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PSI rules - business premises test:
ATO Decision Impact Statement

On 3 December 2007, the Tax Office released a Decision Impact Statement on the AAT decision in AAT Case [2007] AATA 1786, Re Dixon Consulting Pty Ltd and FCT. The case concerned whether the taxpayer satisfied the business premises test and as a result was entitled to a personal services business determination from the Commissioner.

In AAT Case [2006] AATA 186, Re Dixon Consulting Pty Ltd and FCT (2006) 62 ATR 1104 (see 2006 WTB 10 [423]), the taxpayer succeeded in arguing that its business premises were separate from the residence for the purposes of the 'business premises test' in s 87-30(1) of the ITAA 1997. However, on appeal, the Federal Court in FCT v Dixon Consulting Pty Ltd (2006) 65 ATR 290 (see 2006 WTB 53 [2406]) held that the premises had to be used 'exclusively' by the taxpayer. As a result, the Court remitted the matter to the AAT to determine if the premises had been used exclusively by the taxpayer. The AAT found that the premises (ie a garage) had not been used "exclusively" by the taxpayer in carrying on its business for the purposes of satisfying the "business premises test" under the PSI rules.

The Tax Office said this was the first case to consider the application of the 'business premises test' in s 87-30. The Tax Office said the findings of the Federal Court and the Tribunal confirm its view in Taxation Ruling TR 2001/8.

Source: Lisa Mak, Thomson Weekly Tax Bulletin - 7 December 2007, Issue 51

APESMA Connect commentary
This case is noteworthy only in its confirmation of the need for business premises to be used exclusively for business purposes to satisfy the business premises test.