assessable to the US entity as a beneficiary under section 98A of the ITAA 1936, but a deduction is allowed against the income tax assessed to the US entity for the tax paid by Ausco as trustee.

ATO ID 2008/149 - Capital gains tax: employee share trust - whether capital gain by trustee disregarded - payments by employees to the company issuing the shares as contributions to share capital

Where an employee acquires a share in a company from the trustee of an employee share trust, and as consideration for that share pays an amount to the company as a contribution to share capital, is that payment taken into account in calculating, for the purposes of subsection 130-90(4) of the *Income Tax Assessment Act 1997* (ITAA 1997), the amount for which the employee acquired the share? The payment to the company is not taken into account in calculating, for the purposes of subsection 130-90(4) of the ITAA 1997, the amount for which the employee acquired the share.

Tax Rulings

The ATO have released the following Tax Rulings over the past month of relevance to financial advisers:

TR 2000/12W - Deductible gift recipients - the gift fund requirement

Taxation Ruling TR 2000/12 is withdrawn with effect from today. It explained the requirement for a deductible gift recipient (DGR) to maintain a gift fund. Aspects of the Ruling are no longer accurate following the legislative amendments in the *Tax Laws Amendment (2006 Measures No. 7) Act 2007* (No. 55 of 2007) that took effect from 12 April 2007.

SGR 2008/D2 - Superannuation guarantee: meaning of the terms 'ordinary time earnings' and 'salary or wages'

This Ruling explains what is 'ordinary time earnings' (OTE) as defined in subsection 6(1) of the *Superannuation Guarantee (Administration) Act 1992* (SGAA). The definition of 'ordinary time earnings' is relevant to employers for the purpose of calculating the minimum level of superannuation support required for individual employees under the SGAA.

Contact Details

Midwinter Financial Services Pty Ltd
Level 11, 99 Elizabeth St
Sydney NSW 2000
www.midwinter.com.au
info@midwinter.com.au
Tollfree 1300 882 938
ACN 121 020 620

To access your free trial of Midwinter's *Reasonable Basis* please click on this link – [Reasonable Basis Free Trial](#) - and call 1300 883 938 for your access code.

This is intended as general advice only and does not have regard to an investor's objectives, financial situation or needs. Before acting, investors should consider the advice in light of their own circumstances. Midwinter Financial Services (Midwinter)

ABN 94 610 697 565, AFSL No. 300688 has endeavoured to ensure that the information contained in this communication is accurate, but to the maximum extent permitted by the Law, disclaims all liability for errors or omissions.

All superannuation and taxation information is based on our understanding, and the continuation, of current taxation and superannuation legislation. The case studies included have been created to illustrate a specific concept only.

Justifying
your advice just
got a whole lot
easier with...

 *reasonable basis*