

Australian Floods - Tax Concessions and Government Assistance

The impacts of the recent flood crisis have affected Australia nationwide through massive destruction and continuing interruption to everyday life.

The tax regime, however, does provide some assistance. There are also various Federal and State Government grants and subsidies.

Some of these are recently announced Government initiatives in response to the disaster, while some already exist in the "Tax Act" or are Australian Tax Office (ATO) administrative concessions that apply to flood and/or other disasters. These taxation concessions and other Governmental help include:

- ▶ Tax exempt assistance provided by employers;
- ▶ ATO assistance;
- ▶ Tax deduction for donations to flood appeals; and
- ▶ Federal and State Government grants and subsidies. These include:
 - Australian Government Disaster Recovery Payment (AGDRP);
 - Disaster Income Recovery Subsidy; and
 - Natural Disaster Relief and Recovery Arrangements (NDRRA).

Tax Exempt Assistance Provided by Employers

Currently under the "FBT Act", there are certain benefits that can be supplied or arranged by employers for their employees in times of emergency which will be FBT exempt. Broadly, these must be temporary and of assistance, providing immediate relief as a result of certain events including a natural disaster.

Such FBT exempt emergency assistance benefits provided by an employer to an employee (or their associates), must solely be a grant of 'emergency assistance'.

The exemption applies to benefits provided in an 'emergency', which includes a 'natural disaster' or 'any similar matter'. 'Natural disaster' would obviously include a flood.

The grant of 'emergency assistance' means assistance to provide immediate relief to a person who is the victim of an emergency or is at immediate risk of becoming a victim. The type of assistance covered by the concessions are as follows:

- ▶ First aid or other emergency health care;
- ▶ Emergency meals or food supplies;
- ▶ Emergency clothing, transport, accommodation or use of household goods;
- ▶ Temporary repairs; or
- ▶ Any similar benefits.

The Tax Commissioner has previously accepted, in the context of Victorian bushfires, that such exempt 'emergency' benefits include accommodation and/or transport provided by employers to their employees who have lost either their homes or motor vehicles. Such homes and motor vehicles are required to be provided on a temporary basis to assist employees re-adjust to normal life and ensure they are able to resume and commute to work.

It should be noted the Commissioner will only confer the FBT exemption where the accommodation and/or motor vehicle is provided on a short term basis. Usually these benefits are only provided until insurance settlements and/or Government assistance are received and/or arrangements are made for long term accommodation (i.e. building a house or renting) and the purchase of a motor vehicle.

Long-term benefits are not exempt as 'emergency assistance', these include providing a new house or car to replace one destroyed.

In relation to how long the exempt emergency benefits can be provided for, the Commissioner considers the circumstances that will determine the severity of the emergency and the length of time the immediate relief can be provided. In the context of the Victorian bushfires, the Commissioner considered it was reasonable to expect emergency assistance to be provided to employees for at least six months, due to the severity. For a period of assistance in excess of this, employers were urged to lodge a request for a private binding ruling.

As the Queensland floods are being described as potentially Australia's worst natural disaster, it is likely the Commissioner's attitude should be the same as in relation to the Victorian bushfires.

ATO Assistance

Extension to meet BAS and other lodgement obligations without penalties.

The ATO has granted an extension to lodge December Monthly Activity Statements for business customers in flood affected areas.

The ATO will automatically defer the lodgement and payment dates for December Monthly Activity Statements from the original due date of 21 January 2011 to 21 February 2011 for certain flood affected areas. Affected businesses do not need to apply for a deferral. Further deferrals, which have already been approved, will still apply.

The concessions applies to the following:

- ▶ Business addresses in Queensland or the Tweed area; or
- ▶ Business addresses that fall within the postcodes nominated on the ATO website (www.ato.gov.au) as being flood affected. These include specific postcodes for Queensland, Western Australia, Victoria, NSW and the Tweed area.

Businesses may check whether a deferral has been received through the Business Portal or by contacting the ATO's dedicated emergency support info line on 1800 806 218. Flood affected businesses outside these postcodes should also phone the ATO on 1800 806 218.

More information on the ATO's lodgement obligations can be found on the following ATO link:

[Help for registered agents affected by natural disasters](#)

This contains an overview of the support available, including additional time to lodge and pay for some clients.

Other ATO Assistance

The ATO has implemented a range of other support strategies to assist people affected by the floods. Such support strategies may apply to businesses, taxpayers and tax practitioners.

The ATO can help people in disaster affected areas by:

- ▶ Fast-tracking refunds;
- ▶ Granting extension of time to pay debts – without interest charges;
- ▶ Granting extension of time to meet BAS and other lodgement obligations – without penalties;
- ▶ Helping reconstruct tax records where documents have been destroyed, and making reasonable estimates where necessary;
- ▶ Offering visits from field officers to help reconcile lost records; and
- ▶ Helping in claims tax hardship concessions.

Taxpayers or their agents are encouraged to contact the ATO if necessary. The ATO has set-up a dedicated emergency support info line for affected taxpayers to discuss their circumstances and available assistance. The ATO's dedicated emergency support info line is 1800 806 218.

The ATO also has a number of pages on its website dedicated to assisting agents and clients affected by natural disasters. These are as follows:

[Help for registered agents affected by natural disasters](#)

This contains an overview of the support available, including additional time to lodge and pay for some clients, long term support for a lodgement program and how to access the Relationship Manager Service.

[Help through difficult times](#) This overview is available to individuals, businesses and registered agents, dealing with financial difficulties and a link to the Australian Government Disaster Assist website.

[Information for registered agents affected by natural disasters](#) This provides a reconstruction of records and the form used to estimate income.

[How we can help businesses](#) This provides information on Fuel Tax Credits including eligibility for assistance, assistance visits for small business and superannuation guarantee obligations.

[How we can help individuals](#) Provides information on frequently asked questions about damaged and destroyed property.

[Assisting victims of disasters](#) Information for individuals and organisations that want to collect funds or make donations.

[Dealing with disasters](#) Provides information on tax consequences of natural disasters.

[Balancing adjustments for depreciating assets destroyed](#) Calculates balancing adjustments.

[Destruction of property in bushfires and other natural disasters](#) CGT implications relating to the destruction of main residence and other assets and rollovers. This provides further links to information relating to the involuntary disposal of a CGT asset.

Tax Deductions for Donations to Flood Appeals

The Tax Commissioner has announced the ATO will allow deductions without a receipt for donations to \$10 'bucket appeals' for the floods in Victoria, Queensland and New South Wales.

To be deductible, such donations must be made to a 'deductible gift recipient' (DGR). People can check whether an organisation is a DGR on www.abr.business.gov.au.

For donations over \$10, written evidence must be kept in order to claim a tax deduction. This documentary evidence can take the following forms:

- Receipts;
- Where donations are made via the web or phone - a web, bank or credit card statement;
- Where donations are made through a third party, e.g. banks or retail outlets - a receipt issued by the third party; or
- Where donations are made through an employer's payroll tax system ('workplace giving' arrangement) - a payment summary or other written statement from the employer showing the donated amount.

Federal and State Government Grants and Subsidies

In order to help people and businesses who have suffered loss and damage from the floods, Governments at both State and Federal level have introduced various grants and subsidies.

Australian Government Disaster Recovery Payment (AGDRP)

The Federal Government has activated the AGDRP to assist people who have been adversely affected by flooding that commenced in November 2010 and continued in January 2011 in Queensland. Subsequently, the availability of this payment has been extended to flooding in Victoria, declared Local Government Areas (LGAs) in Northern NSW and the Clarence Valley LGA.

The AGDRP provides payments of \$1,000 per eligible adult and \$400 per eligible child. These payments will be made where:

- A person was seriously injured;
- A person is the immediate family member of an Australian killed as a direct result of the disaster; or
- A person's principal place of residence has been destroyed or has sustained major damage; or

- A person is unable to gain access to, or is stranded in, their principal place of residence for a period of 24 hours or more; or
- A person's principal place of residence was without electricity, water, gas, sewerage services or another essential service for at least 48 hours (a utility failure) and the utility failure was caused by damage to public or private infrastructure; or
- A person is a principal carer of a dependent child who has experienced any of the above.

The payment is made by Centrelink and affected persons should contact the department on 1800 22 66 to lodge a claim. Affected persons have until 4 July 2011 to complete and lodge a claim for this payment.

Disaster Income Recovery Subsidy

The Federal Government has announced additional support for employees, small businesses and farmers who have lost income as a direct result of the flood crisis. This subsidy will be exempt from income tax.

The Disaster Income Recovery Subsidy is a fortnightly payment of up to the maximum rate of existing Newstart Allowance, for a period of 13 weeks. The subsidy will be available to those who have experienced a loss of income as a direct result of the flooding and are not currently receiving, or eligible for, any other income support payment and fulfil certain other criteria.

The subsidy will apply to over 150 local Government areas across Queensland, Victoria, Western Australia, New South Wales and South Australia that have been declared natural disaster zones as a result of flooding and severe weather conditions since November last year. Employees, small businesses and farmers who reside or derive an income from disaster declared areas in these States will be eligible to claim the Disaster Income Recovery Subsidy if they fulfil the criteria.

The Disaster Income Recovery Subsidy will be processed through Centrelink. The claim form must be lodged by 28 February 2011. For more information or to claim the Disaster Income Recovery Subsidy, people should contact Centrelink on 1800 22 66 or go to <http://www.centrelink.gov.au> to register their details.

Natural Disaster Relief and Recovery Arrangements (NDRRA)

The Federal Government will provide financial assistance to specific communities affected by flooding/severe weather in November – December 2010.

This assistance is provided through the joint Australian and State Government Natural Disaster Relief and Recovery Arrangements (NDRRA) and applies to the natural disaster declared areas in each State.

The Federal Government has recently announced that clean-up and recovery grants paid to primary producers and small businesses directly affected by the recent flooding since 29 November 2010, will be non-assessable, non-exempt income. This ensures the grants are exempt from income tax, while also avoiding

interactions with other areas of the income tax. This clean up and recovery grant is funded through the NDRAA but provided by the various State Governments with varying amounts and conditions for each State. See below for links to the State Governments' Assistance sites.

State Government Assistance

Details of State Government assistance made available by the States in relation to the recent floods can be obtained from the following web resources:

Queensland - Premier's Disaster Relief Funds

www.qld.gov.au/floods

New South Wales - Natural Disaster Assistance Scheme

www.emergency.nsw.gov.au

Victoria - Victorian Department of Human Services: Emergency Management

www.dhs.vic.gov.au

South Australia - South Australian Department of Families and Communities: Disaster Recovery

www.dfc.sa.gov.au

Western Australia - Fire & Emergency Services Authority of Western Australia

www.fesa.wa.gov.au

Tasmania - Department of Primary Industries, Parks, Water and Environment

www.dpipwe.tas.gov.au

Should you require assistance or additional information, please contact your PKF Tax Adviser

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