BARRIS ACCOUNTING
CERTIFIED PRACTICING ACCOUNTANT

Practice Update

Please read this update and contact our office if you have any queries

December 2016

Personal income tax cuts are law!

Editor: 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.

Superannuation changes passed by Parliament

Editor: 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).

ATO Data matching programs

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

Share transactions data matching program

Editor: 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). It is estimated that around half of the matched accounts will relate to individuals.

Last chance for non-arm's length related party LRBAs

The ATO has released a taxation determination regarding how it will apply the non-arm’s length income (‘NALI’) rules to income generated from assets purchased by an SMSF using a related party 'limited recourse borrowing arrangement' (or 'LRBA'). Although the ATO states that: *"in some very limited circumstances, the NALI provisions may not apply to an arrangement, even though it’s not on arm’s length terms"*, in their opinion, for the vast majority of cases, if there is an LRBA that is not at an arm’s length terms, NALI will arise and the income may be taxed at the highest marginal tax rate of 47%.

Editor: Importantly, the ATO has given SMSFs until 31 January 2017 to 'get their house in order'. This means that all SMSFs with related party borrowings should review the terms of those borrowings by 31 January 2017 to consider whether they are 'arm's length'. Please contact this office if you would like any assistance in this regard.

Leased properties were still 'new residential premises'

The AAT has held that GST applied to the disposal of four properties that had been built, leased and then sold.

Editor: GST does not ordinarily apply to sale of residential premises unless they are 'new residential premises'. However, there is a special rule in the GST law that states that a newly constructed property will not be 'new residential premises' if it has been applied only to receive residential rent (i.e., leased out) for at least a five year period.

In this case, the taxpayer had acquired four properties between November 2003 and August 2007, then built residential dwellings on them and, once completed, the dwellings were leased, and then sold between January 2011 and August 2012.

The AAT agreed with the ATO that the sales of the four properties in question should be treated as sales of new residential premises.

In particular, some of the dwellings had been simultaneously marketed for sale whilst being leased. Also, there were periods of time where the dwellings were without a tenant.

Due to the combination of these factors, none of the dwellings were used **only** for making input taxed supplies (of residential rent) for a five year period. Therefore, when disposed of, they should have been treated as taxable supplies and subject to GST.

The AAT also held that the 'margin scheme' could not be applied to reduce the GST payable, as the taxpayer was not able to provide any written evidence of an agreement between her and the purchasers to apply the margin scheme, as required by the GST Act.

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.