

Practice Update

October 2016

Government 'backflip' on superannuation changes

Following further consultation, the government has announced the following 'improvements' to the superannuation changes announced in the 2016/17 Budget:

- the \$500,000 lifetime non-concessional cap will be replaced by a new measure to reduce the existing annual non-concessional contributions cap from \$180,000 per year to \$100,000 per year;
- individuals with a superannuation balance of more than \$1.6 million will no longer be eligible to make non-concessional contributions from 1 July 2017; and
- the commencement date of the proposed 'catch-up' for concessional superannuation contributions will be deferred by 12 months to 1 July 2018.

Also, the government will now *not* change the contribution rules for those aged 65 to 74.

Editor: Clients who wish to discuss these superannuation changes should contact our office.

Fallout from 'Panama Papers' spreads

Editor: Earlier in the year, we reported that an unknown source had leaked 11.5 million documents from the Panamanian law firm of Mossack Fonseca – these are now referred to as the 'Panama Papers'.

Basically, the documents illustrated how many wealthy individuals are hiding their money and income from tax authorities around the world.

The Commissioner of Taxation, Chris Jordan, has announced that the ATO has made significant progress in dealing with those exposed in the Panama Papers who have tried to avoid their tax obligations.

He went on to say that, having commenced the assessment of the data, the ATO believes that some overseas structures and trusts are being used to:

- ◆ evade tax;
- ◆ avoid corporate responsibility;
- ◆ disguise and hide unexplained wealth; and
- ◆ facilitate criminal activity and launder the proceeds of crime.

The ATO has obtained information on offshore service providers who have established entities for Australians in secrecy jurisdictions to conceal their interests and wealth.

"Importantly, the sheer size of the information available to us for analysis should send a clear message to those who believe that their data is secure, hidden and beyond the reach of law enforcement and tax authorities – it is not."

Editor: In related news, the International Consortium of Investigative Journalists (ICIJ) has revealed that it has obtained a leaked Bahamian corporate registry which provides names of directors and owners of more than 175,000 Bahamian companies, trusts and foundations registered between 1990 and early 2016, which will also be made available to the public.

GST on low-value imports

Goods imported into Australia – often by consumers using the internet – which cost less than \$1,000 are currently GST-free.

On May 3 2016, as part of its package of Budget Night announcements, the Federal government proposed that, as of 1 July 2017, this low-value threshold ('LVT') of \$1,000 will be abolished.

The removal of the LVT will see many purchases made by individuals and businesses over the internet from an overseas vendor being subject to GST from 1 July 2017.

It is proposed that, as of 1 July 2017, overseas businesses with an Australian annual turnover of greater than \$75,000 will be *required to register* for GST and collect GST on sales made to Australian customers.

Editor: It has been reported that the Federal government could use powers it has under the Telecommunications Act to force internet service providers to block websites of overseas businesses that do not meet their Australian GST obligations (although it remains to be seen if they would go that far . . .)

Record keeping is always key to taking on the ATO

In a recent case before the Administrative Appeals Tribunal (AAT), amended assessments issued to a taxpayer by the ATO, which were based on the amounts of unexplained deposits to the taxpayer's bank accounts (in some years, in the hundreds of thousands of dollars, in others, millions), have been largely upheld.

The total further tax claimed by the ATO was almost \$4 million, and, on top of that, they imposed an administrative penalty of almost \$2 million (imposed at the rate of 50% for recklessness).

The taxpayer was partially successful in proving that some of the amounts deposited into bank accounts held in his name were not assessable income.

In particular, the taxpayer was able to demonstrate that some of the deposits were reimbursements of amounts he paid in relation to a group of companies of which he was an investor, and some were transfers from one of his bank accounts to another.

However, in relation to many of the deposits to his bank accounts, he had no corroborative evidence as to what they represented.

Therefore, he failed to discharge his onus to prove the amounts should not have been included in his assessable income.

Editor: Yet again the AAT has provided taxpayers with another reminder as to the importance of documentation and good record-keeping.

DHS – Data matching project

The Department of Human Services (DHS) (which operates Centrelink) has launched its 'Non Employment Income Data Matching project', matching income data it collects from "customers" with tax return related data reported to the ATO.

This project will assist the DHS to identify social welfare recipients who may not have disclosed income and assets to the Department, including welfare recipients who have lodged a Tax Return with the ATO during 2011 to 2014.

16 forced sales of properties illegally held by foreigners

The Treasurer has ordered the sale of a further 16 Australian residential properties that have been held by foreign nationals in breach of the foreign investment framework.

"The 16 properties were purchased in Victoria, New South Wales, Queensland and Western Australia, with prices ranging from approximately \$200,000 to \$2 million.

"The individuals involved come from a range of countries including the United Kingdom, Malaysia, China and Canada.

"Illegal real estate purchases by foreign citizens attract criminal penalties of up to \$135,000 or three years' imprisonment, or both for individuals; and up to \$675,000 for companies. The new rules also allow capital gains made on illegal investments to be forfeited."

Singapore and ATO to share data to reduce tax evasion

The Inland Revenue Authority of Singapore and the ATO have entered into an agreement on the automatic exchange of financial account information (based on the 'Common Reporting Standard').

This automatic exchange of financial information will commence by September 2018.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.