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THE CLIENT REPORT

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

September 2017

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.

Single Touch Payroll update

A limited release of 'Single Touch Payroll' began for a small number of digital service providers and their clients on 1 July 2017, with Single Touch Payroll operating with limited functionality for a select number of employers.

Editor: Single Touch Payroll will effectively require some employers to report information regarding payments to employees (or to their super funds)in 'real time', via their payroll software.

The following timeline sets out what is happening in the lead-up to the mandatory commencement of Single Tough Payroll next year.

September 2017 – the ATO will write to all employers with 20 or more employees to inform them of their reporting obligations under Single Touch Payroll.

1 April 2018 – employers will need to do a headcount of the number of employees they have, to determine if they need to report through Single Touch Payroll.

From 1 July 2018 – Single Touch Payroll reporting will be mandatory for employers with 20 or more employees.

Keeping ABN details up to date

The ATO finds that businesses tend to forget to update their Australian business number (ABN) details in the Australian Business Register (ABR) when their circumstances or details change, so they have asked that we contact our clients to help keep your ABN details up to date and reduce unnecessary contact from the ATO.

In particular, the ATO says that many partnership and trust ABNs are not in operation, or their business structures have changed, so please let us know if:

- your business is no longer in operation (so we can cancel the ABN); or
- if your business structure has changed (so we can cancel the ABN for the old structure before applying for a new one).

The ATO also recommends that we add alternative contacts to clients' ABN records (so please provide us with alternative contact information, if possible), and to update the ABN records where any contact details have changed.

Register trading names with ASIC

By 31 October 2018, businesses will need to register any existing or old trading names as a business name with the Australian Securities & Investments Commission (ASIC) in order to continue operating with it.

The ABN Lookup website will reflect these changes and will only display business names registered with ASIC from this date.

Limited opportunity to avoid 'transfer balance cap' problems

If the total value of a superannuation fund member's pensions exceeded $1.6 million on 1 July 2017, they may face adverse tax consequences.

However, there is a transitional provision that permits a minor excess over $1.6 million to be ignored, subject to certain conditions being met.

Basically, this will be satisfied if the value of their pension interests on 1 July 2017 exceeded $1.6 million by no more than $100,000 (i.e., their total value did not exceed **$1.7 million**), but the member is able to commute the pension(s) by an amount that is at least equal to that excess no later than **31 December 2017.**

This will mean that no 'transfer balance cap' consequences arise (e.g., no 'excess transfer balance earnings' will accrue on the excess and no 'excess transfer balance tax' will become payable).

Therefore, it is important that this issue is identified and, if applicable, dealt with promptly.

Editor: Please contact us if you believe this may affect you and you need more information.

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.

Ability to lodge nil activity statements in advance

The ATO generally issues activity statements by the end of the relevant month under their normal processes, allowing the statement to be lodged by 21 days after the end of the month, or 28 days after the end of the relevant quarter (as appropriate).

However, the ATO recognises that there may be a specific reason for a taxpayer to access their activity statements early, so activity statements can be generated early in some cases, such as where the taxpayer is going to be absent from their place of business before the end of the reporting period (and the business will not be trading during that period), or if the taxpayer's entity is under some form of administration, or the business has ceased.

Editor: There are certain eligibility requirements to take advantage of this service, so please contact us if this is of interest to you.

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.