WARNECKE & Co.
CHARTERED ACCOUNTANTS

Newsletter

Spring 2017

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Tax cut for small business: ATO will amend returns

For the 2016-2017 income year, the company tax rate for small businesses decreases to 27.5%. Companies with turnover of less than $10 million are eligible for this rate. The maximum franking credit that can be allocated to a frankable distribution has also been reduced to 27.5% for these companies.

The reduced company tax rate of 27.5% will progressively apply to companies with turnover of less than $50 million by the 2018-2019 income year. The ATO says if a company lodged its 2016-17 company tax return early, and its turnover is less than $2 million, it will amend the return and apply the lower tax rate.

If the company's turnover is from $2 million to less than $10 million, the company will need to review its return and lodge an amendment if required.

Working holidaymakers and tax returns for 2017

If your business employs working holidaymakers – or you've been one yourself this year, you may need to know about the "backpacker tax" changes that came into effect from 1 January 2017.

Employers need to issue two payment summaries to each working holidaymaker for the 2016-2017 financial year:

- One for income earned up until 31 December 2016; and
- One for income earned after 1 January 2017 (using payments code H).

All employers need to include code H on payment summaries of backpacking workers' post-1 January income, even if the employer isn't registered with the ATO as employing working holidaymakers.

TIP: If only one payment summary is issued, the income needs to be apportioned so the before and after 1 January amounts appear separately on the working holiday maker's tax return.

Small businesses

Asset write-offs

Small businesses with a turnover of less than $10 million can get an immediate deduction for assets that cost up to $20,000 each in their 2016-2017 return. The $20,000 threshold now applies until 30 June 2018.

Asset that cost $20,000 or more can't be immediately deducted. They need to be deducted over time using a small business asset pool.

TIP: It's important to apply all of the simplified depreciation rules correctly so your business doesn't under-claim for its eligible assets.

Tax debts: setting up a payment plan

Does your small business have a tax debt? The ATO encourages you to get in touch to set up a payment plan. If the debt is $100,000 or less, you can use the ATO's self-help service to easily arrange paying by instalments.

If a business pays its tax debt late or by instalments, interest accrues on the unpaid debt. However, some businesses with activity statement debts may be eligible for interest-free payment plans.

To deal with a business tax debt or more than $100,000, you can phone the ATO on 13 11 42.

TIP: Your business still needs to lodge all of its ongoing activity statements and tax returns on time, even if you have a payment plan or can't pay by the due date.

Tax assessments confirm for undisclosed business income

The Administrative Appeals Tribunal has ruled that the ATO was correct to issue tax assessments of $3.7 million and penalties of $3.3 million to a business taxpayer that had underreported their income and failed to lodge several years' worth of tax returns. The taxpayer, PSI Pty Ltd argued that it owned and rented out several Sydney properties, but did not engage in other business activities or receive the significant amounts of income that the ATO had assessed to it.

In fact, evidence before the Tribunal showed that PSI made a range of expensive capital purchases, including fitness equipment, more than 30 motor vehicles, firearms and a "bomb dog". Its bank statements included references to "consolation fees", "gun licenses" and a "security industry register", a loan application suggested income 20 times what the taxpayer admitted to earning, and PSI had apparently made significant loans to related parties with no returns.

The Tribunal upheld the assessments and penalties issued, and allowed the ATO to impose an extra 20% penalty for two of the taxpayer's income years.

Superannuation Death Benefits – Post 1 July 2017

Whilst a morbid subject, recent superannuation changes mean that people who have a substantial superannuation benefit need to understand how this asset could be distributed on death to ensure family assets pass to those they intend to bequeath.

This article hopefully provides some food for thought.

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So, let's start with the basics. When a death benefit is paid from superannuation, whether it be from accumulation or pension phase, it must be received as a lump sum or a death benefit income stream to an eligible beneficiary.

Before 1July 2017, when an eligible person received a death benefit pension, they could commute the pension and roll the benefit back to accumulation if outside the prescribed period, generally the later of:

- Three months from grant of probate, or
- Six months from date of death.

From 1 July 2017, if the death benefit is taken as an income stream, it cannot be commuted and rolled back to accumulation at any stage. It can be commuted and rolled over to another fund to commence another death benefit pension, however.

Before 1 July 2017, only a spouse could rollover a death benefit to another fund but from 1 July 2017, all death benefit income stream beneficiaries are able to roll over from one superannuation fund to another.

If a death benefit is rolled over and received in another super fund, the tax treatment for the beneficiary will not change. This change will provide a significant benefit to clients who hold insurance within super funds which do not pay death benefit income streams. Once the death benefit is rolled over to the new fund it must be immediately taken as an income stream or a lump sum and cannot be held in accumulation phase.

Transfer Balance Cap (TBC)

From 1 July 2017, there will be a transfer balance cap (TBC) which limits how much money a person can hold in retirement phase. In summary, this means that clients will not be able to commence superannuation income streams with more than $1.6million. The TBC will also apply to recipients of death benefit pensions.

A death benefit pension may be payable to a:

- Spouse (including de facto and same sex)
- Person who was financially dependent on the deceased
- Person who had an independency relationship with the deceased person, and

- Child (including adopted, step and ex-nuptial) who is:
  - Under 18
  - Over 18 with a disability, and
  - 18 to 25 and they were financially dependent on the deceased

Death benefit income streams if paid to a dependant other than a child

Superannuation death benefits received as a pension count towards the receiving beneficiary's TBC. If a client has a superannuation income steam and therefore, has a TBC and they receive a death benefit pension, the total of their income stream benefits cannot exceed the general TBC amount.

Where the recipient spouse will exceed the TBC upon receiving a death benefit income stream, they can roll their own pension back to accumulation if they want to retain the money in superannuation. Alternatively, they could either receive the death benefit as a lump sum or commute their own pension as a lump sum and then receive the death benefit as an income stream.

Reversionary pensions vs non-reversionary pensions

Non-reversionary death benefit pensions count towards the TBC of the recipient immediately after they use the benefits to commence a death benefit pension. When a reversionary death benefit pension is received, it does not count towards the TBC for twelve months. This provides the death benefit recipient time to work out how they want to receive the death benefit and move some of their own pension account back to accumulation phase if necessary. After twelve months, the amount received as an income stream counts towards the recipient's TBC.

Death benefit income streams paid to a child

A death benefit income stream can be received by a child of the deceased as long as the child is:

- Under age 18
- Between 18 and 25 and they were financially dependent on the parent, or
- They have a permanent disability

The amount which can be paid to an eligible child, without exceeding the child's TBC depends on whether or not the parent had a TBC or not, which in turn depends on whether or not the parent had already commenced an income stream.

Advice considerations

The changes (applicable from 1 July 2017) will mean that many clients, in particular those with more than $1.6million in super, may need to revise how their superannuation death benefits will be paid.

Depending on a client's circumstances and the amount of money they have in super, client should review existing arrangements and consider:

- Leaving their death benefit to their spouse and their minor children to keep as much money in the super environment.
- Having a reversionary beneficiary in place instead of a binding death benefit nomination
- Having some of their death benefit paid out as a lump sum and held in a family trust.
- Either starting an account based pension with their maximum TBC amount before they die so that they can leave as much as possible to their child/ren as a death benefit pensions, or
- Leaving all of their superannuation money in accumulation if they have more than one minor child so that each child can receive a death benefit pension up the general TBC each.

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