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# Practice Update

Please read this update  
and contact this office  
if you have any queries

MAY 2005

## Super choice information packs being sent out

The Government has started sending employers and super funds the information about the choice of superannuation regime which commences on 1 July 2005.

They should receive the Choice of Fund Employer Guide and copies of the Standard Choice Form (which employers will be required to provide to each of their eligible employees by 28 July 2005 (and to any new employees within 28 days of starting work)).

Information can also be obtained from [www.superchoice.gov.au](http://www.superchoice.gov.au) or by calling the information line on 13 28 64.

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## The Government's "Transition to retirement" measure

From 1 July 2005, people who have reached their retirement age will be able to access their super through an income stream without having to retire permanently from the workforce.

For example, a person could continue working part-time and use part of their superannuation to supplement their income.

Features of the new regulations include:

- ◆ no work test;
- ◆ no cap on the amount of benefits a person can access; and

- ◆ allowing people who purchase an allocated pension to stop (or commute) their income stream and return the benefits to their super fund. This would benefit people who choose to return to full time work.

Basically, this new measure means that there are now more options for people making the transition from work to retirement.

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## ATO's property data-matching project

The ATO has advised that it will request and collect names and addresses of entities within the real property market from a large supplier of property information services.

These will be electronically matched with the ATO's own data to basically help the ATO pursue non-lodgers and non-payers.

A document describing this program has been prepared in consultation with the Office of the Federal Privacy Commissioner, and is available from the ATO.

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## ATO may allow deductions without receipts

Taxpayers who do not have a receipt for work-related expenses, but who can prove the expense from other records, may still be able to claim a tax deduction.

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The ATO has issued a practice statement to clarify the types of records that are acceptable as proof for work-related expenses.

Where there is a good reason why people don't have a valid receipt or one that contains the right information, the ATO will take a practical approach to administering the law.

The ATO will accept documents containing similar information to what appears on a traditional paper receipt.

These documents may include:

- ◆ online banking and credit card statements;
- ◆ online, email, electronically-stored and photocopied receipts; and
- ◆ BPAY reference numbers combined with bank statements or tax invoices.

This recognises that, even though standard paper receipts are still the most common form of documentation, e-commerce, electronic transactions and online purchases are a growing part of the economy.

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### **Tax office argues taxpayers own property under a "constructive trust"**

The Victorian Court of Appeal has recently agreed with an argument by the ATO that two taxpayers were beneficially entitled to a residential property and should have it transferred to them - so that the ATO could then use it to enforce a tax debt!

The parents of one of the taxpayers had gifted the property to the taxpayers in 1987.

However, the gift was verbal and the property had never been transferred into their names.

After that date, the taxpayers lived in the property, paid all of the outgoings, incurred construction costs in relation to the property, and also borrowed money against the property.

The court held that the taxpayers would be regarded as the beneficial owners of the property and would be entitled to compel the parents to legally transfer the property to them, as their parents held the property for them on "constructive trust".

### **GST: Fines imposed by associations**

The ATO has issued a draft determination stating that a club, association, trade union, society or co-operative ("association") does not make a supply when it imposes a non-statutory fine or penalty on a member for a breach of its membership rules.

Therefore, the payment of a fine or penalty imposed by an association will not be consideration for a supply and a GST liability does not arise for the association.

An example provided by the draft determination is where a sporting association fines a club, which is a member of that association, for failing to phone in the results of a game.

In that case, the fine is imposed on the club in accordance with the association's rules of membership and the fine is primarily intended as a punishment and to act as a deterrent.

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### **FBT: Benchmark interest rate**

The benchmark interest rate for the 2005/06 FBT year is 7.05% per annum.

This rate is used to calculate the taxable value of loans and car fringe benefits (under the log book method).

#### **Example**

On 1 April 2005, an employer lends an employee \$50,000 for 5 years at an interest rate of 5% p.a. The actual interest payable by the employee for the current year is \$2,500 (\$50,000 x 5%).

The notional interest, with a 7.05% benchmark rate, is \$3,525.

The taxable value is \$1,025 (\$3,525 – \$2,500).

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### **FBT: Per km rates – vehicle other than a car**

The cents per kilometre rates for calculating the taxable value of private use of a motor vehicle other than a car for the 2005/06 FBT year are as follows:

<b>Engine capacity</b>	<b>Rate per kilometre</b>
0 - 2500cc	39c
Over 2500cc	47c
Motor cycles	12c

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.