Professional
Contractors and Consultants
Australia

COMMON PSI MISTAKES

COMMON PSI MISTAKES

The Tax Office has highlighted eight common mistakes in relation to personal services income that it says companies, partnerships or trusts often make. In particular, the Tax Office notes the following mistakes in relation to the application of the personal services business tests:

- Self-assessing that the first condition of the results test has been passed when paid on an hourly basis or daily rate. The Tax Office says that if an entity is paid on an hourly basis or daily rate for the services it provides, it is unlikely the entity will pass the first condition of the results test.

- Not obtaining a determination (or applying the measures) when the taxpayer does not meet the results test and80% or more of the income is from one client.

- Self-assessing that the unrelated clients test has been met when the services provided are not a direct result of making offers to the public. To make an offer to the public, the Tax Office says there needs to be a definite connection between the offer of services and the engagement for the work. This includes: advertising in a newspaper, magazine, business directory; maintaining an internet Website; or word-of-mouth referrals. The Tax Office says offering services through a labour hire firm or registering with an agency is not considered offering services to the public under the unrelated clients test.

- Applying the personal services business tests to the whole entity and not to the individual(s). The Tax Office says that if an entity channels the income of more than one consultant or contractor through it, it cannot apply the personal services business tests to the whole entity. The tests must be applied on an individual-by-individual basis. Further, the Tax Office says the entity must keep records of the separate streams of income and expenses for each consultant or contractor.

Other common mistakes include:

- Retaining profits: Profits from personal services income, which should be attributed (or treated as belonging) to an individual, are often incorrectly retained by companies. The Tax Office says that if a taxpayer company makes a profit from personal services income, the company needs to promptly pay this profit as salary and wages, or attribute it to the individual who performed the services.

- PAYG withholding: The additional PAYG withholding obligations for personal services income are frequently not met. The Tax Office says companies, trusts and partnerships affected by the personal services income measures, will have additional PAYG withholding obligations, unless the entities are already paying out the personal services income to the relevant individual as salary and wages.

- Tax returns: incomplete schedule and/or incorrectly claimed deductions: When a tax return is lodged, often the required personal services income schedule is not completed and deductions are incorrectly claimed. The Tax Office reminds that an affected entity can not claim deductions for: rent, mortgage interest, rates or land tax for a home (or an associate's home) that is a place of business; and payments to a spouse (or other associate) for support work such as secretarial duties.

Reproduced with kind permission from Lisa Mak, Thomson Weekly Tax Bulletin - 25 January 2008, Issue 4

Professional Contractors and Consultants Australia

COMMON PSI MISTAKES

STREET ADDRESS
163 Eastern Rd, South Melbourne
Victoria 3205, Australia

POSTAL ADDRESS
GPO Box 1272, Melbourne
Victoria 3001, Australia

TELEPHONE
1300 273 762

EMAIL
info@professionalsaustralia.org.au

WEB
www.professionalsaustralia.org.au