

## client alert

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### ATO closely examines work-related car expenses

The ATO is concerned about taxpayers making mistakes or deliberately lodging false claims for work-related car expenses, and has announced it will be closely examining claims for these expenses in 2018 tax returns. Last year, around 3.75 million people made a work-related car expense claim, totalling about \$8.8 billion.

The best way for to avoid mistakes is to make sure you follow “the three golden rules”, only making a car claim if:

- you paid for the expense yourself and you weren't reimbursed;
- it's directly related to earning your income – in other words, your employer required you to make the trips as part of your job; and
- you have a record to support your claim.

**TIP:** We can help you avoid mistakes and understand what you're entitled to claim this tax time. Contact us about your tax return today.

### 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 Australia 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 no 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 investments 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.

The Royal Commission has adjourned until 21 May 2018, when it will begin 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.

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

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## The impact of the new lease accounting standard is yet to be determined

Between now and 2020, Australian financial reporting will undergo the most significant change since the introduction of international financial reporting standards. Three new accounting standards are being introduced

- AASB 9 Financial Instruments;
- AASB 15 Revenue from Contracts with Customers; and
- AASB 16 Leases.

Arguably it is the latter which will have the most wide-ranging impact.

AASB 16 will be effective for financial reporting periods beginning on or after 1 January 2019, this would mean the year ending 30 June 2020 for most Australian companies or 31 December 2019 for those companies with a December year end.

AASB 16 applies a single accounting model for all leases, with options not to recognise short term leases (those for a period of 12 months or less) and leases of low value assets (typically for an asset value of \$10,000 or less) on the balance sheet.

AASB 16 removes the distinction between operating and finance leases with all leases (other than short-term and low value leases) now being recognised on the balance sheet. A lease liability and corresponding right of use asset are to be recognised. Lease payments are split between principal and interest on the lease liability and the right of use asset is depreciated over the life of the lease. The new accounting treatment is similar to the accounting for finance leases under the current accounting standards.

AASB 16 also offers a number of practical expedients to assist with transition which include not having to restate comparatives and the ability to treat leases with less than 12 months remaining at the time of the introduction of AASB 16 as short-term leases.

When assisting our clients transition to AASB 16 what we have noticed is that the most significant impact is yet to be determined. We have noted that many of the current leases will have expired or have less than 12 months to expiry at the introduction of AASB 16 and therefore their treatment will not change if the practical expedients are used.

This means that the upcoming negotiations of lease extensions and new leases will have even more significance.

When negotiating new and extended leases not only will you have to ensure that the company is getting the best possible outcome from the lease but also the implications of AASB 16 which may impact reported profitability, debt covenant ratios, credit ratings, impairment testing and tax-effect accounting.

Combined with the additional systems, processes and controls required to capture the data required to account for leases, companies should not underestimate the effort, time and cost required to implement these changes.

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