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Small business company tax rate cut

Parliament has passed legislation which will implement a 2015 Budget measure to reduce the company tax rate from 30% to 28.5% for companies that are small business entities with an aggregated turnover of less than \$2 million. The company tax rate for corporate unit trusts and public trading trusts that are small business entities will also be reduced to 28.5%. For all other companies that are not small business entities, the corporate tax rate will remain at 30%.

Importantly, and also announced in the Budget, the maximum franking credit that can be allocated to a frankable distribution will be unchanged, so the same rate of 30% will continue to apply to all companies.

The amendments will apply for the first income year beginning on or after 1 July 2015 and for subsequent income years.

Accelerated depreciation write-off for SMEs

Legislative amendments to implement a 2015 Budget measure to support small businesses have made their way through Parliament. The legislative amendments will allow a short-term accelerated depreciation write-off up to \$20,000 (up from the \$1,000 threshold) for assets acquired by small businesses. The increased threshold of \$20,000 will apply only to assets first acquired at or after 7.30 pm, legal time in the ACT on 12 May 2015, and first used or installed ready for use on or before 30 June 2017. From 1 July 2017, the threshold will revert to the \$1,000 threshold.

The rules around asset eligibility do not change. That is, if an asset was eligible for immediate deductibility under the \$1,000 threshold it will continue to be deductible under the new \$20,000 threshold.

The ATO has confirmed that both new and old/second-hand assets remain eligible.

If the entity is registered for GST, then the GST exclusive amount is taken to be the cost of the asset. Where the entity is not registered for GST, the GST inclusive amount is taken to be the cost of the asset.

An eligible small business can claim an immediate deduction for any software costing less than \$20,000, purchased off the shelf, that is used exclusively in the business. An eligible small business can also claim an immediate deduction for the cost of developing software for use exclusively in its business, where that cost is less than \$20,000. An exception applies if the entity has previously chosen to claim deductions for in-house software under the software development pool rules. In this case the costs need to continue to be allocated to that pool.

TIP: Remember to keep records of purchases to substantiate claims. The ATO will monitor the use of the accelerated depreciation. In this regard, the ATO has said, if "small businesses exhibit behaviours that indicate a high level of risk, they can expect a higher level of interaction from the ATO".

The legislative amendments also allow primary producers to claim an immediate deduction for capital expenditure on water facilities and fencing assets, and to deduct capital expenditure on fodder storage assets over three years. The accelerated depreciation write-off for primary producers will apply to assets that an entity starts to hold, or to expenditure an entity incurs, at or after 7:30 pm, by legal time in the ACT, on 12 May 2015.

TIP: The ATO has confirmed that eligible farmers will be able to choose whichever rules benefit them the most, and that this can be decided on an asset-by-asset basis.

R&D tax incentive rate reduction back in spotlight

In the 2015 Budget, the Government reiterated its intention to change the rates of assistance under the R&D tax incentive to 43.5% (down from 45%) for eligible entities with a turnover under \$20 million per annum and not controlled by a tax exempt entity, and to 38.5% (down from 40%) for all other eligible entities. This would apply from 1 July 2014. The Government has introduced legislation proposing to make the necessary changes.

Registration is a critical first step in accessing the R&D tax incentive. The deadline for lodging an application for registration is 10 months after the end of a company's income year.

With effect from 1 July 2014, a \$100 million threshold applies to the R&D expenditure for which companies can claim a concessional tax offset under the R&D Tax Incentive. For any R&D expenditure amounts above \$100 million, companies will still be able to claim a tax offset at the company tax rate.

TIP: The ATO is working closely with AusIndustry to identify taxpayers who may be involved in aggressive R&D tax arrangements. Taxpayers should make sure their claims are attributed to activities consistent with their AusIndustry registrations, and expenses (eg labour costs) were actually incurred on R&D activities.

Dependent spouse tax offset to be abolished

The Government has proposed legislative amendments to abolish the dependent spouse tax offset (DSTO) and expand the dependent (invalid and carer) tax offset (DICTO). Under the changes:

- a taxpayer who has a spouse who is genuinely unable to work due to invalidity or carer obligations is eligible for DICTO (worth up to \$2,471 (indexed)) if the taxpayer contributes to the maintenance of their spouse and meets certain income tests and other eligibility criteria; and
- taxpayers eligible for the zone tax offset (ZTO), overseas forces tax offset (OFTO) or overseas civilians tax offset (OCTO) can receive a further entitlement of 50% or 20% of their DICTO entitlement as a component of ZTO, OFTO or OCTO, depending on where they reside.

The amendments are proposed to generally apply to the 2014–2015 income year and to all later income years.

Age Pension changes on the way

The Government has proposed legislation to give effect to several changes affecting the Age Pension. The assets test free areas will be increased to \$250,000 for a single homeowner and \$375,000 for a homeowner couple. The assets test threshold for non-homeowners will be increased to \$200,000 more than homeowner pensioners, ie \$450,000 (single) and \$575,000 (couple). However, the assets test taper rate at which the Age Pension begins to phase out will be increased from \$1.50 of pension per fortnight to \$3.00 of pension for each \$1,000 of assets over the relevant assets test threshold. Those whose pension is cancelled will automatically be issued with a Commonwealth Seniors Health Card (CSHC) or a Health Care Card. The changes are proposed to take effect from 1 January 2017.

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.