

# Cutting fuel costs with fuel tax credits

## – Don't miss out

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We don't normally stray too far away from mainstream tax. However, many businesses are not aware that entitlement to fuel tax credits has been significantly expanded. Effective from 1 July 2008, these important changes may be of direct benefit to you now.

### ***What are fuel tax credits?***

Introduced on 1 July 2006, fuel tax credits can help your business cut its fuel costs by providing a credit for the fuel tax (excise or customs duty) included in the price of the fuel used in your business activities.



### **TIP**

To be eligible to claim a fuel tax credit, you have to be registered for GST, undertake an eligible activity and use eligible fuel.

### ***More businesses are now eligible***

Before 1 July 2008, fuel tax credits were essentially only available for fuel used in heavy vehicles on public roads (eg a vehicle greater than 4.5 tonne gross vehicle mass (GVM)), and in specific industries. (eg agriculture, fishing, forestry and mining to name a few).

However, from 1 July 2008, in addition to the above activities, eligible fuel used in most business activities, machinery, plant and equipment and heavy vehicles is now eligible for fuel tax credits. Examples of the types of business activities eligible from 1 July 2008 for fuel tax credits include:

- construction
- manufacturing
- wholesale and retail
- property management
- landscaping.

### ***Machinery, plant and equipment***

Although not an exhaustive list, the ATO has indicated that machinery, plant and equipment could include items such as:

- asphalt pavers, augers, backhoes, blower vacuums and bulldozers
- chainsaws, compactors, compressors, concrete mixers, cranes and crushers
- dredges, drills, excavators, front-end loaders, graders and hoists
- lawn mowers, outboard motors and pumps
- rollers, skid steer loaders, tractors, whipper snippers and winches
- off-road all terrain bikes and motorcycles.



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***What's the right type of fuel?***

You can claim fuel tax credits for most taxable fuel if it is acquired, manufactured or imported for use in carrying on your business. Currently, taxable fuels include petrol, diesel, heating oil, kerosene, fuel oil and toluene.

The main fuels that are not eligible are aviation fuels, alternative fuels (such as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), ethanol and biodiesel) and fuels used in most light vehicles (GVM of 4.5 tonne or less travelling on a public road).

Fuels like LPG, biodiesel, ethanol and CNG will not be eligible for fuel tax credits until 1 July 2011, when these fuels will also be taxed.

***What can I claim?***

18.51 cents per litre for fuels eligible from 1 July 2006 for use in vehicles with a GVM greater than 4.5 tonne travelling on a public road (this rate is subject to change).

38.143 cents per litre for fuels eligible from 1 July 2006 for use in activities such as agriculture, forestry, fishing, mining, marine and rail transport, electricity generation and nursing/medical. Other fuels (including petrol) used in these activities are eligible from 1 July 2008.

19.0715 cents per litre for fuels acquired from 1 July 2008 for use in all other activities, machinery, plant and equipment.

**More money in your pocket**

If you are eligible for fuel tax credits under the expanded activities applicable from 1 July 2008, you can claim around \$19 in fuel tax credits for every 100 litres of fuel you buy and use in your business.

***How do I make a claim?***

If you use fuel in your business, once registered you claim your fuel tax credits in your Business Activity Statements (BAS).

At the risk of oversimplifying the process, your fuel tax credit is calculated by multiplying the number of eligible litres of fuel by the relevant fuel tax credit rate set out above.

Whilst your usual business records should support your claim, nevertheless make sure your records show:

- you acquired the fuel
- you used it in your business
- you applied the correct rate in calculating your claim.

Working out and claiming your fuel tax credits can be tricky, so it's best to get advice about whether you are eligible and how to claim the credit.

**Something to note**

You should also be aware that any fuel tax credits you receive will be included in your assessable income and have to be taken into account in working out your PAYG obligations.

# Cash flow Management Tips

With talk of tighter credit conditions, a slowing economy and everyone anxiously watching interest rates, it's important for business owners to keep a tight reign on their cash flows.

If your cash flows are flagging, it's time to focus on your debt collection practices and zero in on collecting outstanding debts from your clients and customers.

**Seven golden rules of debt collection**

- ensure your invoices clearly indicate exactly when you expect payment
- to encourage payment, you may consider offering a discount if the invoice is paid before the due date
- on the other hand, if your clients are outside your terms of trade you may want to indicate on all your invoices that a late payment penalty applies
- when your clients are outside your terms of trade, you need to chase them up as soon as possible without damaging your business relationship

- you should be clear about when you put your debt collection strategy into action:
  - **for business clients**, you may need to take account of their reporting cycles (eg monthly) before deciding when to chase up an outstanding debt
  - **for individual clients**, you may want to chase them up as soon as they are outside your terms of trade
- your debt collection strategies should cover such things as:
  - whether your first request for payment will be by telephone or email
  - when to make a follow-up contact
  - when you will resort to legal debt recovery assistance
- you can't get blood out of stone
  - if you know your client has no money, it may be better to consider negotiating a repayment schedule over a period of time

### ***Can I get any tax relief for bad debts?***

No one likes the idea of their clients and customers not paying their accounts, but unfortunately it happens.

If you have been unsuccessful in trying to collect money owed to your business, you may be entitled to some tax relief for bad debts.

In the first place, a debt is likely to be treated as bad for tax purposes if:

- you have made an effort to collect it
- there is little likelihood that you will ever be successful in collecting it
- you abandon any debt recovery action.

If you are in this situation, you may be able to claim a tax deduction for the bad debt (or part thereof) where:

- you have previously brought the debt to account as assessable income
- you have written off the debt as bad during the income year in which you want claim the deduction.

#### **TIP**

The bad debt deduction rules can be tricky to apply. If you think your business is going to be in this situation before 30 June 2009, it's important to get advice now to ensure you can claim a deduction for your bad debts.

### **Minimise your exposure to bad debts**

We would all like to stop bad debts happening in the first place, but even with the best forward planning that may not always be possible.

However, you can take steps to minimise your exposure to bad debts by checking on a client's or customer's credit status:

- you may want to consider checking first with credit reference agencies
- you can even do an informal check with other suppliers, to see if there are any potential problems with a client or customer.

## **Common tax slip-ups to avoid**

The vast majority of businesses do the right thing when trying to meet their tax obligations. However, even with the best of intentions, mistakes sometimes happen.

### ***Eight common tax slip-ups to avoid***

At present, the ATO is looking at the following common mistakes made by businesses:

***Not recording 'cash in hand' work in business records as income*** – all cash income received for work performed is business income.

**Using cash payments received to pay personal expenses and not recording them as income** – the ATO may want to look at how you meet your personal expenses to see if you are paying for them out of cash income received for work performed.

**Offering a 10% discount for cash payments to get work and not reporting any GST or income** – even with a 10% discount, the ATO still expects 1/11th of the cash payment received to be reported as GST payable.

**Including personal expenses in business records** – the ATO is checking to make sure that expenses in your records are paid for running your business (keep on eye on mobile phone, motor vehicle and stationery expenses to make sure you are not claiming a deductible expense for costs related to personal use).

**Claiming GST credits where the supplier is not registered for GST** – only claim GST credits where the invoice clearly states that GST has been charged (this is a particular problem where sub-contractors are involved).

**Not withholding tax from payments to suppliers who do not have an Australian Business Number** – if you're in this situation and the total payment for goods or services is more than \$75 (excluding any GST), you need to withhold 46.5% of the payment and pay it to the ATO.

**Not updating wage records regularly with all hours worked by each staff member** – in respect of each employee the ATO will be looking for hours worked, pay rate, gross payments, net payments, amounts withheld and super contributions paid. The ATO is particularly on the look-out for the recording of cash wages.

**Failing to make and keep sales records at regular intervals** – this is the type of business record that the ATO will want to see to check your income stream, so it's best to update sales records as regularly as possible.

#### Tip

The ATO is increasing direct contact with businesses with high volumes of cash transactions. Currently, the ATO is targeting businesses in the retail, construction and consumer service industries.

## Can my Super Fund borrow?

Prior to September 2007, superannuation funds were prohibited from borrowing, except in very limited circumstances.

However, a change of rules introduced in September 2007 loosened some of the borrowing restrictions on super funds.

Superannuation funds, including Self Managed Superannuation Funds (SMSFs), can now borrow to acquire and invest in assets in a broader range of circumstances.

As potentially good as these changes may be to enable super funds to invest in assets in a tax effective way, before you get too excited about these changes, a number of stringent conditions still have to be met:

1. the asset acquired with borrowed funds must be held in trust (meaning that initially the super fund only acquires a beneficial interest in the asset)
2. the superannuation fund trustees have a right (but not an obligation) to acquire the legal ownership of the asset on the payment of one or more instalments
3. it must be a limited recourse loan – if the super fund defaults on the loan or the payment of any instalments, the lender can only have recourse to acquiring the asset that was purchased with the borrowed funds
4. most importantly, the borrowing can only be used to acquire assets that super funds are permitted to hold directly and/or acquire.





Superannuation investment rules still apply to any assets purchased with borrowed funds that come within these new rules. For example, you can't structure a borrowing to avoid the 'in-house asset' rules that prohibit more than 5% in investments between the super fund and a related party.

***Who do I talk to about my super needs?***

It's crucial to seek professional advice when structuring your super fund's business and affairs, including any advice on these new borrowing rules.

It's also really important to get the right advice from the person qualified and authorised to provide it.

***Breaaley Quill Kenny can:***

- advise you on and help you with all tax matters in relation to your DIY fund
- may be able to help with some aspects of setting up the fund
- help you run it (eg prepare accounting records, produce financial statements and prepare and lodge returns).

***Refer you to a solicitor/legal adviser who can:***

- help you with any legal matters and advice (eg in relation to setting up and running a fund, such as establishing the required trust).

***Refer you to a licensed financial adviser who:***

- can give you advice about investment products and strategies to ensure that your investments and level of contributions meet your retirement needs
- can help you prepare and implement an investment strategy for your fund
- can advise you whether DIY super or a particular investment product is the right financial decision for you.

**Please Be Aware**

At present very few lending products have been marketed for self managed superannuation funds. The set up costs for such products are significant, and there is some doubt that they comply with all ATO requirements. Our advice is that our clients wait until these items have been resolved before proceeding, however please contact our office if you require further details.



## Underpayment Risks for Employers

Employers are reminded that failing to ensure the correct entitlements are paid to employees can result in large fines and back payments.

Three cases in various industrial relations jurisdictions over the last 18 months illustrate that even small business should obtain professional assistance on employment conditions.

The workplace Ombudsman sought penalties to be imposed in relation to underpayment of an employee who commenced an apprenticeship in February 2005 which was terminated in June 2005.

Breaches included underpayment for travel allowance, industry allowance, tool allowance, failure to pay proportional annual leave payments upon termination of employment and failure to pay annual leave loading in respect of annual leave payments. The employer argued significant financial difficulties during period of employment and ignorance of correct wages and entitlements.

Despite no history of prior breaches and the actions not willful or deliberate, penalties of \$2,500 were ordered in addition to the underpayment amount.

Breaches were admitted to by the employer in another matter and related to failure to pay correct rate for work on weekend evenings, failure to pay pro rata annual leave upon termination, failure to pay accrued and untaken annual leave upon termination and failure to pay leave loading on accrued annual leave.

The Court deemed that the underpayments were large given the relatively short period of employment involved and significant for employees in such lowly-paid positions.

Payment of outstanding amounts not made until just before the hearing and did not include component for interest. It was considered apparent that the breaches were willful and deliberate and the appropriate penalty to act as a deterrence was \$33,000.

In the third matter, on the 16 August 2007 the Federal Court declared an employer had failed to pay the minimum rate of pay applicable to a casual employee in six particular circumstances. The business owner submitted that it lacked expertise in industrial relations and had no prior contact of this nature.

It was not suggested the business directors had set out to deliberately flout the Award but the Court decided the penalty should not be oppressive but business must begin to 'actually hurt'. Penalties totalling \$25,000 were ordered.

The constantly changing workplace relations law in Australia make it difficult to stay abreast of all employment entitlements, but the decisions demonstrate that being ignorant of your responsibilities is not an acceptable defence.

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**Important:** This is not advice. Clients should not act solely on the basis of the material contained in this bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential.