

September 2011

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## Hot Topics

### Juggling Tax Losses



We are often asked whether it's possible to offset a loss in one company against the profit in another. The answer is that there is no automatic way of offsetting losses and profits between your companies.

**See below for full article.**

### Paid Leave for Dads



If the Government holds on to power, Dads will qualify for two weeks paid parental leave from 1 January 2013. Like the existing paid parental leave scheme, the 'Dads and Partner Pay' is paid at the minimum wage - currently \$589.40. The payment applies to Dads and partners sharing the care of a new born (including adopting parents and same sex couples).

**See below for full article.**

### Workplace Health and Safety



In response to industry calls for greater national consistency, the Commonwealth, states and territories have agreed to implement nationally harmonised Work Health and Safety legislation to commence on 1 January 2012 - Work Health and Safety Act 2011 (the WHS Act 2011).

**See below for full article.**

### **Making the Most of Your Work-related Expenses**



The most common deductions people make in their tax returns are work-related expenses, with over eight million people submitting claims last year.

**See below for full article**

## **Important Dates To Remember**

### **21 September**

August 2011 Monthly Activity Statement – lodge and pay.

### **21 October**

September 2011 Monthly Activity Statement – lodge and pay.

### **21 November**

October 2011 Monthly Activity Statement – lodge and pay.

### **25 November**

Quarter 1, 20011 -12 Quarterly Activity Statement – lodge and pay (Tax Agents and BAS Agents).

## **What's Happening at Marsh Tincknell**

### **Bridge to Brisbane**



On Sunday September 11, Marsh Tincknell participated in the 2011 Bridge to Brisbane Fun Run.

21 team members from Marsh Tincknell and Hartmann Wilson competed in the 10km race to raise money for Legacy, an organisation which cares for the widows and dependents of deceased servicemen.

### **August's Casual Dress Day raised funds for Guide Dogs Queensland**



Established in 1960, Guide Dogs Queensland has been helping to “equip, empower and educate” blind and vision impaired Queenslanders of all ages, with a wide range of top-quality orientation and mobility services.

It is this charity, nominated by Jenny Hensel (Undergraduate Accountant in the Randall Corless Team) that Marsh Tincknell raised funds for during the August Casual Dress Day.

### **2011 Marsh Tincknell Staff Boardroom Breakfast**



Wednesday 14th September saw the 2nd Boardroom Breakfast held for our team here at Marsh Tincknell.

Our guest speaker was Shane Webcke – Australian Rugby League Legend

Shane spoke to the team about success and of his amazing Rugby League career.

The team enjoyed the morning and we look forward to future boardroom breakfasts to be held at Marsh Tincknell.

*“Courage is what it takes to stand up and speak; courage is also what it takes to sit down and listen.”*  
Winston Churchill

## **Hot Topics - continued**

### **Juggling Tax Losses**

We are often asked whether it’s possible to offset a loss in one company against the profit in another. The answer is that there is no automatic way of offsetting losses and profits between your companies.

Most people try to manage a situation like this by putting through charges between the companies after year end (for example, a charge from the profit making company to the loss making company for ‘management fees’). This is not an effective strategy and creates a risk position for you.

Each company is an independent entity for tax purposes and needs to account for its tax position separately. This could result in one of your companies having a tax liability and the other having a tax loss which will be carried forward. In this case, the carry forward loss will continue to be available for a future year in which your company derives a taxable income. Providing there is a continuing majority of ownership of the loss company in both the loss year and the year in which you make a profit and seek to claim the loss, then there is no time limit on carrying forward the losses. In the event that your loss company never made a profit in

future years, then it is possible that the losses would be foregone.

One option available for you is to tax consolidate the two companies. Under a tax consolidation the two companies are dealt with as one for tax purposes. This allows you to offset profits and losses between the companies. To tax consolidate the two companies there must be a head company and a subsidiary. The fact that they are commonly owned by the same shareholders is not enough – you need to have a head company in place. If this is your situation then you can elect to tax consolidate the two companies for the 2011 year. If the shareholders are private individuals or held through family trusts then you may need to complete a restructure of ownership first. In this case, tax consolidation will only be available in a future year.

The decision to tax consolidate brings with it a range of requirements; it is not simply a matter of saying that you are tax consolidated. The fact that your accounts may be consolidated for accounting purposes does not mean that you are tax consolidated. Tax consolidation is a specific process that you need to go through and will include the resetting of your cost base for tax purposes.

*Tax consolidation makes sense in some situations but is not appropriate for everyone. It comes with an initial set up cost and will place ongoing requirements on you. It does, however, provide a number of benefits. If this sounds like your situation, let us advise you on the implications of tax consolidation and determine whether it is advantageous for you.*

### **Paid Leave for Dads**

If the Government holds on to power, Dads will qualify for two weeks paid parental leave from 1 January 2013. Like the existing paid parental leave scheme, the 'Dads and Partner Pay' is paid at the minimum wage - currently \$589.40. The payment applies to Dads and partners sharing the care of a new born (including adopting parents and same sex couples).

The payment is likely to be administered by the Family Assistance Office rather than through the employer. The payment will be available in addition to any employer-funded paid leave, but cannot be taken at the same time the employee is taking paid leave.

Employees are able to take three weeks unpaid parental leave at the same time as their partner after the birth of the child. It appears that while the payments to Dads can be taken at the same time as the existing paid parental leave payments for the primary carer – the total payments to the parents cannot exceed the existing 18 weeks.

Unlike the existing paid parental leave scheme, Dads will not be able to work while receiving the benefit and they cannot transfer any unused payment entitlement. The scheme is means tested and the payments cut out once the individual earns \$150,000.

Paid parental leave for Dads was initially scheduled for 1 July 2011 then postponed during the global financial crisis.

The full details are yet to be finalised and the Government is seeking consultation into the scheme. You can find the details at <http://www.fahcsia.gov.au>.

## **Workplace Health and Safety**

In response to industry calls for greater national consistency, the Commonwealth, states and territories have agreed to implement nationally harmonised Work Health and Safety legislation to commence on 1 January 2012 - Work Health and Safety Act 2011 (the WHS Act 2011).

While the Act is largely similar to the current Queensland Workplace Health and Safety Act 1995, there are a number of important differences:

Business operators must do what is reasonably practicable to eliminate or minimise risk to health and safety.

Company directors will have a positive and proactive duty to exercise **due diligence**. This represents a shift away from attributed liability (i.e. being held liable for contraventions by the company) and requires directors to:

- acquire and keep up-to-date knowledge of health and safety matters
- gain an understanding of hazards and risks associated with the company's operations
- ensure appropriate resources are available for use to eliminate or minimise risks from work carried out
- ensure appropriate processes for obtaining information about incidents, hazards and risks, and responding to them
- ensure processes for complying with duties are implemented, e.g. reporting, consultation arrangements, training and instruction
- verify the provision and use of resources for the matters listed above.

### **What is due diligence?**

Due diligence in relation to ensuring health and safety is defined for the first time in the WHS Act 2011. In demonstrating due diligence, officers will need to show that they have taken reasonable steps to:

- acquire and update their knowledge of health and safety matters
- understand the operations being carried out by the person conducting the business or undertaking in which they are employed, and the hazards and risks associated with the operations
- ensure that the person conducting the business or undertaking has, and uses, appropriate resources and processes to eliminate or minimise health and safety risks arising from work being done
- ensure that the person conducting the business or undertaking has appropriate processes in place to receive and respond promptly to information regarding incidents, hazards and risks
- ensure that the person conducting the business or undertaking has, and uses, processes for complying with duties or obligations under the WHS Act 2011.

This approach emphasises the corporate governance responsibilities of officers. It is critical to the achievement of positive safety outcomes for senior management to lead the corporate safety agenda.

### **Demonstrating due diligence**

The due diligence criteria listed in the WHS Act 2011 are shown below, with suggestions on how to meet them.

### **Acquiring knowledge of health and safety issues**

This can be met by:

- acquiring up-to-date knowledge of the WHS Act 2011, regulations and codes of practice
- investigating current industry issues through conferences, seminars, information and awareness sessions, industry groups, newsletters
- acquiring up-to-date knowledge of work health and safety management principles and practices
- ensuring that work health and safety matters are considered at each corporation, club or association board meeting.

### **Understanding operations and associated hazards and risks**

This can be met by:

- developing a plan of the operation that identifies hazards in core activities
- ensuring that information is readily available to other officers and workers about procedures to ensure the safety of specific operations that pose health and safety risks in the workplace
- continuously improving the safety management system.

### **Ensuring that appropriate resources and processes are used to eliminate or minimise risks to health and safety**

This can be met by:

- establishing/maintaining safe methods of work
- implementing a safety management system
- recruiting personnel with appropriate skills, including safety personnel
- ensuring staffing levels are adequate for safety in operations
- giving safety personnel access to decision makers for urgent issues
- maintaining/upgrading infrastructure.

### **Implementing processes for receiving and responding to information about incidents, hazards and risks**

This can be met by:

- employing a risk management process
- having efficient, timely reporting systems
- empowering workers to cease unsafe work and request better resources
- establishing processes for considering/ responding to information about incidents, hazards and risks in a timely fashion
- measuring against positive performance indicators to identify deficiencies (e.g. percentage of

issues actioned within agreed timeframe).

### **Establishing and maintaining compliance processes**

This can be met by:

- undertaking a legal compliance audit of policies, procedures and practices
- testing policies, procedures and practices to verify compliance with safety management planning.

### **Accessing up to date safety information**

As part of due diligence requirements, officers need up-to-date knowledge about safety issues. They must also ensure that their employer and workers have ready access to information that will help them to avoid risks and hazards in the workplace.

### **Workplace health and safety officers**

Employers with more than 30 workers will need to have access to a workplace health and safety officer (WHSO) for the rest of 2011. However, after 1 January 2012 it will no longer be compulsory to employ a WHSO in a Queensland workplace. The Workplace Health and Safety Regulation 2008 has been amended to extend the appointment of WHSOs until the WHS Act 2011 commences on 1 January 2012.

### **Advantages of retaining trained safety officers**

While WHSOs will no longer be mandated under the WHS Act 2011, Workplace Health and Safety Queensland sees advantages for businesses and undertakings in retaining a trained safety advisor to assist an officer to satisfy their due diligence obligations. Maintaining a role for a trained safety advisor within a business or undertaking will:

- promote a positive work health and safety culture by sending a clear message that health and safety is valued by the business
- support officers in meeting their due diligence requirements
- ensure safety information is updated
- be a cost effective way of demonstrating due diligence.

However, it is important to note the duty to exercise due diligence will always remain with the officer and cannot be outsourced or delegated to a trained safety advisor.

Employing a trained safety advisor is only one option to help officers meet their duties.

### **Training for safety advisor**

The voluntary retention of a trained safety advisor is best supported by Vocational Education and Training—accredited training to provide safety officers with a nationally recognised formal qualification.

It will also be important for trained safety advisors to update their skills and knowledge periodically to ensure they have knowledge of current workplace health and safety legislation and initiatives.

Existing WHSOs will be able to seek recognition of prior learning and undertake bridging training in order to upgrade training in health and safety legislation and initiatives.

## **Further information**

Further information on workplace health and safety and the new laws is available at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) or by calling the WHS Infoline on 1300 369 915.

## **Making the Most of Your Work-related Expenses**

The most common deductions people make in their tax returns are work-related expenses, with over eight million people submitting claims last year.

### **What are work-related expenses?**

Work-related expenses relate to expenses you incur in performing your job - such as to purchase tools, or expenses related to your home office and mobile phone. You can claim these expenses in your tax return to reduce the amount of income you need to pay tax on. However, you cannot claim private expenses, for example travel to and from work, or an expense that has been reimbursed by your employer.

### **What you can claim?**

To help you get it right, the Australian Taxation Office (ATO) has a range of work-related expense guides available for different occupations. This year they have added guides for some new occupations:

- real estate employees
- earth moving plant operators
- flight attendants

Work-related expenses are on the ATO radar, so it is important to make sure you are claiming only what you are entitled to.

### **What kind of written records do you need to keep?**

If your claim is less than \$300 you do not need to keep your receipts but you still need to be able to tell the ATO how you worked out your claim. If your claim is more than \$300 then you need to keep written records of all your expenses for up to five years.

The types of records the ATO will accept include:

- paper or electronic copies of documents like invoices, receipts or delivery notes
- statements from financial institutions, such as credit card statements
- BPAY® receipt numbers
- PAYG payment summaries, or
- warrant documents.

More information on work-related expenses and occupation guides is available from the ATO website [www.ato.gov.au/occupations](http://www.ato.gov.au/occupations)

Marsh Tincknell Chartered Accountants

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