TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

BUDGET EDITION 19–2016

INSIDE

- Industries on the ATO's radar this year
- Federal Budget - superannuation changes
- ATO to focus on collectables
- Federal Budget - Individuals
- Tax on gifts and donations
- Federal Budget - flexible super

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Building financial strength

Federal Budget - small business

This year's Federal Budget is based on a ten-year enterprise tax plan designed to stimulate more small business activity by boosting new investment, creating jobs and increasing real wages.

One of the key features of this plan is that the small business entity annual turnover threshold will be increased from $2 million to $10 million from 1 July 2016. The increased threshold will not apply for the purpose of accessing existing small business capital gains tax concessions.

The Government will also reduce the corporate tax rate for businesses with a turnover of less than $10 million per year to 27.5 per cent from 1 July 2016. This lower rate will be progressively reduced to 25 per cent over 10 years.

An 8 per cent unincorporated tax discount will be provided to unincorporated businesses with turnover less than $5 million per annum, capped at $1,000 per year from 1 July 2016 for the following eight years. The discount will increase to 16 per cent in increments from 2024 to 2026 to coincide with the staggered reductions in the corporate rate.

All Australian small businesses from 1 July 2016 with an annual turnover of less than $10 million will have access to:

Simplified depreciation rules

These include immediate tax deductibility for asset purchases costing less than $20,000 until 30 June 2017.

Simplified trading stock rules

New rules will give businesses the option to avoid end of year stocktake if the value of their stock has changed by less than $5,000.

Simpler PAYG instalments

Instalments will be calculated by the ATO, removing the risk of under or overestimating PAYG and the resulting penalties that may be applied.

The option to account for GST

Small businesses will have the option to account for GST on a cash basis and pay GST instalments as calculated by the ATO.

Other tax concessions

Other tax concessions that are currently available to small businesses, such as fringe benefits tax (FBT) exemptions (from 1 April 2017 to align with the FBT year).

A trial of simpler BAS

The trial is to reduce GST compliance costs, with a full roll-out from 1 July 2017.

These threshold changes will not affect eligibility for the small business capital gains tax concessions, which will remain available for businesses with annual turnover of less than $2 million or that satisfy the maximum net asset value test.

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Industries on the ATO's radar this year

The ATO has identified that businesses in the supermarket, bakery, computer system design and car retailing industries often need more help meeting their tax and super obligations.

From July 2016, the ATO will be undertaking audits of employers who continually fail to meet their obligations, particularly those who do not correctly meet their superannuation obligations. In this regard, the tax office will be examining:

- how much employers are required to pay
- if employers are meeting their quarterly deadlines
- if employers pay super for contractors
- if employers are keeping accurate records
- if employers pass on an employee's TFN to their super fund within 14 days of receiving it

Employers must pay their employees superannuation if all of the following apply:

- the employee is aged 18 years old or over
- the employee is paid $450 (before tax) or more in a calendar month
- the employee works on a full-time, part-time or casual basis

Super payments for employees must be made at least four times a year by the quarterly due dates of April 28, July 28, October 28 and January 28. Employers who miss those deadlines become liable for the Superannuation Guarantee Charge (SGC).

The ATO has said it will support employers who genuinely try to rectify their mistakes by catching up on late payments and paying a little extra into their employee fund accounts. No action is likely to be taken in these circumstances. However, if an employer does nothing and waits for an employee complaint or for the ATO to audit their business, the ATO has warned that the SGC and other penalties may be applied.

The ATO has also reminded employers that they must pay superannuation contributions for contractors who they employ under a contract that is wholly or principally for the labour of that person. The reasoning behind this is because the contractor is considered as an employee for the purpose of super guarantee.

Another area where employers make mistakes is regarding the choice of employee super funds. All employees are eligible to choose which super fund their super contributions are paid into, therefore employers must provide them with a standard choice form within 28 days of the employee commencing work. While employees do not have to complete the form if they don't want to nominate a fund, employers must give them a choice if they are eligible.

Federal Budget - superannuation changes

The Budget has introduced a series of changes to superannuation tax arrangements that are intended to align superannuation with the purpose of providing income in retirement.

The key elements of the superannuation changes include:

Introducing a transfer balance cap

There will be a $1.6 million superannuation transfer balance cap on the total amount of super that individuals can transfer into retirement phase accounts. While this limits taxpayer support for tax-free retirement phase accounts, it does not restrict the savings that can accumulate outside of superannuation or in superannuation accumulation phase accounts.

Increasing the 15 per cent tax rate on concessional contributions

Those with combined incomes and super contributions greater than $250,000 will now be required to pay 30 per cent tax on their concessional contributions. This extends the current treatment of people with combined incomes and superannuation contributions over $300,000. Superannuation fund members who are affected will still have significant incentives to save for their retirement alongside other provisions.

Lowering the superannuation concessional contributions cap

The superannuation concessional contributions cap will be lowered to $25,000 per annum to provide more flexibility and accommodate modern working arrangements. Reducing the caps will only affect around three per cent of superannuation fund members, who will still be able to make enough contributions during their working life to be self-sufficient in retirement.

$500,000 lifetime cap for non-concessional contributions:

The lifetime cap will limit the extent individuals can use superannuation for tax minimisation and estate planning. Less than one per cent of Australian superannuation fund members have made contributions above this cap since 2007.

Low Income Superannuation Tax Offset:

The Low Income Superannuation Tax Offset (LISTO) will replace the Low Income Superannuation Contribution when it expires on 30 June 2017 to continue to support the accumulation of superannuation for low-income earners. The LISTO will allow individuals with an adjusted taxable income of $37,000 or less to receive a refund of the tax paid on their concessional contributions, up to a cap of $500. The LISTO will, in particular, assist women to build their superannuation savings.

ATO to focus on collectables

The ATO is working with insurance companies to assess artworks and collectables owned by taxpayers and identify the owners of these kinds of assets.

There has been an increasing concern by the ATO that assets such as collectables are not being properly accounted for. Since these assets may be subject to capital gains tax (CGT) on disposal, taxpayers should be properly accounting for their assets and aware of any CGT applicable.

Collectables are items that individuals use or keep mainly for the personal use or enjoyment by them or their associates and include items such as paintings, sculptures, drawings, engravings or photographs, reproductions of these items or property of a similar description or use, jewellery, antiques and coins.

A collectable also includes an interest in any of the items listed above, a debt that arises from any of those items or an option or right to acquire any of those items.

Capital gains or losses made from a collectable can be ignored provided the collectable was acquired for $500 or less; the interest in the collectable acquired was for $500 or less before 16 December 1995, or the interest in the collectable had a market value of $500 or less when acquired.

Capital losses from collectables can be used only to reduce capital gains (including future capital gains) from collectables. There is no time limit on how long a net capital loss from the disposal of a collectable can be carried forward.

The ATO's attention is not limited to capital gains tax and new rules have been introduced in relation to the recording and storage of collectables held by self managed super funds.

From 1 July 2016 new rules regarding any collectable and/or artwork owned by an SMSF state:

- collectables cannot be stored at an SMSF trustee's residence

- an SMSF trustee or a related party is not permitted to lease or use any of the collectables
- the collectable must be insured by its own separate policy
- the storage decisions by the trustees must be documented and minuted
- if the collectable is to be sold to an SMSF trustee or related party, then a valuation by a qualified independent valuer may be required to determine the market value

FEDERAL BUDGET 2016

Federal Budget - individuals

The Government is now giving individuals a greater incentive to work without being taxed more by making a start to personal income tax relief.

The changes will take place from 1 July 2016 and will prevent average full-time wage earners from moving into the second top tax bracket until 2019-2020, by increasing the 32.5 per cent tax threshold from taxable incomes of $80,000 to $87,000. This will affect around 500,000 taxpayers who will no longer face the 37 per cent marginal tax rate.

The policy objective is designed to keep those earning average wages in the middle tax bracket for longer. This measure will reward hard working Australians for doing more overtime, picking up more shifts, taking a promotion or a better new job, without being penalised by paying more tax through the higher rate.

In addition, the Government will increase the low-income thresholds for the Medicare levy and surcharge from the 2015/16 income year, so that low–income taxpayers can continue to be exempted from paying the Medicare levy.

Tax on gifts and donations

Individuals can claim tax deductions when giving gifts or donations to organisations that have the status of deductible gift recipients (DGR).

To be eligible to claim a tax deduction for a gift, the ATO stipulates that it must meet the following four conditions:

- the gift must "truly be a gift"; that is, a voluntary transfer of money or property where the giver receives no material benefit or advantage
- the gift must be made to a deductible gift recipient (DGR)
- the gift must be money or property
- the gift must comply with any relevant conditions. For some DGRs, the income tax law adds extra conditions affecting the types of deductible gifts they can receive.

What you can claim

The amount an individual can claim for a gift or donation depends on the type of gift given. For gifts of money, individuals can claim the total amount of the gift, as long as it is $2 or more.

Different rules exist for gifts of property, and the amount of the tax deduction depends on the value and type of property.

Tax deductions for the majority of gifts can be claimed in the tax return for the income year when the gift is made. However, individuals can also spread the tax deduction over five income years under certain circumstances.

What you can't claim

Individuals cannot claim a tax deduction for gifts or donation items that provide some personal benefit, such as raffle tickets, the cost of attending fundraising dinners (unless certain conditions are met), membership fees, payments to school building funds, payments where there is an understanding with the giver and recipient that the payments will be used to provide a substantial benefit for the giver.

Federal Budget - flexible super

The Budget has made changes that reflect that the current superannuation system is out of kilter with individuals current lifestyles, with the introduction of more flexibility to address this.

Concessional contributions

Individuals under the age of 75 will now be able to claim tax deductions for personal superannuation contributions. From 1 July 2017, individuals can make concessional super contributions up to the concessional cap. This will benefit partially self-employed individuals and partially wage and salary earners whose employers do not offer salary sacrificing.

The Budget will improve the superannuation balances of low-income spouses as the current spouse tax offset is extended to assist more families in accumulating superannuation. The current income threshold for the receiving spouse (whether married or de facto) will be lifted from $10,800 to $37,000.

A contributing spouse will be eligible for an 18 per cent offset worth up to $540 for contributions made to an eligible spouse's superannuation account.

Catch-up concessional superannuation contributions will be introduced to allow those with lower contributions and interrupted work patterns to make 'catch-up' payments to boost their nest egg. This will apply to those with account balances of $500,000 or less whereby allowing unused concessional contribution caps to be carried forward on a rolling basis for up to five years.

Contribution rules removed for older Australians

Australians aged 65 to 74 will be able to access the bring-forward of non-concessional contributions, minimum work requirements for voluntary superannuation contributions and restrictions on spouse contribution from 1 July 2017. The incentive is to assist older Australians to make superannuation contributions appropriate to their circumstances.

Retirement income products

Barriers are being removed to encourage innovation in the creation of retirement income products. These income products can enhance the flexibility and choice for retirees to better manage risk and improve their standard of living in retirement.

From 1 July 2017, the tax exemption on earnings in the retirement phase will be extended to products such as deferred lifetime annuities and group self-annuitisation products.

Income protection insurance

Many Australians overlook the tax deduction they have available for the premiums paid for income protection insurance.

Income protection insurance policies are designed to protect individuals in the event they become unable to work due to sickness or an accident. Policies will generally pay a portion of an individual's income up to a maximum time period if they are unable to work. Payments are usually subject to a waiting period.

Generally speaking, taxpayers can claim the cost of premiums they pay for insurance against the loss of income. However, any amounts received for lost salary or wages under an income protection insurance policy must be included in an individual's income tax return.

Where an insurance policy provides for benefits of an income and capital nature, only that part of the premium attributable to the income benefit is deductible. Taxpayers cannot claim a deduction for a premium or any part of a premium for a policy that compensates them for such things as physical injury. Proceeds received from this form of insurance are usually tax-free, provided certain conditions are met.

Individuals cannot claim a tax deduction for a premium where the policy is taken out through superannuation and insurance premiums are deducted from their super contributions.

Renting out a room can incur CGT

Many taxpayers who rent out a room in their home, whether it be via Airbnb or another avenue, are unaware that the practice can incur capital gains tax (CGT).

Many assume CGT does not apply because profit made on the sale of the family home (or 'primary residence') is tax-free. However, those who earn an income from a portion of the family home may inadvertently create a capital gains tax liability.

Some people are aware that renting out a portion of their home may trigger a capital gain event, but errors when calculating the percentage of the property the calculated gain should be attributed to are still common.

Taxpayers that sell a property need to work out the portion of the property that was used for 'investment' or 'income producing' purposes based on the floor area rented out as a percentage of the total property. This needs to then be apportioned to the period that space was made available to rent for the duration of ownership.

Even though CGT is affected by events throughout the ownership period, it is often calculated many years down the track. Many owners do not remember or are unable to locate records for a relatively short time in which they were renting part of the house out.

Taxpayers may have some CGT relief where they owned the property for more than a year, giving them a potential CGT discount of 50 per cent.

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