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**ATO Benchmarks**

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### **ATO benchmarks – what you need to know for your business**

The ATO now uses industry benchmarks to assess business performance and takes a much closer look at businesses that fall outside of these benchmarks. These benchmarks are readily accessible on the ATO website. Of course not every business falls neatly into these benchmarks. What happens if you have a niche business or have unusual trading conditions that mean you almost never fall within these benchmarks? This of course doesn't include natural disasters.

Unusual conditions are a major problem with the current benchmarking approach adopted by the ATO. The ATO has access to a large data base of information on business performance. When your business income tax return is lodged by us we need to include an industry code that is the closest match to your business. It is through the matching of data against common industry codes that the ATO builds its benchmark information and is able to establish ranges that are "statistically normal".

Our practice has found that for many businesses, there is no such thing as normal, particularly in the case of niche areas or some rural businesses. The physical area in which a business operates may also mean that it is outside the "normal ranges". The industry code applied for your business may be the closest general match, but you may have very different business characteristics to other businesses identified under that same code, particularly if they are skewed towards businesses operating in a city environment. Where this occurs it may throw your business outside of the "normal range". Even where you operate a business that is similar to a lot of other industry participants you may have revenue streams within the business that cause differences. So, whether or not your business is within the "normal range" for your industry code can be irrelevant.

As a business owner you should be aiming for your business to produce the very best results possible and not have a goal of meeting some form of "normal range".

Knowing that the ATO may compare your business to others in your sector you may want to test your key numbers against the performance benchmarks that the ATO publishes. This of course assumes that there is a published ATO benchmark for your industry. A good starting point is to see how you measure against the ATO information. More importantly, your accounting systems and record keeping should establish the accuracy of the tax information you are reporting.

If your business has a high level of cash transactions, then from an ATO perspective, there is a greater risk of understating income.

The ATO has already carried out desk audits on a number of our clients that were outside the "normal range". In these cases all issues were favourably resolved in favour of the client.

If you are concerned about the benchmarks we can complete a review of your position and make recommendations on your accounting and information systems (virtually a mini audit on your business to see what the ATO would see). This may then enable you to fix any system gaps that exist and enable you to be better prepared if you are selected for an audit by the ATO.

### **Audit Insurance**

What happens if the ATO carries out an audit of your tax matters or your business? Irrespective of the result of the audit, whether favourable or unfavourable, costs will be incurred by you. Our professional costs may be significant in relation to our normal accounting fees relating to your usual quarterly and annual tax compliance.

We never know who the ATO may select for an audit. For the most part, the ATO focuses its audits on businesses. Inevitably, such actions results in much time and effort by our staff, and of course you the client, in resolving the various issues raised by the ATO.

While the costs that we invoice are deductible, all business owners should consider audit insurance. Such insurance fully covers our fees and disbursements and the insurance policy itself is also deductible.

If you wish to avail yourself of audit insurance please contact one of our offices and we will arrange it for you.

### **Can your Self Managed Investment Fund (SMSF) buy artwork and collectables?**

We mentioned in our Budget Report earlier this year that the Government was introducing tighter legislative standards for investments in collectables and personal use assets held by SMFS investments from 1 July 2011. Further, all collectables and personal use assets must comply with the new requirements by 1 July 2016.

The Government has released draft regulations that guide what and how SMSF' may buy, sell, and manage collectables. The regulations seek to ensure that trustees do not gain a benefit from those assets before retirement. Two simple examples are: you cannot hang artwork purchased by your SMSF on your wall at home; and you cannot wear jewellery acquired by your SMSF. This is because the Superannuation Industry Supervision Act (SIS) requires that all assets acquired by an SMSF are used for retirement purposes only. If you are using an SMSF asset now in some way at all and deriving a personal benefit, including on display, you are in breach of the legislation as the asset is not exclusively for retirement purposes.

The potential penalty is that the SMSF may be deemed non-compliant and lose its tax concessions. A non-complying fund could, for example, be wound up. The taxable income of a non-complying fund is taxed at the top marginal tax rate (45%). In the event of a major breach the fund's total assets (less any member contributions on which no tax deduction has been claimed) are subject to tax at the highest marginal rate (45%).

The regulations cover collectable and personal use assets including artwork (paintings, sculptures, drawings, engravings, photographs, reproductions); jewellery; antiques; artefacts; coins or medallions; postage stamps or first day covers; rare folios, manuscripts or books; memorabilia; wine; cars; recreational boats; and memberships of sporting or social clubs. Many other assets may be owned by an SMSF (provided the deed permits it of course). In all cases care must be had as to the preservation and storage of artwork and collectables.

Trustees must also consider the cost of insurance of such investments as well as the cost of obtaining regular valuations. Under the proposed regulations, collectables must be insured within 7 days of purchase.

### **The 'Flood levy'**

The Government now has now introduced its 'Flood levy' legislation that will assist in the payment for the flood recovery process in Queensland. The levy is applicable for the 2011/2012 income year. The flood levy of 0.5% will apply to all clients with a taxable income of \$50,000 or more and 1% for all those with an income above \$100,000. Those below the income threshold or who are in receipt of an Australian Government Disaster Recovery Payment for a flood event that occurred during the 2010/2011 income year will be exempt from paying the flood levy. The levy is intended to apply to the 2011/2012 income year only.

Employers should already have adjusted their pay scales to take this levy into account.