

# THE QUINTESSENTIAL BRIEF



“Keeping the busy professional informed.”

**MICHAEL QUINN**

The festive season is upon us and this means that for most of us a well earned holiday is just around the corner, even if it is only a few days over the Christmas break. Looking back it has definitely been an eventful year in many respects, both for the world at large and here at The Quinn Group.

On a world scale, it is safe to say that 2008 will most likely be remembered for the dramatic credit crisis and continual slowing of the world economy. But with that in mind we are about to embark on a new year, and with that comes the opportunity for a fresh start and a new approach.

At The Quinn Group this year we have successfully relocated to our new Sutherland office and warmly welcomed some new members on board our team. Most importantly, we have continued to provide our valued clients with exceptional advice across a range of services.

We welcome Lillian Armstrong to The Quinn Group as receptionist and executive assistant. Lillian has joined us fresh from her Year 12 exams and her young, enthusiastic attitude is a welcome addition to the team.

The Accounting team has been working tirelessly for the past few months on tax returns and financial reports of every description. If you are still yet to contact us regarding your tax return it would be a great idea to get it done before Christmas, one more thing you can tick off your list and not have to worry about over the break, or in the New Year. The Legal team has been busy too with everything from conveyancing and selling businesses to estate matters and litigation.

This edition of the Quintessential Brief includes information on some of the most up-to-date and topical

tax issues. We look at salary sacrificing your rental expenses as well as what tax you are required to pay (and what deductions you can claim) on your holiday property. From the legal side of things we discuss knowing your annual and sick leave entitlements and restructuring your business as a feasible alternative to insolvency.

The Quinn Group offices will close for the Christmas break from 5pm Tuesday 23 December 2008, reopening at 8am Monday 12 January 2009. Skeleton staff will be available for urgent matters during this period. You can contact us on our dedicated mobile telephone number 043 00 QUINN.

We hope that you find this newsletter beneficial. If there are any legal, tax or financial planning issues that you would like us to address in future editions, please contact us on 1300 QUINNS or [info@quinns.com.au](mailto:info@quinns.com.au). You can also email us if you would like to receive the latest legal, accounting and financial news update each Monday morning via our Weekly Client Alert.

On behalf of all of us at Quinns, we wish you and your loved ones a happy and safe holiday season. Merry Christmas and Happy New Year!

Regards  
Michael



**THE QUINN GROUP**  
Accountants, Lawyers and Financial Planners  
Providing the Total Solution



## OFFICE CLOSURE NOTICE

**24 December** Quinns Offices CLOSED  
**12 January** Quinns Offices REOPEN

*For urgent matters we can be contacted on 043 00 QUINN.*

DECEMBER 2008

## in this issue

- 01 Legislation loop-hole allows employees to salary sacrifice 100% of rental expenses
- 02 Holiday home tax considerations and deductions
- 03 Restructuring may be the answer for struggling businesses
- 04 Do you know how much leave you are entitled to this Christmas?



## Accounting

### Legislation Loop-Hole allows Employees to Salary Sacrifice 100% of Rental Expenses

It is a little known fact that any rental expenses that are considered to be "otherwise deductible", meaning they are actually paid or due to be paid and have the potential to be claimed as part of the owners' rental return, are able to be salary sacrificed. Under the "otherwise deductible" rule, the sacrificing of these paid expenses does not attract fringe benefits tax.

Unlike a motor vehicle or laptop computer salary sacrificing arrangement where the product is provided solely to the employee, a rental property is commonly owned by joint tenants, sometimes with same legal interest (50:50), and sometimes with different legal interest (e.g. 1:99).

Recently, a unique opportunity developed following a famous court judgement, National Australia Bank Ltd V Federal Commissioner of Taxation 93 ATC 4919 (the NAB decision). The judgement produced a loop-hole like situation in our current Fringe Benefits Tax legislation which allows one joint tenant to salary sacrifice 100% of the property's rental expenses, regardless of their legal interest share.

The benefit of this arrangement is that generally the person with the highest income will elect to salary sacrifice the rental expenses. As a result, in most cases they will receive a considerable tax saving or benefit as their taxable income amount is significantly reduced. Even if using the 100% sacrifice option, when completing their personal income tax return, both joint tenants must report their rental income according to their legal interest in the property.

Following 2008-09 budget, the Australian Taxation Office is taking immediate action to close down this loop-hole. There will be no new FBT arrangements allowing one joint tenant to sacrifice 100% of the rental expenses available in 2009 or after. Any existing arrangements will only be valid until the end of the current FBT year, 31 March 2009. If you do have an existing arrangement, it is important that you are aware of its validity and speak with your employer and your tax accountant to clarify any grey areas as soon as possible.

At The Quinn Group our accountants are up-to-date on all the latest tax requirements and obligations. To discuss your salary sacrifice arrangement, FBT obligations or for any other tax queries contact us on 1300 QUINNS or email [info@quinns.com.au](mailto:info@quinns.com.au).

### Holiday Home Tax Considerations and

It's almost Christmas time, and it's summertime too! At this time if the year it is likely that many of you are making plans to get away for a while. If you have a holiday home that is rented out at other times during the year, but are planning to stay there yourself over the Christmas break, it is important to be aware that there are some tax implications that may be associated with it.

#### Tax Deduction Implication

If you rent out your holiday house for the whole year, it is important that you pay the necessary taxes on any income that is earned from it. Of course, upon declaring the rental income you are then entitled to claim all of the relevant rental property deductions for that year, including interest charges, borrowing expenses, depreciation of an asset within the rental property, the cost of any repairs that are carried out as well as the capital works deduction.

However, if for part of the holiday home for your private use, your deductions on a day-to-day claim deductions for the income. If you stay in the home for part of the year, then you can only claim a proportion of the total eligible deductions for expenses such as repairs and necessary due to damage. Costs may be fully deductible. Holiday letting is different to rental and occupancy rates. During popular holiday periods, chances are that there is a substantial income but during lower occupancy rates. As the period is determined for tax



## Legal

### Restructuring may be the Answer for Struggling Businesses

Many people believe that if their business or company is failing, insolvency administration, liquidation or receivership is the only way to go.

In fact, this is not the case at all. There are a number of methods that can be applied to "rescue" a failing business and consequently prevent its slide into insolvency.

For any businesses that may be experiencing difficult times, there are a range of options for the business that can be addressed in order to begin to repair the situation. The experts and accountants at The Quinn Group are able to assist you and provide advice in relation to business restructuring areas including the following:

- Negotiating with lenders to reschedule debt repayment arrangements, this will give the business some much needed breathing space
- Organising additional facilities, such as a line of credit, overdraft or consolidating debts over a longer term to smooth out cash flow spikes
- Providing advice regarding the reorganisation of your operation, in particular, how to cut costs, and/or reallocate resources
- Focusing on generating cash flow by working with debtors to bring in monies that are owed and reducing any unnecessary expenses
- Negotiating with major customers to increase prices, shorten payment terms and even increase orders
- Organising for an injection of capital by bringing in fresh equity

The restructuring process is currently considered to be "informal" as it is not strictly by legislation. The initial purpose of restructuring is to preserve the assets of the business but it is also a preferable outcome that the business as a whole remains a going concern. One of the main benefits of a restructuring or rescue program is that it is private. Administrations and receivership procedures are generally widely publicised. They result in a more difficult negotiating process with creditors and customers of the business and can also alert the competition to a major opportunity within the marketplace.

The Quinn Group can help businesses through this uncertain time by providing advice on the entire range of services that are required by a business that is trying to get back on track. If you would like to discuss getting your business back on track contact us on 1300 QUINNS or send an email to [info@quinns.com.au](mailto:info@quinns.com.au).

## and Deductions

year (e.g. Christmas time) you use the private purpose, you must then apportion on a daily basis, as you are only allowed to claim the time that the property is producing rental income for 2 months, that is 60 days. You can only claim approximately 83% of the rental for the year (305/365\*100). Although, you can claim repair and maintenance costs, if this is done during the rental period, the deduction is allowable.

from other rental properties in that the rates fluctuate depending on the time of year. In high demand periods, such as public holidays, the property is booked out and can make a profit. At other times it may have significantly less demand, as a result, the way in which the rental income is taxed is very important.

If the conditions below are met and the property is not used for private purpose, the period of no occupancy can be counted for deduction purposes as long as:

- a. The property is available for rent;
- b. As there can often be long periods of time where there is no rental income, a concerted effort must be made to ensure that the property is available, for example, active advertising not just "word of mouth"

Travel expenses that are incurred in relation to the inspection of a holiday rental property must be apportioned if the trip is combined with a holiday or other private activities. For example, if you buy a flight ticket to travel from your Sydney home to Brisbane, for the purpose of holidaying as well as the inspection of your rental property, you are not entitled to claim the cost of the flight ticket. However, you can claim your travel fees between your Brisbane accommodation and your holiday home, as well as part of your accommodation expenditure.

### Capital Gains Tax Implication

When you sell your holiday home, it will be subject to capital



## Accounting

gains tax, unless you claim it as your primary residence. However, please remember you can only claim one property as your primary residence at any one time.

These are just some examples of the tax considerations when owning and using a holiday home. If you have a holiday rental property and would like personalised advice on how to legally minimise the tax you pay contact The Quinn Group on 1300 QUINNS or email [info@quinns.com.au](mailto:info@quinns.com.au).

## may

business  
agency via  
divership

and in order

leas within  
part lawyers  
ation to all

ms

ly governed  
e business,  
ng concern.  
ate. Formal  
is can often  
e business

and guidance  
ck on its feet.  
O QUINNS or

## Do you know how much leave you are entitled to this Christmas?

This time of year sees many of us taking some well earned time off work. Along with deciding where to set-up your beach chair, it is important to know how much annual leave you are entitled to. This will ensure that you don't find yourself short of accrued time and as a result, possibly leave yourself short of the all important holiday spending money!

### Annual Leave

Permanent employees accrue annual leave over each four week period that they carry out continued work for their employer. Accumulated entitlements are credited to the employee 13 times a year. Leave entitlements for one four week period are calculated as follows:

#### 1/13 x Average hours worked in the four week period

According to this formula, an employee who works an average of 38 hours per week and has worked for their employer for a period of 12 months is entitled 152 hours, or 4 weeks, of annual leave. This is on the provision that their average weekly hours do not change during that period.

It is important to note, that in this day and age most employees are working more than the allocated 38 hours per week. Despite increased average working hours, under the legislation, it is generally not possible to accumulate more than 4 weeks annual leave in any 12 month period, unless your employment contract specifically states otherwise.

As an alternative to taking the accrued leave time, employees are entitled to take the option of "cashing in" their leave entitlements. In order for this to be effective, the employee must put in writing that he/she elects to forgo the accrued entitlements. Once this is accepted and approved by the employer, the employee receives the equivalent "cash value" payment for the total amount of agreed leave time that the employee has elected to forgo.

### Sick Leave

As with annual leave entitlements, all permanent employees are also entitled to an accrued amount of sick leave which can be taken when they suffer a personal illness or injury. In order to be able to claim their sick leave

entitlements, the employee must give notice to their employer as soon as is reasonably practicable. Dependant on the circumstances, a reasonable time may be before or after the leave period has commenced. Similar to calculating annual leave, the formula for sick leave entitlement is:

#### 1/26 x Average hours worked in the four week period

As a result, for a person who works an average of 38 hours per week this equates to 10 days of sick leave per year. Sick leave that is not taken in any 12 month period is available to the employee for a period of at least 3 years from the end of each such year. It is necessary to note that if an employee is receiving workers' compensation (under Commonwealth, State or Territory law) the employee is not entitled to also receive paid sick leave.

At The Quinn Group the experienced team of lawyers are able to advise you on all aspects of Employment Law, whether you are an employer or an employee. For more information regarding leave entitlements or any other employment related queries, contact us on 1300 QUINNS or email [info@quinns.com.au](mailto:info@quinns.com.au).



## Legal



important dates

- 22 December**  
NSW School Holidays Begin
- 24 December**  
Christmas Eve  
Quinns Offices CLOSED
- 25 December**  
Christmas Day
- 1 January**  
New Year's Day
- 12 January**  
Quinns Offices REOPEN
- 26 January**  
Australia Day  
NSW School Holidays End
- 28 February**  
Quarter 2 (October – December 2008)
  - Business Activity Statement due
  - GST instalment due
  - PAYG instalment due

## At Quinns This Quarter...

Like most of the nation's population, the team at The Quinn Group took some well earned 'time out' on the afternoon of 4 November to celebrate the Melbourne Cup. As much as we love being accountants and lawyers; doing tax returns, reviewing contracts and the like, it was nice to be able to forget about that for a few brief moments, put on our best rags (see the stunning visual images below!) and spend some time with each other outside of the office.

We had a lovely afternoon at the Miranda Hotel. There was eating and drinking and some of us even dared to have a little bit of a gamble on the big race. Although, being surrounded by accountants we were made all too aware of the frightening statistics that scream "don't do it, you are never going to win!" Congratulations to John Elisher who won the office sweep competition, although I think he would have rathered that Bauer took the title as this would have provided a more lucrative return on his investment. The accountants tried to tell him! Better luck next year John.



## Merry Christmas

from everyone at The Quinn Group!



## spotlight

**ADRIAN & AMBER ZENERE**



**Name of your business?**

*Archizen Holistic Architecture*

**What does your business do?**

*Registered architects, licensed homebuilders and more recently founders of the Real Estate Development Club.*

**How long have you been operating?** *Since 1998*

**What distinguishes your business from your competitors?**

*Archizen uses Holistic Architecture to design practical and functional living spaces for individual lifestyles and personalities that are respectful of our environment while also being conscious of budgets and timescales. While we are committed to the need and push towards designing eco friendly homes and sustainable real estate development Archizen also embraces the philosophy of Feng Shui for a more harmonious all-encompassing design.*

**When I started this business I wished I'd known...**

*The benefits that real estate development has to offer and how obtaining development approvals can be*

*used as an effective strategy to significantly increase the value of property and fast track your wealth creation.*

**Best business advice anyone has given you?**

*To build a great team of experts around you and to seek proper advice early. Also to have good recording keeping and risk management systems securely in place and learn not to stress on the small stuff.*

**What do you think the key to your success has been to date?**

*There are probably three key elements to our success, namely:*

- *looking at the 'big picture' by starting with the end in mind, having a clear vision, setting attainable goals and proper planning.*
- *believing in yourself and developing the right mindset. It all starts with the quality of your thoughts, if you have positive thoughts you'll have positive results.*
- *do what you love, love what you do - if you're passionate about what you do then you won't mind putting in the hours it will take to succeed.*

### For any assistance please contact Quinns on 1300 QUINNS (784 667)

The Quinn Group is an integrated, accounting, legal, and financial planning practice, offering expert advice to help you achieve your business and personal goals. With more than 20 years professional experience, we are committed to building long-lasting relationships and providing you with superior client service in a timely and cost-effective manner. We offer our clients the unique opportunity to receive both financial and legal advice, at five convenient locations around Sydney and at times that suit you.

- **SYDNEY:** Level 1, 105 Pitt Street ▪ **SUTHERLAND:** Level 3, Endeavour House, 3-5 Stapleton Avenue
- **NEUTRAL BAY:** Level 3, 156 Military Road ▪ **PENRITH:** 51 York Road ▪ **PENSHURST:** 3 Laycock Road

Disclaimer: The contents of this document titled "The Quintessential Brief" (the "Material") are provided as general information only. It is not intended to be given as advice and should not be relied upon as such. If you are concerned about any issue raised by the Material then you should seek your own professional advice. No warranty is given in relation to the accuracy, currency or completeness of the Material. No reader should act on the basis of any matter contained in this publication without first obtaining specific professional advice. Liability limited by a scheme approved under Professional Standards Legislation. The Quinn Group respects your privacy. Should you not wish to receive this newsletter in the future please contact us on 1300 784 667.