

JUNE 2017 TAX UPDATE

LEGISLATION

- Extension of SME \$20,000 instant asset write-off to 30/6/18 – Bill introduced
- Super reforms: changes to TRIS rules; CGT relief; pension cap; LRBA integrity - Bill introduced
- Medicare levy and surcharge low-income threshold increase – Bill introduced
- Company tax cuts, SME tax concession changes: Enterprise Tax Bill receives Assent
- Company tax cuts – Tranche 2: phased reduction to 25% for all companies - Bill introduced
- Senate committee -12-month delay recommended for start of GST low value goods
- Increased Commonwealth penalty unit – Bill passed and Royal Assent
- HELP repayment thresholds – Bill introduced
- Extending crowd-sourced equity funding – draft legislation released

CASES

- Share buyback payment - assessable as dividend - Cable & Wireless Australia & Pacific Holding BV (in liquidation) v FCT
- Liquidators appointed and freezing orders made against accounting and law firms and a director - DCT v A & S Services Australia Pty Ltd & Ors
- Commissioner entitled to recover GIC accrued - Bazzo & Anor v FCT
- Taxpayer's treatment of stud horse - Rowsthorn v FCT
- Car expenses for transporting equipment disallowed - Re Rafferty and FCT [2017] AATA 636
- Part IVA -dividend washing transactions - Re David Lynton as trustee for the David Lynton Superannuation Fund [2017] AATA 694
- Renewable power grant of \$2.5m to establish windfarms assessable income - Denmark Community Windfarm Ltd v FCT
- Appeals:
 - o Thomas (franking credit streaming)
 - o Primary Health Care Limited
 - o Chevron Australia Holdings Pty Ltd (transfer pricing)
 - o Binetter (Assessments out of time)

ATO

Rulings and determinations

- Super reforms:
 - o capped life expectancy and market-linked pensions - Law Companion Guideline LCG 2017/1
 - o death benefits and the \$1.6m pension cap - Law Companion Guideline LCG 2017/3
 - o SMSFs: pre-1 July 2017 commutation of death benefit income streams - Practical Compliance Guideline PCG 2017/6
- Deductions for super funds - Addendum to Taxation Ruling TR 93/17
- Transfer pricing post-Chevron: (cross-border related party financing) – Draft Guideline PCG 2017/D4

- Income tax: “crediting” an amount to a partner in a corporate limited partnership - Draft Taxation Ruling TR 2017/D4
- CGT: main residence exemption (dwelling built on pre-CGT land)- Taxation Determination TD 2017/13
- CGT: Asset acquired or disposed of on exercise of option - Taxation Determination TD 2017/12 delayed
- FBT car parking threshold for 2017 - Taxation Determination TD 2017/14
- Tax treatment of rights granted and retail premiums paid to shareholders - Draft Taxation Ruling TR 2017/D3
- 2016-17 corporate tax rate changes and over-franking - Draft Practical Compliance Guideline PCG 2017/D7

OTHER ATO UPDATES

- Website updates on Budget measures
- Super - reminders and warnings from the ATO
- SMSF early access scheme results in \$6,000 fine for promoter
- SMSF annual return due date extended to 30 June 2017
- Special current focus - cash-only businesses
- HELP repayment thresholds and rates for 2017-18
- PAYG withholding schedules for 2017 released
- AFP makes arrests over alleged \$165 million tax fraud syndicate

OTHER ISSUES

- Board of Taxation – update
- IGT review -ATO’s employer obligations audits

2017 FEDERAL BUDGET

Personal taxation

- Personal tax rates - no change
- 2% Budget deficit levy - ends 30 June 2017
- Medicare levy increased to 2.5% - 1 July 2019
- Medicare levy low-income thresholds for 2016-17
- Higher Education HELP (lower threshold for repayment and change in rates)

Business

- Major bank levy - 1 July 2018 - 0.06% on “liabilities”
- Company tax rate: Phase 2: 10-year rate reduction plan for \$50 million plus turnover
- SBE- instant asset write-off threshold extended – to 30/6/18 - \$20,000 (extra 12 months)
- Integrity measures:
 - o CGT small business concessions: restricted to assets used in business
 - o Taxable payments reporting system extended to couriers and cleaners
 - o Extra funds for ATO serious crime and black economy

Superannuation

- Super fund related-party transactions - non-arm’s length income rules to be amended
- Super borrowings - LRBA integrity measure for pension cap

Housing/Property

- No changes to negative gearing but:
 - o depreciation deductions limited for rental property
 - o No deduction for residential rental property travel expenses
- GST to be remitted by purchaser for new developments
- New 60% CGT discount for investments in “affordable housing”
- MIT investment in affordable housing – 10 year holding period
- CGT changes for foreign investors – Withholding rate up to 12.5% from 10%; amount 750k from 2m
- 50% Foreign ownership cap in new developments
- Annual charge on foreign owners of underutilised residential property – rate of \$5,000 p.a. where vacant 6 months of year or more
- First home super saver scheme- maximum of \$30,000 can be contributed to super (subject to annual concessional caps) and withdrawn for housing. Withdrawal amount taxed and marginal tax rate less 30% offset- start date 1 July 2017
- Super contributions- up to \$300,000 per person from downsizing a home for people over 65- not counted to 1.6 million cap

YEAR END TIPS

Income/Gains

- Defer invoices
- Unearned income not taxable
- Watch contract date for CGT crystallisation
- Some income types only derived when paid or credited e.g. interest, dividend, royalties
- Sale of Trading stock - on settlement

Deductions/Losses

- Loss crystallisation
 - o Revenue: “bring forward” expenditure
 - o Capital: Remember: ATO view on “wash sales”
- Bonuses
- Bad debts
- Review loss availability tests: Companies and COT/SBT and new similar business test
- Trust loss provisions
- Watch for correct revenue vs capital loss categorisation
- Review impact of commercial debt forgiveness for year-end loan “clean ups”
- Warranty claims
- Trading stock valuation –lower of cost, market or replacement elections
- Instant asset write off - \$20,000
- Scrapping obsolete plant and equipment
- Watch non-commercial loss provisions for high income earners
- Superannuation
 - o Concessional limits
 - o Non concessional limits
 - o General planning re \$1.6m cap

Documentation

- Amend trust deeds if required
- Trust distribution minutes
- Dividend minutes (watch paid/credited vs declared)
- Bonus minutes
- Document trading stock valuation
- Document bad debts and write off decision
- Execute asset transfer agreements where required