

SEPTEMBER 2014 QTR NEWS LETTER

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Important: This is not an advice. Clients should not act solely on the basis of the material contained in this news letter. News letter contents mentioned herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This news letter has been issued as a helpful guide to clients and for their private information only. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.

Project DO IT update

The ATO says that its voluntary disclosure initiative, Project DO IT (in relation to taxpayers coming forward and disclosing overseas income and assets), is receiving a strong response with a number of people having already come forward to make a disclosure.

Response so far

- ◆ Over 350 inquiries (as per July 14 update).
- ◆ Almost 100 disclosures lodged (as per July 14 update).
- ◆ Strong indication that many others will make a disclosure in the near future.

Editor: To remind clients, Project 'DO IT' (i.e., 'disclose offshore income today') is an amnesty for taxpayers with offshore assets or income to voluntarily come clean by 19 December 2014.

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**

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ATO "data mining" program targets offshore tax evaders

The ATO has announced that it is "mining data" to identify individuals with undisclosed offshore income and assets.

The new information would be used to encourage people to disclose under Project DO IT, the ATO's offshore disclosure initiative.

The ATO will significantly increase its compliance focus by examining data including:

- ◆ 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; and
- ◆ information from informants about offshore accounts, and money transfers to and from offshore bank accounts.

Deputy Commissioner Michael Cranston said "Most people getting in touch with us are reporting accounts in Switzerland, Israel, Lichtenstein, the Netherlands, South Africa and Hong Kong, so we'll obviously be looking closely at flow of funds to those countries."

ATO Div.7A benchmark interest rate

The benchmark interest rate for 2014/15, for the purposes of the deemed dividend provisions of Div.7A, can now be calculated as 5.95% (down from 6.20% for 2013/14).

ATO warning on 2013/14 work-related deductions

This tax time the ATO says that, in relation to work-related expenses, it will not be limiting its attention to certain occupations.

Instead, particular attention will be paid to work-related expense claims relating to:

- ◆ overnight travel;
- ◆ transporting bulky tools and equipment; and
- ◆ the work-related proportion of use for computers, phones or other electronic devices.

2014/15 Luxury car tax (LCT) limit

The LCT threshold for the 2014/15 financial year is \$61,884 (increasing the previous year's LCT threshold of \$60,316 by an indexation factor of 1.026).

GIC and SIC rates for the 2014 September quarter

The ATO has released the 2014 September quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC) as follows:

GIC annual rate	9.69%
GIC daily rate	0.02654794%
SIC annual rate	5.69%
SIC daily rate	0.01558904%

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Some important tax changes from 1st July

Medicare Levy

The Medicare levy rises from 1.5% to 2%.

2% Deficit Levy

The new "Deficit Levy" (tax on high income earners) applies to taxable income in excess of \$180,000.

Tax rates for the 2014/15 income year are as follows:

Taxable Income \$	Taxable Payable \$
0 – 18,200	Nil
18,201 – 37,000	Nil + 19% of excess over \$18,200
37,001 – 80,000	\$3,572 + 32.5% of excess over \$37,000
80,001 – 180,000	\$17,547 + 37% of excess over \$80,000
180,001+	\$54,547 + 47% of excess over \$180,000

The above rates do not include the Medicare levy of 2%.

SGC

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The compulsory employer paid super contribution rises from 9.25% to 9.5%.

Superannuation contribution caps

The general concessional contributions cap rises from \$25,000 to \$30,000. For individuals aged 49 or over on 30 June 2014, the concessional contributions cap is \$35,000.

The non-concessional cap is increased from \$150,000 to \$180,000. That means the 3-year bring forward rule increases from \$450,000 to \$540,000.

PAYG instalments threshold increases from 1 July 2014

The ATO has announced changes to the pay as you go (PAYG) instalments entry and exit thresholds.

From 1 July 2014, PAYG instalment thresholds have increased, which means that some taxpayers no longer need to pay instalments.

The entry and exit thresholds for:

New ATO initiatives for small businesses

Editor: In a recent speech, the Commissioner of Taxation, Chris Jordan, announced some new initiatives for small business. The following are excerpts from his speech.

Red Tape

The Commissioner stated that the ATO was trying to reduce the amount of red tape because it understands *"that meeting your obligations takes you away from your real business, and what you are good at."*

He said that the ATO has to:

- ◆ provide more personalised, accessible and reliable services;
- ◆ think about the effects their activities have on cash flow, and the everyday running of small business; and
- ◆ work harder to ensure its information and advice is timely, streamlined, personalised, accurate and consistent.

New initiatives

To that end the ATO has introduced:

- **Small Business Fix-it Squads** which are rapid-design groups made up of small business operators and intermediaries, and representatives from federal, state and local government, all working together to examine problems and solutions from the perspective of small business.
- A new business-friendly approach to **managing small business debt**.
He said that his message remains, *"if you run a small business and you get into trouble, pick up the phone or go online and let us know, so we can work with you to find a solution that suits your circumstances."*
- A new **Small business newsroom** on their website which is a move away from multiple newsletters, giving taxpayers a one-stop online shop where they get tax and superannuation news and alerts.
As well as receiving the latest news, they will be able to watch short video clips, add tax dates to their own calendars to create reminders and share articles with each other.

ATO warns property developers to declare income

Editor: The ATO has issued a media release warning property developers against using trusts to return the proceeds from property developments as capital gains instead of income.

Deputy Commissioner Tim Dyce said, "A growing number of property developers are using trusts to suggest a development is a capital asset to generate rental income, and

claim the 50% capital gains discount.

Furthermore, he said that the ATO has begun auditing property developers who are carrying out activities which seem to be in conflict with their claim that they are undertaking a capital investment.

Some pointers to that are:

- finance arrangements indicate the property is to be sold within a certain timeframe;
- communication with local councils indicate sales plans; or
- real estate agents are engaged early in the process for off-the-plan sales.

In addition, the property is often sold soon after completion of the development, where the underlying property may have been held for as little as 13 months.

He suggested that taxpayers in these situations should consider self-amending to correct their tax return, as penalties of up to 75% of the tax avoided can apply.

SMSFs and succession planning

In a recent speech, an ATO Deputy Commissioner emphasised how important it was for trustees of SMSFs to have a plan in place for the succession and control of the SMSF on the death or incapacity of members who are trustees (or directors of the corporate trustee).

He said that other documentation such as wills, enduring powers of attorney (EPoA), binding death benefit nominations and reversionary pension documents should be checked to ensure they are consistent and in agreement with the members' goals.

In some cases, surviving member/s of the fund may not wish to continue as trustee/s (or director/s of the corporate trustee).

An exit strategy, that can enable the surviving members to enjoy the benefits of the fund without having to remain trustees, is to appoint an approved trustee licensed by APRA (that is, become a small APRA fund).

Editor: If you would like to discuss any of this please contact our office.

Ignorance of the law is no excuse

In a recent case, a taxpayer decided to transfer shares he owned and had inherited, into a joint account he held with his wife without first asking his accountant/tax agent.

His accountant subsequently correctly advised him that he had triggered a capital gain of \$19,415.

He appealed the ATO's decision to tax him to the AAT and argued that he just wanted to transfer his shares into joint names with himself and his wife who, in this case, was

"entitled in equity to half of them anyway."

However, in deciding against the taxpayer the AAT said". . . *partners to a marriage or marriage-like relationship who hold the assumption that his or her assets are 'our' assets, would be well advised to continue with that assumption, without taking the step of formalising any joint ownership arrangements, as there will be a taxing point if they do, if the transferred assets have increased in value."*

SMSFs and trauma insurance

From 1 July 2014, an SMSF can generally only provide an insured benefit for a member that is consistent with one of the following conditions of release of a member's superannuation benefits:

- death;
- terminal medical condition;
- permanent incapacity (causing the member to permanently cease working); or
- temporary incapacity (causing the member to temporarily cease working).

Trauma insurance is not consistent with any of these conditions of release.

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Trauma insurance typically pays out a lump sum where an insured person is diagnosed with one of the critical illnesses, or injuries, defined in the policy, such as cancer, stroke, coronary bypass and heart attack.

Therefore, from 1 July 2014, an SMSF that takes out a *new* trauma insurance benefit in relation to a member will generally be in breach of the new regulation. The new regulation does not apply to insured benefits for members who joined a fund before 1 July 2014, and were covered by that benefit before 1 July 2014.