



RUNDLES
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Rundles Report

tax news | views | clues

HAPPY CHRISTMAS 2017

Bill to increase Medicare levy

The Medicare Levy Amendment (National Disability Insurance Scheme Funding) Bill 2017 has been introduced to implement the Government's 2017–2018 Budget announcement to increase the Medicare levy by 0.5% to 2.5% from 1 July 2019 in order to help finance the National Disability Insurance Scheme (NDIS). Nine other Bills have been introduced to increase other rates that are aligned to the top combined tax and medicare rates applicable to individuals. Note that for FBT, the gross up rates and FBT rate will apply 3 months earlier, from 1 April 2019.

TIP: Think you may be affected by personal tax rate changes? Contact us to find out more.

Budget changes to foreign resident CGT: draft legislation

Draft legislation has been released to implement 2017–2018 Federal Budget measures relating to the CGT liability of foreign residents. The measures, which applied from 9 May 2017:

- remove the entitlement to the CGT main residence exemption (MRE) for foreign residents that have dwellings that qualify as their main residence; and
 - ensure that, for the purpose of determining whether an entity's underlying value is principally derived from taxable Australian real property (TARP), the principal asset test is applied on an associate inclusive basis.
-

Foreign resident CGT withholding: early recognition of tax credit

The Commissioner has made a determination to modify the time at which the vendor is entitled to a tax credit in respect of an amount withheld under the foreign resident CGT withholding rules.

The modification, applicable for transactions entered into on or after 1 July 2016, ensures that, where a settlement period for a transaction covers more than one income year for the vendor, the credit entitlement will be available in the same year as that in which the transaction giving rise to the payment to the ATO is recognised for tax purposes for the vendor.

Further guidance for tax losses via a new “similar business” test

The ATO has released a draft guideline on how they will apply the new “similar business test” to supplement the existing “same business test” used for testing whether a company can utilise an earlier year tax loss.

The draft guideline says the similar business test will operate in a way that is comparable to the same business test, and that the overall business of a company must satisfy the similar business test to access losses. The focus remains on the identity of a business, as well as continuity of business activities to generate assessable income.

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ATO increases its scrutiny on work-related expenses

Despite wide publicity on the issue, the ATO has reminded taxpayers that it is increasing its scrutiny on work-related expenses. Last year over 6.3 million people made a work-related expense claim for clothing and laundry expenses, totalling almost \$1.8 billion. Common mistakes the ATO has seen include people claiming ineligible clothing, claiming for something without having spent the money, and not being able to explain the basis for how the claim was calculated.

TIP: Unsure about what you can claim as work-related expenses? Talk to us to avoid making a mistake.

Activity statements can now be lodged in advance

The ATO says nil activity statements can be generated early in some cases. Under normal bulk processes, activity statements generally issue from the ATO by the end of the month.

However, the ATO says there may be a specific reason for a business to access its activity statements early, such as: if you are a short-term visitor (for example, you are an entertainer or sports person and will be leaving during the relevant period); or know that you will be travelling when an activity statement is due.

TIP: Activity statements can be generated for up to six months in advance.

New downsizing cap available

If you are aged 65 or over, your home is your main residence for CGT purposes and you have owned it for a minimum of ten years, you could benefit from new draft legislation. You will be able to make additional non-concessional contributions, up to \$300,000, from the proceeds of selling your home from 1 July 2018.

The downsizer contribution cap of \$300,000 will be in addition to existing caps; the capital must come from the proceeds of the sale price and application must be made within 90 days after the home changes ownership. There will also be exemption from the contribution rules for people aged 65 and above, and the restrictions on non-concessional contributions for people with total super balances above \$1.6 million.

TIP: Thinking of downsizing? Speak to us about what this could mean for you in terms of tax concessions.

GST: simplified accounting for food retailers

The ATO has released a draft determination on the choice available to you, if you are a food retailer, to use a simplified accounting method (SAM) to help you to work out your net amount by estimating your GST-free sales and GST-free acquisitions of trading stock.

The Draft SAM is substantially the same as the previous determination it replaces. If you were eligible to use a particular SAM specified in the previous determination, you will continue to be eligible to use that SAM under the draft determination.

TIP: Are you a food retailer? We can help you to use the simplified accounting method for your business.

Super system reforms

Australian Prudential Registration Authority (APRA) has written to RSE licensees setting out its approach to the Government's super system reforms aimed at enhancing APRA's prudential powers to improve member outcomes. Under the proposed reforms, the current "scale test" will be replaced with an "outcomes test" requiring MySuper trustees to attest to outcomes promoting the financial interests of members on a broader range of indicators.



First Home Super Saver Scheme – draft legislation

Treasury has released draft legislation to implement the 2017–2018 Federal Budget superannuation measures aimed at improving housing affordability by the establishment of the First Home Super Saver Scheme (FHSSS).

The FHSSS will allow voluntary superannuation contributions made from 1 July 2017 to be withdrawn for a first home deposit starting from 1 July 2018. The scheme provides for up to \$15,000 per year (and \$30,000 in total) to be withdrawn from superannuation.

TIP: To be eligible to use the FHSSS, a person must be 18 years or over, have not used the scheme before and never have owned property before in Australia.

Super assets total \$2.3 trillion at June 2017

APRA has released its Quarterly Superannuation Performance publication and the Quarterly MySuper Statistics report for the June quarter 2017. As at 30 June 2017, superannuation assets totalled \$2.324 trillion (up 10% from \$2.113 trillion in June 2016).

Total assets in MySuper products amounted to \$595 billion (up 25.5% from \$474 billion in June 2016). Self-managed super fund (SMSF) assets totalled \$697 billion (up 9.8% from \$635 billion in June 2016) held in over 596,000 SMSFs, representing 30% of all super assets.

Compensation for ATO systems outages

After the ATO's unplanned systems outages, it provided lodgement deferrals, and remitted interest and penalties where the outages affected practitioners and their clients' lodgements.

The ATO has also advised that it assesses claims for compensation in two ways:

- compensation for legal liability (eg negligence); and
- compensation under the Compensation for Detriment caused by Defective Administration (CDDA) scheme, which allows the ATO to consider claims and pay compensation for disadvantage or loss because of defective administration.

The ATO considers claims in accordance with guidelines issued by the Department of Finance.

TIP: If your tax affairs were affected by the ATO systems outages, contact us to find out if you're eligible to seek compensation.

Small business restructure rollover: changes

The ATO is proposing to modify how the small business restructure rollover (SBRR) operates.

The SBRR means that small businesses can restructure from one legal entity to another – for example, from a company to a trust – and transfer the business's assets to the new structure without immediately causing a capital gains tax liability.

The ATO's latest proposed changes address the fact that the transferred business assets in this type of restructure could still give rise to a dividend for the transferee.

TIP: Are you thinking about changing how your small business operates? Talk to us for more information about the options and tax implications.

Identification numbers for directors: an Icarus moment for phoenix activities?

The Government has announced a package of reforms to combat phoenix activities, including the introduction of a Director Identification Number (DIN).



Phoenixing involves deliberately transferring assets from a failed or insolvent company to a new company, with the intention to avoid paying the original company's creditors, tax and employee entitlements (that is, the new company illegally "rises from the ashes" of the indebted company).

The DIN would identify each director with a unique number, allowing regulators to map the relationships directors have with entities and other people.

Tax measures for affordable housing

The Government has released draft tax legislation to implement elements of its housing affordability plan. The proposed measures include an increased capital gains tax discount for people who hold affordable rental housing investments for at least three years.

Under the draft legislation, managed investment trusts would be allowed to hold affordable housing investments with the main aim of deriving long-term rental income, but purchasing residential property that is not affordable housing would no longer be permitted for these trusts.

TIP: If this legislation is passed, there will be a transitional period for managed investment trusts that already hold non-affordable housing residential property to change their investments to comply with the changes.

No GST on digital currency: Bill

The GST Act (*A New Tax System (Goods and Services Tax) Act 1999*) is being amended to ensure that digital currency, such as Bitcoin, is disregarded for GST purposes unless the supply is made in exchange for a payment of money or digital currency.

To achieve this, a definition of "digital currency" will be inserted into the GST Act. Under the new definition, a digital currency has broadly the same features as state fiat currencies (legal tender). In particular, the value of a digital currency must derive from the market's assessment of its value. A digital currency's value cannot be based on the value of anything else, so it must not have, for example, a value pegged to Australian or United States dollars.

The currency units must be useable as consideration for any type of supply, and must be generally available to the public.

Units will not be considered digital currency if they give the holder benefits (such as memberships or vouchers), other than entitlements incidental to holding the unit or using it as consideration.

TIP: When the new definition passes into law, no GST will apply for supplies of digital currency made on or after 1 July 2017.

New financial and superannuation complaints authority

Legislation has now been introduced to establish a new external dispute resolution framework and an enhanced internal dispute resolution framework for the Australian financial system.

Consumers will have easy access to a single external dispute resolution scheme, the Australian Financial Complaints Authority (AFCA). Certain firms that provide financial and credit services will need to be members of AFCA, including Australian financial services licensees, unlicensed product issuers, unlicensed secondary sellers, Australian credit licensees and credit representatives, regulated superannuation funds (other than SMSFs), approved deposit funds, retirement savings account providers, annuity providers, and life policy funds and insurers.

Before AFCA will consider a dispute, it will refer the complaint back to the financial firm so it can attempt to resolve the dispute within a defined timeframe. AFCA will also have an independent assessor to investigate any complaints about how disputes are handled.



Superannuation guarantee

Crackdown on employer non-compliance

The Government has announced a package of reforms to give the ATO near-real-time visibility over employers' superannuation guarantee (SG) compliance. The package includes measures to:

- require super funds to report contributions at least monthly to the ATO;
- roll out Single Touch Payroll (STP); and
- give the ATO the ability to seek court-ordered penalties in severe cases of non-payment.

Salary sacrifice integrity

Legislation has also been introduced to prevent employers from using an employee's salary sacrifice contributions to reduce the employer's own minimum SG contributions. This change would apply to working out employers' SG shortfalls for quarters beginning on or after 1 July 2018.

Alas, the provisions only apply to packaged superannuation benefits and not the benefits such as cars or laptop computers.

New passive income test for lower corporate tax rate

The Federal Government has recently introduced a Bill into Parliament to ensure that companies with more than 80% passive income will not qualify for the reduced company tax rate.

Under the Bill's changes to the *Income Tax Rates Act 1986*, calculations of a business's "passive income" would include:

- distributions by corporate tax entities (other than non-portfolio dividends);
- franking credits attached to such distributions;
- non-share dividends;
- interest;
- royalties;
- rent;
- gain on qualifying securities;
- net capital gains; and
- amounts included in the assessable income of partners in a partnership or beneficiaries of a trust estate that are referable to another base rate entity passive income amount.

At the time of writing, the Bill is still before the Parliament. When passed, it will apply from the 2017–2018 income year.

The lower company tax rate of 27.5% is available in 2017–2018 for small businesses and corporate base rate entities with turnover of less than \$25 million.

TIP: You must also "carry on a business" to be eligible for the lower corporate tax rate – read on to find out more about what this means for companies.

ATO guidance: what is "carrying on a business"?

The ATO has issued a draft taxation ruling to explain the factors it will consider when deciding whether a company (incorporated under the Corporations Act 2001) is "carrying on a business". This is one of the tests companies and small businesses must pass to be eligible for the lower corporate tax rate.



It's not possible to definitively state whether a company carries on a business, but the draft ruling says that ATO will consider a range of indicating factors. Specifically, a company is likely to be carrying on a business if it:

- is established and maintained to make a profit for its shareholders; and
- invests its assets in gainful activities that have both a purpose and prospect of profit.

TIP: Wondering whether you can access the reduced corporate tax rate? Talk to us today to find out more about how the passive income and carrying on a business tests apply to your situation.

Total superannuation balances and pension transfer balance account reports

The concept of a person's "total superannuation balance" is now being used to determine whether you are eligible for various super concessions, including the \$1.6 million balance limit for non-concessional contributions, Federal Government co-contributions, the spouse contributions tax offset, carrying forward unused concessional contributions and self managed superannuation fund (SMSF) segregation.

The ATO has recently agreed to modify the reporting obligation for total superannuation balances, recognising that some funds are not in a position to correctly report their correct accumulation phase value for 30 June 2017.

The ATO has also set out when superannuation providers and life insurance companies must lodge transfer balance account reports. The ATO will use the reports to determine if individuals have exceeded their pension transfer balance cap.

An administrative concession will be provided for self managed superannuation funds (SMSFs), allowing later reporting to help the funds transition to event-based transfer balance cap reporting.

TIP: Super shouldn't be a "set and forget" arrangement. It's important to revisit your strategy and consider it carefully, especially in light of the wide range of super changes announced in this year's Federal Budget.

Fringe benefits tax: should an Uber be treated as a taxi?

Earlier in 2017, the Federal Court ruled that UberX drivers must be registered for GST, because they supply "taxi travel". There has been much discussion of this finding since, and the ATO is now examining whether Uber trips should be eligible for the "taxi travel" FBT exemption.

The FBT exemption, introduced in 1995, currently only applies to travel in a vehicle that is state or territory licensed to operate as a taxi. However, with the Federal Court's decision on GST for Uber, and some recent state and territory moves towards licensing changes, the ATO has decided to review its interpretation of the definition of "taxi" in the FBT law.

TIP: Any benefit arising from taxi travel by an employee is exempt from FBT if the travel is a single trip that begins or ends at the employee's workplace.

In a discussion paper open for comment until late October, the ATO has asked questions such as, "Should the FBT definition of 'taxi' be interpreted to include not just vehicles licensed to provide taxi services ... [but also] ride-sourcing vehicles and other vehicles for hire?"

Tax treatment of long-term construction contracts

In new Draft Taxation Ruling TR 2017/D8, the ATO explains the methods that taxpayers can use to return income derived and recognise expenses incurred in long-term construction projects. A construction project is considered long-term if it straddles two or more income years.

Two methods of accounting are available: the basic approach (essentially the accruals method) and the estimated profits approach.



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Once a particular method is chosen, the ATO expects the taxpayer to apply it consistently for the entire contract. The same method should also be applied to all of the taxpayer's similar contracts.

The draft ruling also deals with several accounting methods that the ATO does not consider acceptable for long-term construction contracts, including the completed contracts method (bringing profits and losses to account when the contract is completed).

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Who gets your stuff when you die?

Normally, this question is determined by your Will. But if you haven't made a Will, or it has been rendered invalid, eg because you have remarried, then State legislation sets out a specific cascading list of beneficiaries to your Estate. In Victoria, that legislation changed with effect from 1 November 2017 and has significantly altered the outcome for multiple partners, children, and extended family members, as set out below. If these potential outcomes concern you, you should seek legal assistance to get your Will up to date. Do it now!

	Previously	Now
Surviving Partners: no children	100%	100%
-one partner		
-more than one partner	Complicated	By agreement; or by court order; or equal shares
Surviving Partner with:	\$100K plus 1/3 of excess	\$452K plus ½ of excess
-children of deceased & partner	2/3 of excess	Nothing
-children of deceased but not of partner	equally	½ of excess
No Surviving Partner, but		
- surviving children , or per stirpes	Equal shares	Equal shares
grandchildren		
-further generations		Nothing
No Surviving Children, but		
- surviving parents	Equal shares	Equal shares
No Surviving Parents, but		
- surviving siblings , or per stirpes nieces & nephews	Equal shares	Equal shares
-further generations		Nothing
No Surviving Children, but		
- surviving grandparents	Equal shares	Equal shares
No Surviving Grandparents, but		
- surviving aunts & uncles , or per stirpes	Equal shares	Equal Shares
cousins		
-further generations		Nothing
No Surviving Aunts or Uncles, but		
- surviving other blood relations	Equal shares	Nothing
If all the above options are exhausted, the net assets go to the Victorian State Government		

"Per stirpes" is the concept whereby children of a deceased intended beneficiary take the part which would have otherwise gone to their parent, in equal shares.

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Noel's News



Film Reviews – by Matthew Balcam

Star Wars: The Last Jedi

With new director Rian Johnson, the Last Jedi feels quite different from its predecessors whilst maintaining its core punch of the previous Star Wars entries. The Last Jedi picks up moments after the previous film, with Rey handing Luke his old light saber and the Resistance fleeing from the newly empowered First Order, it makes the core plot feel kind of like an intergalactic chase sequence.

The visuals throughout the film are amazing! Costumes and set design are fantastic, with the signature Star Wars attention to detail. The film is heavy with CGI once more, with almost all of it being used well and adding depth to the Star Wars universe.

With a massive 152 minute runtime, the movie does come close to being a bit too long. But it does feel so full that it would be hard to cut anything from it, the only real flaw came from it feeling like it is missing something. Much like the first, the story feels incomplete, the movie has too much bread and not nearly enough meat. But in spite this, or perhaps because of this, the movie pulls you through and keeps you wanting more.

Overall, Star Wars: The last Jedi is a must see for any Star Wars fan, (and realistically, it will be talked about for months/years, so it's pretty much a must see for everyone). 4/5



Film Reviews – by James Ramsden

Thor Raganarok (2017)

Marvel Studios have been turning comics into epic films since 2008 and this third instalment of Thor is no exception. The new director of the series Taika Waititi ("Hunt for the Wilderpeople") adds his own flavour to the film through the goofiness you can see in the main characters. Waititi plays another important role in the film, as the stone man, Korg. Korg brings comedic relief to the film and is, in my opinion, the best character. Thor the God of Thunder, played by Aussie Chris Hemsworth, changes from stern and powerful at the beginning of the film to loud, vulnerable and idiotic towards the end.

The story revolves around chiselled and masculine Thor losing his beloved hammer and finding the strength within himself to combat a rather uninteresting villain and sister Hela (Cate Blanchett). With Thor reuniting with the bone-crushing Hulk, this team is ready to take on almost anything. The landscapes are colourful and interesting, and are a great addition to the film. However, it is important to note that the film is largely predictable and does not provide many plot twists.

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Whether you are a fan of superhero movies or not this film is light hearted and can make you laugh even if you have not seen any of the previous instalments. This film reminds me of other Marvel movies including "Guardians of the Galaxy" and "Spider-Man Homecoming" and brings the right balance of action and comedy. Thor Ragnarok is by far the best Thor film yet and is up there with the best Marvel Studios movies. This film has my tick of approval and is definitely worthwhile watching with family and friends over the Christmas break.



Book Review – Tim Ryan

The Nazi Titanic by Robert P Watson

Being an avid reader of naval history I was riveted by this book about a luxury German liner the SS Cap Arcona which played an important role in Operational Hannibal, one of the largest, yet least known, humanitarian evacuations ever undertaken in the history of mankind. Cap Arcona and a large fleet of other vessels including the infamous Wilhelm Gustloff were used to transport an estimated 1.2m German soldiers and civilians from [East Prussia](#) back to Germany and occupied Denmark as a result of the relentless advance of the Russian Army during the final stages of World War 2. Cap Arcona itself sailing through the dangerous waters of the Baltic, evacuated 25,795 German troops and civilians, many of whom had been seriously wounded on the Russian front, between February and April 1945.

Cap Arcona prior to the war was the largest and fastest vessel sailing from Europe to South America and dubbed the "Queen of the South Atlantic. Requisitioned by the German Navy upon the outbreak of war for use as a hospital ship and later as a transport, Cap Arcona was also used in 1942 as a set for the Nazi propaganda film featuring the loss of the [Titanic](#). Instigated by Joseph Goebbels to reflect the incompetence of the British during the 1912 disaster, the large budget film directed by Herbert Selpin was a failure and later banished as it had the reverse effect of what was intended.

Cap Arcona was to meet a tragic end in its final role as a [prison ship](#) moored off Neustadt in Lubeck Bay. On 3 May 1945 the ship was heavily laden with prisoners, mainly from [Nazi concentration camps](#), when the [Royal Air Force](#) mistakenly bombed the ship resulting in the loss of an estimated 5,000 lives with more than 2,000 further casualties in the sinking of other accompanying vessels of the prison fleet. Sadly allied intelligence had indicated that most of the remaining Third Reich and SS leadership and former concentration camp commandants were planning to escape to Norway to avoid capture by the Allies and it had been wrongly surmised that the Cap Arcona and other ships would be used for this purpose.

This horrific event was one of the biggest single-incident maritime losses of life during the Second World War along with the sinking of the Wilhelm Gustloff earlier in 1945 with the loss of over 9,000 lives. By comparison the sinking of the Titanic resulted in the loss of 1,514 souls. The tragic loss of the two German vessels and so many innocent lives remain as two of the worst naval disasters ever in maritime history. A very sad story but a fascinating account of an important historical event of which so few people are even aware.

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Sporting Predictions – as seen by Evan Thiveos, Maria Marson, Niall Bryant

AUSTRALIAN OPEN TENNIS 2018

The world's best tennis players are heading to Melbourne Park in January to compete in the first Open tournament for the year.

Aussie Nick Kyrgios will entertain the crowds until the round of 16 where he will bow out after yet another dummy spit.

2018 will see comebacks from two former great Open Champs. Serena Williams is so good that the time off to have a baby won't affect her at all and in the men's rounds, the well-rested Novak Djokovic will again win at Melbourne Park.

CRICKET

- Australia will win back the Ashes Series in a 4-0 contest.
- The Perth Scorchers always look likely to make the final of the Big Bash, however 2017/2018 will be contested between the hometown teams of Melbourne Stars and Melbourne Renegades. The result will be determined by how many players each team is missing due to the ODI Tri-Series against New Zealand and England, which Australia should also win.

NBL

The NBL season is at the halfway point with the Perth Wildcats sitting on top followed by the NZ Breakers and a fast recovering Melbourne United. While poor old Andrew Gaze's (who is beginning to look more and more like his Dad everyday) Sydney Kings are bringing up the rear! Perth will be a tough team to knock out for the title but the United will manage it 2-1 with Chris Goulding knocking out a deep three to take the title.

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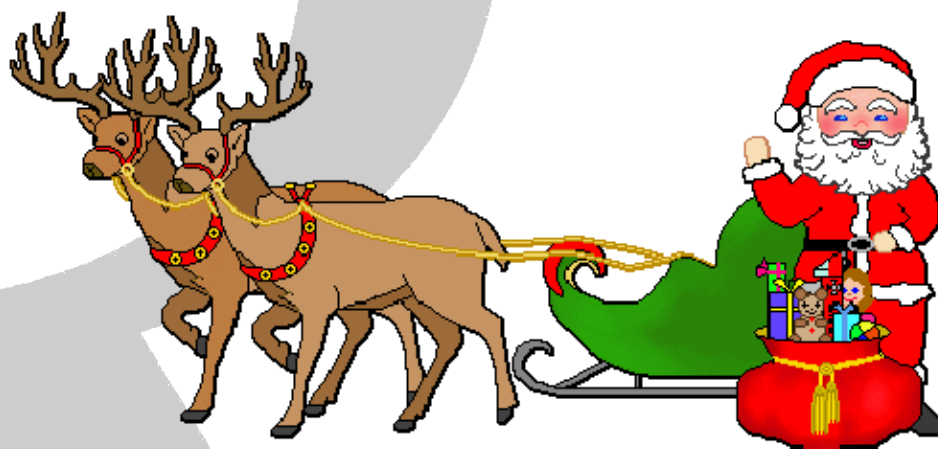
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***PARTNERS AND STAFF WISH ALL OUR CLIENTS
A VERY MERRY CHRISTMAS AND A PROSPEROUS NEW YEAR***

***OUR OFFICE WILL BE CLOSED FROM MIDDAY FRIDAY 22 DECEMBER 2017 AND REOPENING
MONDAY 8 JANUARY 2018***

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