

## Tax News

### General Tax Information

[SuperUpdate September 2008](#) – The ATO have released this latest edition of their SuperUpdate which includes:

- Changes to temporary residents' super;
- Balances held in the superannuation holding accounts;
- LMR reporting;
- Unclaimed super money rollover payments;
- Completing SMSF annual return
- SG charge calculator; and
- Upcoming international agreements.

[Self-managed super fund statistical report](#) – The ATO regularly publish this statistical report on the self-managed super fund industry with information on population of SMSFs and members, asset allocation, member and fund demographics (state break-up of SMSFs, members and assets), total asset ranges (distribution of the size of SMSFs), average assets (per member and per SMSF) and net flows.

[Capital gains tax update 2008-09 income year](#) – The ATO have released this update on the CGT developments for 2008/09 year of income. The document is current as at 31 August 2008.

[Superannuation - a year on](#) – The ATO have released this speech by Ian Read, Assistant Deputy Commissioner of Taxation, Taxation Institute of Australia's WA State Convention, 28-30 August 2008, Abbey Beach Resort, Busselton.

[Capital allowances: low-cost assets - threshold rule for small business](#) – The ATO have released this document to outline the threshold rule that is available to businesses that are not in the Simplified Tax System (STS). STS businesses are able to claim an immediate deduction for expenditure on assets of less than \$1,000.

### ATO Interpretative Decisions

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

[ATO ID 2008/113: Superannuation - Transfer from foreign superannuation fund to complying superannuation fund](#) - The amount vested for the purposes of subparagraph 305-75(3)(a)(i) of the *Income Tax Assessment Act 1997* (ITAA 1997) does not take into account an under-funding penalty that would have applied at the time the taxpayer became an Australian resident if the taxpayer had chosen to transfer their benefit to an eligible scheme at that time.

[ATO ID 2008/134: Superannuation - Transitional redundancy payments](#) - The tax-free amount of a genuine redundancy payment does not proportionally reduce the amounts of a transitional termination payment and another employment termination payment made in consequence of a particular termination of employment. The way it is worked out is firstly the amount of any genuine redundancy payment must be determined and then reduced by the tax-free amount of that payment. Any remaining amount is an employment termination payment. The final step in the sequence is to determine the extent to which the employment termination payment gives rise to a transitional termination payment.

[ATO ID 2008/137: Separate Net Income - account-based pensions](#) - The gross amount of an account-based pension received during an income year, can be reduced by a proportionate amount of the personal superannuation contributions made during the accumulation phase of the pension, when calculating the separate net income of a dependant under section 159J of the ITAA 1936.

#### **Tax Determinations**

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

[TD 2008/22: Capital Gains](#) – The CGT event C2 does happen as a result of the satisfaction of an investor's rights under a Deferred Purchase Agreement warrant, an investment product offered by financial institutions, by the delivery of the Delivery Assets. Upon the delivery to the investor of the Delivery Assets, the investor's ownership of the contractual rights under the Deferred Purchase Agreement warrant (DPA warrant), as defined at paragraphs 15 and 16 of this Determination, comes to an end by reason of those rights being discharged or satisfied (subsection 104-25(1) of the *Income Tax Assessment Act 1997* (ITAA 1997)). Further, a 'look through' or 'underlying asset approach' to the CGT treatment of those rights is not available in the circumstances.<sup>1</sup>

#### **Tax Rulings**

There have been no Tax Rulings released by the ATO of relevance to financial advisers in the past month: