

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.

Lump sum payments received by healthcare practitioners

The ATO must be concerned about healthcare practitioners receiving lump sums and treating them as capital payments, as they have released a detailed fact sheet setting out what they expect to see in such situations.

If a healthcare practitioner (such as a doctor, dentist, physical therapist, radiologist or pharmacist) gets a lump sum payment from a healthcare centre operator, according to the ATO "it's probably not a capital gain. It's more likely to be ordinary income".

Specifically, the lump sum will typically be ordinary income of the practitioner for providing services to their patients from the healthcare centre.

Importantly, the mere fact the payment is a one-off lump sum, or expressed to be principally consideration for the restraint imposed, for the goodwill or for the other terms or conditions, does not define it as having the character of a capital receipt.

Editor: If you think this may affect you, we can help you work out what you need to do.

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.

Editor: 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.

FBT: Benchmark interest rate

The benchmark interest rate for the 2017/18 FBT year is 5.25% p.a. (5.65% applied in 2016/17).

This rate is used to calculate the taxable value of:

- ◆ a loan fringe benefit; and
- ◆ a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

Budget Update

The Government handed down the 2017/18 Federal Budget on Tuesday 9th May 2017.

The Budget proposes (amongst several other changes) to increase the Medicare Levy by 0.5% to 2.5% from 1 July 2019 (and tax and withholding rates that are linked to the highest marginal income tax (e.g., FBT) will also increase from 1 July 2019).

One of the other more significant Budget announcements is that, from 9 May 2017, the Government proposes to limit plant and equipment depreciation deductions (e.g., for dishwashers and ceiling fans) to outlays actually incurred by investors in **residential properties**.

More specifically:

- ❑ Plant and equipment forming part of residential investment properties **as of 9 May 2017** (including contracts already entered into by 9 May 2017) will *continue* to give rise to deductions for depreciation until either the investor no longer owns the asset, or the asset reaches the end of its effective life.
- ❑ Investors who purchase plant and equipment for their residential investment property **after 9 May 2017** will be able to claim a deduction over the effective life of the asset. However, subsequent owners of a property will be unable to claim deductions for plant and equipment purchased by a previous owner of that property (acquisitions of existing plant and equipment items will instead be reflected in the cost base for CGT purposes).

More taxpayers can access the benefits of being an 'SBE'

Editor: Recent changes to the law have expanded the eligibility criteria for a taxpayer to be considered a 'Small Business Entity' (or 'SBE'), meaning more businesses will be able to utilise the tax concessions that are only available to SBEs.

Broadly speaking, for the year ending 30 June 2017, a business taxpayer will be an SBE if its 'aggregated turnover' is less than **\$10,000,000**.

That is, where the business' 'aggregated turnover' (taking into account the turnover of the entity carrying on the business and the turnover of its related parties) is less than \$10,000,000, it will be able to access most of the concessions available to SBE taxpayers, including:

- Access to:
 - the lower corporate tax rate of 27.5%;
 - the SBE simplified depreciation rules, including the ability to claim an immediate deduction for assets costing less than \$20,000;
 - the simplified trading stock rules;
 - the small business restructure rollover relief;
 - deductions for certain prepaid business expenditure made in the 2017 income year;
 - the simplified method for paying PAYG instalments calculated by the ATO; and
 - the FBT car parking exemption;
- Expanded access to the FBT exemption for portable electronic devices;
- Ability to claim an immediate deduction for start-up expenses; and
- The option to account for GST on a cash basis and pay GST instalments as calculated by the ATO.

Editor: Note that the reduction in the SBE company tax rate to 27.5% for the 2017 income year was accompanied by a limitation on the maximum rate that such companies can frank their dividends also to 27.5%.

Consequently, if an SBE company fully franked a distribution before the law changed on 19 May 2017, the amount of the franking credit on the distribution statement provided to shareholders may be incorrect (if the franked distribution was based on the 30% company tax rate).

The ATO has set out a practical compliance approach for such companies to recognise the change and to notify their shareholders. Please contact this office if you would like more information about this.

Who is assessed on interest on bank accounts?

As a general proposition, for income tax purposes, interest income on a bank account is assessable to the account holders in proportion to their beneficial ownership of the money in the account.

The ATO will assume, unless there is evidence to the contrary, that joint account holders beneficially own the money in equal shares.

However, this is a **rebuttable** presumption, if there is evidence to show that joint account holders hold money in the account on trust for other persons.

Children's bank accounts

In relation to bank accounts operated by a parent on behalf of a child, where the child beneficially owns the money in the account, the parent can show the interest in a tax return lodged for the child, and the lodgment of a trust return will not be necessary.

Using social media? Be aware of tax scams!

The ATO has advised that, in the lead up to tax time, it's important to be aware of what taxpayers share on social media.

Note that scammers may also try to impersonate a tax agent (or their practice) and try to trick recipients into providing personal information or to release funds.

The ATO recommends that all taxpayers:

- ◆ ensure their computer security systems are up to date and they are protected against cyber attacks;
- ◆ keep personal information secure (including user IDs, passwords, AUSkeys, TFNs); and
- ◆ do not click on downloads, hyperlinks or open attachments in unsolicited or unfamiliar e-mails, SMS or social media.

Editor: Call our office if you think you've received a suspicious e-mail claiming to be from us or the ATO.