Removal of the Temporary Budget Repair Levy from the 2017/18 income year

The 2% Temporary Budget Repair Levy (or 'TBRL'), which has applied to individuals with a taxable income exceeding $180,000 since 1 July 2014, is repealed with effect from 1 July 2017.

Up until 30 June 2017, including the TBRL and the Medicare Levy, individuals earning more than $180,000 faced a marginal tax rate of 49%.

With the benefit of the removal of the 2% TBRL, from 1 July 2017, individuals with a taxable income exceeding $180,000 face a marginal tax rate of 47% (including the Medicare Levy).

Editor: Don't forget to add another 1.5% for the Medicare Levy Surcharge for certain individuals that don't have Private Health Insurance.

Extension of the $20,000 SBE Immediate Deduction Threshold

In the 2017/18 Federal Budget handed down on 9 May 2017, the Federal Government announced that it intended to extend the ability of Small Business Entity (or 'SBE') taxpayers to claim an outright deduction for depreciating assets costing less than $20,000 until 30 June 2018. This Budget Night announcement has now been passed into law.

To qualify for an immediate deduction for depreciating assets purchased by an SBE taxpayer costing less than $20,000, the asset needs to be first used or installed ready for use on or before 30 June 2018.

Please contact our office if you need any assistance in determining if your business is an SBE, whether an asset purchase you are considering will qualify as a "depreciating asset" and/or what constitutes being "used or installed ready for use".

Changes to the foreign resident withholding regime for sales of Australian real estate

Since 1 July 2016, where a foreign resident has disposed of real estate located in Australia, the purchaser has had to withhold 10% of the purchase price upon settlement and remit this amount to the ATO, where the market value of the property was $2,000,000 or greater.

As a result of another 2017/18 Budget Night announcement becoming law, in relation to acquisitions of real estate that occur on or after 1 July 2017, the withholding rate has increased to 12.5% and the market value of the real estate, below which there is no need to withhold, has been reduced to $750,000.

Editor: Unfortunately, even if a sale of real estate with a market value of $750,000 was to take place between two siblings on or after 1 July 2017 (both of whom have been Australian residents for 50 plus years), withholding must occur ***unless*** *the vendor obtains a 'clearance certificate' from the ATO – despite the two siblings clearly knowing the residency status of each other!*

Change to deductions for personal super contributions

Up until 30 June 2017, an individual (mainly those who are self-employed) could claim a deduction for personal super contributions where they meet certain conditions.

One of these conditions is that less than 10% of their income is from salary and wages. This was known as the "10% test".

From 1 July 2017, the 10% test has been removed. This means most people under 75 years old will be able to claim a tax deduction for personal super contributions (including those aged 65 to 74 who meet the work test).

Editor: Call our office if you need assistance in relation to the application of the work test for a client that is aged 65 to 74.

Eligibility rules

An individual can claim a deduction for personal super contributions made on or after 1 July 2017 if:

- A contribution is made to a complying super fund or a retirement savings account that is not a Commonwealth public sector superannuation scheme in which an individual has a defined benefit interest or a Constitutionally Protected Fund;
- The age restrictions are met;
- The fund member notifies their fund in writing of the amount they intend to claim as a deduction; and
- The fund acknowledges the notice of intent to claim a deduction in writing.

Concessional contributions cap

Broadly speaking, contributions to super that are deductible to an employer or an individual, count towards an individual's 'concessional contributions cap'.

The contributions claimed by an individual as a deduction will count towards their concessional contributions cap, which for the year commencing 1 July 2017 is $25,000, regardless of age. If an individual's cap is exceeded, they will have to pay extra tax.

ATO warning regarding work-related expense claims for 2017

The ATO is increasing attention, scrutiny and education on work-related expenses (WREs) this tax time.

Assistant Commissioner Kath Anderson said: *"We have seen claims for clothing and laundry expenses increase around 20% over the last five years. While this increase isn't a sign that all of these taxpayers are doing the wrong thing, it is giving us a reason to pay extra attention."*

Ms Anderson said common mistakes the ATO has seen include people claiming ineligible clothing, claiming for something without having spent the money, and not being able to explain the basis for how the claim was calculated.

"I heard a story recently about a taxpayer purchasing everyday clothes who was told by the sales assistant that they could claim a deduction for the clothing if they also wore them to work," Ms Anderson said.

"This is not the case. You can't claim a deduction for everyday clothing you bought to wear to work, even if your employer tells you to wear a certain colour or you have a dress code."

Ms Anderson said it is a myth that taxpayers can claim a standard deduction of $150 without spending money on appropriate clothing or laundry. While record keeping requirements for laundry expenses are "relaxed" for claims up to this threshold, taxpayers do need to be able to show how they calculated their deduction.

GST applies to services or digital products bought from overseas

From **1 July 2017**, GST applies to imported services and digital products from overseas, including:

- digital products such as streaming or downloading of movies, music, apps, games and e-books; and
- services such as architectural, educational and legal.

Australian GST registered businesses will not be charged GST on their purchases from a non-resident supplier if they:

- provide their ABN to the non-resident supplier; and
- state they are registered for GST.

However, if Australians purchase imported services and digital products only for personal use, they should not provide their ABN.

Imposition of GST on 'low-value' foreign supplies

Parliament has passed legislation which applies GST to goods costing $1,000 or less supplied from offshore to Australian consumers from **1 July 2018**.

Using a 'vendor collection model', the law will require overseas suppliers and online marketplaces (such as Amazon and eBay) with an Australian GST turnover of $75,000 or more to account for GST on sales of low value goods to consumers in Australia.

Editor: It should be noted that this is a separate measure to that which applies GST to digital goods and services purchased from offshore websites, as outlined above.

Action to address super guarantee non-compliance

The Government will seek to legislate to close a loophole that could be used by unscrupulous employers to short-change employees who choose to make salary sacrificed contributions into their superannuation accounts.

The Government will introduce a Bill into Parliament this year that will ensure an individual's salary sacrificed contributions do not reduce their employer's superannuation guarantee obligation.

Car depreciation limit for 2017/18

The car limit for the 2017/18 income year is $57,581 (the same as the previous year). This amount limits depreciation deductions and GST input tax credits.

Example

In July 2017, Laura buys a car to which the car limit applies for $60,000 to use in carrying on her business. As Laura started to hold the car in the 2017/18 financial year, in working out the car's depreciation for the 2017/18 income year, the cost of the car is reduced to $57,581.

Div.7A benchmark interest rate

The benchmark interest rate for 2017/18, for the purposes of the deemed dividend provisions of Div.7A, is 5.30% (down from 5.40% for 2016/17).

ALP announces massive (potential) changes to trust taxation

Editor: Although we don't normally report on Opposition tax policies, this policy change is so fundamental, and the existing state of the Federal Parliament is so chaotic, that we believe it's worth bringing this to your attention.

The Leader of the Opposition, Bill Shorten, has announced that a Labor Government (should they be elected) will introduce a standard minimum 30% tax rate for discretionary trust distributions to "mature beneficiaries" (i.e., people aged 18 and over).

Although the ALP acknowledges that individuals and businesses use trusts for a range of legitimate reasons, such as asset protection and business succession, *"in some cases, trusts are used solely for tax minimisation."*

Labor's policy will only apply to discretionary trusts, so other trusts – such as special disability trusts, deceased estates and fixed trusts – will not be affected by this change.

Labor's policy will also not apply to farm trusts and charitable trusts, and other exemptions will apply, such as for people with disability (the Commissioner of Taxation will be given discretionary powers to manage this).

Their announcement also reiterated their other policies regarding tax reform, including further changes to superannuation, changes to negative gearing and CGT, and limiting deductions for managing tax affairs.

New Approved Occupational Clothing Guidelines 2017

The government has issued new guidelines to set out criteria for tax deductible non-compulsory uniforms.

Editor: The taxation law only allows a deduction to employees for expenditure on uniforms or wardrobes where either:

- *the clothing is in the nature of* ***occupation specific****, or* ***protective*** *clothing; or*
- *the wearing of the clothing is a* ***compulsory*** *condition of employment for employees and the clothing is not conventional in nature; or*
- *where the wearing of the clothing is* ***not compulsory****, the design of the clothing is entered on the* ***Register of Approved Occupational Clothing****.*

The new guidelines outline (among other things):

- the steps that need to be undertaken by employers to have designs of occupational clothing registered; and
- the factors that will be considered in determining whether designs of occupational clothing may be registered.

The guidelines commence on 1 October 2017, and the previous Guidelines are revoked with effect from the same day.