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Practice Update

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

March - April 2017

New office opening – 145 Edward Street, Ayr

To celebrate the opening of the new Ayr office this month, we took a rare opportunity to get most staff together in one place. We look forward to seeing you in our new home soon!



Please note that all phone numbers, facsimile numbers, postal addresses and email addresses remain the same, as does the location of the Home Hill Office.

Deal struck on Enterprise Tax Bill

A deal has been struck between the government and Senator Nick Xenophon to pass the *Treasury Laws Amendment (Enterprise Tax Plan) Bill 2016*.

The revised Bill enables:

- An increase to the aggregated turnover threshold to \$10 million for access to small business tax concessions from 2016-17.
- *Note that the current aggregated turnover threshold of \$2 million will be retained for the small business CGT concessions.*
- Progressive reductions in the corporate tax rate for base rate entities (corporate tax entities that carry on a business with an aggregated turnover of less than \$50m) to:

Corporate tax rate	Less than \$10m	Less than \$25m	Less than \$50m
2016-17	27.5%	30%	30%
2017-18	27.5%	27.5%	30%
2018-19 to 2023-24	27.5%	27.5%	27.5%
2024-25	27%	27%	27%
2025-26	26%	26%	26%
2026-27	25%	25%	25%

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- An increase to the aggregated turnover threshold to \$5 million for access to the small business income tax offset from 2016-17.
- An increase to the unincorporated small business tax discount to 8% from 2016-17. The offset will be capped at \$1,000.

The final amendments exclude businesses with an aggregated turnover of \$50 million or more from the tax cuts. These entities will continue to pay a corporate tax rate of 30%.

The Bill has passed the Senate with amendment and will now go back to the House of Representatives where the Government holds a majority. **The next sitting day to formally pass this Bill is 9 May.**

More information

- Media Release - [Turnbull Government introduces Ten Year Enterprise Tax Plan](#)
- [Treasury Laws Amendment \(Enterprise Tax Plan\) Bill 2016](#) - see the *Supplementary explanatory memorandum*

Reduction in FBT rate from 1 April 2017

In conjunction with the introduction of the temporary budget repair levy (of 2%, payable by high income earners), the FBT rate was also increased from 47% to 49% for the 2016 and 2017 FBT years.

However, the FBT rate will revert back to 47% from 1 April 2017.

This means there will be a discrepancy between the FBT rate and the effective income tax rate for high income earners from 1 April 2017 until 30 June 2017.

This means that any such high-income earners that genuinely and effectively salary sacrifice relevant fringe benefits (e.g., expense payment fringe benefits, such as school fees or residential rent) during that period, so long as their employer is happy to assist, could basically reduce the tax payable on that income by 2%.

Super changes may require action by 30 June 2017!

Due to the introduction of the new 'transfer balance cap' from 1 July 2017, super fund members with pension balances (in 'retirement phase') exceeding \$1.6 million will need to partially commute one or more of their pensions to avoid the imposition of excess transfer balance tax.

In addition, members in receipt of a transition to retirement income stream ('TRIS') will lose the pension exemption from 1 July 2017.

This means that the future disposal of any assets currently supporting such pensions will potentially generate a higher taxable capital gain (even though the disposal of the asset prior to 1 July 2017 could be fully or partially tax-free, depending on whether the asset is a segregated or unsegregated asset).

Fortunately, to avoid funds selling off assets before 1 July 2017, transitional provisions have been introduced to allow super funds to apply CGT relief in certain situations.

Although the choice to apply the CGT relief can be made up until the day the super fund is required to lodge its 2017 tax return, in many cases, action must be taken **on or before 30 June 2017** for the fund to even be eligible to make that choice. In particular, funds calculating exempt pension income using the segregated assets method will generally need at least a partial commutation of the pension.

Please contact our office if you need any information regarding the super reforms, including what needs to be done to obtain CGT relief (if necessary), whether a TRIS should be commuted to accumulation phase or continued into the 2018 year, and how the new contribution rules will affect contributions in both the current and future years.

Working holiday makers – 2017 early lodgers

The ATO has advised that the recent change to tax for working holiday makers means there are extra steps tax agents need to take when preparing an early 2017 income tax return for these clients.

We will obviously be able to help you this. Basically, we will need to provide the ATO with a schedule separately identifying income earned up to 31 December, and then from 1 January onwards, to ensure the correct tax rates are applied (along with any deductions associated with the income period).

ATO data regarding Super Guarantee non-compliance

The ATO has provided some information about Superannuation Guarantee (SG) non-compliance in its recent submission to a Senate inquiry into the impact of the non-payment of the Superannuation Guarantee.

In addition to marketing and education activities to re-enforce the need for employers to meet their SG obligations, the ATO conducts audits and reviews to ascertain SG non-compliance, with 70% of cases stemming from **employee notifications** (the remaining 30% of cases are actioned from ATO-initiated strategies).

On average, the ATO receives reports from

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employees which relate to approximately 15,000 employers each year, although the ATO finds that nearly 30% of these employers *have* in fact paid the required SG to their employee.

However, an SG shortfall is identified in the remaining 10,000 cases (this represents approximately 1% of the estimated 880,000 employers who make SG payments).

The top four industries from which reports are received by the ATO are from:

- ◆ Accommodation and Food Services;
- ◆ Construction;
- ◆ Manufacturing; and
- ◆ Retail Trade.

These four industries represent approximately 50% of the audits and reviews undertaken.

The ATO also noted that the proposed **Single Touch Payroll (STP)** will help overcome certain limitations in the data currently provided to the ATO (as well as simplify taxation and superannuation interactions for employers, by aligning the reporting and payment of PAYG withholding and SG with a business's natural process of paying their employees).

Use of STP is mandated for businesses with 20 or more employees from 1 July 2018, and a pilot program will be undertaken in 2017 to identify the nature of STP benefits for small businesses.

For further information on 'Single Touch Payroll' visit: [Single touch payroll](#)

Ride-sourcing is 'taxi travel'

In a recent case, the Federal Court has agreed with the ATO that 'ride-sourcing' (such as that provided using Uber) is 'taxi travel' within the meaning of the GST law.

The ATO has advised people who are taking up ride-sourcing to earn income should:

- keep records;
- have an Australian business number (ABN);
- register for GST, regardless of how much they earn, and pay GST on the full fare received from passengers for each trip they provide;
- lodge activity statements; and
- include income from ride-sourcing in their income tax returns.

Drivers are also entitled to claim income tax deductions and GST credits (for GST paid) on expenses apportioned to the ride-sourcing services they have supplied.

The ATO warns that they can match people who provide ride-sourcing through data-matching, and will continue to write to them to explain their tax obligations.

Making 'intangible' capital improvements to pre-CGT assets

The ATO has confirmed that, if intangible capital improvements are made to a pre-CGT asset, they can be a 'separate CGT asset' from that pre-CGT asset if the relevant requirements are satisfied.

The result of this is that, while the disposal of the pre-CGT asset itself will be exempt from CGT, the improvements which are treated as a separate, post-CGT asset could still give rise to CGT.

Example

A farmer, holding pre-CGT land, obtains council approval to rezone and subdivide the land.

Those improvements may be separate CGT assets from the land, so if the land is sold with those improvements (the council approval), there may be some CGT (even though the land itself is exempt).

When can I claim self-education expenses?

Normally, if you undertake study that is connected to your work you can claim the costs of that study as a tax deduction - assuming your employer has not already picked up your expenses. There is also no limit to the value of the deduction you can claim. While this all sounds great and very encouraging there are issues to consider before claiming your Harvard graduate degree, accommodation and flights as a self-education expense.

A recent case before the Administrative Appeals Tribunal (AAT) looked at, amongst other claims, a large claim of \$48,000 for self-education expenses. In this case, the taxpayer was an engineer who was employed by a company in the heating, ventilation, and air conditioning industry.

In his 2014 tax return, the taxpayer claimed significant expenses relating to research and development projects undertaken in connection with his PhD studies at university. His thesis related to efficient air conditioning systems. A lot of the expenses he claimed were to test the findings of his new invention. The taxpayer also claimed that he spent considerable monies to protect his intellectual property and to submit applications for provisional patents for his invention. His argument for the self-education expenses was that his research was a form of self-education as he could not simply read a

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book or complete a course to advance his understanding. His experiments were a necessary part of his study.

To be deductible, the study must be connected to the income you are earning (either to maintain or improve your specific skills or knowledge), or is likely to result in increased income from existing income earning activities. The problem for the taxpayer in this case was that the expenses were not really connected to his job (his income), but to the industry he specialised in.

The AAT found that the expenses were not deductible as they did not relate to his employment activities and there was no direct connection with the university course. Instead, the expenses related to his own inventions, which he hoped could be commercialised in the future. At best, the expenditure related to a possible future income earning activity, but the expenditure in this case was incurred too soon to be deductible. Without this nexus between income and the expenses, the expenses are not deductible.

The ATO is more likely to target large self-education expenses. For anyone who has completed post graduate study you know that these expenses can ratchet up very quickly, particularly when you add in any other expenses such as books or travel. It's important to ensure that there is a clear connection between your current job or business activity and the expenses you are claiming before you claim them.

No overtime meal allowance, no overtime meal deduction

An employee construction project manager/supervisor was denied deductions for overtime meal expenses, as he was not paid an overtime meal allowance under an industrial agreement (award).

The taxpayer often worked at nights and on weekends during the relevant income years, and so additional amounts were negotiated and 'rolled into' his salary to cover the fact that he was expected to work additional hours, and also to cover any out-of-pocket expenses associated with such overtime.

However, the taxpayer's salary was not paid under an award, which was simply used as a starting point in annual remuneration negotiations (and he was paid the same amount each week, regardless of hours worked or expenses incurred).

Therefore, the AAT agreed with the ATO, finding that the taxpayer had received no overtime meal allowance under the relevant industrial award.

As no deduction is claimable under the income

tax law for overtime meal expenses unless an appropriate award overtime meal allowance is paid, the Tribunal swiftly dismissed the taxpayer's appeal, and also affirmed the 25% administrative penalty.

Assistance for people affected by Tropical Cyclone Debbie



For those affected by Tropical Cyclone Debbie & the subsequent flooding in many areas the ATO is offering a number of concessions if you live in affected postcodes:

- Fast tracking of refunds
- Automatic deferrals of one month for tax lodgement & payment dates (excluding large PAYG withholders)
- For those with ATO debt, suspension of debt recovery action until the end of May 2017
- Tailored payment arrangements
- Remission of interest where appropriate
- Interest free payment arrangements for eligible small businesses.
- Release taxpayers from some or all of their debt if paying their tax debt would cause serious hardship e.g. being unable to provide food or accommodation for themselves or their family.

[ATO assistance - Tropical Cyclone Debbie](#)

A number of other state & federal programs may offer assistance for those affected. For further information go to:

[Queensland Government Disaster Assistance](#)

[Federal Government Disaster Assistance](#)

Planned changes to GST on low value imported goods

From 1 July 2017, **overseas clients** with an Australian turnover of \$75,000 or more will need to register for, collect and pay GST on goods up to \$1,000 that they sell to consumers in Australia.

If **Australian clients** are registered for GST and buy low value imported goods for their business from overseas, they will need to supply their ABN at the time of purchase so they won't be charged GST.

If the Australian business is not registered for GST, they will be treated as a consumer and unable to recover the GST charged by the overseas business.



To Do: see accountant pre June 30

For those of you who would like assistance with tax planning strategies, are uncertain how recent legislative changes may affect you or who simply don't like unpleasant surprises, then we can assist. We offer a tax planning service that provides clients with a written report detailing their estimated tax position for the current financial year and options to assist with tax minimisation and cash flow management. Please contact us if you would like further information.

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.

New Staff

We would like to extend a warm welcome to Elisa Cave, who commenced work with ML Partners last month and who is now permanently based in the Ayr office. Elisa has many years of experience working in public practice and is a welcome addition to the team. Welcome Elisa!



Quote of the month

"The difficulty lies not so much in developing new ideas as in escaping from old ones. "

John Maynard Keynes