TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

EDITION 22 – 2017

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Extended deadline for SMSFs

The ATO is targeting individuals (at, or approaching, retirement age) purporting to divert personal services income to a SMSF to minimise or avoid income tax obligations.

A person earns personal services income (PSI) when 50 per cent of their income is earned from offering products or services that involve their skills, knowledge, expertise or efforts.

Personal services legislation was initially introduced by the ATO to prevent unfair gain by diverting income. With the proliferation of SMSFs, particularly by small entities, diversion of income is now on the ATO's target list.

The ATO is currently reviewing arrangements where individuals are diverting PSI to their SMSF.

Under these arrangements, an individual performs services for a client and does not directly receive any, or adequate, remuneration for the services they provide. Instead, the client is instructed to pay fees or remuneration for the service provided by the individual to a company, trust or other non-individual entity.

The relevant non-individual entity then distributes the income to a SMSF, of which the individual is a member, as a return on investment. These arrangements result in income that is either exempt from tax or taxed concessionally rather than being subject to tax at the individual's marginal tax rate.

Arrangements that may also be included are ones where:

- the income may be remitted by the entity to the SMSF, instead of as a return on an investment in the entity
- the SMSF may receive the income from more multiple entities

The Tax Office has extended the due date for individuals to contact them in relation to these arrangements to 30 April 2017.

The ATO is encouraging SMSF trustees who have entered into an arrangement as described above or a similar arrangement to consider the voluntary disclosure offer to minimise the impact on the individual and the fund.

Issues affecting the SMSF will be addressed on a case-by-case basis, as the Tax Office recognises the importance of preserving the assets which SMSFs hold to fund retirement incomes.

SMSF trustees and individuals who come forward and are not currently subject to ATO compliance action will have administrative penalties remitted in full. Shortfall interest charges will still apply.

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CGT exemptions for depreciating assets

The disposal of a depreciating asset may incur capital gains tax (CGT) if the asset has been used for a non-taxable purpose (i.e. private purposes).

However, there are a number of CGT exemptions that may apply to a capital gain or capital loss made from the disposal of a depreciating asset:

Pre-CGT assets: you disregard a capital gain or capital loss from a depreciating asset if the asset was acquired before 20 September 1985.

Small business entity assets: if you are a small business entity you disregard a capital gain or capital loss from a depreciating asset and you can deduct an amount for the depreciating asset's decline in value under the small business entity capital allowance provisions for the income year in which the balancing adjustment event occurred.

Personal use asset: if a depreciating asset is a personal use asset (one used or kept mainly for personal use and enjoyment), you disregard any capital loss from CGT event K7. You also disregard a capital gain under CGT event K7 from a personal use asset costing $10,000 or less.

Collectables: you disregard a capital gain or a capital loss from a depreciating asset that is a collectable costing $500 or less.

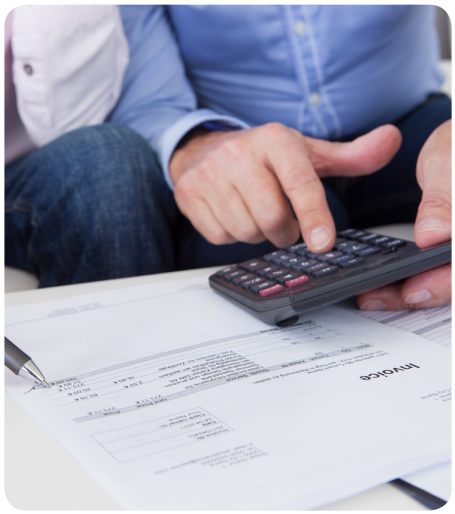
Balancing adjustment event and CGT event: you only include a balancing adjustment event that gives rise to a capital gain or capital loss under CGT event K7. However, capital proceeds received under other CGT events, for example, CGT event D1, may still be relevant for a depreciating asset as CGT events are not the equivalent of balancing adjustment events.

ATO issues ruling on bad debts

The Australian Taxation Office (ATO) has issued a ruling that clarifies the circumstances in which a deduction for bad debts is allowable.

Under section 63 of the Act, to obtain a bad debt deduction a debt must exist before it can be written off as bad. A debt exists where a taxpayer is entitled to receive a sum of money from another, either at law or in equity i.e. a customer becomes bankrupt after you have already provided services to them.

The question of whether a debt is 'bad' is a matter of judgment having regard to all the relevant facts. Generally, provided a bona fide commercial decision is taken by a taxpayer as to the likelihood of non-recovery of a debt, it will be accepted that the debt is bad for section 63 purposes. The debt, however, must not be merely doubtful.



A bad debt has to be written off in the year of income before a bad debt deduction is allowable under section 63. The writing-off of a bad debt does not necessarily require highly technical accounting entries. It is sufficient that some form of written record is kept to evidence the decision of the taxpayer to write off the debt from the accounts.

The debt must have been brought to account as assessable income in any year or, in the case of a money lender, the debt must be in respect of money lent in the ordinary course of the business of lending of money by a taxpayer who carries on that business.

Individuals may be able to claim a bad debt as a tax deduction if the amount owed has been included in an individual's assessable income in the year of income in which the debt is written off.

For those who pay GST on an accruals basis, you may also be able to claim back a GST credit. If you have paid GST on a sale but did not end up receiving any payment for that sale then you are able to adjust your BAS accordingly. You can make the adjustment to your BAS in the period when the debt was written off, or twelve months after the debt became due (whichever is relevant to your situation).

Individuals are also entitled to claim a tax deduction for a partial bad debt that has been written off on that portion of the debt. The same concept applies for GST adjustments.

Simpler BAS for small businesses

The ATO have introduced a simpler BAS to take effect from 1 July 2017 to help reduce GST compliance costs for small businesses.

From 1 July 2017, small businesses will only need to report GST on sales (1A); GST on purchases (1B) and Total sales (G1) on their BAS. Businesses will no longer need to report Export sales (G2), other GST free sales (G3), Capital purchases (G10) and Non-capital purchases (G11).

Newly registered small businesses will have the option to report less GST information on a simpler BAS from 19 January 2017.

Small businesses registering from 19 January 2017 will need to do the following:

- Where 'quarterly' GST reporting cycle is selected when registering for GST, you will need to select 'Option 2: Calculate GST quarterly and report annually' on your first BAS.

- For those who select a 'monthly' GST reporting cycle at registration, you can insert '0' at G2, G3, G10 and G11 on your BAS.

- Where 'annual' GST reporting cycle was selected at registration, you can leave G2, G3, G10 and G11 blank on your Annual GST Return.