CLIENT ALERT

MARCH 2016

ATO announces two important data matching protocols

The ATO has just announced that it is starting a new "asset" data matching protocol, and extending another CGT and rental protocol that has been running successfully for the last ten years.

Data matching on insurance taken out on certain assets owned by "wealthier" taxpayers

The ATO has advised that it is working with insurance providers to identify policy owners on a wide range of asset classes.

These include:

- marine;
- aviation;
- enthusiast motor vehicles;
- fine art; and
- thoroughbred horses.

It said that this will provide them with a more accurate estimate of taxpayers' wealth.

Editor: And therefore income. Taxpayers who have used untaxed monies to acquire such assets might be well advised to get on the front foot and disclose it to the ATO, rather than waiting for a call from the taxman.

They advise that they expect to receive 100,000 records where the different asset classes meet certain threshold amounts.

Property sales and rental income

The ATO has also advised that it is continuing its ongoing *"Real property transactions 1985–2017 data matching program protocol"*.

It is undertaking this program to basically ensure that taxpayers are correctly meeting taxation obligations in relation to their dealings with real property, i.e., CGT on property sales and income tax on rental income.

For the period 20 September 1985 to 30 June 2017, data will be obtained from all State and Territory Revenue authorities, as well as many Finance departments, and Land and Residential Tenancies authorities.

The ATO will obtain the data on:

- landlords, properties, rental income, etc., from the rental bond authorities; and
- taxpayer details on property valuations, sales, purchases, etc., from the revenue and land titles authorities.

Number of records

It said that, based on current data holdings, it is estimated these records will identify approximately 11.3 million unique individuals.

Warning to employers to withhold tax from some car allowances

The ATO has reminded taxpayers that, in relation to claiming car expenses, the one-third of actual expenses method and 12% of original value method were abolished from 1 July 2015.

The cents per kilometre method now uses a standard rate of 66 cents per kilometre for all cars, rather than a rate based on a car's engine size.

Employers should be aware that the ATO set the approved pay as you go (PAYG) withholding rate for cents per kilometre car allowances at 66 cents per kilometre from 1 July 2015.

Employers should withhold tax from any amount above 66 cents for all future payments of a car allowance, as failure to do so may result in the employee having a tax liability when they lodge their tax return.

Employees, who from 1 July 2015 have been paid a car allowance at a rate higher than the new approved amount, should consider whether they need to increase their withholding to avoid any tax liability at the end of the year.

Editor: If this applies to your business, please contact our office if you need help with the calculations.

March quarter GIC and SIC rates

The ATO has published the 2016 March quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC):

GIC annual rate	9.22%
GIC daily rate	0.02519126%
SIC annual rate	5.22%
SIC daily rate	0.01426229%

Buyers to withhold tax for ATO when buying certain properties

Editor: Parliament recently passed legislation amending the taxation law to ***impose withholding obligations*** *on the purchasers of certain Australian assets – generally property purchased from a non-resident. However, the changes will affect most purchases of property in Australia!*

The amendments impose a **10% withholding obligation** on purchasers of 'Taxable Australian Real Property' (generally, this means an interest in **Australian land**) from certain foreign residents, as well as certain 'indirect Australian real property interests' (such as shares in companies that own a lot of land) and options to acquire such assets.

The amendments will generally apply where the contract to purchase an applicable asset is signed on or after 1 July 2016.

Tax Warning!
Where the land, or the interest in the land, is worth $2 million or more, the new law requires the purchaser to withhold 10% of the purchase price and send it to the ATO **unless** the vendor has obtained a **'clearance certificate'** from the ATO and provided it to the purchaser prior to settlement.

This obligation arises regardless of whether the vendor is a foreign resident or not.

Example
On 1 August 2016, Harvey enters into a contract to purchase a residential property in an affluent Sydney suburb for $2.5 million, with settlement proposed to occur on 1 October 2016. He does not know whether the vendor is a foreign resident.

Despite many requests from Harvey's lawyer, the vendor refuses to obtain a clearance certificate from the ATO to give to Harvey.

As Harvey is acquiring Australian land with a market value greater than $2 million and he has not received a clearance certificate from the vendor by the time settlement occurs, Harvey will be required to withhold and pay to the ATO $250,000, *whether or not the vendor is an Australian resident.*

GST implications when employer pays for a super fund's expense

An employer **cannot** claim an input tax credit where it pays an expense on behalf of a superannuation fund, as the supply is not made to the employer; but to the super fund.

However, if the fund is registered for GST, then ***it*** may be entitled to claim an input tax credit (or a reduced input tax credit if the requirements in Division 70 of the GST Act are otherwise satisfied).

For example, assume a super fund engages a legal firm to provide advice about its activities, but the employer connected with the super fund pays the legal fees associated with this advice.

Because the supply of the advice was made by the legal firm to the super fund, the employer is not entitled to an input tax credit (i.e., the employer has not 'acquired anything', even though it made the payment).

However, depending on the circumstances and whether the super fund is registered for GST, it may be entitled to a full or reduced input tax credit.

Editor: The rules relating to GST are more complicated for super funds than for other entities, so please phone our office if you would like discuss this important issue.