INVESTMENT ALLOWANCE/TAX BREAK

INTRODUCTION

With the government chopping and changing the Small Business and General Business Tax Break (the investment allowance) a number of times, we thought it opportune to set out the parameters as they stand having now received Royal Assent and been legislated.

Broadly speaking the investment allowance is available for business taxpayers who invest in new qualifying assets they will use principally in Australia for the main purpose of carrying on a business. It is available regardless of whether the business is operating as a sole trader or through a company, partnership or trust.

SMALL BUSINESS ENTITY AND OTHERS

For those clients who have an aggregated turnover ofless than$2,000,000 (entities are grouped e.g. a partnership and a service trust) you can purchase assets with a value of $1,000 (GST exclusive) or more between 13 December 2008 and 31 December 2009 (deposit date) with the following consequences:

Asset delivered by:	Contract deposit by 31 December 2009
30 June 2009	50% deduction in 30 June 2009 return
30 June 2010	50% deduction in 30 June 2010 return
31 December 2010	50% deduction in 30 June 2011 return

For those clients who have an aggregated turnover of $2,000,000or more, you can purchase assets with a value of $10,000 (GST exclusive) or more between 13 December 2008 and 31 December 2009 (deposit date) with the following consequences:

Asset delivered by:	Contract deposit by:	Contract deposit by:
	30 June 2009	31 December 2009
30 June 2009	30% 30 June 2009 return	
30 June 2010	30% 30 June 2010 return	10% 30 June 2010 return
31 December 2010	10% 30 June 2011 return	10% 30 June 2011 return

A business taxpayer who is not registered for GST (as income is $75,000 or under) can claim the investment allowance on the GST inclusive cost of the asset.

However a business taxpayer who is registered for GST claims the investment allowance on the GST exclusive cost of the asset.

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WHICH ASSETS ARE ELIGIBLE?

Second hand assets are ineligible. Only new and demo models (if it has only ever been used for the purposes of 'reasonable testing and trialling') are eligible.

Note the investment allowance applies to sets of assets or multiple purchases of identical or substantially identical assets. Identical means if they are the same in all respects e.g. a set of waiting room chairs the same colour. Items are substantially identical if they are the same in most respects even though there may be some minor or incidental differences. Factors you would consider include colour, shape, function, texture, composition, brand and design.

HOW TO PURCHASE THE ASSET

Note you can buy the asset outright, with a line of credit, by way of chattel mortgage or hire purchase. Leased assets do not qualify unless the lessee has the option of becoming the legal owner of the asset at some point in time, and it is reasonable to expect the option to be exercised. In the case of motor vehicles above the luxury car limit of $57,180, as leases are treated as hire purchase arrangements in any case, the investment allowance applies.

ASSETS ELIGIBLE AND INELIGIBLE FOR THE TAX BREAK

Assets that are eligible for the tax break include:

- Business machinery and equipment
- Cars (see below)

These assets may be depreciated or pooled.

Assets that are not eligible for the tax break include:

- Capital works - building and construction expenditure
- Depreciating assets used in a rental property
- Intangible depreciating assets connected with a business e.g. intellectual property, software
- Land
- Trading stock

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NO APPORTIONMENT OR CLAW BACK OF INVESTMENT ALLOWANCE AND CAN CARRY FORWARD TO OFFSET AGAINST FUTURE INCOME

Under the new rules, there is no apportionment of the tax break for any estimated non business use of the asset at the time it is used or on the basis of the actual use of the asset over a particular income year. Further, there is no claw back of the deduction if the asset is later sold or is subsequently used for a non business purpose.

The investment allowance may be carried forward to offset future income for a taxpayer in a loss position.

A WORD ABOUT MOTOR VEHICLES

In relation to motor vehicles, there is a car cost limit of $57,180. So the maximum investment allowance that may be claimed is $28,590 for a small business and $17,154 for other businesses. To claim the allowance, you must be able to demonstrate that it is reasonable to conclude that you will use the motor vehicle for the principal purpose of carrying on a business. The term 'principal' is not defined for these purposes but usually means more than 50%.

For sole traders, motor vehicles may be claimed under the log book method which gives a percentage of business use or the one third of actual cost method or 12% of original cost method (up to car cost limit) if business kilometres are more than 5,000 kilometres per annum.

For companies and trusts, virtually all vehicles provided to employees will be provided principally for the purpose of carrying on their business. This is because a car provided generally represents a fringe benefit and, as such, is regarded for tax purposes (including the investment allowance) as thought it is being devoted 100% for business purposes by the company or trust. The FBT valuation method adopted will not affect the business classification i.e. whether by log book or statutory method (based on kilometres travelled).

The contents of this article are general in nature and are not advice that applies to any particular client situation. Whilst every care has been taken in preparing the article, specific advice should be obtained before proceeding with any suggestion or recommendation made

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