

## Client Alert December 2010

Tax news | Views | Clues

### Brentnalls WA News

Our team would like to wish you a very Merry Christmas! We will be closing the office 24 December 2010 and re-opening on 4 January 2011.

Maria Le Page has returned to our office this month, Maria has been working with us remotely from Singapore for the past five years ... Welcome back Maria.

### Trust Entitlements and Loans: Tax Office Issues Guidance

The Tax Office has released its keenly awaited guidance on the tax treatment of trust entitlements and loans. The guidance, known as a practice statement, explains how the Tax Office will apply its ruling on when a private company with an unpaid present entitlement makes a loan to the trust estate which generated the entitlement. The Commissioner of Taxation said he was aware of the importance of this issue to businesses, particularly small businesses, which use a trust structure.

The Commissioner said the practice statement provides practical ways for businesses to work towards a compliant structure with minimal impact on their cash flows or how they operate. He said that where businesses had made mistakes in the past, the practice statement provides several options for private companies to self-correct.

**TIP:** The opportunity to self correct is available for a limited time only. Please contact our office if you think you may be affected.

### Tax Office Highlights Common PAYG Instalment Errors

The Tax Office has been calling selected business operators in the \$2 million to \$100 million annual turnover range to discuss instances where the pay-as-you-go (PAYG) instalment amount received for the quarter under review is significantly different to the PAYG instalment amount received in a previous quarter.

The Tax Office has noted common errors that preparers make when completing PAYG instalment details on business activity statements - for example, instalment income amounts being adjusted rather than instalment rates varied.

**TIP:** if you are experiencing difficulty with correctly completing your instalment activity statements, please contact our office.

### SMSFs and Private Companies Investing in Trusts: Tax Office Warning

The Tax Office has warned self-managed super funds (SMSFs) not to invest in trusts with the intention of making funds available for lending to members. The warning comes in a taxpayer alert which describes an arrangement where an SMSF invests money in an unrelated trust that then on-lends the funds to an SMSF member or relative. The Tax Office says such arrangements attempt to circumvent strict rules prohibiting SMSF trustees from lending money or providing financial assistance to a member or a relative using the resources of the fund.

In another similar taxpayer alert, the Tax Office warned private companies against investing in trusts with the intention of making funds available for lending to shareholders. The taxpayer alert describes an arrangement where a private company invests funds in an unrelated trust that then on-lends the funds to a shareholder or an associate of a shareholder. The Tax Office warns the arrangement may be an attempt to circumvent tax rules which are aimed at preventing private companies from making tax-free distributions of profits to shareholders or their associates.