



holzworth law & associates
Tax, Business & Superannuation Specialists

Miners Information Booklet



Introduction

This Booklet is a simply worded short white paper of answers to the most common questions that clients have put to me over the years, which deal specifically to the mining industry in remote areas.

We have over 200 clients in towns such as Emerald, Tieri, Moranbah, Middlemount, Blackwater, Blackall, Mackay, Rockhampton, Gladstone and then over in the West in Port Headland, Mount Newman, Karratha and others.

The advice in this booklet is correct as at June 2011. It is not updated regularly. Before acting on any point herein, I strongly suggest you seek up to date professional advice.

This white paper is not an in-depth discussion on the topics covered nor is it fully expansive in all related aspects of the law. It is not written for this purpose. It is a quick guide to some of the most usual tax questions you may have but also leaves you the opportunity to contact us and dig deeper as required.

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ONE: What I need to know before accepting employment that requires me to live away from my home for extended periods?

1.1 Fly In & Fly Out

A family member was offered a job in Roma, QLD. He works 3 weeks on and 1 week off. His employer would fly him out to Roma from Brisbane at the beginning of the shift and then fly him back to Brisbane at the conclusion of the shift. The employer offered to meet these costs. I also have a friend who works 1 week on and 1 week off up in the coal basin around Dysart, QLD, but the cost of his flights are born by himself and not by the employer. Sometimes he does the drive and does not fly.

Where the employer pays for the flights there is little to claim in tax deductions. You may on some occasions be able to claim for the costs of travel from your home to the airport and return, if for example, you are transporting **bulky** tools or equipment owned by the employer. It is not easy to make these claims and also for parking, so please talk to us to develop a stratagem.

For my friend who pays the fares himself, no matter if he took a plane or drove in his car, once again the limited opportunity to having the expenses tax deductible needs to be planned.

I have one client who regularly makes the drive to and from his place of employment up in the coal basin in from Mackay as he transports components used in explosives that cannot be transported on an aircraft. His employer pays for the fuel but he has the balance of costs including accommodation and meals enroute. The travel costs are deductible to him and of course he has a Motor Vehicle allowance on his PAYG summary that helps his argument substantially. If you want to develop a stratagem on this, please contact our office.

1.2 Live In

The principle of living in and not travelling to and from the place of employment is gaining more momentum. The Employers find it easier to recruit when offering live in options rather than fly in/fly out.

Live in usually has you staying alone in a single mans quarters eating at the mess, or crib provided with your quarters. It can also be a house provided for you and your family to reside in where you pay a much discounted rent, but you provide all the furniture and meals.

Both circumstances provide you with no real tax deductions. For those paying electricity and are in mine management, there may be some electricity expenses and depreciation on equipment for work done at home and not down at the office.

1.3 Relocation Expenses

The costs of you or your household relocating to the place of employment assigned to the mine, like Tieri or Emerald, for example, is not deductible by the ATO.

BUT THERE IS ANOTHER WAY!

If the place where you are moving to is on the ATO register as a remote town, then you can ask your Employer to pay these relocation costs and you Salary Sacrifice these costs as a re-imbusement back to the employer. The employer will not be charged Fringe Benefits Tax on these costs as they are an exempt benefit.

Costs to be included and are exempt FBT benefits to you include:

- Meals & Accommodation when enroute to the final destination
- Temporary Accommodation if your home is not immediately available.
- Furniture removal costs.

If you are selling your home to then relocate, then the relocation expenses extend to including the sale costs of your home such as Agents Commissions and Legal's.

TWO: What I need to know in Negotiating my Salary.

2.1 Free benefits under the FBT Laws that you can bundle in your Salary

This is a very wide, varied and interesting topic. There are multiple factors that come into Salary Packaging that relate to the employer, the location you are employed in and also your situation in life.

We can specifically assist you in helping you establish a Salary Package that is workable and also takes into effect all the tax breaks legally available.

Once again, some benefits can be provided free to you if you live in a remote area as designated by the ATO in their updated Practice Statements. We can check this for you if you are unsure. Also, if your employer is a charity or co-op, then there are a number of other options we can use. Obviously, the main mining company is not a charity or co-op, but you may be employed through a contractor to the mining company. I have seen this happening in the mining areas around Emerald and Blackwater.

Certainly the old faithful's, like Superannuation can be used. So give us a chance to tailor something that works for both you and your employer. Best to do this before you start.

THREE: What are the tax consequences of my residential home if I move my family to live with me?

3.1 Leaving the home vacant.

I recall speaking with a client in Moranbah recently relating to this exact matter. He and his family are now living local to the mine and are no longer living in the family home back in Brisbane. The costs of travel were ever increasing, so they decided to make the move and rent a home in Moranbah for the family to reside in. The

rental prices are very high in this town and he was wondering how he could get some tax assistance if any.

Here are a few things that you could consider if you are in the same circumstance.

Your previous main residence is free of Capital Gains Tax when sold if the conditions that make it exempt are met. It is possible to move from the home and rent it out whilst absent for a time and still retain the CGT exempt status.

No, it is not possible to claim the rent paid on the premises in Moranbah against the rental income receipts from the family home back in Holland Park.

3.2 Leaving my kids or family in the home

Some decide to leave the dwelling vacant whilst they are absent from it to avoid any CGT implications when sold. This certainly does raise some interesting prospects and poses a very serious security risk to the Assets through vandalism and also vagrants taking up squatters rights. I recommend most vigorously to never leave your dwelling vacant if you move away for a time.

3.3 Renting it out

Some leave their older children behind in the house who may be attending University or working to “house sit”. Some charge them rent at commercial rates, some at a discount, some no rent at all, and some just have the children pay the rates and other outgoings.

The tax act is straight forward on this. If you charge no rent, then no expenses are deductible to claim. If you charge “mates rates” then the discount against commercial rent in percentage terms is also applied against the expenses at the same rate. So only a portion of the income is assessable and that same portion of expenses is deductible.

If you rent out your home, which is in the outskirts of the CBD at full commercial rates, then all the income is assessable and all the expenses are deductible. Expenses include interest on the loan and also depreciation on the fixtures and fittings.

Just a reminder again that you are able to move from your residence and rent it out for a time whilst absent, then return and sell it and NOT pay any Capital Gains Tax on the profits. There is more detail on this and time limits, so please speak to us about this to get a checklist on what is needed to still get the Main Residence exemption.

FOUR: What Can I Claim on my Tax Return?

This could take up 20 pages in this white paper alone. I attend each year the towns of Emerald, Tieri, Blackwater and Blackall and sometimes Moranbah so I can meet with you and do your tax face to face & cover everything effectively.

For those who want a quick look, I have covered off the main areas that miners are concerned with.

4.1 Tools

Tools that are related to the earning of your income are deductible to you. If the tool cost is less than \$300, then you can claim it directly. If it is over \$300, then the tool is depreciated over its useful life. Miners are generally not required to provide tools, but some carry sundry items such as torches, pliers or screwdrivers.

Of course, if you are a contractor, then this is different and you will be required to supply a full tool kit and pay to maintain it. I have a client in Dysart who is paid a \$2000 tool allowance each year to maintain and replace his tools. He is not employed by the mine but by a contractor to the mine. He maintains a group of generators above ground and has to supply his own tools and car. He gets a car allowance also.

4.2 Travel

Home to work and then work to home is generally not deductible. Some exemptions are listed below. If you intend to claim for travel, speak to us on what travel documents and receipts will be required.

4.2.1 Travel after you have started work

If once you get to work, you are required, at your own cost or in your own vehicle to run an errand, or attend a meeting or training etc., then the cost of this travel is a deductible expense.

4.2.2 Work related tasks on the way to and from work

You need to discuss this one with us. Tasks may include dropping off reports or trips to the post office to and from work each day. There may be some deductions we can grasp.

4.2.3 Travel to an abnormal work place

I had a client that was working at Oakey Creek 1, a mine outside of Tieri. For a two month period he was told to go to Oakey Creek 2 mine, then he reverted back to Oakey Creek 1 mine... (or it may have been the other way round!). The extra costs of travel to go to the other place of work rather than his normal workplace became deductible. If this happens to you, let's talk about how to make this travel a tax deductible expense.

4.2.3 Bulky Equipment

If you need to transport equipment each day to your place of work, and that equipment is bulky and greater than 20kg in weight, then you may be able to claim the travel as a tax deduction. Of course this is most unusual and many employers now provide a safe storage facility for employees to stow their equipment. If this is not the case with you and you do need to transport bulky and heavy equipment, like my client in Dysart, let's talk about it and work out the best way to get the tax deduction for the travel costs.

4.3 Uniforms & Laundry

In the mining industry, it is common that all uniforms including high visibility clothing, and protective footwear are supplied. Some clients have bought their own boots as the ones supplied were not good quality or uncomfortable. These costs are deductible.

Some mines do the uniform laundry and some do not. The costs of laundry are deductible and most claim the unsubstantiated ATO allowable amount of \$150. One client in Mt Newman does not do his laundry at the home he leases with his family, but his wife takes his soiled uniforms down to the laundry mat. She does

not want his oily clothing in her machine. She keeps a tally of costs of the laundry mat and claims this along with soap powder and stain remover.

Some “dongers” and single men’s quarters provide laundry facilities free of charge. The only costs are the laundry powder.

4.4 Sunscreen & Hats

Once again, if you are not supplied with sunscreen, hard hats, sunglasses and wide brim hats when working outdoors, then these costs are tax deductible.

4.5 Professional Fees & Union Dues

4.5.1 Professional fees

The cost of being a member or continuing as a member of a professional society that relates to your employment profession is deductible. For example, being a member of the Electrical Contractors Association when you are an Electrician would be deductible. The membership costs of non-employment related associations, is only deductible up to \$42. The writer believes that there must be a nexus in regards to the association and the member’s professional qualifications even for the \$42 deduction. I did not allow one client in Mackay his Bowls Club Association fees as there was no nexus at all between this and his employment as a mining machine operator.

4.5.2 Union dues

Union Dues are also varied. Some dues also contain various fees for clubs and associations, and insurance premiums. It is usual for the union to provide at years end, a summary of what amounts are deductible for you. Without this summary, we cannot make a claim as the total amounts that most miners pay include a multitude of applications, some of which do not attract a tax deduction.

4.6 Travel to Tax Agent

This expense makes me smile a little. There are many clients who live remotely and see me at my office in Brisbane. What is funny about that you say? Well, they arrange to travel down and see me, usually first thing in the morning. Then they are off to the Gold Coast theme parks for the balance of the day, do a little shopping or dropping in to see family etc. I have one client who always lines up at

least one of his visits to see me when State of Origin is on at Suncorp Stadium in Brisbane & another when there is a one day/night game at the Gabba. Both these clients are business clients and come several times a year, but at least one trip lines up with a major sporting event!

The lesson is that travel expenses associated with seeing your tax agent, providing this is the primary purpose, is tax deductible. There are a number of ways to calculate this cost, so if you are travelling a distance to accomplish this, best to pre-plan it with us first.

These costs do include meals and accommodation associated with the travel but remember, it must be the dominant purpose.

4.7 Education & Costs of Extra Tickets

The expenses incurred with staying abreast with existing knowledge are deductible. This includes the costs of updating your tickets, or getting extra tickets. For example, the cost of an apprentice doing courses to get his First Aid Certificate or his High Voltage Rescue ticket is deductible. There needs to be a nexus with the education and your current work activities and it would be good if it can be argued that when you finish the Ticket or Course, your income will increase.

Doing structured courses such as a Degree or Post Grad education needs some planning. Please contact us & we can develop a stratagem to accomplish this. One of the best ways to do this is to have the employer pay for the education and then you reimburse them through Salary Sacrifice. There is NO FBT and you get to pay the costs in before tax dollars. This is just an example of what can be planned.

4.8 Zone Offset

The ATO has a long standing rebate or tax offset to partially assist Australians who live remotely to help decrease costs associated with living in regional and remote Australia.

These areas of Zones are graded depending on the remoteness of the location. There is Zone A & Zone B and then within these areas specific special zones. The

ATO has a list of towns and their associated Zones. If where you live is not listed, then we can make a calculation to see if you are included.

You must be in the Zone for at least 183 days. The 183 days can be accumulated over 2 years. For some fly in and fly out workers, it may take 2 years to accumulate the 183 days. You may need to watch when you take holidays as this may impact on the 183 days. Chat to us if you need a hand to make the calculations.

FIVE: What is a SMSF & how do I get one?

A SMSF is a Self Managed Superannuation Fund. This is another option in choosing how your Superannuation money is to be treated. In MOST industries, it is possible for you to manage your existing and future Superannuation rather than relying on large industry, union and other public funds such as Sunsuper.

A SMSF is a Trust. You can have up to 4 persons or members in your Fund. All members are also the Trustees of the Fund and have the responsibilities to run the fund according to the laws and also invest the money to provide retirement benefits for each member.

There are now many hundreds of thousands of SMSF's in Australia. There are over 1.6 Billion in Assets managed by SMSF Trustees. You can take advice from your accountant and also financial planners when help is required, but you can also do your own investing without taking advices. It is up to you. Statistically, the ATO has stated that SMSF growth was greater than Public Sector Funds last year.

Running your own SMSF takes time. There is compliance to be adhered to and some rules to learn. It is not too hard otherwise there would not be as many as there are. Some Trustees take their time in the investing games, sticking to the basics like term deposits & blue chip shares. Others get more involved and buy rare coins & stamps, trade the markets, self funded warrants and even buy direct property.

Most mine workers have a choice of Fund, where you can choose where your Superannuation is invested. I have some strong suggestions that in your industry,

we need to run your SMSF and also keep your existing Super Policy open. I will explain why in person but it has a lot to do with insurance cover and also working closely with your employer.

It is not hard to set up a SMSF. There are some tricks and certainly the cheapest deeds on the market might not suit you. It only takes a couple of days to set up a SMSF, then it takes the ATO about 4 weeks to register it. Once this is established, you can open the bank account and make arrangements to roll over some of your money from the current Super Policy to your own SMSF. You can then start investing yourself.

At the end of the year there is the normal compliance needed, or financial accounts and tax returns, but added to this are statements to members and also an annual audit.

Our website has a lot of detail on it pertaining to SMSF's. We even have some YouTube links for online chats we do. If you want some specific advice, please ring the office.

SIX: What are the ins and outs of being a Contractor?

If you are not a direct employee of a mining company, but work for a contractor to the mining company, you may be invited to also become a contractor and not be an employee.

This is a hot topic with the ATO as it is well known that Contractors are able to legally arrange their affairs in such a way to pay less tax than if they did work as an employee.

The ATO provides a "decision tool" as a guide to help you understand if you are an employee or a contractor. This is the website to access it:

<http://calculators.ato.gov.au/scripts/axos/axos.asp?CONTEXT=&KBS=GEC.xr4&go=ok>

It is not easy to be a Contractor if all you provide is your skill and labour, if you work to set shifts and at the same location. Most Contractors quote on their work.

They work to a task to be performed and not just time. They provide tools, equipment and sometimes staff. They usually are a Company or Trust.

If you are invited to be a Contractor and not just an employee, have a chat with us to shape a plan that will work, especially under the scrutiny of the ATO.

SEVEN: What do I have to do to not pay Medicare Levy Surcharge?

The surcharge is an extra 1% over the normal Medicare levy charged to taxpayers whose income exceeds the thresholds set by the ATO and who do **NOT** have private hospital insurance.

The thresholds differ from individuals to couples and then to families. The income threshold is not your taxable income, but another definition that in many instances is greater than the taxable income. Such amounts as Reportable Fringe Benefits and Reportable Superannuation Contributions are added to your taxable income to return the income that the surcharge is calculated from.

Most miners easily exceed the threshold and are immediately charged the surcharge. To avoid this entirely, you need to join a health fund & have hospital cover. Care is needed in joining health funds as in your quest to avoid the surcharge, you can end up paying far more for health cover that is useless to you. So have a chat with those experts at www.iselect.com.au and see what they come up with to meet your medical needs and beat the surcharge.

EIGHT: How can Salary Sacrifice into Super be helpful?

The term Salary Sacrifice is used when payments are made or sacrificed from your Salary before the tax is calculated. This means that you usually pay less tax in these circumstances and the net take home after tax and the expense payment made, is better than if you had paid the expense in after tax dollars.

Many make contributions to their Superannuation Fund in before tax dollars or Salary Sacrifice into Superannuation. These amounts are shown in your annual PAYG statement used when doing your tax return.

From the perspective of your Super Fund or your SMSF as previously mentioned, this contribution is made by your employer and is termed a “concessional contribution”. You are limited to the amount of concessional contributions that can be made to Superannuation each year dependant on your age. If you are less than 50yrs, then the limit is \$25,000. If you are over 50yrs, then the limit is \$50,000.

Now this limit is for all concessional contributions, including the mandatory 9% paid. It also covers all Superannuation Funds you are a member of, so do not think you can get around it by paying into multiple funds.

The ATO will penalize you with an excess contributions tax if you exceed the above amounts, so it is important to get it right. The tax is costly and there is not a lot of negotiation with them on the matter.

NINE: How do I invest and save tax?

9.1 Invest in lowest tax payer

Save tax by investing in the name of the lowest tax payer. As we are in a marginal rate tax system, you may be able to structure your investments into the name of that person who is on the lowest tax rate.

9.2 Invest into mortgage

Save tax by investing into your mortgage. Simply put, the rate you are paying on your house loan is higher than what you're earning on term deposits. Of course, the interest saved on your house loan from paying it down with savings is tax free to you, presuming the loan you are paying down is not related to a rental property or other investment, but is the loan associated with your residential premises. Be warned that not all loans allow this and may not even allow you to redraw money out again, but most will allow this latitude and have a redraw facility.

9.3 Use offset account

Save tax by using an offset account. Simply, this is a separate savings account that does not declare interest, but offsets the interest it would have earned against your house loan. The effect is a tax free earning, but not as good as 9.2.

9.4 Invest in Capital Gains

Save tax by investing in a Capital Gain returning investment and not an income investment. This is a type of investing where income or interest is not declared, but the value of the investment increases over time. Investments in shares and public listed Trusts are an example. The method of calculating the income or gain for investments held over 12 months gives a great advantage over simple income paying investments. Of course, you can also structure the investment in the name of the lowest tax payer to also take advantage of the low tax brackets on the tax attributed to the discounted capital gain.

9.5 Invest in agri-business

Save tax by investing in agri-business or other types of warrants that allow you to borrow and pre-pay the interest. This becomes the realm of financial advisers to introduce you to products that suit your circumstances. There are many great opportunities to invest and save tax. Some of these investments have had troubles in the past, so be careful.

9.6 Invest in property

Save tax by gearing into property. This is not unusual as many taxpayers and clients alike have bought property and geared into it. Sometimes, it is their own homes back in the cities whilst they live in mining areas and rent the home out. Yes, you can save a lot of tax this way, but needs planning like everything else.

9.7 Timing returns from investment

Save tax by timing the returns from the investment. An example best proves this point. Bill is just finishing off his job in Tieri after 3 years, and returning back to his home in Mackay which puts him back on normal wages again. He will be back in the 30% tax bracket again, whereas in Tieri he was earning much more money and was on the highest rate of 46%. He decides after talking with his accountant to cash in his savings whilst he was earning big money. He redeems the capital investment in Shares and Managed Funds in the financial year that he is on the 30% tax rate and not in the year when he was in the 46% rate.

TEN: Where is the money going?

I become most surprised when doing personal tax returns for miners who are earning double than what they earned back in normal jobs, that they have no investments or interest earning on savings. Some are still paying the normal house payments on their homes being rented at home, even though they are earning more and their rental costs in some of these mining towns is so small it does not matter.

I find that when money is tight, families budget their money and track where they spend it and plan how it is going to be spent. They tell their children “no, we can not afford that”, but as soon as finances ease, they no longer budget and seem to be able to afford all the needs and wants they choose. Some justify out of control spending and debt with what they think they are owed as they work hard, they work in danger and they live isolated.

Then in a years time, when their wages return to normal and the impact of riotous living impacts, they are remorseful that they did not control and take advantage of the previous opportunities to get ahead.

May I suggest some light reading and some tips on what to do if you are earning good money yet you seem to be going nowhere. They are on my website via this link: http://holzlaw.com/other_white_papers.php. Look at “Mortgage Health Check” and “Home Finances Booklet”. Both give sound advice and perhaps even some old fashion points that have worked well for many decades.

Conclusion

This is a white paper and not a book, though it is as long as a book. There are many other topics and questions, but the overriding theme has been to alert you to action and to call us to then develop a plan that will work for you.

At this time, all the information is correct but tax laws change, even overnight sometimes, so another reason to call us is to make sure that before you act, we can alert you to any changes.

Regards

Melvin J Holzworth