



## DECEMBER 2016

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### Personal Income Tax Cuts are Law

The Government has finally legislated the tax cuts originally announced in the May 2016 Budget, so that the marginal tax rate of 37% now starts at \$87,000. The following are the rates for adult residents for the 2016/17 income year (i.e. from 1 July 2016).

Taxable Income	Tax on this Income
0 – \$18,200	Nil
\$18,201 – \$37,000	19c for each \$1 over \$18,200
\$37,001 – \$87,000	\$3,572 plus 32.5c for each \$1 over \$37,000
\$87,001 – \$180,000	\$19,822 plus 37c for each \$1 over \$87,000
\$180,001 and over	\$54,232 plus 45c for each \$1 over \$180,000

The above rates do not include the temporary budget repair levy (due to expire on 30 June 2017), nor the Medicare levy of 2%.

The ATO has updated the tax tables and PAYG withholding tax schedules (and their online tax withheld calculator) to reflect these changes.

## ATO Warning for the Building and Construction Industry

The ATO has reported that the building and construction industry represents a disproportionate amount of its debt book, and has identified worrying trends that affect the industry.

Clients in the industry are encouraged to contact their tax agents regarding outstanding debts, as the ATO may be able to offer a range of payment options to help them get back on track sooner and reduce any interest they may be liable for.

Clients that fail to pay, or make arrangements to pay, may have their outstanding tax debts recovered through a garnishee notice.

## 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 3 May 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.

*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...).*

## Living Overseas but still Taxable Here

In a recent case, the AAT confirmed that a taxpayer was a resident of Australia for taxation purposes while he was living in Oman.

The taxpayer had left Australia in January 2008 to work in Oman, and he ended up working 21 months in Oman before returning to Australia permanently in September 2009.

Before leaving Australia, the taxpayer sold an investment property in Queensland, cancelled his Medicare card, cancelled his Australian private health insurance, and had his name removed from the electoral roll.

When he left Australia in January 2008, he completed an outgoing passenger card indicating that he was permanently departing Australia.

However, the ATO was of the view that the taxpayer remained a resident of Australia. In particular, his wife remained in Australia at a jointly-owned dwelling in Mt Martha, he had returned to Australia for three holidays where he stayed at the Mt Martha home with his wife, he maintained an Australian bank account, and sent money to Australia to help pay his wife's living expenses and to assist with repaying the mortgage on the home.

The AAT concluded the taxpayer had not severed his connections with Australia and had not established enduring and lasting ties in Oman (and so was still a resident of, and his income was taxable in, Australia).

## Crucial Issues to Consider when Buying a Company

Where a buyer commences to hold all of the shares in a company (including a company acting as trustee of a trust), they are highly likely to be appointed as a director of that company.

Although being a director in itself does not make the director personally liable for the debts of the company, there are two types of tax debts that are major exceptions to this rule, being PAYG withholding ('PAYGW') and compulsory employee superannuation guarantee ('SG').

That is, directors can be made personally liable for any outstanding PAYGW or SG, **even if** they were not a director at the time the debt was incurred.

Therefore, a key component of the due diligence process undertaken by a potential purchaser should be an assessment of whether the company is up-to-date with its PAYGW and SG obligations (as part of this, a potential buyer should also consider whether any 'contractors' to whom payments were made would be seen as 'employees' in the eyes of the ATO).

The buyer will also ordinarily want the vendor to provide some kind of indemnity in relation to the buyer's PAYGW and SG exposure.

### **Note:**

The 'old' directors do not cease to have exposure to unpaid PAYGW and SG. That is, **both** the 'old' and 'new' directors are all jointly and severally liable for these debts. This position does not alter even if a director resigns before the due date for payment of a relevant amount to the ATO.

## 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.

## ATO Data Matching Programs

The ATO has announced it is embarking on the following three (major) data matching programs.

### **Share transactions data matching program**

*The share transactions data matching program has been conducted since 2006 to ensure compliance with taxation obligations on the disposal of shares and similar securities.*

*The collection of transaction history data dating back to 20 September 1985 (the introduction of the CGT regime) is used to enable cost base and capital proceeds calculations.*

The ATO will continue to acquire details of around 61 million share transactions (in relation to 3.3 million individuals) for the period 20 September 1985 to 30 June 2018 from various sources, including share registries (such as Link Market Services, Computershare, Advanced Share Registry Services, and Automic Registry Services), and the Australian Securities Exchange Limited.

## Credit and debit card data matching program

The ATO will continue to annually acquire data relating to credit and debit card payments to merchants, in this case acquiring data for the 2015/16 and 2016/17 financial years from the big four banks, as well as other banks (such as the Bank of Queensland and the Bendigo and Adelaide Bank) and others involved with credit and debit card payments (including American Express, First Data Merchant Solutions, Diners Club Australia and Tyro Payments Limited).

It is estimated that around 950,000 records will be obtained, including 90,000 matched to individuals.

## Online selling data matching program

The ATO will continue to acquire online selling data, with an estimated 20,000 to 30,000 records obtained relating to registrants who sold goods and services to an annual value of \$12,000 or more during the 2016, 2017 and 2018 financial years, from eBay Australia and New Zealand Pty Ltd (which owns and operates [www.ebay.com.au](http://www.ebay.com.au)). It is estimated that around half of the matched accounts will relate to individuals.

# Superannuation Changes Passed by Parliament

The Government's extensive changes to the taxation laws regarding superannuation were passed by Parliament on 23 November 2016.

According to the Treasurer, Mr Scott Morrison:

*"The superannuation reform package better targets tax concessions to make our superannuation system fair and sustainable, as the population ages and fiscal pressures increase.*

*"The reforms include the introduction of a \$1.6 million transfer balance cap, which places a limit on the amount an individual can transfer into the tax-free earnings retirement phase and the introduction of the Low Income Superannuation Tax Offset".*

The amendments also include the following two new measures to provide more flexibility to help Australians save for their retirement:

- ) the removal of the '10% rule', allowing **anyone** (including employees) to claim a deduction for personal contributions into superannuation from 1 July 2017 (which will particularly help contractors who also draw income from salary and wages); and
- ) the ability for individuals with superannuation balances below \$500,000 to make 'catch up' concessional contributions from 1 July 2018 (allowing them to 'tap into' unused amounts of their contributions cap from prior years, which will help those with broken work patterns – the overwhelming number of whom are women – better save for their retirement).

*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.*

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