

Tax amnesty for overseas tax dodgers –**Project 'DO IT'**

The ATO has announced an amnesty for taxpayers with offshore assets or income to voluntarily come clean by 19 December 2014.

The ATO says that its Project 'DO IT' (*i.e.*, 'disclose offshore income today') provides a last chance opportunity for those who haven't declared their overseas assets and income to come back into the system.

Under Project DO IT, taxpayers:

- Are encouraged to disclose omitted income or over-claimed deductions relating to their offshore activities;
- Will not be investigated or referred for **criminal investigation** by the ATO; and
- Will generally only be assessed for the **last four years**.

However, until the taxpayer comes forward, the ATO said its normal compliance activities will continue and, if the taxpayer is detected first, they will not be able to benefit from the amnesty.

ATO takes over Super Clearing House

The ATO has taken over responsibility for the Small Business Superannuation Clearing House.

The Department of Human Services was previously responsible for the free online clearing house service that helps businesses with 19 or fewer employees pay superannuation contributions for all staff in one transaction.

Note: If you would like to discuss registering with the clearing house, please call our office.

Please read this update and contact this office if you have any queries

In this month...

15 May 2014 will see the deadline for lodgement of outstanding 2013 income tax returns. For those clients that feel they have time up their sleeve, the clock is now definitely ticking.

Please note that lodgement of the 2013 return can have an impact now on the due dates for the 2014 tax return. Please contact us if you need to finalise the return is usually the more time we have to prepare the return the better the return turns out to be.

May also sees many clients thinking towards making that end of year purchase that initially are consumer driven but many are for the purpose of a tax deduction. Please contact us if you have any concern over the eligibility of any purchases as sometimes a purchase before 30 June can and cannot have an impact on the return. Why buy a small TV if a big one is better for tax!

At a Glance

- The ATO have decided that in the early stages of an audit, a facilitation process may resolve the matter quicker and avoid drawnout to-ing and fro-ing. Time will tell.
- An olive branch has been seemingly also offered by the ATO in relation to taxpayers with overseas interests. As always, it comes with a catch, the ATO can now say 'you have been warned' when they do find something that you have not declared in advance.
- The ATO have stepped up their data matching projects which now includes eBay Australia on the top of the list. They have also reduced the combined selling price from \$20,000 to \$10,000 per year just to catch those REALLY big TVs!
- Take the opportunity pre-30th of June to consider whether taking out basic hospital cover will help avoid some of the Medicare Levy surcharge in the 2014 tax return as well as provide a free pair of jogging shoes for the winter (if the fund allows!).

Federal Court overturns AAT excess contributions decision

A Federal Court ATO test case has overturned an Administrative Appeals Tribunal (AAT) decision that there were 'special circumstances' that allowed an excess contribution to a super fund to be disregarded.

The case involved husband and wife taxpayers, Mr and Mrs Dowling, who were primarily concerned with Mr Dowling qualifying for the age pension when he turned 65 years of age.

To be eligible for the pension, Mr Dowling withdrew \$293,895 from his super fund, tax-free (as he was then over 60 years of age) and contributed it into Mrs Dowling's superannuation fund in the 2009 income year.

In the 2011 income year, Mrs Dowling read in the media that superannuation benefits either may not be taxed at all, or could be minimally taxed, when paid to the beneficiaries of her estate upon her death.

To secure this favourable tax treatment, Mrs Dowling withdrew \$240,933 from her superannuation account on 30 August 2010, and re-contributed \$200,000 of it as a personal non-concessional contribution.

Mrs Dowling did not seek professional advice from a tax lawyer or an accountant, and had inadvertently made an excess contribution to her superannuation fund (*Note: As most taxpayers are currently only allowed to contribute \$450,000 in a three year period*).

The Federal Court found that there were no 'special circumstances' and that the taxpayer was liable for excess contributions tax of more than \$20,000.

Note: Unfortunately, as the Court took pains to point out, inadvertently falling foul of the law doesn't form 'special circumstances'. Ignorance of the law "may be bliss", but it can also be costly.

If you'd like to discuss your superannuation situation and how you can maximise your retirement position, please contact our office.

Tax Commissioner's proposed 'remedial power'

Treasury and the ATO have established a working group with the private sector to look at creating a 'statutory remedial power' for the Tax Commissioner.

This remedial power would provide a mechanism for resolving unintended and anomalous outcomes in the tax law more quickly than is possible through legislative amendment.

The power may also have a broader benefit for the tax system, by allowing minor technical corrections that wouldn't otherwise happen.

Once the working group finalises its considerations, Treasury will advise the Government on whether such a power is appropriate and, if so, what form it could take.

The ATO has said that it is interested in hearing thoughts from the general public.

Health fund hospital cover

If you are over 30 and don't have private health cover there are lifetime health cover penalties that apply when you subsequently take out cover. For each year over age 30 that you delay in getting basic hospital cover, you will have to pay an extra 2 per cent on your premium, up to a maximum of 70 per cent, when you finally take out the cover.

The Medicare levy surcharge is an additional levy of up to 1.5 per cent, charged on your adjusted taxable income, which is the sum of:

- Your taxable income
- Your reportable super contributions
- Your net investment losses
- Your total reportable fringe benefits

The size of your Medicare levy surcharge is affected by your level of income, your marital status, the number of children you have and your age. If you earn more than the adjusted taxable income threshold, do some numbers to see whether basic hospital cover is cheaper than the Medicare levy surcharge.

ATO's new initiative to resolve tax disputes

The ATO has announced an in-house facilitation process for taxpayers to resolve tax disputes.

Tax agents and their clients are now able to use this service in audits and objections involving indirect tax, small business and individual taxpayers, and private groups and high wealth individuals.

In-house facilitation aims to:

- Resolve less complex disputes more quickly;
- Provide certainty for tax agents and their clients; and
- Avoid unnecessary litigation.

These facilitators are independent of the audit or objection and will not make a decision, as their role is to bring the tax agent, their client, and the ATO case officer together to discuss areas of disagreement in an open and transparent way.

So far this process is in its early stages but time will tell whether the influence of the facilitation has any impact on not only current audits but fines and penalties on omissions.

What is 'facilitation'?

At a facilitation, taxpayers will have the opportunity to present their case and their view of the tax issues and facts in dispute.

The facilitator merely guides the parties through the process and will help them ensure that there are open lines of clear communication, and that messages are correctly received.

Taxpayers are not obliged to participate in facilitation if it is offered, but if they choose to participate and the dispute is not resolved, their rights of review and appeal are not affected in any way.

ATO data matching projects

The ATO has announced that it will conduct the following three data matching projects:

- **Online selling** – the ATO will obtain details of online sellers who sold goods and services to the value of \$10,000 or more in the 2011/12 and/or 2012/13 financial years via online selling sites.

It will collect data relating to between 15,000 and 25,000 individuals for 2012 and 2013 from eBay Australia & New Zealand Pty Ltd.

- **Childcare Service and Educator Payments** – the ATO will acquire details of more than 12,000 taxpayers receiving taxable Childcare Service and Educator Payments from the Department of Education for the 2011/12 and 2012/13 financial years.
- **Qld State Gov't payments and grants** – the ATO will acquire details of more than 5,000 individuals receiving taxable payments and grants from the Queensland State Government for the 2010/11, 2011/12 and 2012/13 financial years

Feel like you're being watched?

The ATO receive data information from:

- AUSTRAC, which provides information on banking transactions over \$10,000
- Motor registries on vehicles purchased with a value over \$10,000.
- 34 foreign governments that have exchange agreements with Australia.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.