

## What does tax look like under a Coalition government?

Now that the Abbott government is settling in, it is worthwhile to look at their promises and the commitments that they made in the run-up to the election.

Here's a rundown on some of the more important commitments, although many don't have effective dates:

- **Self education expenses:** There will be no \$2,000 cap on self-education expense deductibility.
- **FBT and cars:** The statutory formula method for car fringe benefits will not be abolished.
- Company tax rate to be cut to 28.5% from 1 July 2015.
- No changes to the GST rate before the next election – although a proposed Tax Reform White Paper may cover possible GST reforms.
- Abolish the carbon tax.
- Abolish the mining resource rent tax (MRRT).
- Discontinue the tax loss carry-back measure (linked to the MRRT).
- Discontinue the small business instant asset write-off (currently \$6,500).
- Remove accelerated depreciation for motor vehicles for small business (currently \$5,000).
- Introduce a 1.5% levy on companies with taxable incomes above \$5m to fund a Paid Parental Leave (PPL) Scheme – from 1 July 2015 – and give mothers six month's leave based on their wage (capped to an annual \$150,000 salary) or the national minimum wage (whichever is the greater), plus super.
- The superannuation guarantee will increase from 9% to 12%, but will be delayed by 2 years, so that the 12% target is achieved in 2021 rather than 2019.

## Be careful about property arrangements with family!

The Administrative Appeals Tribunal (AAT) has held that a taxpayer who jointly owned a townhouse with his son (who lived there) was liable for CGT on his share of the property when it was sold.

### Facts

In April 2002, the taxpayer purchased a townhouse for his adult son to reside in, but he had both of them registered on the title of the property, to "guard against his son acting unwisely".

His son lived in the townhouse until 2007, when he moved into another house, and in September 2007 the townhouse was sold and the proceeds from the sale were used to reduce the son's debt to the bank for the second house.

The taxpayer was assessed for the 2008 income year for CGT on 50% of the net capital gain arising from the sale of the townhouse.

### Reasons for Decision

The taxpayer claimed that:

- ◆ it was never his intention to profit from the sale of the townhouse, and that "he only went on the title to protect his 'inexperienced' son of 23 years from doing something 'silly' and selling the townhouse on a whim"; and
- ◆ he did not receive any of the proceeds of sale of the townhouse (as the entire net amount received went towards reduction of his son's loan).

However, the AAT stated that these matters did not alter his liability, as:

- for CGT purposes, a person is treated as having received money if it is applied as he or she directs;
- to be eligible for the 'main residence exemption' in respect of his liability for CGT on disposal of his interest in the property, the taxpayer would have had to reside in the townhouse himself; and
- there was no evidence that the taxpayer held his interest in the property 'on trust' for his son.

## GIC and SIC rates for 2013 December quarter

The ATO has released the 2013 December quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC) as follows:

GIC annual rate	9.6%
GIC daily rate	0.02630137%
SIC annual rate	5.6%
SIC daily rate	0.01534246%

- every fund reported to it by approved SMSF auditors. The ATO wants to make those trustees more fully aware of their obligations and ensure the contraventions are dealt with appropriately.

### Related party transactions

The breaches most commonly reported to the ATO by SMSF auditors are trustees investing in, or transacting with, related parties in breach of the rules. This can include providing a loan or other financial assistance to a member or relative, which is prohibited.

Further, it is also common when there is a 'loan' to a member that it doesn't meet the characteristics of a genuine loan anyway, and the member is simply accessing their super before they are entitled to.

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## Update on issues affecting SMSFs

### ATO compliance

At a compliance level, the ATO says that it is focusing on:

- engaging with new trustees to ensure they can operate their SMSF and are not seeking illegal early access to their retirement benefits;
- ensuring that trustees understand their obligations and that, although their tax agent or accountant will assist trustees to meet their obligations, they themselves are the ones who are accountable;
- ensuring annual returns are lodged, and lodged on;
- for new funds, whether they are entitled to receive their notice of compliance;
- reviewing irregularities in exempt current pension income and non arm's-length transactions;
- re-reporting of contributions and compliance with excess contributions tax release authorities;
- arrangements involving holiday travel claimed as investment expenses by SMSF trustees; and

### ASIC warning to real estate industry

ASIC has warned the real estate industry that agents recommending investors use a SMSF to invest in property must ensure they are appropriately licensed to provide such advice.

Real estate agents may not realise they are providing 'financial product advice' and need an Australian financial services (AFS) licence when making recommendations or statements of opinion to a person to use an SMSF to invest in property.

*Editor: Although this affects the real estate agents personally, it's obviously important for SMSF trustees in this situation to ensure they are receiving appropriate advice from a person qualified to do so.*

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### 2013/14 CGT improvement threshold

For the 2013/14 income year, the improvement threshold is \$136,884 (up from \$134,200 for the 2012/13 income year).

This threshold is used for working out when a capital improvement to a pre-CGT asset is a separate asset and for capital improvements to CGT assets where a rollover may be available.

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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