



---

## IN THIS ISSUE

### QUALIFYING ASSETS FOR THE INSTANT ASSET WRITE OFF

### TAX STING ON AUSTRALIAN EXPATRIATES' MAIN RESIDENCE

### RECENT CHANGES TO WA PAY-ROLL TAX

### ATO TARGETS WEALTHY INDIVIDUALS AND GROUPS

---

#### QUALIFYING ASSETS FOR THE INSTANT ASSET WRITE OFF

As you are aware, the Government increased the instant asset write off threshold from \$25,000 to \$30,000 for assets first used or installed ready for use between 2 April 2019 and 30 June 2020. The business turnover threshold to access the instant asset write off was also increased from \$10 million to \$50 million on that date. After 30 June 2020, the asset threshold will reduce to \$1,000 and the business turnover threshold to \$10 million.

With a limited period of time for taxpayers to take advantage of the higher thresholds, it is timely to consider the asset eligibility criteria for the instant asset write off.

#### Per Asset Basis

The asset threshold applies on a *per asset basis* so that several assets costing less than \$30,000 could qualify for the instant asset write off. Accordingly, it is necessary to consider whether expenditure incurred on the purchase of assets can be allocated to 'composite items' (i.e. separately identifiable assets) costing less than \$30,000.

Taxation Ruling 2017/D1 has provided guidance on identifying composite items for the purposes of working out depreciation. The ruling states that 'a composite item is an item that is made up of components that are capable of being separately identified or recognized as having commercial or economic value'. The following example in Taxation Ruling 2017/D1 illustrates this point:

*The Warehouse Corporation purchases storage racks for use in its warehouse. Multiple racks make up a single row. Each row of racks is physically separate from each other row and is capable of storing goods independently of any other row. The racks within each row rely on other racks within that row for their structural stability and therefore their ability to perform their storage function. As each row is functionally complete in itself, it is a separate depreciating asset. However, each rack within a row is not functionally complete in itself; the racks merely form part of the row. Any new rows that are acquired will be separate depreciating assets.*

To identify items eligible for the instant asset write off, it is often insufficient to rely on suppliers' invoices, as these may only provide amounts for a bundle of composite items (for instance, in the example above, the invoice issued by the supplier may invoice for multiple rows of storage racks).

Any separately identifiable assets not eligible for an instant asset write off is allocated to the General Small Business Pool for SBE entities only. That is, medium sized entities with a business turnover between \$10 million and \$50 million are not eligible for SBE pooling.

### **Depreciating Asset**

The instant asset write off is only available for depreciating assets, which are assets that have a limited effective life and that can reasonably be expected to decline in value over time.

However, the following assets are excluded from this definition:

- Items of trading stock;
- Certain intangible assets; and
- Amounts deductible as construction expenditure on capital works

### **Taxable Use**

The instant asset write off applies to the total cost of the asset, not just its taxable portion. For instance, if the cost of an asset is \$32,000 and you have determined that the taxable portion of the asset is \$24,000, the asset will be ineligible for the instant asset write off as its total cost exceeds \$30,000.

If you would like to discuss any of the above, please contact Andrew Lowry or Leonard Tebbutt on 08 9444 9711.

---

### **TAX STING ON AUSTRALIAN EXPATRIATES' MAIN RESIDENCE**

The re-introduced legislation to remove the Capital Gains Tax (CGT) main residence exemption for foreign residents has been passed by the Parliament on 5 December 2019 and is now awaiting Royal Assent. The proposed legislation was originally introduced by the Government in February 2018 but had lapsed after the 2019 Federal election was called. Any hope that the Parliament may reconsider the controversial policy has now been dashed.

Under the previous rules, the CGT main residence exemption was available for foreign residents provided that they satisfy the relevant requirements. This exemption is particularly useful for Australian expatriates who still keep their residence after leaving Australia. Upon the sale of the property, foreign residents may be able to claim either full or partial exemption on any capital gain made.

However, under the new legislation, an individual who is a foreign resident at the time of the sale of the main residence will be subject to full CGT on the capital gain made. This applies regardless of how long they may have used the property as their main residence or how long

they were a tax resident of Australia. There will be no apportionment at all, you are either in or out.

Consider a not uncommon scenario where a former resident of Australia, who has established a house in Australia as their main residence, moves overseas for work or family reasons and becomes a non-resident. They may have owned and lived in their house for 20 years, it clearly qualifying as their main residence, but take up a 3-year posting overseas, with their family. Whilst overseas, for whatever reason, they decide to sell their former home. Under these proposed amendments, they get no exemption for the previous 20 years of the property being their main residence, and pay CGT on any capital gain made on the property (after allowance for the pro-rata CGT discount for the period they were a tax resident of Australia). By any measure this is unfair and retrospective, in that the current tax residency position of the taxpayer dictates the way the entire 23 years of ownership of the property is treated.

As a final note, a transitional provision is available to push back the application date to 1 July 2020 for properties that were held or acquired before 9 May 2017 (when the policy was first announced by the Government during the Federal Budget announcement). This provides a window of opportunity for those who may be adversely affected by the new legislation to seek tax advice and make an informed decision accordingly. The extended application date, however, does not apply to properties acquired on or after 9 May 2017.

If you have any queries on how the new legislation may affect you, please contact Andrew Lowry or Leonard Tebbutt on 08 9444 9711.

---

## **RECENT CHANGES TO WA PAY-ROLL TAX**

If your initial thought when reading a headline stating “Changes to WA Pay-Roll Tax” was, ...**What now?! What will be the negative impact to my business?** You would probably not be alone. However, we can happily say that the recent changes are positive (that is correct, positive).

### **Background**

Pay-roll tax is payable when an employer’s total Australian wages exceed the tax-free annual threshold. Australian wages comprise WA wages and interstate wages. Interstate wages are those wages subject to Pay-roll tax in the other jurisdictions under their equivalent Pay-roll tax legislation.

Pay-roll tax is a self-assessed tax meaning that the onus is on the employer. Employers registered for Pay-roll tax declare wages by way of a monthly, quarterly, or annual return. As part of the return lodgement process the Office of State Revenue will calculate the employer’s liability.

## The Update

In late October 2019 the McGowan Labor Government announced changes to WA Pay-roll Tax. The changes will provide relief for many WA small businesses.

Comments made by Premier Mark McGowan:

*"This Pay-roll tax cut reflects my Government's commitment to growing our State's economy, supporting small business and creating more jobs for Western Australians."*

*"This package will deliver real incentives for thousands of local businesses to hire additional staff, and is the latest in a series of measures announced to stimulate WA's economy."*

Currently if your WA business with Australia wide wages does not exceed \$850,000, then you are exempt from Pay-roll tax. From 1 January 2020 the annual threshold will be increased to \$950,000, and further again to \$1 million from 1 January 2021.

Albeit yet to receive Royal Assent, our review of the proposed changes highlights how the OSR will address the changes taking effect from the dates prescribed.

You will need to ensure that you correctly apply the tax thresholds and tapering values with respect to half-years for each respective period applicable.

An extract from the Bill below highlights the importance of ensuring you refer to the Bill and work through the specific dates taking into consideration applicable thresholds to correctly calculate your Pay-roll tax liability. Incorrect calculations will lead to penalties and/or interest.

In brief, tax thresholds and tapering values as follows:

- Half-years between 1 July 2019 and 30 June 2021:
  - The threshold amount for a half-year in the threshold transition period is as follows:
    - for the half-year beginning on 1 July 2019 — \$425 000;
    - for the half-years beginning on 1 January 2020 & 1 July 2020 — \$475 000;
    - for the half-year beginning on 1 January 2021 — \$500 000.
  - The monthly threshold amount for a half-year in the threshold transition period is as follows:
    - for the half-year beginning on 1 July 2019 — \$70 833;
    - for the half-years beginning on 1 January 2020 & 1 July 2020 — \$79 167;
    - for the half-year beginning on 1 January 2021 — \$83 333.

Without doubt these changes are a welcome update to existing thresholds, resulting in reduced payroll tax liabilities for all WA Employers.

Please contact Andrew Lowry or Leonard Tebbutt on 08 9444 9711 if you would like to discuss how these soon to be enacted changes may impact your bottom line.

---

## **ATO TARGETS WEALTHY INDIVIDUALS AND GROUPS**

Armed with a financial boost from the Morrison Government, the ATO are hiring 200 more auditors to target Australia's Top 500 privately held companies, Top 5,000 high wealth individuals and even emerging businesses, individuals and trusts.

The ATO considers privately owned and wealthy groups as:

- companies and their associated subsidiaries (often referred to as economic groups) with an annual turnover greater than \$10 million, that are not public groups or foreign owned;
- resident individuals who, together with their business associates, control net wealth over \$5 million.

Since the anti-avoidance taskforce began on July 2016, an additional \$14 billion in tax liabilities have been raised by the ATO, with \$8.2 billion (58.5%) from large private groups, companies and individuals.

These information request letters are expected to begin to be sent this week by the ATO, just in time for Christmas! The ATO will also be flagging additional "assurance reviews" during the first six months of 2020 on these clients. Where the ATO conducts an "Assurance Review" on a private group or individual, they will review all of the following areas:

- tax governance;
- systems;
- procedures
- processes; and
- controls.

Specifically, in the Assurance Reviews, the ATO will conduct a "gap" analysis between the ATO's "better practice" models and the current tax governance, processes, procedures, processes and controls of the group/individual being reviewed. The gap analysis conducted by the ATO will determine the risk rating for each area reviewed and also determine an overall risk rating score for the entity reviewed. The overall risk ratings available low, medium or high and will influence your future tax profile with ATO. An overall risk rating of high will be red flag to the ATO that the entity is a high risk and requires more diligent monitoring.

The following are just some of the information requirements the ATO will be requesting in order to gain an understanding of the Tax & GST governance of these private groups and individuals:

- a) an explanation with supporting evidence of processes and controls in place providing the owner or management with oversight of tax compliance;
- b) an overview of the systems and controls in place to ensure the financial and tax records of the group accurately reflect a true and fair view of the business and investment activities;
- c) an explanation with supporting evidence of controls and processes in place to identify and mitigate new commercial and tax risks relevant to your group; and

d) details of any recent internal or independent audit, including a copy of the report and findings.

Tim Dyce, Deputy Commissioner of Tax for private wealth told, *The Australian Financial Review* on 2 December 2019, "**Get your house in order if you want to and you can make the process a bit less painful**".

Our experience of ATO audits of this nature can save you time and costs. We can conduct a Tax & GST Assurance review, based on the ATO's gap analysis methodology to determine if there are significant areas that require improvement on to limit your risk rating with the ATO.

If you would like to discuss our Tax Assurance analysis and how it can help prepare your business, please contact Andrew Lowry or Leonard Tebbutt on 08 9444 9711.

---