

In such a situation, the GST registration of the beneficiary is the applicable issue.

However, there have been other instances where ATO have claimed that a separate GST registration is needed for the Trustee in respect to a specific property.

Standard Chart of Accounts: WA Government, working with the Not For Profit sector, will soon launch a "Standard Chart of Accounts" (SCOA) project. The aim is to reduce the cost of preparation of grant acquittals by standardising account definition and also enabling use of standard computer software.

More information will be available in the New Year or see: <https://wiki.qut.edu.au//display/CPNS/Western+Australia>

Training:

Seminars: March 2009

Christian Management Association (CMA) - 25-26 March "Mastering the Management Buckets" is a book and Seminar produced for church and ministry leaders, exploring 20 core competencies ("buckets") that every ministry leader needs to understand. In this jam-packed two-day Seminar, participants will gain insight, tools, resources and principles in each of these 20 areas to help revolutionise the effectiveness of their ministry. See www.cma.net.au/buckets

Add-Ministry & CMA—Joint Seminar

Tuesday 24 March 4-8 p.m.

Tax issues, industrial law and governance updates will be available.

More details on both Seminars early in 2009 on both Seminars.

Book-keeper workshop:

Recently we arranged a series of small group sessions in practical book-keeper training, in conjunction with Morley Training College. This series of 6 sessions primarily related to basic manual book-keeping understanding, with the final session introducing Quick-books computer software. The purpose of the training was to help Treasurers and Book-keepers to understand the basics of book-keeping. Reliance on the computer software does not assist understanding

when there is a problem – you need to have an understanding of what is actually the purpose of the entries.

This programme proved to be very helpful to those who participated and we are considering running the programme again in 2009. Any persons or organisations who are interested in participating are invited to email us at addministry@hardings.org.au

A programme will be geared to either MYOB or Quick-Books, depending on the software you are currently using, as we think it likely that there will be more than one session provided. The sessions will be in the early evening. Probably a 5.30 to 7.30 time slot. For those who are working in a charity or church organisation the cost will be \$350.00 as a GST-free charitable supply. One of our Accountants will normally be in attendance each evening along with the Trainer to ensure maximum benefit.

Publications available:

Voluntary Treasurers' Handbook —
hard copy — 59 pages\$30.00

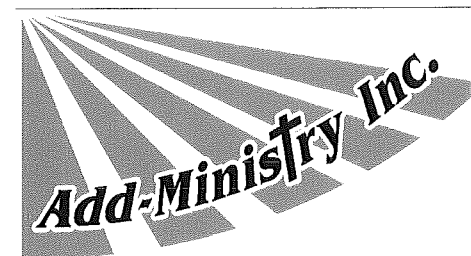
Income Tax Guide for Overseas Workers —
hard copy—30 pages\$25.00

(GST Free supply under Section 38-250 of GST Act)



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Newsletter



December 2008

Visit our Web Page:

New Document: We have included a publication entitled "On Board—Model for Organisational Compliance". This publication, used by permission, provides a useful model that can be adapted to fit a Board in respect to its areas of compliance and also provide useful guidance regarding induction of new Board members.

The Missionary and Overseas Workers Income Tax Guide has been subject to a major revision and is now available. The guide includes new features not previously included, such as a section on superannuation.

www.addministry.org.au

Fringe Benefits Tax Update

Exempt Work Related Items: the FBT exemption in Section 58X of the FBTA for eligible work-related items is restricted to items that are used primarily for work-related purposes. In addition the exemption will be limited to one of each of the listed eligible work-related items per employee per FBT year unless a replacement.

There is an updated list of the types of work related items to include new technology.

There is no deduction available under Division 40 of the ITAA 1997 for the decline in value of eligible work-related items that are exempt under Section 58X of the FBTA; This reduces the attractiveness of salary packaging a **laptop computer**

The Tax Office (ATO ID 2008/127) noted that a declaration completed by an employee, in itself, would not be sufficient evidence to show that a laptop had been provided primarily for use in the employee's employment.

Generally, an employer will know whether a laptop is being provided 'chiefly' or 'principally' to enable the employee to undertake their employment duties- that is why the laptop computer was provided to an employee 'in the first place'. For example, the employee's job description, duty statement or employment contract can provide a basis for concluding that the item was primarily for business use. An employer could document such factors as: reason the laptop was provided to the employee, type of work to be performed by the employee, how the use of the laptop relates to the employee's employment duties, and employer's policy and any conditions relating to the use of the laptop.

There is no requirement to reach this conclusion by reference to usage. Rather this conclusion is determined by reference to the available evidence at the time the benefit is provided. E.g. to enable the employee to undertake their employment duties. Any personal use of the laptop computer is considered to be incidental to business use.

Consider Fringe Benefits Tax this festive season : There may be FBT implications depending on how a Christmas party is organised and paid for. See "Fringe Benefits Tax (FBT) and entertainment for non-profit organisations "(NAT 71586).

Change to the FBT depreciation rate: cars valued under the operating cost method. The new rate for FBT purposes and for cars acquired on or after 10 May 2006 will be 200% divided by the 8 years effective life of the car – 25%. This applies from April 1, 2008 See Fringe Benefits Tax (FBT) rates and thresholds for this and other updates.

Minor Benefits: This has been extended to \$300 per annum

and other matters such as Christmas parties clarified. See TR 2007/12 "Fringe Benefits Tax : minor benefits"

Limited private use of a car pool vehicle may be a minor benefit and exempt from FBT and excluded from PAYG summary reporting . See ATO ID 2008/21: Fringe Benefits Tax: Reportable fringe benefits: pooled or shared cars - where one employee's use of the car is an exempt benefit.

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What is a Charity? In the July newsletter, a comment was made regarding recent Court decisions—Word Investments, SIMAID and Victorian Women Lawyers Association. In each instance the ATO position in Tax Rulings TR2005/21 and TR 2005/22 were significantly challenged.

ATO appealed the Word Investments case to the High Court and LOST (decision—3.12.2008). ATO have advised they do not intend to appeal Victorian Women Lawyers Association case. The SIMAID case was a win to ATO and it appears likely that SIMAID will be reviewing their operating arrangements.

There has also been a recent decision by the Administrative Appeals Tribunal "Aid/Watch Inc. v the Commissioner of Taxation". Aid/Watch has as its primary Objective activities supporting the environmental impact of overseas aid programmes. It does not carry out direct charitable activities itself. It also has a role as an advocate with Government.

AAT held in favour of Aid/Watch and confirmed that it was a charitable association. In reaching this decision, they concluded (amongst other issues) that it was not essential to carry out charitable activities directly and support activities such as carried out by Aid/Watch were acceptable. (ATO have appealed the AAT decision).

All of these developments are significant for the charitable sector and for ATO alike. Future developments will be watched with considerable interest.

GST and the Margin Scheme: Recent decisions addressing Margin Scheme issues include "FC of T v Reliance Carpet Co. Pty Ltd 2008 ATC" and "Brady King Pty Ltd v FC of T 2008 ATC". An article in "GST News" of CCH states, in part: -

"The Court came down firmly in favour of the view that GST should only apply to value added after GST came into effect but it is clear that the law still does not completely achieve that result."

This article concludes with a suggestion that the Government should consider a full review of the Margin Scheme.

ATO intend to amend the GST Rulings GST2006/7 and 2006/8 to reflect the reasoning of the Court.

Past decisions by Courts and ATO Tax Rulings, suggest strongly that while the Margin Scheme may be attractive it is also a journey that should only be attempted with advice from a GST expert, preferably a solicitor. Further, the Tax Law Amendment (2008 Measures No. 5) Bill currently before Parliament further tightens the law in this area.

GST penalty for wrong reporting: A recent Court decision agreed with ATO in imposing a 75% penalty for wrongly claiming GST input tax credits.

In this instance, the GST taxpayer was registered to account for GST on a cash basis. However, the BAS was prepared on an accruals basis. As a consequence, over \$40,000 in input tax credits were claimed prematurely. ATO considered the taxpayer had intentionally disregarded the GST Law.

Most, if not all, computer software provided after the introduction of GST enables a financial report to be prepared on either a cash basis or an accruals basis. However, it is a very easy matter to overlook checking the nature of the report. BAS preparers are encouraged to check to make sure that their BAS is prepared on a basis consistent with the GST registration with ATO.

Bare Trusts and GST: GST Ruling GSTR2008/3 sets out the ATO's views of how the GST Act applies to supplies of real property involving Bare Trusts. This relates to a Bare Trust where the Trustee has limited active duty and acts solely at the discretion of the beneficiaries. There will be other instances where a Bare Trust nevertheless places the Trustee in an active role. In such cases, this Ruling may well not apply.

The GST Ruling states: *"A Bare Trust involving a Trustee holding real property on behalf of a beneficiary does not carry on an enterprise, merely by the Trustee dealing with the property at the direction of the beneficiary".*