client alert | explanatory memorandum

June 2018

CURRENCY:
This issue of **Client Alert** takes into account developments up to and including 4 June 2018.

Tax planning

With the end of the 2018 income tax year rapidly approaching, this issue of Client Alert draws attention to year-end tax planning strategies and compliance issues that taxpayers need to consider to ensure they are in good tax health. It focuses on the most important issues for small to medium businesses and individuals to consider so as to increase their tax refund or minimise their tax liability in respect of the 2018 income tax year.

One interesting procedural matter this year is that 30 June 2018 falls on a Saturday, meaning that ATO payments or lodgments due on that day or on Sunday 1 July can be made on Monday 2 July 2018 without incurring a general interest charge. However, where practically possible, all actions, payments or lodgments should be undertaken before Friday 29 June 2018.

This "date shuffling" conundrum should be kept in mind when reference is made to actions to be undertaken by 30 June 2018.

Common tax planning techniques include deferring the derivation of assessable income and bringing forward deductions. It is equally important to consider any pending changes to the tax legislation, and to specifically take note of any commencement dates and transitional provisions.

TIP: This issue of Client Alert contains general information only, and should not be relied on as advice – it may not be applicable to taxpayers' specific circumstances.

Deferring derivation of income

Businesses that recognise income on an accruals basis (ie when an invoice is raised) may consider delaying the raising of invoices for services rendered until after 30 June and thereby delay deriving assessable income until after the 2018 income tax year.

For example, if cash flow permits, businesses could delay raising some invoices in respect of work in progress (WIP). Also note that service income received in advance (eg where amounts are received before 30 June 2018 but services are only provided after 30 June 2018) may only be assessable income in the 2019 income tax year.

If income is derived on the cash basis (eg interest, royalties, rent and dividends), businesses may consider deferring the receipt of certain payments until after 30 June 2018 (eg set term deposits to mature after 30 June 2018 rather than before 30 June 2018).

Companies with a turnover of between $25 million and $50 million may want to defer the recognition of income to the 2019 income tax year, to ensure that the lower tax rate of 27.5% applies (rather than 30% in 2018).

Bringing forward tax-deductible expenses through prepayments

To qualify for deductions in the 2018 income tax year, taxpayers may bring forward upcoming expenses (ie incur the expenses before 30 June 2018) or small businesses and individual non-business taxpayers may prepay expenses up to 12 months ahead (ie pay tax-deductible expenses relating to the 2019 income year before 30 June 2018). This should only be done subject to available cash flow and where there is a commercial basis for the prepayment.

Business expenses that may be prepaid include:

- short-term consumables such as office supplies and stationery;
- unpaid workers' compensation insurance premium instalments; and
- superannuation guarantee payments (only due in July).

Also note that bonuses and directors' fees that are confirmed and committed to by 30 June (as evidenced in Board minutes) may be deductible in 2018, even if these payments are only made after 30 June 2018.

Expenses that individuals may prepay include:

- investment property expenses such as insurance, rates, repairs and maintenance and strata fees;
- subscriptions to professional journals and memberships to professional associations;
- interest on investment loans (eg for share portfolios and investment properties); and
- income protection insurance.

Business planning issues

Lower company tax rates and imputation

As illustrated in the following table, company tax rates are falling in Australia.

Income tax year	Turnover less than	Company tax rate
2016	$2 million	28.5%
2017	$10 million	27.5%
2018	$25 million	27.5%
2019–2025	$50 million	27.5%
2026	$50 million	26%
2027	$50 million	25%

Under the law current at the time of writing, companies that are carrying on a business and have turnover of less than $25 million will be subject to company tax at a rate of 27.5% in 2018 (ie company tax will only be at the rate of 30% in 2018 if turnover is $25 million or more, or the company is not carrying on a business).

The rate at which dividends will be franked in 2018 will depend on whether the company's turnover in the previous year (2017) was less than the current year's turnover benchmark ($25 million for 2018).

That is:

- if the 2017 turnover was less than the 2018 turnover benchmark, the 2018 dividend will be franked at 27.5%; and
- if the 2017 turnover was equal to or more than the 2018 turnover benchmark, the 2018 dividend will be franked at 30%.

Company profits may therefore be taxed at different rates from the rate at which dividends are franked. This disparate tax treatment can lead to either:

- over-franking of dividends (eg if company profits are taxed at 27.5% but franking is done at a rate of 30%), in which case certain actions need to be taken to avoid the imposition of franking deficit tax; or
- under-franking of dividends (eg if company profits are taxed at 30% but franking is done at 27.5%), in which case franking credits may become trapped and may not be usable.

Further amendments, contained in the *Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities) Bill 2017*, may soon affect the way companies and shareholders receiving dividends are taxed and how franking will be done. The Bill proposes to amend the tax law to ensure that a company will not qualify for the lower company tax rate if more than 80% of its assessable income is passive income (such as interest, dividends or royalties). The amendments would modify the requirements that must be satisfied for a corporate tax entity to qualify as a base rate entity, replacing the "carrying on a business" test with a "passive income" test. The Bill has been passed by the House of Representatives and is before the Senate at the time of writing.

Deductions for small business entities

Businesses that are small business entities (companies, trusts, partnerships or sole traders with total turnover of less than $10 million) will qualify for the following raft of tax concessions in the 2018 income tax year:

- the $20,000 instant asset write-off – an immediate deduction when buying and installing depreciating assets that cost less than $20,000.
- the simplified depreciation rules – accelerated depreciation rates of 15% or 30% for depreciable assets that cost $20,000 or more;
- the small business restructure rollover;
- an immediate deduction for start-up costs;

- an immediate deduction for certain prepaid expenses;
- the simplified trading stock rules – removing the need to do an end-of-year stocktake if the value of the stock has changed by less than $5,000;
- the simplified PAYG rules – the ATO will calculate PAYG instalments;
- cash basis accounting for GST – the ATO will calculate the GST instalment payable and annual apportionment for input tax credits for acquisitions that are partly creditable;
- the FBT car parking exemption (from 1 April 2017); and
- the ability for employees to salary-sacrifice two identical portable electronic devices, such as laptops (from 1 April 2016 to align with the FBT year).

These concessions are very powerful for small businesses, and if applied correctly, can lead to substantial tax savings.

> **TIP:** The $10 million turnover threshold does not apply for the small business CGT concessions. To qualify for the small business CGT concessions, businesses must still have an annual turnover of less than $2 million, or satisfy the $6 million "net asset value" test.

$20,000 instant asset write-off

Small business entities that make eligible purchases of less than $20,000 and use or install the new or second-hand depreciating asset ready for use before 30 June 2018 will be able to instantly claim a tax deduction for the cost of that asset in the 2018 income tax year.

Assets costing $20,000 or more can be pooled in a general small business pool, treated as a single depreciating asset and depreciated at:

- 15% for such assets acquired during the 2018 income tax year; and
- 30% for the 1 July 2017 opening written-down value balance of the assets in such a pool.

Whether GST should be included in working out whether the $20,000 threshold is met depends on whether the purchaser is registered for GST:

- If the purchaser is registered for GST, the GST-exclusive amount is the cost of the asset.
- If the purchaser is not registered for GST, the GST-inclusive amount is the cost of the asset.

Originally, 2018 was to have been the last year taxpayers could claim the $20,000 instant asset write-off. However, in its 8 May 2018 Federal Budget the Government has proposed to extend this write-off by another year. This means that from 1 July 2019 the instant asset write-off threshold will revert to $1,000 a year.

Immediate deductibility of start-up costs

Small businesses started this year will be entitled to an immediate deduction for all start-up costs (eg lawyer and accountant fees, costs of company constitutions or trust deeds) incurred in the 2018 income tax year.

Small business restructure rollover

Small business entities can restructure their operations (eg changing the business structure from a company to a trust, or from a sole trader to a trust) without income tax consequences (ie no income tax consequences on transferring depreciating assets, revenue assets, trading stock or CGT assets between the different restructured entities).

The most appropriate structure for a small business (company, trust, sole trader, partnership or any combinations of these) may change over time, so this new rollover is welcome and will help businesses seamlessly restructure to suit their needs.

Claiming small business CGT concessions can be tricky

Broadly, if a business is being sold that has an aggregated turnover of less than $2 million (ie it is a CGT small business entity) or the value of its net CGT assets is $6 million or less (ie it satisfies the $6 million "net asset value" test), the business may qualify for the small business CGT concessions.

Depending on the particular circumstances, if the business is expanding rapidly and may be at risk of breaching the $6 million net asset value threshold, the owner may consider selling the business before this breach occurs, while the sale of the business is still eligible for the small business CGT concessions.

The small business CGT concessions include:

- a 15-year exemption – no CGT is payable;
- a 50% active asset reduction – a 50% CGT discount in addition to the 50% general discount;
- the retirement exemption – up to $500,000 lifetime tax-free limit; and

- the active asset rollover – minimum two years' deferral.

At the time of writing, the *Treasury Laws Amendment (Tax Integrity and Other Measures) Bill 2018* is before the House of Representatives. It proposes to restrict access to the small business CGT concessions from 1 July 2017 onwards to only the sale of:

- assets that were actually used in the small business – meaning no CGT concession on the sale of assets not used in the business; or
- shares or units in companies or trusts that are also small businesses – meaning no CGT concession on the sale of shares or units in an entity that is not a small business.

Taxpayers who intend to claim the small business CGT concessions in 2018 will need to consider whether they would be eligible for the concessions under the new law, if it is enacted.

General business issues

Beware of private company loans and unpaid trust distributions

The shareholders of companies operating businesses sometimes treat their companies as their own piggybank by making drawings from the companies to either fund other business interests or their private lifestyle.

Such cash advances need to be documented with a complying loan agreement that requires minimum principal and interest repayments at the benchmark interest rate by 30 June; otherwise they will give rise to a deemed dividend under Div 7A of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936).

Care must also be taken when a private company makes a loan or payment or forgives a debt of a shareholder (or a shareholder's associate) or if a trust declares a distribution to a private company without the cash payment to the company; such unpaid present entitlements (UPEs) made after 16 December 2009 by a trust to a company may be treated as either a loan by the company to the trust or remain a UPE (if put on sub-trust).

Apply look-through treatment to earnout rights

If a business was sold in the 2018 income tax year subject to an earnout arrangement where the sale price is paid in instalments (if future performance markers are satisfied), the capital gains are recognised in the income year that the business was sold. This look-through approach not only defers the taxation of the capital gain on the earnout, but may also allow the financial benefit arising from the earnout to potentially qualify for the small business CGT concessions (ie the instalments paid after the sale will form part of the same CGT event as the original sale).

Review trust deeds and make trust resolutions

Trustees must make valid distribution resolutions before 30 June (or an earlier date if specified in the trust deed) to distribute trust income to eligible beneficiaries. If trustees fail to make valid distribution resolutions before 30 June, the trustee can potentially be assessed on all of the trust's net income at the top marginal tax rate (45%).

TIP: Beneficiaries must quote their tax file number (TFN) to trustees before a trust makes a distribution to them for the first time. Failure to do so will result in the trustee withholding tax of 47% (the top marginal rate plus the Medicare levy) from all future distributions to the beneficiary.

To ensure that valid trustee distribution resolutions are made, the terms of the trust deed must be complied with.

For example, if the trust deed defines trust net income as equal to taxable net income, but the trustee resolves to distribute only accounting income to beneficiaries, this resolution may not be an effective distribution of trust income (in part or whole) – and it may result in the trustee being assessed at the top marginal tax rate (45%).

Since the exact trust net income will not be known by 30 June, trust distribution resolutions should be made distributing different percentages to beneficiaries (adding up to 100%), or distributing specified dollar amounts to certain beneficiaries and the balance to a default beneficiary.

Review bad debts and obsolete plant and machinery

Unpaid debts should be reviewed to determine the likelihood of not receiving payment of these debts and whether attempts to recover the debts will be successful. It is important to keep documentation as evidence where the debt is considered to be non-recoverable. If the debt is irrecoverable and income is reported on an accruals basis, the debt can be regarded as a bad debt for which a tax deduction may be claimed. This process must occur before 30 June.

It should be ensured that these bad debts have not been forgiven – forgiven debts do not qualify as bad debts.

This same methodology should be applied for plant and machinery. Review asset registers to identify obsolete plant and machinery, and be sure to scrap it (ie physically dispose of it). A deduction can be claimed for the written-down value of such assets.

Value trading stock at the lower of cost, market value or replacement value

The valuation of trading stock at year-end may impact on the amount to be included in assessable income for the 2018 income tax year. Because a lower closing value for trading stock may result in a lower taxable income, taxpayers have the choice of valuing trading stock on hand at 30 June at the lower of cost, market value or replacement value.

Individual planning issues

No more Budget repair levy

The Budget repair levy of 2% on the part of an individual's taxable income that exceeds $180,000 no longer applies in 2018. Therefore, the top marginal rate for 2018 (including the 2% Medicare levy) will be 47%, as opposed to 49% in the 2017 income tax year. The FBT rate is also 47% for the 2018 FBT year.

Review salary packaging arrangements

Review any salary packaging arrangements (eg for motor vehicles) to ensure they were entered into before the services have been performed by employees or before salary review time, so that they will be effective.

With the lowering of the concessional superannuation contributions cap to $25,000 for everyone from 1 July 2017 (as opposed to either $30,000 or $35,000 for the 2017 income tax year, depending on the age of the individual), ensure that salary sacrifice agreements are reviewed to ensure there are no excess concessional contributions in 2018.

Manage exposure to CGT

Individuals may consider delaying the exchange of contracts to sell an appreciating capital asset until after 30 June 2018. That way, the capital gain will only be assessable in the 2019 income tax year.

If a capital gain has already been made this year, it may be possible to crystallise capital losses (eg by selling shares that have declined in value) to reduce the capital gain. However, when adopting this strategy, taxpayers must take care to ensure they are not engaging in "wash sales", where shares are sold shortly before 30 June solely to realise the capital loss and then bought back shortly after 30 June.

A capital gain realised in 2018 will be eligible for the 50% CGT general discount to the gross gain if the asset was held for at least 12 months before it was sold (ie before the CGT event occurred).

Deduct work-related expenses

Although a myriad of tax law considerations are involved when claiming work-related expenses, there are three main rules:

- Only claim a deduction for money actually spent (and not reimbursed).
- The work-related expense must directly relate to the earning of income.
- An employee must have a record to prove the expense.

For example, a claim for work-related expenses will not be allowed if deductions are claimed for private expenses (eg travel from home to work and not required to transport bulky equipment), reimbursed expenses (eg an employee is reimbursed for the cost of meals, accommodation and travel) or if no records are kept.

TIP: Taxpayers who are overclaiming deductions for work-related expenses such as vehicles, travel, internet and mobile phones and self-education are on the ATO's hitlist. Taxpayers must keep evidence to substantiate such claims.

Other practical issues to consider when claiming work-relates expenses include the following:

- When claiming work-related expenses relating to a vehicle, travel, internet, self-education or a mobile phone, taxpayers should ensure that the amount claimed for these expenses is reasonable and verifiable. The ATO is using real-time data to compare deductions claimed by taxpayers in similar occupations and income brackets, so it can identify higher-than-expected or unusual claims.
- When claiming deductions up to $300 (allowable without a receipt), taxpayers must still be able to substantiate the deductions claimed if they are questioned by the ATO.
- When claiming deductions for work uniforms, taxpayers should ensure they only claim for uniforms that are unique and distinctive (eg with the employer's logo and specific to the taxpayer's occupation) and not clothing for everyday use (eg plain suits worn by office workers).

Taxpayers working from home may be able to deduct a pro rata portion of water and electricity costs as well as depreciation for office equipment, provided they keep a diary of the hours worked at home to substantiate their claims.

An individual may claim the amount incurred on self-education expenses as a tax deduction, provided the expenses were incurred to maintain or improve the individual's skill or knowledge necessary to perform the individual's current job (as opposed to securing a new job). For example, an accountant attending an accounting seminar, conference or workshop to stay up to date with the latest accounting developments could claim the expenses as a deduction.

Make donations count for tax

Donations of $2 or more to deductible gift recipients are tax deductible. Donations of property to such recipients may also be tax deductible. However, donations to overseas charities may not be tax deductible.

Use negative gearing where appropriate

An investment property is negatively geared if the rental income is less than interest and other costs of maintaining the property. In such a case, the loss on the investment property can be offset against other income to reduce taxable income.

Because individuals on higher tax rates will gain a greater tax benefit from the loss deduction compared to individuals on lower tax rates, a possible strategy (provided CGT consequences and other circumstances have been considered as well) with married couples is to have the negatively geared property in the name of the spouse who earns the highest income. Of course, the benefit of this strategy reverses when the property yields a net income. Therefore, investment properties that are positively geared (ie when rental income exceeds the costs associated with the investment property) may be held in the name of the spouse with the lower taxable income. This also applies for interest-bearing deposits such as term deposits.

Pay superannuation contributions before 30 June

From 2018, both employees and self-employed individuals can claim a tax deduction annually to a maximum of $25,000 for personal superannuation contributions, provided the superannuation fund has physically received the contribution by 30 June 2018 and the individual has provided their superannuation fund with a "notice of intention to claim" document.

Taxpayers must be aware of exactly how long a superannuation contribution takes to reach a superannuation fund – for example, if a superannuation contribution is made one day before 30 June, but the payment is received in the superannuation fund's bank account two days later (ie after 30 June), no tax deduction will be allowed in the 2018 income tax year.

> **TIP:** If the employer is utilising the ATO small business clearing house, their super guarantee contributions are counted as being paid on the date the clearing house accepts them (provided the fund does not reject the payments).

An easy way to prevent any late payment issues is to pay superannuation contributions at the beginning of June each year.

Take note of 1 July 2017 superannuation changes

Fundamental changes to the superannuation landscape have occurred from 1 July 2017 (ie for the 2018 income tax year).

The following table gives a short summary of the most important superannuation rates and caps that apply.

CGT cap for non-concessional contributions	$1.445 million
Concessional contributions cap	$25,000
Non-concessional contributions cap	$100,000 (or $300,000 under the three-year bring forward rule)
Superannuation guarantee	9.5%
General transfer balance cap	$1.6 million
Total superannuation balance threshold	$1.6 million

Because the ability to contribute money to superannuation is severely curtailed from 1 July 2017, individuals may wish to consider alternative investment strategies outside of superannuation (eg family trusts, innovation companies, etc).

Innovation incentive

From 1 July 2016, some investors in certain small Australian innovation companies will basically qualify for two incentives for investments made on or after 1 July 2016:

- when they make the investment, a 20% non-refundable carry-forward tax offset on their investment (capped at $200,000); and
- when they dispose of the investment, a CGT exemption if the disposal occurs after holding the investment for more than one year but less than 10 years.

Regarding the $200,000 cap: there is no limitation on the amount sophisticated investors (ie investors with net assets of at least $2.5 million or gross income for each of the last two financial years of at least $250,000) may invest, although the maximum amount of offset will remain at $200,000. However, non-sophisticated investors (eg "mum and dad" investors) may only invest a maximum of $50,000 a year in such companies.

Property ownership issues

There have been recent changes to:

- the tax treatment associated with residential rental properties (eg travel deduction and depreciation changes);
- withholding tax obligations for purchasers of property:
  - 12.5% CGT withholding applies on the sale of any property for $750,000 or more, unless the vendor has a tax clearance certificate evidencing the vendor's Australian tax residency;
  - 10% GST withholding applies on the sale of new residential premises (from 1 July 2018);
- superannuation measures impacting home ownership (eg the first home super saver scheme and the superannuation downsizer incentive); and
- stamp duty and land tax issues – note that these are different in each state.

There is also a proposal to abolish the main residence CGT exemption for taxpayers who are no longer Australian tax residents. If it is enacted, the *Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No 2) Bill 2018*, which passed the House of Representatives without amendment and is before the Senate at the time of writing, will change the tax law so that any individual vendor that is a non-resident (for tax purposes) at the time they sign a contract to sell their home will no longer qualify for the full or partial main residence exemption, regardless of how long the home has actually been used as a main residence. This is causing some serious concerns. The time from which this measure would apply depends on the time when the home was acquired.

Furthermore, foreign investors need permission from the Foreign Investment Review Board (FIRB) before purchasing residential properties (excluding some new dwellings) or agricultural land in Australia.

Changes affecting residential rental properties in 2018

From 1 July 2017, individuals, discretionary trusts and self managed superannuation funds (SMSFs) will no longer be able to claim travel expenses (eg motor vehicle expenses, taxi or car hire costs, airfares or public transport costs, or costs for meals and accommodation related to the travel) incurred to inspect residential rental properties. Such disallowed travel deductions will also not be included in the cost base or reduced cost base of the rental property.

However, taxpayers may still claim travel expenses to inspect commercial premises and residential premises used to carry on a business (eg premises used as a retirement village). Property management expenses paid to real estate agents (which may involve real estate agents incurring travel expenses to inspect the residential rental property) will still be deductible.

Also from 1 July 2017, the depreciation on plant and equipment (eg washing machines and refrigerators) in residential rental units will be severely limited depending on whether:

- the plant and equipment was acquired before or after 9 May 2017;
- the plant and equipment have been previously used;
- the plant and equipment have been used in the taxpayer's residence before; or
- whether the plant and equipment is installed in new residential premises.

Taxpayers who owned a rental property, or entered into a contract to purchase their rental property before 7.30pm on 9 May 2017, can continue to claim depreciation deductions for assets that were in the rental property before that date. It doesn't matter whether the depreciating asset installed in the property was new or used, or whether the property was new. However, if a rental property was purchased at or after 7.30pm on 9 May 2017, the taxpayer cannot claim deductions for second-hand or used depreciating assets, whether they are bought with the property or separately. They also cannot claim depreciation deductions if they have used an asset for private purposes before installing it in the rental property.

Where a taxpayer buys a newly built property, or buys a property that has been substantially renovated, they will be entitled to claim depreciation deductions for new depreciating assets if no one previously claimed any depreciation deductions on the asset and either:

- no one lived in the property when the taxpayer acquired it; or
- if anyone lived in the property after it was built or renovated, the taxpayer acquired it within six months of the property being built or renovated.

Changes to the foreign resident CGT withholding rule

For the 2018 income tax year, a 12.5% non-final withholding tax applies when a non-resident sells property in Australia for more than $750,000 (in 2017 the CGT withholding rate was 10% and the sale price benchmark was $2 million). Therefore, in 2018, a non-resident vendor will only be paid 87.5% of the sale price, because 12.5% must be withheld by the purchaser and paid to the ATO as a prepayment of tax on behalf of the foreign vendor.

This measure will result in extra compliance requirements (eg tax resident vendors will also be subject to these rules unless they obtain ATO tax clearance certificates), but carve-outs from this rule are available (eg for purchases of Australian real property valued at less than $750,000 in 2018).

Tax resident vendors who are able to obtain ATO tax clearance certificates can avoid application of the 12.5% withholding rule when they sell a residential property for $750,000 or more. A tax clearance certificate – basically an ATO certificate confirming that the vendor is an Australian tax resident – provided to the purchaser before the settlement date would enable such a vendor to receive 100% of the purchase price from the purchaser.

If more than one vendor is involved, each vendor must apply separately for a tax clearance certificate. If any of the vendors fails to provide such a tax clearance certificate to the purchaser, the purchaser must withhold 12.5% of the purchase price (in proportion to each vendor's interest in the property).

New GST withholding rule on sale of new residential premises

For the 2018 income tax year, purchasers of new residential premises pay a GST-inclusive amount to the seller (ie GST is included in the purchase price, so the purchaser pays GST to the seller and the seller must remit the GST to the ATO).

However, from 1 July 2018, under a recently enacted law, purchasers of new residential premises will have to pay the GST component of the purchase price directly to the ATO:

- For sale contracts signed on or after 1 July 2018, the purchaser will be required to withhold and pay 10% GST to the ATO on the day the consideration is provided (ie at instalment dates or at settlement if there is a lump sum at settlement).
- For sale contracts signed before 1 July 2018, the 10% GST withholding rule will only apply to payments made on or after 1 July 2020 (ie GST withholding will not apply to consideration provided in this two-year transitional period).

This new GST withholding regime does not apply to the sale of used (ie not new) residential properties or the sale of new or used commercial premises.

Superannuation measures impacting home ownership

First home super saver scheme

From 1 July 2017, a first home buyer can salary sacrifice a maximum of $15,000 a year to save for a deposit to buy a first home. The maximum amount that can be saved in such a way is $30,000. Provided the buyer's partner does not already own their first home, the couple can put in a maximum of $60,000 ($30,000 × 2) to buy a first home.

TIP: These salary sacrificed amounts will count towards the annual $25,000 concessional contributions limit. Individuals need to take care not to breach the cap when making use of the first home super saver scheme.

Money saved in this way can only be withdrawn from the superannuation fund from 1 July 2018, with strict rules applying for the use of the withdrawn amount – for example, the ATO must be notified and the taxpayer must buy a home within a certain period after the withdrawal.

Super downsizer incentive available from 1 July 2018

The superannuation downsizer incentive only applies from 1 July 2018, but we include the following information because taxpayers who will qualify may decide not to sell their homes before 30 June 2018.

Broadly, under this incentive, an individual aged 65 or above may make a $300,000 non-concessional contribution (and with a spouse, the total contribution can be $600,000) from the proceeds of selling their home, provided the home was owned for the last 10 years up to the date of disposal and would have qualified for either a full or partial main residence CGT exemption.

Individuals need not buy a replacement residence or satisfy the "work test" (ie working for at least 40 hours over 30 consecutive days) to be able to make a downsizer contribution to their superannuation fund. Each person will only be able to access this incentive once.

The biggest drawcard here is that non-concessional contributions made under this incentive will not be subject to the $1.6 million total superannuation balance cap. Therefore, individuals that already have more than $1.6 million in superannuation may use the super downsizer incentive to contribute an additional $300,00 ($600,000 for couples) to superannuation.

Foreign residents and the CGT main residence exemption

Currently, any individual (regardless of their tax residency status) who sells their home can qualify for either:

- the full main residence CGT exemption – if the residence has been used as a main residence throughout the whole ownership period, whether through actual use or imputed use (various main residence extension rules, such as the six-year absence rule, impute main residence use to taxpayers for certain periods where a home was not used as a main residence); or
- the partial main residence CGT exemption – if the residence has been used partly as a main residence and partly for income-producing purposes during the ownership period.

However, if the *Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No 2) Bill 2018* is enacted, any individual vendor who is a non-resident (for tax purposes) at the time they sign a contract to sell their home will no longer be able to qualify for the full or partial main residence exemptions, regardless of how long the home has actually been used as a main residence.The main residence exemptions will not be available for non-residents signing a contract of sale to sell their home:

- after 9 May 2017, for homes acquired after 9 May 2017; and
- after 30 June 2019, for homes acquired on or before 9 May 2017.

Assuming the Bill becomes law in its current format, a non-resident who disposes of their main residence in the 2018 income tax year will not qualify for the main residence exemption if the dwelling was purchased after 9 May 2017.

Tax compliance and developments

Keep relevant documents and make timely elections

Taxpayers must keep all relevant documents, usually for five years, to show that they have incurred the expense for which they are claiming a tax deduction. If a taxpayer needs to make an election to have a specific concession apply (eg for the small business CGT concessions, or family trust and FBT elections), they should ensure such an election is made by the relevant deadline.

TIP: Generally, only a taxpayer who directly incurs an expense (and derives the related income) may claim the tax deduction.

Single Touch Payroll

From 1 July 2018, employers with 20 or more employees (as determined by the number of employees an employer has on 1 April 2018) will have to run their payroll and pay their employees through accounting and payroll software that is Single Touch Payroll (STP) ready. It is a major reporting change for employers, and means employers will report payments such as salaries and wages and allowances, PAYG withholding and super information to the ATO directly from their payroll solution at the same time they pay their employees.

Employers need to have done a head count on 1 April 2018 to determine if they are a "substantial employer" and will therefore be required to use STP. This count has to include full-time and part-time employees, casual employees who are on the payroll on 1 April 2018 and worked any time during March 2018, any employee absent or on leave, seasonal employees and overseas employees. Not included are casual employees who did not work in March 2018, independent contractors and company directors.

GST on low value imported goods

From 1 July 2018, overseas vendors with a GST turnover of AUD$75,000 or more in Australian sales will have to account for GST on sales of low value goods (ie imported goods costing AUD$1,000 or less) to consumers in Australia (ie purchasers not registered for GST, or GST-registered purchasers that acquire the goods solely for private purposes).

Payments to contractors in building and construction

Businesses in the building and construction industry must report the total payments they make to contractors on a taxable payments annual report by 28 August 2018.

Currently, there are proposals to extend this taxable payment reporting regime to cleaners and couriers (from 1 July 2018) and to security providers, road transport and computer design services (from 1 July 2019).

These measures are in the *Treasury Laws Amendment (Black Economy Taskforce Measures No 1) Bill 2018*, which has passed the House of Representatives at the time of writing.

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