

Business tax breaks

– investment allowance opportunity

By Robert Lissauer

After several Treasury media releases over recent months on this subject it is now confirmed the Small Business and General Business Tax Break Bill has been passed by both houses of Parliament. The final position includes a bonus tax deduction for small business of 50% (up from the initial 30%) as announced in the Federal Budget on May 12. There are several aspects of the bonus tax deduction and the following overview highlights the main issues of who can benefit and how.

In any retail operation there are numerous opportunities to incur capital expenditure in the business. Whether it is the cost of a shop fit out, upgrading display systems, computer hardware or motor vehicles, these are all recurring costs a retailer must come up against periodically. The availability of the additional tax write off may support a decision to purchase these items sooner rather than later.

Clearly tax is only one aspect impacting on the business decision to incur capital expenditure, but in the context of tax planning it provides some real benefits to be considered. Like all things tax related, the last thing anyone wants is to make a claim incorrectly and have the tax man knocking on your door. As with all business and tax decisions any uncertainty would see you organising a visit to your accountant.

Overview

The purpose behind the Tax Break is to encourage business to make necessary capital expenditure now rather than defer it.

Not all assets will qualify. To take advantage of the Tax Break, 'eligible' assets must be acquired and installed ready for use by specific dates which are listed below.

For businesses other than 'small' businesses, the 30 percent and 10 percent bonus as initially proposed will apply.

Small businesses (turnover of \$2 million per year or less)

Small businesses with a turnover of \$2 million a year or less are eligible for a 50% Tax Break provided:

- Commitment to invest is made between 13 December 2008 to 31 December 2009
- The cost of the asset is \$1,000 or more
- The asset is installed before 31 December 2010.

Other businesses (turnover of more than \$2 million per year)

Other businesses with a turnover of \$2 million a year or more are eligible for a 30% Tax Break provided:

- Commitment to invest is made between 13 December 2008 to 30 June 2009
- The cost of the asset is \$10,000 or more
- The asset is installed before 30 June 2010.

Other businesses with a turnover of \$2 million a year or more are eligible for a 10% Tax Break provided:

- Commitment to invest is made between 1 July 2009 to 31 December 2009
- The cost of asset is \$10,000 or more
- The asset is installed before 31 December 2010.

Frequently Asked Questions:

Q: What is the definition of 'commitment to invest'?

A: You can commit to investing in an asset by:

- a) Entering into a contract under which you will hold the asset; or
- b) Starting to construct the asset.

Q: How do I know if I am a small business for the Tax Break?

A: Under the tax law (section 328-110), a small business entity is generally a taxpayer who is carrying on a business and has an annual turnover of less than \$2 million. For the purpose of the Tax Break, you are a small business if you meet the definition of a small business entity (contained in section 328-110) in either:

- (i) The income year that you commit to investing in the asset;
- (ii) The income year that you start to use the asset or have it installed ready for use; or
- (iii) The income year that you claim the Tax Break.

Q: What if I'm in a tax loss situation?

A: The usual rules regarding the carrying forward of tax losses will apply.

Q: What about assets acquired before 13 December 2008?

A: You will not be able to claim the Tax Break if you entered into a contract to acquire an eligible asset, or started to construct it, prior to 13 December 2008.

Q: What if I have the option to acquire a new asset I haven't taken advantage of yet?

A: If that option is exercised on or prior to 31 December 2009, you may still be able to claim the Tax Break.

Q: Are the key dates different if I use a substituted accounting period?**A:** No. The dates are the same.**Q: How do I know if an asset is eligible for the Tax Break?****A:** The Tax Break is available for new tangible, depreciating assets for which a deduction is available under Subdivision 40-B and new investment in existing assets.**Q: What is a 'new' asset for the purpose of the Tax Break?****A:** For the purposes of the Tax Break, a new asset is one that has not been previously used anywhere, by anyone, for any purpose except where it has only been used for reasonable testing and trialling. For example, a 'demonstrator' vehicle may qualify if it is a genuine demonstrator vehicles used for trialling by customers.

This means that second-hand assets, even if they are new to your business or imported from overseas, do not qualify for the Tax Break.

Q: Are repairs eligible for the Tax Break?**A:** Repairs would not ordinarily qualify. However substantial improvements may be eligible for the Tax Break.**Q: Is software eligible?****A:** No, as it is not a tangible asset.**Q: Do buildings qualify for the Tax Break?****A:** The building itself will not qualify but certain assets in the building may qualify.**Q: Does the Tax Break apply to partnership assets?****A:** Yes it does.

In situations where the asset is not a partnership asset, but where an individual partner remains the economic and legal owner, the partner will be able to claim the Tax Break if the asset satisfies the 'principal purpose of carrying on a business' test.

Q: Will the Tax Break be reduced for any non-taxable use of the asset?**A:** There is no requirement for there to be exclusive use in carrying on a business and therefore the Tax Break will be on the full value of the asset.

However, the business must be able to demonstrate that at the time you started to use the asset, or had it installed ready for use, it was reasonable to conclude that you intended to use the asset principally for the purpose of carrying on your business.

Q: Can a rental property qualify for the Tax Break?**A:** Unlikely. Investors do not usually satisfy the requirement that they are 'carrying on a business', and therefore would not be able to claim the Tax Break.**Q: Do all cars qualify, or are there restrictions?****A:** The following restrictions apply:

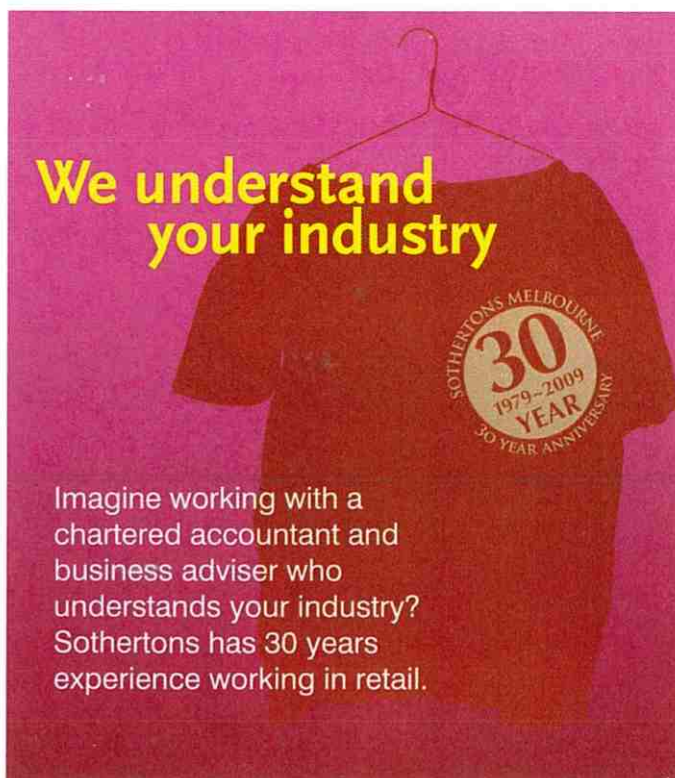
- Taxpayers who use the 'one-third of actual expenses' and 'log book' methods may be eligible for the Tax Break.
- Taxpayers using the '12 per cent of original value' and 'cents per kilometre' methods to determine the car expenses are not eligible for capital allowance deductions.

- Taxpayers will not be excluded from the Tax Break merely because they use the 12 per cent of original value method. That is, the legislation rules these cars 'in' for the purposes of the Tax Break even though a deduction is not available under Subdivision 40-B.

- Taxpayers cannot claim the Tax Break in an income year they use the cents per kilometre method.

Q: Does the car limit apply to the Tax Break?**A:** Yes the car limit for 2008-09 is \$57,180. At the 50 per cent rate, the maximum bonus deduction available for the acquisition cost of a car in 2008-09 is \$28,590.**Robert Lissauer is Director of Tax Practice Sothertons Chartered Accountants Melbourne. To find out more about how Sothertons Chartered Accountants can help you, call 03 9820 6400 or go to www.sothertons.com.au**

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Contact David Lissauer Sothertons Melbourne
 Level 6, 468 St Kilda Road Melbourne Victoria 3004
 Telephone 03 9820 6400 Facsimile 03 9820 6499
advice@sothertonsmelbourne.com.au
www.sothertons.com.au

AEN 88 051 186 450

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