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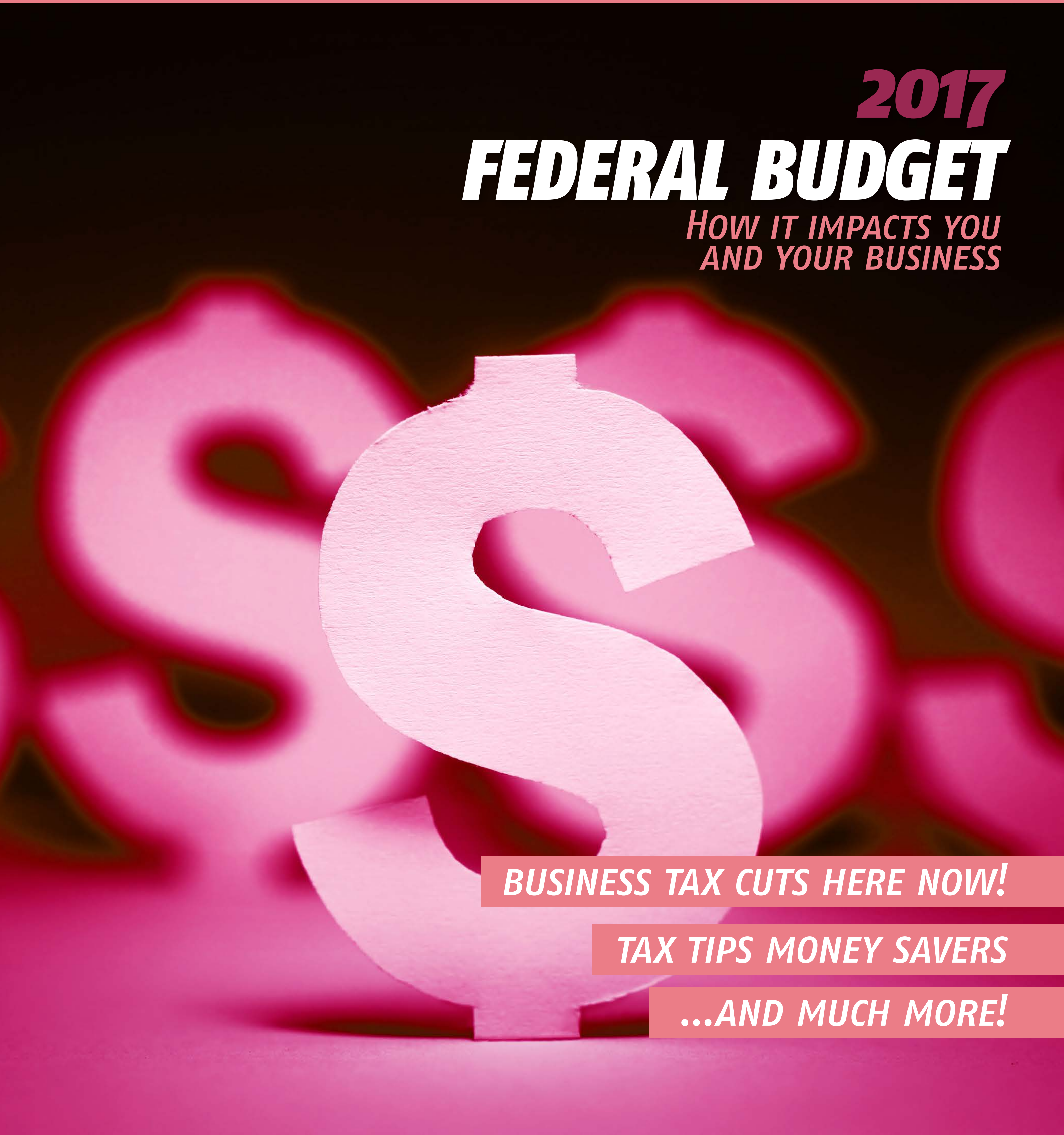

2017 FEDERAL BUDGET

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2017 FEDERAL BUDGET

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MyTaxSavers

KEY DATES
FOR BUSINESS

Many lodgement and payment deadlines are looming for business including those relating to Activity Statements, superannuation, and more.

JULY 2017

1 JULY
First day of the 2017/2018 financial year

14 JULY
2016/2017 Payment Summaries – due date to issue to employees

21 JULY
Monthly Activity Statements (July 2017) due for lodgement and payment

28 JULY
Quarterly Activity Statements (April-June) due for lodgement and payment (if lodging by paper)

28 JULY
Superannuation Guarantee Contributions (April-June) due for payment to superannuation funds or Clearing Houses

AUGUST 2017

11 AUGUST
Quarterly Activity Statements (April-June) due for lodgement and payment (if lodging electronically)

14 AUGUST
PAYG Withholding Payment Summary Annual Reports – due for lodgement

21 AUGUST
Monthly Activity Statements (July 2017) due for lodgement and payment

21 AUGUST
Final day for eligible monthly GST reporters to elect to report annually

28 AUGUST
Contractor Taxable Payments Annual Report – due for lodgement

*Where one of these dates falls on a weekend or a public holiday, the due date is extended to the next business day.

2017 FEDERAL BUDGET

WHAT'S IN IT FOR BUSINESS?

The 2017 Federal Budget was handed down on 9 May.
This article examines the effect of the Budget on business.

INSTANT ASSET WRITE-OFF EXTENDED

The $20 000 Small Business Instant Asset Write-Off has been extended for another 12 months. Businesses with an aggregated turnover of less than $10 million will be able to take advantage of the write-off until 30 June 2018 provided that the asset was acquired and installed ready for use in your business by this date. The $20 000 write-off was originally introduced on 12 May 2015 and originally applied to small businesses with an annual aggregated turnover of less than $2 million. Recently the write-off was extended to businesses with an aggregated turnover of less than $10 million for assets that were acquired and installed ready for use from 1 July 2016.

To recap, the instant asset write-off allows small businesses to fully deduct virtually all depreciating assets under $20,000 (except horticultural plants, in-house software, and buildings) in the year that the asset is acquired and installed ready for use in your business – rather than having the deduction spread out over a number of years. If you miss the deadline (i.e. if the asset is not being used in your business or installed ready for use on or before 30 June 2018) then the write-off threshold reverts to $1, 000. Missing the deadline will result in a worse cash-flow outcome for your business than if the deadline is met.

Assets costing $20,000 or over continue to be allocated to a general small business pool and are depreciable at a rate of 15% in the first year, and then 30% in subsequent years. Where the balance of a small business pool falls below this $20,000 threshold, the pool can also be written off. This extends to existing pool balances, so be sure to consider this in both the 2017 and 2018 financial years as part of any tax planning initiatives you are undertaking.

The real benefit from the $20, 000 write-off is an improvement to your cash-flow. The write-off improves small business cash-flow by bringing forward deductions rather than having them spread out over more than one year via a depreciation claim. Cash-flow can be a significant issue for small business, particularly start-ups.

That said, it is important to have perspective. The amount of you recover through the tax system for such a purchase isn't the full value of the asset, it is the marginal rate of tax you are paying multiplied by the asset value. So for example if you acquire an asset worth $18,000 GST exclusive in a company with a tax rate of 27.5% then the tax system relieves you of $4,950 in tax that you might have otherwise paid had you not made that purchase. You have outlaid however $18,000 to recover $4,950 in tax. Consequently, you should not let tax distort or blur your commercial instincts –, you should continue to only buy assets that fit within your business plan.

ACCESS TO THE CGT SMALL BUSINESS CONCESSIONS TIGHTENED

Effective 1 July 2017, the law will be amended to ensure that the CGT Small Business Concessions can only be accessed in respect of assets actually used in a small business or ownership interests in a small business.

By way of background, the CGT Small Business Concessions allows small businesses to reduce, eliminate or rollover capital gains made on the sale of business assets or the business itself. However, the Budget papers explain that some taxpayers are able to access these concessions for assets that are not related to their small business, for example through arranging their affairs so that ownership interests in larger businesses do not count towards the tests for determining eligibility for the concessions. The amendments aim to address this to ensure that the Concessions can only be accessed in respect of assets actually used in a small business or ownership interests in a small business. The Budget papers are relatively vague on this measure. For full details we will need to await the release of the draft legislation.

Note that despite the recent increase to the Small Business Entity (SBE) turnover threshold to $10 million, there will continue to be the same two access points for the Small Business CGT Concessions as follows:

1. Businesses with an aggregated turnover of less than $2 million (including the turnover of connected and related entities)
2. Businesses with net assets to the value of less than $6 million.

BUSINESSES TO PAY LEVY ON CERTAIN SKILLED VISAS

As an incentive to hire Australian workers, from March 2018 businesses that employ foreign workers on certain skilled visas must pay a levy which in turn will provide revenue for a new Skilling Australians Fund. The amount of the levy payable depends on a business's turnover as follows:

- Businesses with a turnover of less than $10 million must make an upfront payment of $1, 200 per visa per year for each employee on a Temporary Skills Shortage visa, and a one-off payment of $3, 000 for each employee being sponsored for a permanent Employer Nomination Scheme (subclass 186) visa or a permanent Regional Sponsored Migration Scheme (subclass 187) visa.
- Businesses with a turnover of $10 million or more must make an upfront payment of $1, 800 per visa year for each employee on a Temporary Skill Shortage visa, and a one-off payment of $5, 000 for each employee being sponsored for a permanent Employer Nomination Scheme (subclass 186) visa or a permanent Regional Sponsored Migration Scheme (subclass 187) visa.

BROADER BUSINESS CONDITIONS

In good news for the business community, the Budget papers forecast that the economy will rebound and grow at 2.75% in 2017/2018 (up from the current 2.4%); jumping to 3% in 2018/2019. To provide some historical context, average annual economic growth in Australia has been 3.47% from 1960 to 2015.

MORE INFORMATION

Although we've covered the headline measures for business, the Budget runs into hundreds of pages. To view the full Budget papers visit **www.budget.gov.au**

2017 FEDERAL BUDGET

WHAT'S IN IT FOR INDIVIDUALS?

Continuing our examination of Federal Budget 2017, this article examines the effect of the Budget at an individual level.

DEFICIT LEVY REMOVAL

In the Budget, the Government restated its intention to go ahead with the abolition of the Deficit Levy which will reduce the top marginal rate of tax from 47% to 45% (not including Medicare Levy). Despite the Opposition being against this change, it has already been passed by Parliament when the Deficit Levy was introduced and is law from 1 July 2017. The effect on the tax rates from last financial year to this financial year is as follows:

RESIDENT INDIVIDUALS*			
2016/2017 PRE-BUDGET		FROM 1 JULY 2017	
Taxable Income ($)	Tax Pa yable	Taxable Income ($)	Tax Payable
0-$18 200	Nil	0-$18 200	Nil
$18 201-$37 000	Nil + 19% of excess over $18 200	$18 201-$37 000	Nil + 19% of excess over $18 200
$37 001-$87 000	$3 572 + 32.5% of excess over $37 001	$37 001-87 000	$3 572 + 32.5% of excess over $37 001
$87 001-$180 000	$19 822 + 37% excess over $87 001	$87 001-$180 000	$19 822 + 37% excess over $87 001
$180 001-above	$54 232 + 47% of excess over $180 000	$180 001-above	$54 232 + 45% of excess over $180 000

**Not including Medicare levy*

NON-RESIDENT INDIVIDUALS 2017/2018	
TAXABLE INCOME	TAX PAYABLE
0 - $87 000	32.5%
$87 001 - $180 000	$28 275 + 37% of excess over $87 000
$180 001+	$62 685 + 45% of excess over $180 000

LOW INCOME TAX OFFSET UNCHANGED

The current low-income tax offset (LITO) settings will not change for 2016/2017 and therefore remain:

- Low income tax offset amount $445
- Lower withdrawal limit $37 000
- Upper limit $66 667
- Withdrawal rate of 1.5% (for every dollar that exceeds $37 000).

TAX TIP

For those of you who are eligible, the LITO does not need to be separately claimed. The ATO automatically calculates your entitlement for you upon you lodging your tax return.

Alternatively, rather than waiting until lodgement of your tax return at year-end, you can claim the LITO through your PAYG withholding from your salary. Individuals eligible for the LITO can claim 70% of their entitlement as a reduction in the amount of tax withheld by your employer from your pay. To take up this option, ask your employer for a Withholding Declaration and complete the relevant label.

TAX TIP

With the tax-free amount now set, Trustees of Trusts (including Family Trusts) can distribute this sum to beneficiaries with no other income in the knowledge the entire amount will be tax-free (except in the case of minors who may be subject to penalty tax on such large distributions).

MEDICARE THRESHOLDS

For 2016/2017 the Medicare levy low-income threshold for singles will be increased to $21 655 (up from $21 335) – those earning below that amount are generally exempt from the Medicare levy entirely.

For couples with no children, the family income threshold will be increased to $36 541 for 2016/2017 (up from $36 001). The additional amount of threshold for each dependent child or student is $3 356 for 2016/2017 (up from $3 306).

For single seniors and pensioners eligible for the Senior Australian and Pensioner Tax Offset (SAPTO) the Medicare levy low-income threshold is $34 244 for 2016/2017 (up from $33 738). The phase-in limit for taxpayers eligible for SAPTO is $42 172 for 2016/2017 (up from $41 305). The threshold for families has increased to $47 670 for 2016/2017 (up from $46 966) plus $3 356 for each dependent child or student.

PROPOSED MEDICARE LEVY INCREASE

In order to fund the National Disability Insurance Scheme (NDIS) the Government announced that it will seek to increase the Medicare levy to 2.5% from 1 July 2019 (up from the current 2%). If the increase is passed by Parliament (no certainty as the Opposition partly opposes it) other tax rates that are linked to the Medicare Levy will also increase by 0.5% including the FBT rate. Even if passed into law, the current exemptions from the Medicare levy will continue to apply including for low-income earners.

PROPOSED HELP REPAYMENT CHANGES

From 1 July 2018, the Government has proposed changes to the Higher Education Loan Program (HELP formerly known as HECS) which will if passed into law result in faster repayment obligations and threshold changes as follows:

REPAYMENT RATE	CURRENT 2018/2019 THRESHOLDS	PROPOSED NEW 2018/2019 THRESHOLDS
1%	-	$42 000
1.5%	-	$44 520
2%	$51 957	$47 191
2.5%	-	$50 022
3%	-	$53 024
3.5%	-	$56 205
4%	$57 730	$59 277
4.5%	$64 307	$63 152
5%	$70 882	$66 941
5.5%	$74 608	$70 598
6%	$80 198	$75 215
6.5%	$86 856	$79 728
7%	$91 426	$84 512
7.5%	$100 614	$89 852
8%	$107 214	$94 957
8.5%	-	$100 655
9%	-	$106 694
9.5%	-	$113 096
10%	-	$119 882

2017 FEDERAL BUDGET

HOUSING AFFORDABILITY

The centerpiece of the recent Federal Budget was a package of measures aimed to tackle the problem of housing affordability. This article details those measures, all of which are yet to pass into law.

NO DEDUCTION FOR RESIDENTIAL RENTAL PROPERTY TRAVEL EXPENSES

From 1 July 2017, the Government is proposing to disallow travel expenses relating to inspecting, maintaining or collecting rent in relation to residential rental properties.

The Government states that this is aimed at addressing concerns that many taxpayers have been claiming these expenses without apportioning claims to take account of private components of trips. This measure will not prevent investors from claiming deductions for engaging third-parties such as real estate agents for management services that they may provide.

DEPRECIATION DEDUCTIONS LIMITED

From 1 July 2017, plant and equipment depreciation deductions in residential real estate properties will be limited to outlays actually incurred by investors. The Government states that this is an integrity measure aimed at preventing plant and equipment items being depreciated by successive investors in excess of their actual value. Acquisitions of existing plant and equipment items will be reflected in the cost base for CGT purposes for subsequent investors. Plant and equipment items are typically mechanical fixtures or those that can be easily removed from a property such as ceiling fans and dishwashers.

Investors who purchase plant and equipment after 9 May 2017 will be permitted to claim a depreciation deduction over the effective life of the item. However, subsequent owners of that property cannot claim a deduction in respect of those items.

Existing investments will be grandfathered so that plant and equipment in residential investment properties on 9 May 2017 will continue to be depreciable until the investor no longer owns that asset, or the asset reaches its effective life for depreciation purposes.

CGT CRACKDOWN ON FOREIGN INVESTORS

Australia's foreign resident CGT regime will be altered in the following three ways:

- Foreign and temporary residents will be denied access to the CGT main residence exemption from 7:30pm on 9 May 2017 (existing properties held before this time will be grandfathered until 30 June 2019)
- The CGT withholding tax rate for foreign residents will increase from 10% to 12.5% from 1 July 2017, and
- The CGT withholding threshold for foreign tax residents will be significantly slashed from $2 million down to $750 000 from 1 July 2017.

ANNUAL CHARGE ON FOREIGN OWNERS OF UNDERUTILISED RESIDENTIAL PROPERTIES

Foreign owners of vacant residential property, or property that is not genuinely available for rent for at least six months of the year, will be charged an annual levy of at least $5 000. The annual levy will be equivalent to the relevant foreign investment application fee imposed on the property when it was acquired.

The measure will apply to persons who make a foreign investment application for residential property from 7.30pm (AEST) on 9 May 2017.

INCREASED CGT DISCOUNT FOR INVESTMENTS IN AFFORDABLE HOUSING

The CGT discount (available where a CGT asset has been held for 12 months or more) will be increased from 50% to 60% for Australian resident individuals investing in qualifying affordable housing.

The conditions to access the 60% discount are:

- The housing must be provided to low to moderate income tenants
- Rent must be charged at a discount below the private rental market rate
- The affordable housing must be managed through a registered community housing provider, and
- The investment must be held for a minimum period of three years.

This measure will apply from 1 January 2018, and applies to existing properties as well as new properties. Investors will need to weigh up the incentive of the increased discount against the ongoing inability to charge market rents.

MANAGED INVESTMENT TRUSTS INVESTING IN AFFORDABLE HOUSING

Managed investment trusts (MITs) will be able to invest in affordable housing, which in turn will allow investors to receive concessional tax treatment.

By way of background, MITs allow investors to pool funds to invest in mainly passive investments and cannot carry on or control an active trading business. Non-resident investors are generally subject to a 15% final withholding tax rate on fund payments from an MIT where they are resident of a country with which Australia has an effective exchange of information treaty. On the other hand, resident investors are taxed at marginal tax rates and their capital gains are eligible for the 50% CGT discount.

From 1 July 2017, MITs will be able to acquire, construct or redevelop property subject to the following conditions:

- The MIT must derive at least 80% of its assessable income from affordable housing in an income year. Up to 20% of income may be derived from other eligible investment activities permitted under the existing MIT rules. If either of these requirements are not satisfied, non-resident investors will be liable to pay withholding tax at a rate of 30% of investment returns for that income year
- Qualifying housing must be provided to low to moderate income tenants
- Rent is to be charged at a discount below the private market rental rate, and
- The affordable housing must be available for rent for at least 10 years. If a property is not held for rent as affordable housing for at least 10 years, net capital gains arising on its disposal will attract a 30% withholding tax rate.

This measure will apply to income years starting on or after 1 July 2017 and is intended to increase private investment in affordable housing.

POST 30 JUNE TAX CONSIDERATIONS

While the arrival of 1 July means that your tax position for 2016/2017 is largely now determined, there are significant matters that still must be attended to post-30 June which will impact your overall tax position for that year. These include superannuation contribution notices, CGT choices, the distribution of capital gains from trusts and more.

SUPERANNUATION DEDUCTIONS

If you made a superannuation contribution in 2016/2017 for which you can claim a deduction, then you will need to complete paperwork to ensure its deductibility.

To be eligible to claim a deduction for contributions made to superannuation, the contribution must be made between 1 July 2016 and 30 June 2017. In terms of timing:

- A contribution in cash is made when received by the fund
- A contribution by electronic funds transfer is made when the amount is credited to the superannuation fund's bank account – this may occur some time after you have done what is necessary to effect the payment, and
- A contribution by cheque is made when the cheque is received by the fund unless it is dishonoured.

If you have met this timing requirement then you can claim a deduction in 2016/207 for your personal after-tax contributions only if you have met the conditions of the "10% rule". Broadly speaking this rule requires that less than 10% of your assessable income, your reportable fringe benefits and your reportable employer superannuation contributions (e.g. salary sacrifice contributions) for the year were from being an employee. This rule prevented most employees from claiming a tax deduction for this type of contribution. Although it has been abolished from 1 July 2017, it still applies for the 2016/2017 financial year.

Even where you met the 10% Rule in 2016/2017, a deduction is only allowable if you have given a notice to the trustee of your superannuation fund or to the Retirement Savings Account (RSA) provider stating your intention to claim a deduction for the whole or part of a contribution covered by the notice, and an acknowledgement of that notice has been received. In practical terms, this requires you to complete a *Notice of intent to claim or vary a deduction for personal superannuation contributions* and then send it to your superannuation fund or RSA. Copies of this notice are available on the ATO website. The notice must be given by the earlier of:

- The day you lodge your 2016/2017 personal tax return, and
- The end of the financial year following the year in which the contributions are made (i.e. 30 June 2018).

DIVISION 7A

Where you operate a private company the following time-sensitive actions must be considered following 30 June 2017:

LOANS

Where the company has made a "loan" (this has a broad definition) or payment that is not a legitimate dividend during 2016/2017 to a shareholder or an associate (e.g. spouse) a deemed dividend may arise in 2016/2017 unless the amount is repaid or made subject to a complying Division 7A loan agreement (with minimum interest and principal repayments) before the company's lodgement day for its 2016/2017 tax return. Thus, before you lodge your company's return (or before it is due) you will need to assess whether a loan has been indeed been made and, if so, how you wish to deal with that loan.

UNPAID PRESENT ENTITLEMENT (UPE)

Where a private company and a discretionary trust are in the same group of entities and the private company is an unpaid presently entitled income beneficiary of the trust in 2016/2017, you will need to consider how to deal with this amount. Division 7A may apply to these unpaid present entitlements unless:

o The present entitlement has been paid out by the lodgement day of the 2016/2017 tax return

o The funds are held on sub-trust by the lodgement day of the 2016/2017 tax return, or

o A complying Division 7A loan agreement is entered into by the lodgement day of the 2016/2017 tax return.

Therefore, whatever course you choose, if you fail to take action by the lodgement day for the company's 2016/2017 tax return, then pursuant to Division 7A the company will be deemed to have paid an unfranked dividend to the trust for the amount of the UPE. This can be a complex area, and accordingly advice should be sought from your Accountant.

TRUST DISTRIBUTIONS – CAPITAL GAINS

For the many people who operate their affairs through a discretionary trust you must make resolutions to distribute the trust income for the 2017 financial year by no later than 30 June 2017 (or an earlier time if your deed provides). Otherwise your default beneficiary clause will be triggered or, in the event that your deed has no such clause, the trustee will be assessed on the income under Section 99A of the Tax Act at the top marginal tax rate.

The exception to this 30 June deadline is where the trust has a capital gain that is not wholly included in trust income (i.e. all or part of it is allocated to capital). Where this is the case, the trustee has (under tax laws per ATO) until 31 August to stream that part of the capital gain representing trust capital (e.g. that part not taxed due to the 50% general discount, where the trust income is determined under an Income Equalisation Clause). You can over the next two months use this extended deadline to perhaps selectively distribute these capital gains to a beneficiary who has current or prior year carried forward capital losses for example. However, bear in mind the ATO consider that if any part of the capital gain has already been dealt with by a 30 June resolution then the trustees cannot avail themselves of this extended date.

CGT ELECTIONS

There are a considerable number of choices that are available under the CGT provisions. Mainly they relate to whether you wish to avail yourself of various exemptions and discounts under the Income Tax Assessment Act (1997) including, among others, those relating to your main residence (an absence choice, and a building, repairing or renovating choice) as well as those relating to the CGT Small Business Concessions and Rollovers. Many of these discounts and exemptions can save you thousands in CGT. Accordingly, it's important to understand how to claim them, and by when to claim them.

In terms of the timing (i.e. deadline) of your choice/election, there is a general CGT choice-making rule contained in Section 103-25. Under this Section, unless the provision providing for the choice specifies otherwise, your choice must be made by the day that your income tax return is lodged or due to be lodged for the income year in which the relevant CGT event happened, or within a further time allowed by the Act such as in the case of the Six-Year Rule where the choice does not need to be made until you sell your main residence (under this rule, you can rent out your main residence for six-years and pay no CGT on sale, provided you do not treat any other residence as your main residence for CGT purposes during that time).

In terms of the method of making your choices, the way in which you prepare your relevant income tax return is sufficient evidence of making a choice. For example, if you sold your business and the gain was exempt under the 15-Year Ownership Exemption then in your tax return you would exclude that gain from the return. This would constitute evidence of your choice. No formal, separate election would need to be made in writing.

However, the following special rules should be noted and may require action on your part over the coming weeks and months:

- Subsection 115-230 (relating to assessment of capital gains of resident testamentary trusts) requires a trustee to make a choice by the day two months after the last day of the income year (by 31 August 2017) and
- Subsections 152-315(4) and 152-315(5) (relating to the small business retirement exemption) requires a choice to be made in writing, not in the tax return by the day your income tax return is lodged for 2016/2017.

TAX AGENT

If, like many taxpayers, you use the services of a Tax Agent to prepare your Income Tax Return you should ensure you are on their lodgement list by 31 October 2017. If you are not on a Tax Agent's Lodgement List, your tax return will be due on this date, and you will not enjoy the extended due date that you usually would when you lodge with a Tax Agent. Other points to be mindful of when using a Tax Agent include:

- Ensure they are registered with the Tax Practitioners Board (go to https://www.tpb.gov.au/search-register).
- Ensuring that you provide the Tax Agent with all of your relevant tax records for 2016/2017 (receipts etc.). Failure to do may result in delays in lodging your return, and you possibly paying more tax than you are liable for. Ask your Tax Agent for a checklist of the records that you need to provide.
- Tax return preparation fees are tax deductible, so ensure that you retain evidence of your payment.

CARRYING FORWARD COMPANY LOSSES

As a result of the Government's recent enterprise tax initiatives, a bill currently going through Parliament will reform the rules regarding the use of prior year losses by companies to enable them to reduce their taxable income. This article details this upcoming change and recaps on the rules in this area.

INTRODUCTION

Where a taxpayer's deductions in an income year exceed their assessable income and exempt income, the difference constitutes a tax loss. This loss can be carried forward in an income year and deducted from assessable income in future income years. However, to do this, a company must pass either the:

- ***Continuity of Ownership Test*** – broadly, this will be failed where the company has undergone a significant change in ownership or control, or
- ***Same Business Test*** – this will be failed unless a company carries on the same business, and has not derived income from new kinds of transactions or new kinds of business.

CONTINUITY OF OWNERSHIP TEST

A company will fail this test where it undergoes a substantial change in ownership and control within the period from the start of the loss year to the end of the income year in which it seeks to use the prior year loss. Specifically, the same persons must have:

- More than 50% of the company's voting power from the start of the loss year through to the end of the income year and
- The rights to more than 50% of the company's dividends from the start of the loss year through to the end of the income year and
- The rights to more than 50% of the company's capital distributions from the start of the loss year through to the end of the income year.

Note that a modified continuity of ownership test applies for listed public companies and wholly-owned subsidiaries of listed public companies.

THE ALTERNATIVE TEST – THE SAME BUSINESS TEST

If the continuity of ownership test is failed, then in order to carry forward prior year losses, your company must satisfy the same business test. To pass this test, a company needs to carry on the same business in the income year in which it seeks to recoup the losses it carried on immediately before the change of ownership or control that caused it to fail the continuity of ownership test (the 'test time'). Furthermore, a company does not satisfy the same business test if the company fails either of the following 'negative tests':

- Derived assessable income from a business that it did not carry on during the test time, or
- Derived assessable income from a transaction of a kind that it had not entered into in the course of its business operations before the test time.

TAX TIP

The same business test is not only used in working out whether income tax losses from a prior year can be carried forward, it is also relevant for establishing among other things whether a company can deduct a debt written off as bad in an income year, where the debt was initially incurred prior to a change in ownership or control. And on a company level, the same business test is also relevant for whether a company can use a net capital loss from a prior income year to offset a capital gain from the current income year.

There is also a parallel same business test for listed widely held trusts which among other things is used for establishing whether a trust can use tax losses incurred in a year prior to the change of ownership of the trust, or where there has been abnormal trading in the units of the trust.

LAW CHANGE

Legislation now before Parliament is set to change the same business test. The Government states that the reason for the change is that the need to satisfy the same business test may discourage some companies from innovating or adapting their businesses to changing economic circumstances. In particular, the same business test may discourage companies from entering into new kinds of transactions or new kinds of businesses.

To address this, the same business test is to be replaced by the more flexible similar business test – backdated to 1 July 2015 – for the purpose of working out whether a company's tax losses and net capital losses from previous years can be used. The new similar business test will also be used in working out whether a company's debt written off as bad can be deducted in an income year, and whether tax losses of listed widely held trusts can be used (see earlier).

NEW TEST

In working out whether a business carried on immediately before the test time (the old business) is similar to the business carried on in the income year where the current company wishes to use the loss, the following non-exhaustive list of factors must be weighed:

- The extent to which assets (including goodwill) that are used in the current business to generate assessable income were used in the former business to generate income
- The extent to which the activities and operations from which the current business generates assessable income were also the activities and operations from which the former business generated assessable income
- The identity of the current business and the identity of the former business, and
- The extent to which any changes to the former business resulted from the development or commercialisation of assets, products, processes, services, or marketing or organisational methods, of the former business.

EXPLANATORY MEMORANDUM EXAMPLE

RePoly Pty Ltd has developed a way to turn algae into biodegradable plastic. To do this, it incurred large initial expenditure on research and development and manufacturing technology. It also applied to register its patents with IP Australia. In each of the first three years of operation, RePoly made a tax loss.

To ensure its viability, RePoly brings in an early stage investor who contributes additional equity capital. This results in a majority change in ownership, causing RePoly to fail the continuity of ownership test.

After this change, RePoly seeks to expand its business in an effort to reach profitability. It discovers that the algae treatments that it uses to make the plastics can also be used to make a teeth-whitening product. Sales to overseas dentists of the teeth-whitening product become a small part of RePoly's business. RePoly reaches profitability in its fourth year of operation and seeks to deduct its past tax losses against current year assessable income.

REPOLY WOULD SATISFY THE SIMILAR BUSINESS TEST.

Although RePoly is generating assessable income from different activities and operations to the extent that it is generating income from selling teeth-whitening products, the sale of plastic (the company's former business) still continues to be a central part of the business's income-generating activities.

With regard to the first factor on the previous page, it is significant that RePoly generates its income from the same key asset (the intellectual property relating to the unique algae treatments) with respect to both the biodegradable plastic and teeth-whitening products. On the other hand, the existing goodwill in relation to its reputation for selling biodegradable plastic products would have limited utility in relation to the sale of the teeth-whitening products.

With regard to the second factor, RePoly continues to generate assessable income from its specialised manufacturing technology.

With regard to the third and fourth factors, the identity of the business does change to a certain extent as the company exploits additional commercial applications for its technology. Importantly, however, the business identity remains predominantly associated with the exploitation of algae technology. The changes in the business identity are slight and reflect the evolution of the business and the development of its core business assets and processes. The organic growth of the business is significant when considering whether the current business is similar to the former business.

Overall, the continued centrality of the unique algae treatment to the business, combined with the fact that the biodegradable plastic business continues to be the most substantial part of the business, is enough to cause the similar business test to be satisfied. In this case, this is enough to outweigh the fact that the sale to dentists of a teeth-whitening product is a new income-generating activity for the business.

This conclusion would likely be different if RePoly ceased to sell biodegradable plastic products and instead focused exclusively on the manufacture and sale of teeth-whitening products.

TAKE-HOME MESSAGES

- The more flexible similar business test – particularly the removal of the two negative limbs – will allow this test to be passed more often.
- As the law is backdated to 1 July 2015, companies and widely-held trusts that have undergone a change of ownership should review their eligibility for prior year income and capital losses from 2015/2016 onwards, as well as whether bad debts initially incurred prior to a change of ownership or control can be written off.
- Under the new law companies are now more free to innovate and adapt to changes in the economy or in their industry, and to enter into new kinds of transactions or businesses without disadvantaging themselves from a tax perspective.

READY, SET, GO

There are a number of important tax changes that commence from 1 July. These include GST changes, superannuation, Single Touch Payroll, and more.

SINGLE TOUCH PAYROLL

From 1 July 2017, all employers can report to the ATO through Single Touch Payroll (STP). This will become mandatory from 1 July 2018 for employers with 20 or more employees. There is no mandatory deadline for smaller employers at this stage.

STP streamlines the way employers report certain taxes and superannuation to the ATO. When employers pay their staff, the employees' salary/wages will be automatically reported to the ATO. Under STP employers also have the option of paying their PAYG withholding to the ATO at the same time that they pay their staff (this could cause cash-flow issues for employers, and hence is optional). STP will also:

- See changes to the way superannuation is reported to the ATO. Although there will be no change to the way employers pay superannuation. When payments are made to employees' funds, the information will be automatically reported to the ATO.
- Employees will also have access to pre-filled forms (via their myGov account) including TFN Declarations, and Superannuation Choice forms when they commence a new job. This is aimed at streamlining the paperwork involved for employers when putting on new workers.

If you would like to commence using STP (it will become compulsory for larger employers, so you may wish to commence the transition now) you should contact the ATO.

SIMPLER BAS

From 1 July 2017, SBEs may be eligible to complete a simplified Business Activity Statement (BAS) under the new ***Simpler BAS*** rules.

At its core ***Simpler BAS*** involves the reduction in the number of labels on the BAS. Under ***Simpler BAS*** SBEs now only need to report the following GST information on their BAS:

- GST on sales (label **1A**)
- GST on purchases (**1B**)
- Total sales (**G1**).

SBEs are no longer required to report Export sales (**G2**), other GST-free sales (**G3**), Capital purchases (**G10**), and Non-capital purchases (**G11**). These labels are removed from the BAS altogether. All told, ***Simpler BAS*** is aimed at simplifying BAS preparation, but also account set-up within a software file, and GST bookkeeping. To this end, the ATO has worked closely with software companies to streamline the coding of transactions for users of ***Simpler BAS***. If you opt into Simpler BAS, within the software you will only have three tax codes to choose from which will generally be: GST, GST-free or Out of Scope. This may assist by making it easier to classify transactions, with the other tax codes not relevant (e.g. Capital Purchases etc.).

SBEs do not need to opt-in to ***Simpler BAS***. It is compulsory. The ATO will automatically send out these simplified BAS to eligible SBEs. If you are an eligible SBE and you do not receive the simplified BAS, you should contact the ATO.

TAX TIP

The ***Simpler BAS*** initiative is good in theory – it reduces the number of labels on the BAS that you are required to fill out. However, it does not change the complex GST law that sits behind each label. That is, taxpayers and their advisors are still required to determine the GST treatment of each transaction – such as whether it is input tax, GST-free or taxable. Therefore, generally speaking, the time and administration savings will be negligible.

If you are a small business and really looking to cut your GST administration time, rather than relying on ***Simpler BAS*** you should perhaps explore the option of paying GST by quarterly instalments worked out for you by the ATO. Under this option, the ATO works out the amount of GST that you pay to them quarterly – on the basis of your prior year BASs. At the end of the year, you simply complete a single BAS on which you record your actual GST payable and GST credits for the year. This is then matched up against the instalments you have pre-paid, and you are then left with either a GST refund or a further amount payable. To be eligible for this concession, your business must:

- Be a Small Business Enterprise (i.e. turnover of less than $10 million including connected entities and affiliates)
- Have lodged a BAS for at least two quarters, or for four months if you have previously lodged monthly, and
- Not have been in an overall GST refund position in the previous income year.

Because of the increased SBE turnover threshold (up from $2 million to $10 million) many more businesses will now be eligible for this concession. If your business is eligible, the ATO will notify you on your first quarterly BAS for the financial year. To take up the option, you must elect to do so on that BAS.

GST AND ONLINE PURCHASES AND SERVICES

The other major GST 1 July law change is the commencement of the so-called GST "Net-flix tax" which aligns the GST treatment of digital products and services with that of more traditional products and delivery methods. Broadly, the changes are intended to cover situations where supplies of things other than goods or real property are supplied by both Australian and non-Australian businesses to Australian consumers.

Specifically, from 1 July 2017, offshore supplies of services and intangibles will potentially be subject to GST where the recipient of the supply is an "Australian consumer" which is basically defined as individuals or other parties such as businesses who are not registered for GST or – if they are – the acquisition is not for business purposes, and they are an Australian resident. For businesses to avoid GST, you should supply your ABN and business details when making the purchase.

Affected sales that will be caught by the new law include not only the streaming or downloading of movies, music, apps, games, e-books and other digital products but also offshore services such as consultancy and professional services (e.g. legal advice etc.). As a result of the law changes all of these supplies will receive similar GST treatment whether they are supplied by a local or foreign supplier.

REGISTRATION MADE EASY

This change to the law may require offshore parties to register for GST where their turnover here in Australia meets the $75 000 registration threshold.

The good news is that the ATO has designed a simplified registration system for these offshore suppliers whereby they can register electronically with minimal proof of identity. For more information, email AustraliaGST@ato.gov.au

Under simplified GST registration, the overseas supplier does not need to provide a tax invoice to customers, and is not able to claim GST credits.

SUPERANNUATION DEDUCTIONS

As detailed in our Superannuation publication that has just been released, there are a range of changes to superannuation effective 1 July 2017. In terms of beneficial changes that an individual can act upon, the main change is the ability for virtually all employees (subject to standard age contribution restrictions) to now claim a deduction for their personal, after-tax superannuation contributions.

From 1 July 2017 all individuals up to age 75 will be allowed to claim an income tax deduction for personal superannuation contributions. Before this date, you could only claim a deduction for your personal contributions where less than 10% of your assessable income, your reportable fringe benefits and your reportable employer superannuation contributions (e.g. salary sacrifice contributions) for the year were from being an employee – this was known as the 10% Rule. This rule prevented most employees from claiming a tax deduction for this type of contribution.

EXAMPLE

For the first nine months of the financial year, Zoe operated a florist business as a sole trader and earned $72, 000. Nearing retirement, she contributed $20, 000 to superannuation from her after-tax income in that same financial year. Zoe later sold her business, and for the last two months of the financial year was an employee at a local nursery where she earned $12, 000 from her employment. Zoe now wonders whether she will be able to claim a $20, 000 deduction for her personal superannuation contribution.

OLD RULES

If the contribution was received by the superannuation fund under the old rules that operated before 1 July 2017, then Zoe could not claim a deduction as more than 10% of her assessable income, reportable fringe benefits and reportable employer superannuation contributions came from being an employee ($12, 000 from being an employee is more than 14% of her total assessable income of $84, 000).

NEW RULES

If the contribution was made on or after 1 July 2017, then Zoe would be able to claim a deduction for the entire amount of her contribution ($20, 000). The 10% Rule no longer applies. Therefore, the composition of her income is irrelevant. Claiming a $20, 000 tax deduction would save Zoe $6, 940 in tax (2017/2018 tax rates).

To claim a deduction, the standard requirements that existed under the old rules must also be satisfied as follows:

- ***Age*** – All individuals under the age of 65 are eligible. Those aged 65 to 74 meet the superannuation 'work test' (work for at least 40 hours in a period of not more than 30 consecutive days in the financial year in which you plan to make the contribution). For those aged 75, the contribution must be made no later than 28 days after the end of the month in which you turn 75. Older taxpayers are ineligible.
- ***Minors*** – If the individual is under 18 at the end of the income year in which the contribution is made, they must derive income in that year from being an employee or carrying on a business.
- ***Complying Fund*** – The contribution must be made to a complying superannuation fund.
- ***Notice Requirements*** – To claim the deduction you must provide your superannuation fund with a *Notice of intention to claim a deduction form* before you lodge your tax return in respect of that financial year.

For employees who do not have access to salary sacrifice, the abolition of the 10% Rule is a significant benefit which allows you to simultaneously provide for your retirement and improve your overall tax position.

PAYMENT SUMMARIES

2016/2017 Payment Summaries must be issued to employees by 14 July 2017. This deadline is stipulated by law (Section 16-155 of the Tax Administration Act). The following types of Payment Summaries must be issued:

INDIVIDUAL NON-BUSINESS PAYMENT SUMMARIES

Due to employees, company directors and officeholders to whom you paid salary and wages, pension payments, compensation allowances or other withholding payments during the financial year.

FOREIGN EMPLOYMENT PAYMENT SUMMARIES

Due to Australian resident employees, company directors and office holders working overseas that have received assessable foreign employment income for Australian tax purposes or income earned for work in the Joint Petroleum Development Area (JPDA).

BUSINESS AND PERSONAL SERVICES INCOME PAYMENT SUMMARIES

Must be provided to:

- Workers, other than employees (e.g. independent contractors) who have a PAYG Voluntary Agreement with their payer to withhold amounts from payments made to them
- Workers engaged under a labour-hire arrangement, or other payments such as those to performing artists, and
- Individuals who have had tax amounts withheld from Personal Services Income (PSI) attributed to them.

NON-CORPORATE
TAX CUTS

The Government has passed legislation increasing the rate of the Small Business Income Tax Offset (SBITO). This article details this change and its tax impact.

INCREASED OFFSET

Along with companies (see page 23), the more than 70% of small businesses that are not incorporated will also enjoy additional income tax relief from 2016/2017. In 2016/2017 income and later income years, a higher rate of SBITO will apply:

- For 2016/2017 to 2023/2024, the SBITO is 8% of an eligible individual's basic income tax liability that relates to their total net small business income (up from 5% in 2015/2016)
- For 2024/2025, the SBITO is 10% of an eligible individual's basic income tax liability that relates to their total net small business income.
- For 2025/2026, the SBITO is 13% of an eligible individual's basic income tax liability that relates to their total net small business income.
- For 2026/2027 and later income years, the SBITO is 16% of an eligible individual's basic income tax liability that relates to their net small business income.

Furthermore, the aggregated turnover test for access to the SBITO has been increased from 2016/2017 to $5 million (up from $2 million).

BACKGROUND

By way of background, individuals are entitled to the SBITO if they are an SBE (i.e. sole trader) or they have a share of a small business' net income included in their assessable income (for example, distributions from a partnership or trust which themselves are SBEs) provided the small business is not a corporate tax entity (i.e. company). An individual can only claim one SBITO for an income year irrespective of the number of sources of small business income that an individual receives. The maximum amount of the SBITO from all sources of SBE income is $1 000 for an income year which will be claimed in your year-end tax return.

Although capped at $1 000 per individual, several individuals within the one structure can enjoy their own SBITO (not just the business owner) provided at the end of income year they are assessed on income from an SBE. The discount is applied to your 'net small business income' as follows:

- ***Sole traders*** – Your taxable income from the business
- ***Beneficiaries of a trust and Partners of a Partnership*** - your distribution, less any deductions to which the you are entitled, to the extent that those deductions are attributable to that distribution.

EXAMPLE

Adrian is a sole trader with a turnover of $2.5 million. For the 2016/2017 income year, Adrian's taxable income is $400 000, his basic income tax liability is $180 000, and his total net small business income is $50 000. To work out the amount of his SBITO for 2016/2017 income year, Adrian first divides his total net small business income by his taxable income ($50 000/$400 000 = 0.125). The result of this calculation shows that 12.5% of Adrian's taxable income relates to his total net small business income.

Adrian then multiplies the result of the first calculation by his basic income tax liability (0.125 × $180 000 = $22 500). The result of this second calculation shows that $22 500 of Adrian's basic income tax liability is from his total net small business income. Adrian's SBITO is equal to 8% of the result of this second calculation (0.125 × $22 500 = $2 812). As this is more than the $1 000 cap, Adrian can only claim a SBITO of $1 000 (the full amount of the available SBITO) for the 2016/2017 income year.

COMPARISON

The relationship between the changes to the SBITO and the corporate tax rate applying to companies are summarised in the following table:

INCOME YEAR/S	RATE OF SMALL BUSINESS INCOME TAX OFFSET	CORPORATE TAX RATE APPLYING TO COMPANIES
2015/2016	5%	28.5%
2016/2017 to 2023/2024	8%	27.5%
2024/2025	10%	27%*
2025/2026	13%	26%*
2026/2027 and later income years	16%	25%*

** From 2018/2019, the corporate tax rate will be the same for all corporate tax entities with a turnover under $50 million.*

SBE
OPPORTUNITIES

On 31 March, the Government secured Senate support for the passage through Parliament of legislation to assist small to medium businesses. While business tax cuts were the headline measure (see page 16 and 23) included in the changes was an increase to the Small Business Entity (SBE) turnover threshold. Backdated to 1 July 2016, the SBE turnover threshold has been increased from $2 million to $10 million. Treasury estimates that this will allow an additional 90 000 to 100 000 businesses to qualify for a range of SBE concessions detailed in this article.

Even where you already qualify (i.e. your business turnover is less than $2 million) this article is a handy refresher on the concessions available. Are you utilising them in full?

TURNOVER

Backdated to 1 July 2016, SBEs will be eligible for the various concessions where their annual aggregated turnover (including connected entities and affiliates) is less than $10 million. The increase to $10 million (up from $2 million) is the first increase to the turnover threshold since the SBE concessions were introduced on 1 July 2007. Turnover is generally gross sales excluding GST. There are three methods for working out your aggregated turnover as follows:

1. Previous year's aggregated turnover is less than $10 million (most businesses find this the easiest method)

2. Estimate of your current year turnover is less than $10 million (you can only use this method where your aggregated turnover was less than $10 million for at least one of the previous two income years)

3. Your actual current year turnover at the end of the year is less than $10 million.

We now provide an overview of the available concessions – backdated to 1 July 2016.

INCOME TAX

IMMEDIATE DEDUCTION FOR SBE START-UP EXPENSES

This allows taxpayers who are not in business or are a Small Business Entity (SBE) (turnover of less than $10 million) to immediately deduct certain expenses relating to the proposed structure or operation of a business. The expenses must relate to a business that is proposed to be carried on, including certain Government fees and charges and costs associated with raising capital, where these expenses would otherwise be deductible over five years. Eligible expenses generally fall into two categories:

- Expenditure on advice or services relating to the structure or operation of the proposed business
- Payments to Australian Government agencies.

Allowing SBEs to deduct their start-up expenditure in the year it is incurred provides them with a cash-flow benefit. The deductions are brought forward rather than spread out over a number of years. Cash-flow is one of the main killers of start-up businesses.

TAX TIP

Given that the threshold increase is backdated to 1 July 2016, if your business incurred these expenses but failed to claim them in full in the 2016/2017 tax return, you may wish to amend that return.

SIMPLIFIED TRADING STOCK RULES

Rather than conduct a physical year-end stock-take and account for the changes in value of your stock (this can be a time-consuming process), SBEs can choose not to conduct a year-end stock-take (and account for changes in the value of your stock) if there is a difference of less than $5, 000 or less between:

- The value of your stock on hand at the start of the income year, and
- A reasonable estimate of the value of your stock on hand at the end of the income year.

TAX TIP

Like all SBE concessions, this concession is optional. Accordingly, you may wish to bypass this concession and undertake a stock-take if the value of closing stock is less than that of opening stock. Where this is the case, you can claim a deduction for the difference, so it would therefore make sense to conduct the year-end stock-take and bypass this concession. Regardless of the tax outcome, any good SBE should have a good idea of the quantity and type of stock they are holding. A stock-take or at least a review makes the SBE aware of any slow moving or redundant lines or excess holdings of stock.

DEDUCTIONS FOR PREPAID EXPENSES

For SBEs, prepaid expenditure is immediately deductible in the year it is incurred if:

- The eligible service period for the expenditure is 12 months or less, and
- The period to which the expenditure relates ends no later than the last day of the income year following the income year in which the amount was paid.

EXAMPLE

Smart Pty Ltd is a law firm with a prior year turnover of $4 million. In May 2018 it prepays $22 000 (GST-exclusive) in rent to cover the period 1 June 2018 to 31 May 2019. It wonders how much it can claim as a deduction in 2017/2018 (the year of payment)?

ANSWER

Smart can claim a $22 000 deduction (the entire amount) in 2017/2018 because:

- It is an SBE (has turnover of less than $10 million)
- The eligible service period is for 12 months or less (1 June 2018 to 31 May 2019), and
- The period to which the expenditure relates ends no later than 30 June 2019 (being the last day of the income year following the year in which the amount was paid).

If Smart did not take advantage of this tax planning opportunity and rather just paid its rent on a monthly basis for example, then it would only be able to claim a deduction of $1, 833 (the rent for the month of June 2018). Instead, by employing the prepayment strategy, Smart has improved its 2017/2018 tax position by claiming an extra $20, 167 in deductions ($22, 000 - $1, 833). This results in a cash-flow benefit as the deductions are brought forward by 12 months. If the company was not an SBE, it could only claim deductions over the period to which they relate – meaning that only the rent for June could be claimed in 2017/2018. The remaining deductible claim would be deferred until the following financial year (2018/2019) being the period to which it relates. Bear in mind the prepaid rent has to physically be paid it can't simply be accrued as an expense!

TWO-YEAR AMENDMENT PERIOD

SBE income tax returns enjoy a reduced amendment period of just two years. That is, the ATO can generally not amend SBE returns outside of two years from the day they issued the SBE's Notice of Assessment for that income year. For non-SBE business taxpayers, the time limit is generally four years. However, the downside is if the SBE requests an amendment the SBE is subject to the same two-year limit and outside this two year limit the SBE's only option is the objection route. If fraud or evasion is involved the two-year time limit does not apply.

SIMPLER/ACCELERATED DEPRECIATION RULES

The increased $10 million turnover threshold now enables more businesses to access simplified and more generous depreciation rules, namely:

- ***Instant Asset Write-off*** whereby you can claim a deduction in full for a depreciable item up to the cost of $20, 000 in the year it was purchased and installed ready for use in your business. The threshold for non-SBE businesses is significantly lower at just $1, 000. (The $20,000 instant asset write off has been extended for another 12 months to 30 June 2018)

- ***General Pool*** whereby assets (other than buildings) costing more than $20, 000 are placed in a general pool and depreciated at 15% in the first year, and 30% in subsequent years. Once this pool is established, the pool is treated as a single asset and deducted at a pool rate of 30% (except in the first year). If the value of the general pool falls below $20, 000 then you can write off the balance of the pool rather than continuing to calculate a depreciation claim.

As the increased threshold is backdated to 1 July 2016, tax returns may need to be amended in respect of depreciable assets acquired after this date. Amendments may result in a cash-flow benefit for the SBE as their depreciation deductions may be brought forward.

ACCELERATED DEPRECIATION FOR PRIMARY PRODUCERS

SBE primary producers can immediately (in the year of purchase/installation) deduct the costs of:

- Fencing (previously depreciated over a period of up to 30 years)

- Water facilities (previously depreciated over three years).

SBEs can also deduct the cost of fodder storage assets over 3 years, instead of over 50 years. Again, because of the 1 July 2016 start date for the increased $10 million SBE threshold, tax returns may need to be amended for 2016/2017. These rules apply from 12 May 2015 for primary producers with an aggregated turnover of less than $2 million.

CGT

SMALL BUSINESS RESTRUCTURE ROLLOVER

The increased SBE threshold of $10 million also applies to the rollover for restructures of SBEs. To recap, this measure allows SBEs to change their operating structure without incurring capital gains tax or other income tax liabilities. It does this by providing an optional rollover (deferring any CGT liability or income tax liability until the asset is eventually sold) where an SBE transfers an active asset of the business to another SBE as part of a genuine business restructure, without changing the ultimate economic ownership of the asset. The rollover may also be available for assets that are used by the SBE but held by an entity connected or affiliated with the SBE or, if the SBE is a partnership, a partner of that partnership. This ensures that partners and other 'passive entities' within an SBE that are not themselves SBEs (because they do not carry on a business themselves) can access the new rollover. Under the rollover, specifically, from a CGT standpoint:

- No capital gain or loss will accrue to the Transferor. The Transferee will be treated as acquiring the asset on the date of transfer for an amount equal to the cost base of the asset.

- Pre-CGT assets will retain their pre-CGT status post-transfer.

- For the purposes of the 50% CGT discount, the '12-month clock' will be reset, such that the Transferee will need to hold the asset for a further 12 months following the restructure to avail themselves of this discount.

- For the 15-Year Exemption however, the Transferee will be taken to have acquired the asset back when it was originally acquired by the Transferor.

As the $10 million increased threshold is backdated to 1 July 2016, tax returns may need to be amended in respect of capital gains made and declared from restructures after this date. Amendments may result in refunds where any capital gains liabilities have been paid.

CGT SMALL BUSINESS CONCESSIONS – NO CHANGE

Unfortunately, the increased $10 million SBE threshold does not apply to the CGT Small Business Concessions (i.e. the Active Asset Reduction, Retirement Concession, Roll-over, 15-Year Exemption). To access these concessions, the standard criteria must be met, namely you and connected entities must have net assets to the value of less than $6 million or your annual turnover (including connected entities and affiliates) must be less than $2 million.

PAYG INSTALMENTS

ATO AMOUNT

If like most businesses you report and pay PAYG instalments quarterly, SBEs can choose to have the instalment amount worked out for you by the ATO. This can save you time in you working out the amount you need to pay. You can adopt this concession simply by choosing the "GDP-adjusted instalment option" on your Activity Statement in your first quarter of the income year.

GST

SBEs are eligible for a range of GST concessions as follows:

SIMPLER BAS – NEW LAW

SBEs may now be eligible to complete a simplified Business Activity Statement (BAS) under the new ***Simpler BAS*** rules. At its core ***Simpler BAS*** involves the reduction in the number of labels on the BAS. Under Simpler BAS SBEs now only need to report the following GST information on their BAS:

- GST on sales (label **1A**)
- GST on purchases (**1B**)
- Total sales (**G1**).

ACCOUNTING ON A CASH BASIS

SBEs can elect to account on a cash basis. This means they can:

- Claim GST credits on business purchases in the tax period in which you pay for those purchases. If you pay only part of the cost of a business purchase in a tax period and have a valid tax invoice, you will only claim GST credits for that part of the cost in that tax period.

• Account for the GST payable on your sales in the tax period in which you receive payment. If you only receive part payment for a sale in the tax period, you will account only for the part of the GST payment that relates to that part of the sale in that tax period.

All things being equal, for small business the cash basis of accounting is less of a threat to cash-flow than the accruals basis. The cash basis will defer payment of GST on supplies from when an invoice is issued (accrual basis), to when cash is received on a sale (cash basis). Cash-flow will also be easier to monitor if your business operates on a cash basis. Practically speaking, however, if you account for income on an accruals basis it may be impractical to have a different accounting method for GST.

PAY BY ATO INSTALMENTS

SBEs may be eligible to pay their GST liability on the basis of quarterly instalments worked out for them by the ATO. This relieves you from having to work out the GST payable yourself – which some businesses find complex and time-consuming.

ANNUAL APPORTIONMENT OF GST CREDITS

Under this concession, SBEs can elect to account for the private portion of their business purchases annually, rather than each time they lodge a BAS. Therefore, where a business purchase has a private use component, an entity can claim a full GST credit (rather than claiming a partial credit by estimating the private use component) and then, in a later BAS, make an increasing adjustment in recognition of the private usage. Where you take up this option, you must make the annual increasing adjustment on the BAS that covers the period when your income tax return (for the income year covering the tax period in which you claimed your GST credit) is due or an earlier BAS.

This concession gives SBEs both an administrative and cash-flow advantage. Administratively, they are better off by being able to account for the private use component of purchases annually – all in one hit. While, in a cash-flow sense, they also benefit by being able to retain the full GST credit for a longer period (up to a year in some cases) rather than receiving a partial credit upfront by having to estimate the private use component.

TAX TIP

As the changes are backdated to 1 July 2016. This may enable SBEs with a turnover of between $2 million and $10 million to make an annual apportionment of GST credits on their June 2017 quarterly BAS, if for whatever reason this was not done during 2016/2017 each time a BAS was lodged.

FBT

CAR-PARKING EXEMPTION

There is a real opportunity for small businesses to provide an FBT exempt car-parking benefit as part of an employee's package. It will be exempt from FBT where:

• The car is not parked at a commercial car parking station, and

• The employer is not a public company (or a subsidiary of a public company) when the benefit is provided, and the employer is not a Government body, and

• Either of the following is satisfied for the income year ending most recently before the start of the FBT year in which the benefit is provided:

- The employer's ordinary and statutory income is less than $10 million, or

- The employer is an SBE (i.e. is carrying on a business and has an annual aggregated turnover of less than $10 million).

MULTIPLE WORK-RELATED DEVICES

SBEs do not incur an FBT liability if they provide their employees with multiple work-related portable electronic devices in the same FBT year that have similar functions. Previously, only one such item was allowed each year where it had similar functions to a previous device except in the case of a replaced item. For example, previously you could not provide an employee with a laptop and a tablet in the same FBT year (unless the tablet or laptop was being replaced) as they have similar functions.

'Portable electronic devices' include devices that are primarily used for work, such as laptops, tablets, calculators, GPS navigation receivers and smart phones etc.

TAX TIP

The increase to the SBE threshold to $10 million at least as it relates to FBT concessions, applies from the FBT year beginning 1 April 2017.

TAX TIPS

This article offers readers a range of tax tips that you may like to consider.

TAX-FREE THRESHOLD

The tax-free threshold for 2017/2018 remains unchanged at $18, 200. That is, the first $18, 200 that an individual earns is not taxed. When combined with the Low Income Tax Offset an individual can earn $20 547 in 2017/2018 without paying tax. From a tax perspective, there are a number of points to note about this:

- If you have a discretionary trust (including a family trust) you can distribute up to $20 547 to a non-working adult beneficiary and they will pay no tax on the distribution provided they have no other income. If they have other income, then they could receive a smaller trust distribution which would top them up to the threshold. This strategy is particularly effective where you have a non-working or low-income earning spouse or adult child. The trustee can distribute income from the trust to them and the income tax payable is legally minimised… and the money stays within the family circle. A word of warning however is that where a trust distribution is made to a beneficiary they are legally entitled to the amount of the distribution to be paid to them. If you have a discretionary trust and are considering trust distributions for the year ended 2016/2017, then you should seek advice from your advisor.

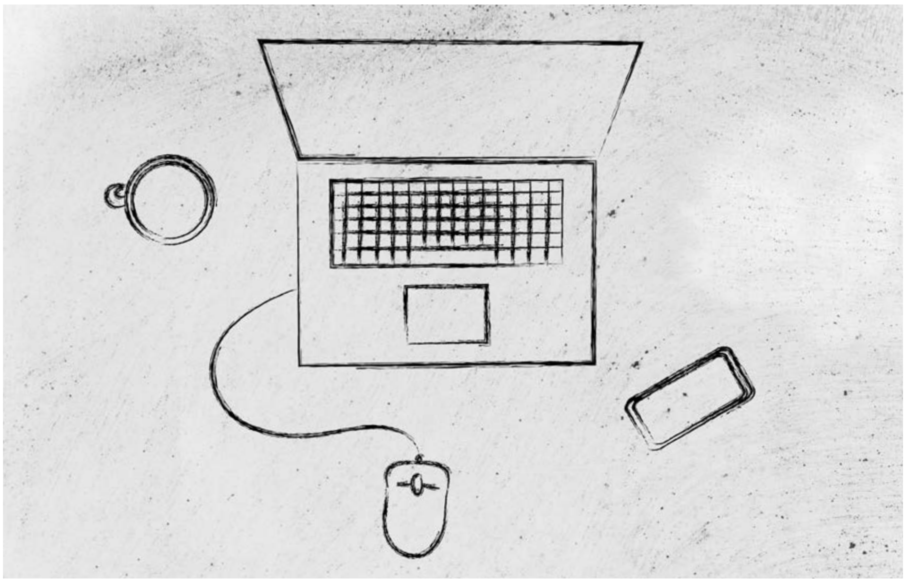
- If you earn below $20 547, then your tax deductions are practically speaking redundant. Because you don't pay any tax if you earn less than this amount, decreasing your taxable income (which is what a tax deduction does) has no effect. Therefore, if you earn below this amount and part of your motivation for incurring an expense is to claim a deduction, then you may wish to have a rethink as the deduction is redundant.

- The tax-free threshold is only available to resident individuals. Non-residents (for tax purposes) are not eligible for the threshold. Resident minors (individuals under 18 on the last day of the income year) are only eligible for the tax-free threshold if they are an "excepted person" such as a full-time worker, a person with a disability (conditions apply) or a person in receipt of a double-orphan pension (conditions apply).

Where they are not an "excepted person", then only their "excepted income" (such as employment income; taxable payments from Centrelink or the Department of Veterans' Affairs; income from a deceased estate; income from their own business; income from property transferred to them as a result of the death of another person / or family breakdown / or income in the form of damages for an injury suffered; compensation/ superannuation/pension fund benefits; or income from a partnership in which they were an active partner). Other categories of income such as family trust distributions will be taxed at penalty rates unless the minor was an "excepted person" as above. Trustees should carefully consider this before distributing trust income to minors. Are they an excepted person? If not, any distribution may be taxed at penalty rates.

MEDICARE LEVY SURCHARGE – ACT EARLY

Being liable for the Medicare Levy Surcharge (MLS) is quite a common and costly oversight. If you are likely to be liable in 2017/2018, it is best to act early and consider taking action early in this financial year to minimise your exposure.



TAX TIP

If you are currently liable, it is worth considering the cost of private hospital cover and receiving that cover compared with paying the surcharge for which you receive no benefit. If you decide on coverage, the earlier in the financial year that you act, the better from a tax perspective as you are only liable for the days in the financial year where you were not covered as per the opposite example.

To recap, MLS is payable as an extra 1% to 1.5% tax if you are a resident individual who does not have an appropriate level of private hospital insurance and you or your family earn above the following:

STATUS	INCOME THRESHOLDS*			
	Base Tier	Tier 1	Tier 2	Tier 3
Single	$90 000 or less	$90 001 - $105 000	$105 001 - $140 000	$140 001 or more
Family	$180 000 or less	$180 001 - $210 000	$210 001 - $280 000	$280 001 or more
	MEDICARE LEVY SURCHARGE			
	0%	1%	1.25%	1.5%

**family threshold is increased by $1 500 for each dependent child after the first child*

These income thresholds have been frozen since 2014/2015, and as a result they ensnare an increasing number of taxpayers as their incomes rise with wage increases over the years:

EXAMPLE

In 2017/2018 Jack who is single has an income of $95 000 for surcharge purposes. He does not have private hospital insurance for any part of the year.

At year-end when he lodges his income tax return, Jack would be liable for MLS of $950 (1% of his income for surcharge purposes).

To avoid or minimise this, Jack may wish to consider taking out private health insurance (containing hospital cover) as early in the financial year as possible. If he were to obtain cover by 1 August 2017 for example and maintain it through to 30/6/2018, then his liability would be pro-rated down to $80 ($950 x (31 days /365 days).

QUANTITY SURVEYOR REPORT

In light of changes made in the recent Federal Budget, it's now arguably more important than ever for residential property owners to consider obtaining a depreciation report from a qualified Quantity Surveyor in order to maximise their depreciation claims on their rental property. As detailed on page 7, investors who purchase plant and equipment after 9 May 2017 will be permitted to claim a depreciation deduction over the effective life of the item. However, subsequent owners of that property cannot claim a deduction in respect of those items.

Existing investments will be grandfathered so that plant and equipment in residential investment properties on 9 May 2017 will continue to be depreciable until the investor no longer owns that asset, or the asset reaches its effective life for depreciation purposes. Plant and equipment items are typically mechanical fixtures or those that can be easily removed from a property such as ceiling fans and dishwashers.

In view of this change, it's important to understand which pre-existing plant and equipment items are eligible to claim. Quantity surveyors typically prepare very detailed reports to make calculations of the capital works claim (building depreciation) as well as identifying these mechanical fixtures that you can depreciate. A report from a qualified Quantity Surveyor can potentially increase your tax deduction substantially.

CORPORATE TAX CUTS

The Government has finally passed into law tax cuts for companies. This article details the extent of the relief, and some issues to consider going forward.

THE CUTS

For companies with a turnover of less than $50 million, the company tax rate will be progressivley reduced to 25% depending on a company's level of turnover. Where in the following table your company does not qualify as its turnover is too high, it will be subject to the standard corporate tax rate of 30%:

FINANCIAL YEAR	AGGREGATED TURNOVER LESS THAN	COMPANY TAX RATE
2016/2017	$10 million	27.5%
2017/2018	$25 million	27.5%
2018/2019	$50 million	27.5%
2019/2020 to 2023/2014	$50 million	27.5%
2024/2025	$50 million	27%
2025/2026	$50 million	26%
2026/2027 onwards	$50 million	25%

WHO?

The reduction in 2016/2017 applies to "corporate tax entities" that are small business entities – that is, corporate tax entities that carry on a business and have an aggregated turnover (including connected entities and affiliates) of less than $10 million. An entity is a corporate tax entity if it is a company, corporate limited partnership, or a public trading trust. As noted in the above table, this will be extended to other corporate tax entities progressively.

FRANKING ACCOUNT

The new law will have an impact on franking credits. As per the Explanatory Memorandum to the legislation, from 2016/2017 the operation of imputation system for corporate tax entities will be based on the company's corporate tax rate for a particular income year, worked out having regard to the entity's aggregated turnover for the previous income year. This is necessary because corporate tax entities usually pay dividends to members for an income year during that income year. However, a corporate tax entity will not know its aggregated turnover for a particular income year (and therefore its corporate tax rate for that income year) until after the end of the income year.

This change does not alter basic operation of the imputation system. Dividends to shareholders who are domestic shareholders will continue to be ultimately taxed at the shareholder's marginal tax rate.

As a result of this change, for the purposes of applying provisions in the imputation system, corporate tax entities will use the corporate tax rate for imputation purposes. This is generally defined to mean the entity's corporate tax rate for the income year (the current income year), worked out on the assumption that the entity's aggregated turnover for the income year is equal to its aggregated turnover for the previous income year.

If the corporate tax entity did not exist in the previous income year, the corporate tax rate for imputation purposes will be 27.5%.

EXAMPLE – FROM THE EXPLANATORY MEMORANDUM

In 2015/2016, Company A has an aggregated turnover of $18 million. In 2016/2017, its aggregated turnover increased to $20 million.

Therefore, for 2016/2017, Company A will have:

- A corporate tax rate of 30% (having regard to its aggregated turnover of $20 million in 2016/2017
- A corporate tax rate for imputation purposes of 30% (based on aggregated turnover of $18 million in 2015/2016), and
- A corporate tax gross-up rate of 2.33. That is, (100% - 30%)/30.

As a result, if Company A makes a distribution of $100 in 2016/2017, the maximum franking credit that can be attached to the distribution is $42.86 — that is, $100/2.33.

In 2017/2018, Company A will work out its corporate tax rate for imputation purposes based on its aggregated turnover for 2016/2017— that is, $20 million. Therefore, for 2017/2018, Company A will have:

- A corporate tax rate for imputation purposes of 27.5%, and
- A corporate tax gross-up rate of 2.64. That is, (100% - 27.5%) / 27.5%.

As a result, if Company A makes a distribution of $100 in 2017/2018, the maximum franking credit that can be attached to the distribution is $37.88 — that is, $100/2.64

These progressive changes to the company tax rate will have a number of flow-on effects for company franking account balances and, ultimately, the individual shareholders of the companies affected. Company franking accounts may need to be carefully managed and monitored to ensure companies are not left disadvantaged from a tax perspective. For instance, there may be franking account timing issues which will need to be considered. For example, where a company has paid company tax at 30% in a prior year and did not paid a dividend, the company may end up in a situation whereby it can only frank a dividend to 25% but has paid company tax in an earlier year at a rate of 30%, leading to an ineffective use of franking credits.

PAYG INSTALMENTS

If in 2016/2017, your company paid PAYG instalments based on a higher rate of tax than 27.5% and you had a turnover of less than $10 million, then all things being equal the company may receive a refund when it lodges its 2016/2017 tax return.

If your company is eligible for a lower tax rate in 2017/2018, you should take this into consideration (and perhaps seek a variation) when calculating your PAYG instalments payable throughout that year.