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Tax amnesty for undeclared offshore income

The ATO has launched a voluntary disclosure initiative known as "Project DO IT: disclose offshore income today". The Tax Commissioner, Chris Jordan, has warned that the initiative is a last chance opportunity for individuals who have not declared their overseas assets and income to come back into the tax system before 19 December 2014 in order to avoid steep penalties and the risk of criminal prosecution for tax avoidance.

The Commissioner says eligible individuals who make disclosures will only be assessed for applicable periods of review (generally only the last four years). A shortfall penalty of 10% (plus interest) will apply for these disclosures, although low-level disclosures will attract minimal or no penalties.

Individuals will also be able to obtain additional certainty (where circumstances call for additional surety) and seek assurance regarding the ATO's tax treatment of repatriated offshore assets. In addition, Commissioner Jordan says individuals will not be investigated or referred for criminal investigation by the ATO on the basis of their disclosures under Project DO IT.

TIP: The ATO notes that in order to receive the benefits of Project DO IT, individuals must make a "truthful disclosure" and lodge their disclosure statement before 19 December 2014. The ATO further notes that until the individual lodges the statement, the ATO's normal compliance activities will continue – if the taxpayer is detected first, they will not be able to benefit from the initiative.

ATO targeting online sellers

The ATO has announced a data-matching program targeting eBay online sellers. Broadly, the ATO is looking at and testing correct tax reporting taxpayers and identifying areas that require improved educational and compliance strategies encourage voluntary compliance by individuals. The ATO says it will gather data from New Zealand Pty Ltd relating to registrants goods and services of a total value of $10,000 or in either or both of the financial years 2 2012–2013. It is expected that records relating to between 15,000 and 25,000 individuals per financial year will be matched.

TIP: The ATO says it will contact individuals and businesses that it identifies as being a part of their business “off the books that result in them not reporting all their income. It says individuals will be given the opportunity to respond to the information it collects before any administrative action is taken.

Review of small business tax hurdles

The government has asked the Board of Taxation to conduct a "fast-track review" to identify features in the tax system that are hindering or preventing small businesses from reaching their commercial goals. The government says it wants "small business owners to spend less time on paperwork and more precious time and resources on growing their business".

The government says the Board's report should provide business and broader community perspectives on issues in the tax system that are of most concern to small businesses, and identify the short term priorities for small business tax reform in Australia. In particular, the government sa should focus on high priority options for simplification and deregulation.

The Board is due to deliver its report to the government by 31 August 2014. To assist the Board in

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identifying the most serious tax system impediments that small businesses face, the Board is conducting broad public consultations with the business community. Public consultation closes on 23 May 2014.

Protection from announced but un-enacted tax changes

Treasury has released draft legislation that seeks to implement the government's announcement that it would legislate to protect taxpayers in relation to previously announced but un-enacted tax amendments. The government had previously stated on 6 November 2013 that "there will be legislated protection for any taxpayer who has self-assessed with announced changes that the government will not proceed with".

The draft proposes to amend the tax law to introduce a protection provision to ensure that tax outcomes are preserved in relation to income tax assessments in specified circumstances. This protection operates primarily by placing a statutory bar on the Commissioner amending an income tax assessment to the extent that it reflects a taxpayer's anticipation of the impact of a prior announcement that was then later scrapped (and that meets other conditions set out in the legislation).

Small Business Superannuation Clearing House

The government has announced that the ATO has taken over responsibility for the Small Business Superannuation Clearing House. This clearing house is a free online superannuation payments service that helps small businesses with 19 or fewer employees to meet their superannuation guarantee obligations.

The Small Business Superannuation Clearing House was previously managed by Medicare. The government says there are now 58,000 employers registered with the clearing house. It says it is also encouraging the other 700,000 businesses that are potentially eligible to use the clearing house to sign up.

Superannuation guarantee obligations attracting ATO scrutiny

This year, the ATO is targeting the management advice and consulting, hairdressing and beauty, and clothing retail industries to ensure they meet their superannuation guarantee obligations. According to ATO Assistant Commissioner Emma Haines, these industries have been identified as being at risk of not meeting their obligations.

She says extra effort is being made to help businesses get their superannuation guarantee payments correct before audit activity focusing on these industries starts in July 2014. Assistant Commissioner Haines notes that contractors may also be eligible for superannuation contributions, even if they have an ABN.

TIP: Employers are entitled to a tax deduction for contributions made to a complying superannuation fund or a retirement savings account (RSA) for the purpose of providing superannuation benefits for their employees. The contributions are only deductible for the year in which they are made.

To maximise the deductions available, employers should ensure that the contributions are paid to their employees' superannuation funds or RSAs before 30 June.

Value of goods taken from private stock

The ATO has updated the amounts that the Tax Commissioner will accept for 2013–2014 as estimates of the value of goods taken from trading stock for private use by taxpayers in certain specified industries. For example, for a restaurant/café (licensed), the Commissioner will accept $4,400 (excluding GST) for each adult or child over 16 years of age. The ATO intends to adjust the values annually.

TIP: If you take an item of trading stock for your private use, you must account for it as if you had sold it and include the value of the item in your assessable income. If you want to, you can keep records of the actual value of goods you take from your trading stock for your own private use and report that amount.

The ATO says it recognises that greater or lower values may be appropriate in particular cases. The ATO says that where taxpayers are able to justify a lower value for goods taken from stock than that determined by the Commissioner, the lower amount should be used. The ATO says that where the value of goods ex-stock would be significantly greater, the actual amount should be used.

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PERSONAL TAXATION

2% deficit levy for three years from 1 July 2014 on incomes over $180,000

The Treasurer announced the introduction of a Budget deficit levy (ie tax), which will apply for three years from 1 July 2014. This temporary levy will apply at 2% for incomes over $180,000 (ie 2% on taxable income in excess of $180,000).

EXAMPLE: An individual with a taxable income of $200,000 will pay 2% of $20,000, ie a levy of $400.

The new levy is expected to affect a relatively small number of people (around 400,000 taxpayers). When taking into account this new levy and the Medicare levy (which is already legislated to increase from 1.5% to 2% from 1 July 2014), the top marginal tax rate will be 49% from 1 July 2014 to 30 June 2017.

As a result of the new deficit levy, the government will also increase the FBT rate (see Business Taxation).

Medicare levy thresholds for families increased for 2013–2014

From 2013–2014, the Medicare levy low-income threshold for families will be increased to $34,367 (up from $33,693 for 2012–2013). The additional amount of threshold for each dependent child or student will also be increased to $3,156 for 2013–2014 (up from $3,094).

The low-income threshold for individuals will remain at $20,542 for 2013–2014 (unchanged from 2012–2013). Likewise, the low-income threshold for senior Australians will remain at $32,279 for 2013–2014 (unchanged from 2012–2013). This threshold applies to those entitled to the seniors and pensioners tax offset (SAPTO).

Several tax offsets to be abolished

The Treasurer announced that the following tax offsets will be abolished from 1 July 2014:

- nearly all of the dependant tax offsets, including the dependent spouse tax offset, for all taxpayers; and
- the mature age worker tax offset, which will effectively be replaced by new incentives to employ older works (see Other Changes).

WELFARE/PENSION MEASURES

Age Pension age to increase to 70 by 2035

The Treasurer confirmed his earlier announcement that the government will raise the eligibility age for the Age Pension to 70 years by 2035.

From 1 July 2025, the qualifying age will continue to rise by six months every two years from the qualifying age of 67 years (which will apply by that time) to gradually reach a qualifying age of 70 years by 1 July 2035. Individuals born before 1 July 1958 will not be affected by this measure.

Family Tax Benefit changes: two-year freeze on rates and other changes

The government will freeze the current Family Tax Benefit (FTB) payment rates for two years from 1 July 2014. Under this measure, indexation of the maximum and base rates of FTB Part A and the rate of FTB Part B will be paused until 1 July 2016.

The Treasurer also announced other changes to FTB, including a reduction in the FTB Part B primary earner income limit from $150,000 per annum to $100,000 per annum, with effect from 1 July 2015.

Freeze on eligibility thresholds for Australian Government payments

The government will freeze the eligibility thresholds for Australian Government payments for three years. This will apply to:

- non-pension payments (Family Tax Benefit, Child Care Benefit, Child Care Rebate, Newstart Allowance, Parenting Payments and Youth Allowance) for three years from 1 July 2014; and
- pension and related payments (Age Pension, Carer Payment, Disability Support Pension and the Veterans' Service Pension) from 1 July 2017.

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BUSINESS TAXATION

FBT tax rate impacted by deficit levy

The Treasurer said that in order to prevent high income earners from utilising fringe benefits to avoid the levy, the FBT rate will be increased from 47% to 49% from 1 April 2015 until 31 March 2017. The cash value of benefits received by employees of public benevolent institutions and health promotion charities, public and not-for-profit hospitals, public ambulance services and certain other tax-exempt entities will be protected by increasing the annual FBT caps. In addition, the fringe benefits rebate rate will be aligned with the FBT rate from 1 April 2015.

Reduction in R&D offset rates

The rates of the refundable and non-refundable research and development (R&D) tax offsets will be reduced by 1.5 percentage points with effect from 1 July 2014. This means that the refundable offset will be reduced to 43.5% and the non-refundable offset will be reduced to 38.5%.

Employee share scheme reform on hold

Many had expected the Treasurer to announce long-awaited changes to simplify the application of the employee share scheme rules. However, the Budget was silent on this.

The rules, which have operated since 1 July 2009, have been repeatedly criticised as being too complex, in need of simplification and a disincentive for companies to offer their employees share plans. While it is understood that the government is essentially receptive to the need for change, the Budget did not provide any welcome news in this area.

SUPERANNUATION

Option to withdraw excess non-concessional contributions

The government will give individuals the option of withdrawing excess non-concessional contributions made from 1 July 2013 and any associated earnings, with those earnings to be taxed at the individual's marginal tax rate. (Non-concessional contributions notably include non-deductible personal contributions made from a member's after-tax income.)

Currently, superannuation contributions that exceed the non-concessional contributions cap are taxed punitively at 46.5%. The proposed new measure will bring the tax treatment of excess non-concessional contributions in line with that for excess *concessional* contributions, for which taxpayers already have a withdrawal option.

Superannuation guarantee rate will rise to 9.5% on 1 July 2014

Instead of pausing the superannuation guarantee rate at 9.25% (as previously announced), the government will now allow the rate to rise to 9.5% on 1 July 2014 and will leave it at this level until 30 June 2018. As such, employers are required to increase their superannuation contributions on behalf of employees to 9.5% of ordinary time earnings from 1 July 2014.

The percentage will then increase by 0.5% each year until it reaches 12% from 2022–2023, a year later than previously proposed.

OTHER CHANGES

New incentive for employers to hire Australians aged 50 years or over

The Treasurer has announced that employers will be able to receive up to $10,000 in government assistance if they hire a job-seeker aged 50 years or over. This program will replace the Seniors Employment Incentive Payment.

Under the program, eligible employers will receive an initial $3,000 if they hire a full-time mature-age job seeker who was previously unemployed for six months and they employ that person for at least six months. The employer will then be eligible to receive further payments as the employee meets certain further service periods.

Fuel excise to rise (except for aviation fuels) – indexation to be re-established

The government will secure funding for additional road infrastructure projects by re-introducing biannual indexation by the CPI of excise and excise-equivalent customs duty for all fuels except aviation fuels. This will commence from 1 August 2014.

The diesel fuel rebate is unchanged, meaning it will continue to apply to excise, including the excise increase.

New assistance for small businesses

The government will establish:

- the "Small Business and Family Enterprise Ombudsman" to act as a one-stop shop and a single entry point as a means for small businesses to find out about government services and programs; and
- a unit in the Department of Finance to provide specialist advice on contracts and to ensure small businesses are not disadvantaged as part of Commonwealth departments' tendering and procurement processes.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.