Tax Time - 2014

Globe Accounting Pty Ltd

28 Palmerin Street

Warwick QLD 4370

PH: 07 4661 4900

Fax: 07 4661 4911

info@globeaccounting.com.au

Find us now on Facebook

Happy New Financial Year to you all! As we gear up for another busy season you will notice a change in our admin area. Val Timms has retired after 5 years with us. Though we will miss her, we wish Val all the best and look forward to her travel updates. Tracy Bardsley has joined Erin Davis and Cath Hughes in our admin area. We are confident that Tracy has large feet (to fill the big shoes!!)

There are a heap of changes to super commencing 1st July 2014, including the increase of employer contribution from 9.25% to 9.5%. Please make yourself aware of these changes and feel free to contact us if you have any queries.

We have recently entered into a referrer agreement with AiS Insurance Pty Ltd. A client recommended them and we have found their quotes to be lower than the alternatives. We have had very positive feedback relating to claims as well as price. Next time you are renewing your insurance policy, please feel free to contact Michele Doran for an obligation free quote and let them know you are coming from Globe. It may just help your current insurer keep their pencil sharp enough! We attach the business details for Michele at AiS for your records.

Contact - Michele Doran
michele@aissc.com.au
p: 07 3423 3065
f: 07 3423 3069
Mobile: 0419 662 049

We remind you that BAS returns are done in the order they come into the office, so please get your June BAS into us as soon as you can. Our bookkeepers have a big job finalising all June BAS returns, so business tax returns may be delayed slightly.

Our very best wishes as we head into the new financial year. Stay safe and keep warm!

Peter and Pauline

When paying accounts online please remember to include a reference of either your client code or invoice number. This will ensure all payments are receipted correctly.

1 July – what now?

The 2% debt tax is in and the carbon tax is out. We look at some of the highlights for the new financial year.

The push for change

The Senate composition changed on 1 July and with it, the Government's opportunity to push through its reform agenda. The reintroduced repeal Bills for the Carbon Tax and Mining Tax have already passed the House of Representatives with high expectations of being passed by the new Senate when it sits on 7 July. Clive Palmer recently came out supporting the repeal of the Carbon Tax but only time will tell the position of the Palmer United Party (PUP) on other reforms.

Assuming the Labor Party will not support the bulk of the Government's reform Bills, the Government needs the support of either the Greens, or PUP and three of the independents/ minor parties to achieve a Senate majority.

The Government's Budget contained some fairly radical reforms particularly to social welfare and education. The position of the Greens, the minor parties, and independents on these reforms will be crucial. At stake is a bolstered maternity leave scheme, in some circumstances a dramatic change to Government subsidies for families and the unemployed, and the structure and affordability of higher education.

For business, a number of changes have already been announced but not enacted after the Bills were rejected by the previous Senate. The Bill repealing the mining tax contains the amendments to remove the loss carry-back rules for companies from the 2013/2014 financial year, remove the instant $5,000 deduction for motor vehicles acquired by small business entities from 1 January 2014, and reduce the instant asset write-off threshold from $6,500 to $1,000 for small business entities from 1 January 2014.

If enacted, the Bill repealing the carbon tax will also see the Australian Competition and Consumer Commission (ACCC) step up its campaign against businesses that used the carbon tax as an excuse to artificially inflate prices. The repeal Bill gives the ACCC greater powers to monitor pricing in key sectors and take action where they believe a business has made"…false or misleading claims about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods or services."

Overseas assets and income? Why the ATO wants you

The ATO is heavily targeting individuals that have assets and income from overseas. A month ago, the ATO announced an amnesty, called Project DO IT, that allows people to declare unreported assets and income they have received from overseas. These voluntary disclosures have already raised over $13 million in back taxes.

Now, the ATO are backing up that amnesty with a new datamatching program to target those who have not voluntarily declared foreign income. The data matching program will troll through information from overseas tax authorities on Australians with offshore investments and bank accounts; information from Australian and foreign banks on fund flows, interest and account balances; information from informants about offshore accounts, and money transfers to and from offshore bank accounts.

The bottom line is that if you don't declare income you receive from overseas that you should be paying tax on in Australia, and the ATO catch you, you can expect little mercy. Don't assume that just because your foreign income is genuinely not subject to tax overseas that it is not taxable in Australia.

If you suspect you might have a problem, talk to us today to assess your position and manage your approach.

SMSFs and protecting $558bn in assets

Access to, and the use of, the $558 billion in assets currently held in Australian Self Managed Superannuation Funds (SMSFs) is a touchy subject. From 1 July 2014, the ATO has new powers to deal with delinquent trustees including directly levying financial penalties. Trustees should read the bolstered ATO powers more broadly as part of an overall campaign to 'add teeth' to the ATO's SMSF compliance programs. So, if your SMSF has borrowed funds, has overseas interests, undertaken related party transactions, etc., make sure your investment strategy allows it, and all the paperwork supporting your position is in place and within the rules.

Employers paying SG

Employers can expect a renewed focus from the ATO on superannuation guarantee (SG) payments made to employees. With the increase in the SG rate from 9.25% to 9.5% on 1 July 2014, employers will need to make sure that payments are made on time and that the calculations are accurate. Just be aware that the increase in SG does not necessarily reduce the take home pay of employees. In many cases employee contracts are 'base plus superannuation'. In this case, the employer absorbs the increased SG rate not the employee.

Are your contractors really employees?

The ATO continues to enjoy a high success rate challenging the treatment of contractors under the superannuation guarantee (SG) legislation. Despite recent comments made by the Government that the ATO should 'relax' its approach to contractors, the ATO has no reason to simply walk away from such a potentially lucrative revenue stream – why would they when the law is on their side?

As there is no real time limit on the recovery of outstanding SG obligations, business owners need to take a proactive approach reviewing arrangements to ensure that the business is not exposed to material liabilities - the start of the new financial year is a great time to do this.

The underlying issue is often that employers take the contractor relationship at face value - that is, what the piece of paper describing the relationship actually says. The reality is quite different as the law is based on the character of the relationship not what is stated in writing. So, if your business has contractors (or you are a contractor) performing the same role as an employee, then it's possible the ATO will classify them as employees for SG purposes.

A genuine independent contractor who is providing personal services will typically be:

- Autonomous rather than subservient in their decision-making;
- Financially self-reliant rather than economically dependent upon the business of another; and,
- Chasing profit (that is a return on risk) rather than simply a payment for the time, skill and effort provided.

There are a number of tests that can apply to help determine the status of a contractor – such as control, whether the worker has been hired to produce a result, the ability for them to freely delegate work to someone else, risk exposure, ownership of tools and equipment, and the treatment of business expenses, etc.

Employers cannot contract out SG responsibilities by adding fail safe clauses in contracts. And, there is no certainty that a contractor using an interposed entity (for example setting up a company and operating through it) is fool proof.

What is the tax and who will pay it?

The debt tax will apply from 1 July 2014 until 30 June 2017. The tax is payable at a rate of 2% on every dollar of a taxpayer's annual taxable income over $180,000. In effect, the top marginal tax rate will become 49%.

Be aware that if you have a one-off spike in income after 1 July 2014, for example from the proceeds of a sale of business, the debt tax is likely to impact on this one-off increase in personal income.

Individuals with a taxable income of $180,000 or less will not pay the levy except where their income (or part thereof) is subject to some other tax rate based on the top personal marginal tax rate. For example, the debt levy will apply to the unearned income of minors once income is above $416. This is generally where income is distributed to a minor through a family trust. This is the Government's way of ensuring people cannot avoid the debt tax by simply distributing more income to their kids through a family trust.

The debt tax will also apply to non-resident taxpayers, for example where a non-resident is a beneficiary of an Australian trust.

In conjunction with the debt tax, the Fringe Benefits Tax rate will increase to 49% to prevent anyone using the FBT system to avoid paying the tax. The FBT rate will increase from 47% to 49% from 1 April 2015 until 31 March 2017.

Can you plan around the debt tax?

Yes, you can. The difference in timing between the introduction of the debt tax on 1 July 2014, and the increase to the FBT rate on 1 April 2015, means that you have 9 months to utilise an effective salary sacrifice agreement and bring your taxable income below the $180,000 threshold for the year ending 30 June 2015. Plus, you have another opportunity to reduce your taxable income when the FBT rate is reduced from 1 April 2017 until the debt tax is removed on 30 June 2017. In effect, it is possible in some circumstances to utilise effective salary sacrifice agreements to reduce your taxable income below the debt tax threshold level for the 2015 and 2017 income years. Be aware there are certain rules that must be followed for a salary sacrifice agreement to be effective. No doubt this will be an area that the Australian Taxation Office (ATO) will be looking at very closely in future years.

What will change from 1 July 2014?

Individuals

- **Temporary Budget Repair Levy.** Adds 2% to the tax rate for every dollar of a taxpayer's annual taxable income over $180,000
- **Increase in the Medicare Levy** from 1.5% to 2%
- **Superannuation Guarantee charge increases** from 9.25% to 9.5%.
- **Aged care reforms** introduce new assets tests for resident's accommodation and care fees

Business

- **R&D incentive reduced**. In the 2014/2015 Federal Budget, the Government announced that the Research & Development Tax Incentive will be reduced by 1.5% from 1 July 2014. This means the refundable offset will be reduced to 43.5% while the non-refundable offset will be reduced to 38.5%. While it is uncertain whether the legislation enacting this change will pass the current Parliament, businesses undertaking R&D activities this year may want to consider bringing forward expenditure to maximise their claim
- **Living away from home allowance (LAFHA) transitional period ends** on 30 June 2014. Now, the main condition to be satisfied is that the employee must have a normal place of residence in Australia that is maintained for their "personal use and enjoyment" while they are living and working in another location. This means that the employee cannot rent out their usual residence while they are away. In most cases, LAFHAs will also be time limited to 12 months. For employees who have been receiving LAFHAs under the transitional rules, the 12 month period is deemed to have started on 1 October 2012.

If the employee is working on a fly-in- fly-out or drive-in drive-out basis the LAFHA is not subject to the 12 month limit.

SMSFs

- **New SMSF trustee penalties**. From 1 July 2014 the ATO has greater powers to enforce the superannuation rules by levying financial penalties directly on trustees.
- **Concessional contribution cap changes.** From 1 July 2014, the concessional contribution cap for taxpayers up to the age of 50 is $30,000. And for those 50 and above, the cap is $35,000.
- **Non-concessional cap changes**. The non-concessional contributions cap from 1 July 2014 is $180,000 (up from $150,000) or $540,000 over 3 years.
- **Insurance inside an SMSF**. From 1 July 2014, new insurance policies within a SMSF must be consistent with the death, terminal illness, and permanent and temporary incapacity conditions of release in the Superannuation Industry (Supervision) Act.