RUNDLES

CHARTERED ACCOUNTANTS

Rundles Report

tax news | views | clues

Winter 2018

ATO embarking on e-Audits

The ATO has recently published information about the "e-Audit" technology it uses as part of its tax compliance activities. These audits involve the ATO performing computer tests on a taxpayer's own electronic records to verify that the data is accurate and complete and that the taxpayer has complied with relevant tax laws.

If a taxpayer is selected by the ATO for an audit or review, the ATO will take a copy of the relevant records (eg data held in the taxpayer's accounting or payroll systems) in order to perform the tests. Although the ATO has broad powers to access taxpayers' records, the ATO takes a cooperative approach and will work with the taxpayer and their advisers.

The ATO may also use an assessment tool to rate a taxpayer's system risk in relation to correct reporting of tax and super obligations. This can have benefits for the taxpayer because the ATO will provide them with a final report that highlights any particular compliance risks for their business and includes recommendations for addressing these issues.

Court finds pay-as-you-go amounts "withheld" from salary payments

The Federal Court has ruled that pay-as-you-go (PAYG) amounts were "withheld" from a taxpayer's salary payments so that she was entitled to a tax credit, despite the amounts never being remitted or notified to the ATO by her employers.

This case illustrates the importance of records and documentation in tax matters. The Court examined evidence such as the taxpayer's offer of employment, payslips, bank statements and payment summaries, which suggested that the salary payments she received were "net pay" amounts (and not "gross").

The Court noted that where an employer has not remitted PAYG withholding amounts to the ATO, this will raise questions about whether amounts were really withheld. However, adequate documentation can – as in this case – be used to prove that PAYG has in fact been withheld by an employer, even if the employer has subsequently failed to remit this to the ATO.

"Transition to retirement" pensions to become simpler

In welcome news for superannuation members, the government has announced plans to simplify the payment of transition to retirement income streams (TRISs) so that they will always be permitted to automatically revert to a dependant upon the death of the original pensioner. This is designed to address a trap in the current legislation that is causing some administrative difficulties for funds when a TRIS recipient passes away.

> ➢ **TIP:** With greater certainty about the payment of TRISs on death, now is a good time for superannuation members to review their estate plans.

ATO releases latest small business benchmarks

The ATO has released its latest small business benchmarks, providing over 100 different industries with average cost of sales and average total expenses.

These benchmarks can not only assist businesses with tax compliance (eg by prompting them to double-check their records if their expenses are outside the benchmark range for their industry), but also provide useful information to help businesses judge their performance against others in the industry.

> ➢ **TIP:** You can access the benchmarks online or by using the ATO app. Contact our office if you wish to discuss how your business compares against industry benchmarks.

Capital gains tax withholding: updated information for trustees

The foreign resident capital gains tax (CGT) withholding regime requires purchasers of Australian property to withhold an amount from the purchase price (for remission to the ATO) if the vendor is a foreign resident. This regime is designed to assist the ATO in collecting CGT payable by foreign residents.

If the vendor is an Australian resident, they must provide an ATO-issued clearance certificate to the purchaser on or before the day of settlement to ensure no withholding occurs. The ATO has released some guidance for trusts and superannuation funds about specific information they must provide when applying to the ATO for a clearance certificate. Contact our office for further assistance.

Superannuation rates and thresholds for 2018–2019

We summarise some of the key superannuation rates and thresholds for the upcoming financial year:

Contributions

Concessional contributions cap	$25,000
Non-concessional contributions cap	$100,000*
CGT cap amount	$1,480,000
Super guarantee percentage	9.5%
Maximum contribution base (per quarter)	$54,030

* $300,000 for a “bring forward” arrangement, subject to the $1.6m total super balance rules.

Government co-contributions

Lower income threshold	$37,697
Higher income threshold	$52,697

Superannuation payments

Lump sum low rate cap	$205,000
Untaxed plan cap	$1,480,000
ETP cap amount	$205,000
Genuine redundancy and early retirement payments – tax-free amounts:	
base amount	$10,399
service amount	$5,200

Pension cap

General transfer balance cap	$1,600,000
Defined benefit income cap	$100,000
"Total superannuation balance" threshold	$1,600,000

Access to Superannuation

The preservation age is now 57!
i.e. Once you have turned 57 you will be eligible to (at least partially) commence to access your accumulated superannuation.

Super guarantee: ATO compliance approach to non-payment

The ATO has released a fact sheet explaining its compliance approach to employers who fail to meet their superannuation guarantee (SG) obligations.

Broadly, employers are required to make SG contributions of 9.5% of an employee's ordinary time earnings (provided they have paid the employee at least $450 in a calendar month). Payments are due quarterly. Employers are also liable to make contributions for certain contractors.

The ATO confirms that its compliance approach towards a particular employer will depend on that employer's compliance history and other circumstances. The ATO will take firm action against any employer who repeatedly fails to pay the correct amount of SG or who does not cooperate with the ATO (eg by failing to provide information or attempting to mislead or obstruct the ATO).

Single Touch Payroll reporting: ATO urges employers to get ready

The ATO is urging employers with 20 or more employees to start preparing now for the Single Touch Payroll (STP) reporting regime, which will be mandatory from 1 July 2018.

This reporting change for employers means they will report payments such as salaries, wages, allowances, PAYG withholding and superannuation contributions information to the ATO directly from their payroll solution at the same time they pay their employees. STP reporting starts on 1

July 2018 for employers with 20 or more employees, and is slated to apply from 1 July 2019 for those with 19 or fewer employees.

➢ **TIP:** Businesses should do a head count of employees as at 1 April 2018 to check if they have 20 or more. There are rules about which employees to include in the head count. Contact our office for assistance.

Data matching finds taxpayers with unnamed Swiss bank accounts

More than 100 Australians have been identified as “high risk” and will be subject to ATO investigation because they have links to Swiss banking relationship managers who are alleged to have actively promoted and facilitated tax evasion schemes.

The ATO constantly receives intelligence from a range of local and international sources which it cross-matches against existing intelligence holdings through its “smarter data” technology.

Australians who may have undeclared offshore income are encouraged to contact the ATO with that information – if penalties or interest apply, the amounts will generally be reduced (by up to 80%) if you make this kind of voluntary disclosure.

➢ **TIP:** It’s important for Australian tax residents to declare all of their worldwide income to the ATO. Australia has many international tax agreements that work to avoid double taxation for people who are resident in Australia but make income from offshore sources.

CGT main residence exemption to disappear for non-residents

A person’s Australian tax residency status may be about to assume a whole new meaning. Currently, both residents and non-residents qualify for a full or partial exemption from capital gains tax (CGT) when they sell a property that is their home (main residence).

But if a Bill that is currently before Parliament is passed, that will change, and any individual who is a non-resident for tax purposes at the time they sign a contract to sell their home – for example, if they have moved overseas before signing the sale contract – will no longer qualify for the full or partial main residence exemption, regardless of how long the home was actually their main residence when they were an Australian tax resident.

➢ **TIP:** If you’re considering selling your home and moving or travelling overseas, talk to us to find out how this could affect your Australian tax residency and CGT costs.

Residential rental property travel expense deduction changes

Recent changes to Australian tax law mean that individuals, self managed superannuation funds (SMSFs) and “private” trusts and partnerships can longer claim tax deductions for non-business travel costs related to their residential rental properties. Such costs also cannot form part of the cost base or reduced cost base of a CGT asset.

The ATO has issued guidance to make it clear that tax deductions are only permitted for taxpayers who incur this kind of travel expense as a necessary part of carrying on a business such as property investing, or providing retirement living, aged care, student accommodation or property management services.

➢ **TIP:** The ATO will consider a range of factors, such as number of properties leased, time and expertise needed for their maintenance, and taxpayer record-keeping, when deciding if someone carries on a business that requires travel expenditure related to their residential properties.

Government to increase civil penalties for white-collar crime

In response to recent Senate Economics References Committee and Australian Securities and Investments Commission (ASIC) Enforcement Review Taskforce reports, the Federal Government has agreed to increase the civil penalties for corporate and financial misconduct (white-collar crime), for both individuals and bodies corporate. ASIC infringement notices will also be expanded to cover a broader range of financial services and managed investment infringements.

The new maximum civil penalties will be set at:

- for individuals, the greater of 5,000 penalty units (currently $1.05 million) or three times the value of the benefits obtained or losses avoided; and
- for corporations, the greater of 50,000 penalty units (currently $10.5 million) or three times the value of the benefits obtained or losses avoided, or 10% of annual turnover in the 12 months before the misconduct, up to a total of one million penalty units ($210 million).

Businesses, get ready: GST on low value goods

From 1 July 2018, GST will be imposed on the supply of low value goods from outside of Australia to Australian consumers. Businesses need to be ready for this change.

> ➢ **TIP:** Businesses must register for Australian GST once their annual turnover reaches $75,000, but registering is optional for businesses with lower turnover. The low value goods changes will apply from 1 July 2018 for all businesses registered for GST, whether their registration was required or they chose to register.

Under the low value goods regime, businesses that sell goods valued at A$1,000 or less to an Australian consumer (who is not registered for GST) will be liable to pay GST on those sales. GST will also apply where the business delivers or facilitates delivery of the goods into Australia.

> ➢ **TIP:** If your business will be affected, now is the time to make sure your systems are ready to collect GST on low value sales, that your online terms and conditions are up to date, and that your website meets Australian consumer law requirements for displaying prices.

Business-to-business (B2B) sales, where a business sells low value goods to a recipient business that is registered for GST, are excluded from the regime.

> ➢ **TIP:** The New Zealand Government has also recently proposed to levy GST on goods valued under the country's current threshold of NZ$400.

Financial Complaints Authority takes shape

Minister for Revenue and Financial Services Kelly O'Dwyer has announced the authorisation of the new financial dispute resolution scheme, the Australian Financial Complaints Authority (AFCA), which will start accepting complaints from 1 November 2018. AFCA is intended to be a "one-stop shop", having the expertise to deal with all financial disputes, including superannuation and small business lending disputes, with higher monetary limits and compensation caps.

All Australian financial services (AFS) licensees, Australian credit licensees, superannuation trustees and other financial firms legally required to join AFCA will need to do so by 21 September 2018.

Banking Royal Commission wraps up evidence on financial advice

The Banking Royal Commission has wrapped up its two weeks of hearings focused on financial advice.

The hearings have included gruelling evidence of misconduct in financial services entities' provision of financial advice, occurring in the context of fees being charged for no service, platform fees, inappropriate advice, improper conduct and the disciplinary regime.

After a brief adjournment the Commission has begun its third round of hearings with a focus on small and medium enterprises (SMEs). The Commission's final report is due by 1 February 2019.

ATO assessments issued for excess super pension balances

The ATO has started issuing excess transfer balance (ETB) tax assessments to self managed super fund (SMSF) members, or their agents, who had previously received an ETB determination and rectified the excess.

These ETB tax assessments are sent to SMSF members (or their professionals), and not to the fund. It's then up to the member to decide how to cover the ETB liability for exceeding their $1.6 million pension transfer balance cap.

The ATO warns that SMSF members may receive an ETB assessment even if they didn't receive an ETB determination. If they rectified the excess before they were assessed for a determination, they are still liable for the ETB tax. However, SMSF members who were covered by the transitional rules for excesses not exceeding $100,000 and rectified in full by 31 December 2017, will not receive an ETB tax assessment.

WHAT'S NEW FOR YOUR 2018 TAX RETURN?

Businesses

Lower company tax rates and imputation.

Company tax rates are falling in Australia. Companies carrying on a business with turnover of less than $25 million will pay a rate of 27.5% in 2018 – the rate of 30% only applies if turnover is $25 million or more, or the company is not carrying on a business.

By 2027, the tax rate will reach a low of 25% for companies carrying on a business with turnover up to $50 million.

> ➢ **TIP:** The dividend franking rate for 2018 may be different from a company's tax rate, depending on whether turnover in 2017 was less than the current year's turnover benchmark ($25 million for 2018).

Deductions for small business entities

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

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

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

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

Small business CGT concessions

If you're selling a business that has an aggregated turnover of less than $2 million (a "CGT small business entity") or the value of its net CGT assets is $6 million or less (it satisfies the $6 million "net asset value" test), you may be able to access the small business CGT concessions.

These concessions include:

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

Individuals

No more Budget repair levy

The Budget repair levy (2% of the part of your taxable income over $180,000) no longer applies in 2018. This means that the top marginal rate for 2018 (including the 2% Medicare levy) is 47%, as opposed to 49% in 2017. The FBT rate is also 47% for the 2018 FBT year.

Deduct work-related expenses

People over claiming deductions for work-related expenses like vehicles, travel, internet, mobile phones and self-education are on the ATO's hotlist this year. There are three main rules when it comes to work-related claims:

- You can only claim a deduction for money you have actually spent (and that your employer hasn't reimbursed).
- The expense must be directly related to earning your work income.
- You must have a record to prove the expense.

Deductions are not allowed for private expenses (e.g. travel from home to work that's not required to transport bulky equipment) or reimbursed expenses (e.g. for the cost of meals, accommodation and travel). And although you don't need to include records like receipts with your tax return, the ATO can deny your claim – and penalties may apply – if you can't produce the evidence when asked.

> ➢ **TIP:** The ATO now uses real-time data to compare deductions across similar occupations and income brackets, so it can quickly identify higher-than-expected or unusual claims.

Superannuation contributions and changes

There have been a number of fundamental changes to the superannuation landscape for the 2018 income tax year, including changes to the caps for concessional contributions (now $25,000 for all taxpayers) and non-concessional contributions ($100,000, or $300,000 under the

three-year bring forward rule) and the introduction of the general transfer balance cap and total super balance threshold (each currently $1.6 million).

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

Property owners

There have been recent changes to:

- the tax treatment associated with residential rental properties (e.g. travel deduction and depreciation changes);
- CGT and GST withholding tax obligations for purchasers of property;
- superannuation measures impacting home ownership (e.g. the first home super saver scheme and the superannuation downsizer incentive); and
- stamp duty and land tax, which varies from state to state.

The government has also proposed to abolish the main residence CGT exemption for taxpayers who are no longer Australian tax residents at the time they sign a contract to sell their home, regardless of how long the home has actually been used as a main residence.

Self Managed Superannuation – Is it for you?

Self managed superannuation funds (SMSF's) are all the rage, but they are not for everyone. There are many attractions to SMSF's, such as:

1. the ability to control your super fund investments
2. potential cost savings
3. gearing opportunities
4. combining family members' superannuation.

However, not everyone has the right profile for self managed superannuation, it is a highly regulated environment and there is not always a cost benefit, depending on the size of your fund and SMSF model that is adopted.

At Rundles, we look after over 600 SMSF's and so have a wealth of experience in this area. So, we think we are well placed to discuss your circumstances and help you decide whether a SMSF is right for you. If you are thinking of setting up an SMSF, or just want to find out more about how they work, please contact your adviser at our office.

➢ ***A checklist for Individual, Superannuation, Company, Trust or Partnership can be viewed on our website www.rundles.com.au or contact our office on 03 9205 4690 for a copy to be sent to you***.

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Noel's News

Restaurant Review by Mark Lisle

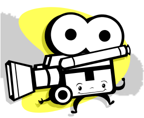
***Lamaro's Hotel** – 273 Cecil Street, South Melbourne*

I had not been to this hotel in its current incarnation but I had heard a lot about it. I wasn't disappointed.

First of all, this is a great looking pub, which has been there since the 1850's and has been beautifully preserved. The bar area is very popular, with a great range of beers on tap, but it also has a very good bar menu.

The restaurant cuisine is Modern Australian. I never quite know exactly what that means because there seems to be a bit of everything. Anyway, the favourites among our group of four were the wood-fire grilled scallops and the raw salmon carpaccio from the Entrées, while the red duck curry and the veal schnitzel were the picks of the mains. All were first class and the prices did not seem too bad either. I'm told the steaks are also great but I'll have to confirm that next time I go there. Ditto the desserts. The wine list is extensive with a good selection of Australian or overseas wines available by the glass or bottle. I would say there is something on the wine list to suit everyone's taste or budget.

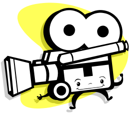
Lamaro's would be the perfect place for a long lunch or a family dinner. I think you'll enjoy the experience.



Film Review by Mark Lisle

***Ocean's 8** – starring Sandra Bullock, Cate Blanchett & Anne Hathaway*

This film is obviously a spin-off from George Clooney's Ocean's trilogy (11, 12 & 13). As you can see, it has a great cast but the movie fails to live up to its predecessors. Debbie Ocean (*Bullock*) is the younger sister of Danny Ocean (*Clooney*) and, once paroled from prison she sets about devising a heist of her own. The film is easy to watch and entertaining enough but it never really reaches any great heights. All of the actors are very good in the film but you are left with a feeling that they didn't have a lot to work with. Anne Hathaway steals the show and probably lifts the film from 2 stars to 3. She is probably reason enough to watch this show but maybe wait until it is on Netflix. Oh, I forgot to mention that there are also little cameos from celebrities such as Serena Williams, Katie Holmes, Maria Sharapova, Kim Kardashian, Heidi Klum and others, which is good fun.



Film Review by James Ramsden

Incredibles 2

Disney Pixar's Incredibles 2, which was released 14 years after the first instalment, was well worth the wait.
Our favourite super hero family are back fighting crime, with Frozen (*Samuel L Jackson*) up to his old tricks, and Edna Mode (the fashion designer) back and hilarious as ever. Generally, I am excited to watch a sequel, but I never think it is going to be better than the first. However, the chemistry, plot and comedy are all there – the Incredibles gets my tick of approval. I can safely say that it is better than the first! The only downside to the movie is the villain, who lacks originality.
However, this didn't take much away from the film, and is only a minor criticism. Watching the film the day after the opening night, the cinema was packed and everybody was left in stitches during some scenes. This heartfelt comedy is one that family and friends will enjoy
Although it is not essential to watch the first film in the series it is definitively worthwhile.
I assume this film will do very well in the box office and I predict another movie will be added to the well-established series. I hope it does not take as long as this sequel to produce!

Sporting Predictions as seen by Evan Thiveos

<u>FOOTBALL/SOCCER</u>

The group stage of the 2018 World Cup is now complete. Unfortunately our Socceroos could not progress to the next stage. Some favourites have found it tough to get out of their groups while Germany, the reigning champions, have been knocked out.

My four Semi-Finalists are Brazil, Croatia, France and England. Brazil will beat Croatia in the final 3-1 to redeem themselves from their humiliating performance in the 2014 World Cup. Luka Modric of Croatia will be Player of the Tournament, and Belgium's Romelu Lakaku will score the most goals.

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TENNIS

The next major tennis championship is Wimbledon. Roger Federer will take out the men's competition beating Marin Cilic in the final. Serena Williams will win the women's title over Petra Kvitova. Nick Kygrios will make the quarter finals and be the only Aussie to advance this far.

AFL

The AFL season is now past the halfway mark, and most of my top 8 predictions in our previous newsletter are on the way to securing a spot in the finals. Collingwood will replace the Crows in the Top 8. Tigers to go back to back.

Dustin Martin and Tom Mitchell still look like favourites for the Brownlow with Patrick Cripps joining the race. Jeremy Cameron's recent suspension should see Ben Brown lock up the Coleman medal, only a strong finish from Buddy Franklin will prevent it.