WGC
Business Advisors Pty Ltd

WGC News
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Edition

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Overview

Welcome to the September 2017 Edition of WGC News.

In this Edition we review Labor's Plan for 30% Tax on Discretionary Trust Distributions to over 18 Year Olds, Clarification on which companies are eligible for 27.5% Tax Rate - Carrying on a Business Test, Simpler BAS Reporting from 1 July for SMEs and a notification on the forthcoming WGC Seminar.

WGC Business Advisors Pty Ltd (WGC) is proud that ongoing information and support is a core service provided to Clients and to those considering becoming a Client in the future. Should there be any issues requiring further discussion or any queries please do not hesitate to contact WGC on: (03) 9654 1811.

Labor's Plan for 30% Tax on Discretionary Trust Distributions to over 18 Year Olds

On 30 July 2017 the Leader of the Opposition, Mr Bill Shorten, announced the ALP policy in relation to the taxation of income distributed by Discretionary Trusts - which, if enacted, would result in a minimum 30 percent tax rate for individual beneficiaries receiving distributions.

As the law currently stands, income generated by a Discretionary Trust is taxed (subject to rules in relation to beneficiaries under the age of 18) at the marginal tax rates of the individual beneficiaries who have an entitlement to receive that money from the Trustee.

At present the tax rates for adult beneficiaries vary from nil (for the first $18,200 of taxable income generated) to 47% (for income in excess of $180,000) - in line with the table below:

Taxable Income	Tax Rate (Excluding Medicare Levy of 2%)
$0 - $18,200	Nil
$18,201 - $37,000	19%
$37,001 - $87,000	32.5%
$87,001 - $180,000	37%
$180,001 and over	45%

Whilst the Opposition Policy paper contains limited details on how the proposal is to be introduced, it is expected that - from 1 July 2019 - a beneficiary will be required to pay tax on distributed trust income at a rate of at least 30% - meaning a beneficiary with a taxable income of $50,000 consisting solely of a distribution from a Discretionary Trust would be subject to the following levels of tax under the current, and proposed regimes:

Taxable Income	Current Regime	Opposition Proposal
$0 - $18,200	$0	$5,460
$18,201 - $37,000	$3,572	$5,640
$37,001 - $50,000	$4,225	$4,225
TOTAL:	**$7,797**	**$15,325**

As shown in the table above, an additional $7,528 would be payable in this scenario under the Opposition Proposal.

Whilst this received significant press at the time of the announcement, it is critical to note that the policy developed by the Opposition needs to clear a significant number of obstacles prior to becoming law - including but not limited to the Labor party winning the next Election, the applicable legislation being drafted, consultation with business and industry bodies, passage through the lower and upper houses of Parliament and the receipt of Royal Assent.

Finally, whilst the flexibility to distribute income is one of the benefits of a Discretionary Trust, it should be noted that the other factors for settling a trust - such as Asset Protection, Estate and Succession Planning, Capital Gains Tax Discount etc - will remain if the Opposition policy was to be implemented. If you have any questions as to whether a Discretionary Trust is still the correct investment or business vehicle for you, please call WGC on 03 9654 1811 to discuss.

Clarification on which companies are eligible for 27.5% Tax Rate - Carrying on a Business Test

The recent tax rate reduction for companies which are small business entities has caused speculation in the media as to whether passive investment companies can be small business entities and, therefore benefit from the reduced tax rate (27.5% for 2016-17).

The Treasury Laws Amendment (Enterprise Tax Plan) Act 2017 was passed by the Senate with six government amendments on 31 March 2017, and received Royal Assent on 19 May 2017. The Act made changes to the corporate tax rate, aggregated turnover threshold and small business income tax offset.

In order to be considered a small business entity, the entity must:

- Be carrying on a business for all or part of the income year, and
- Have an aggregated turnover of less than $10 million (increased from $2 million in prior years)

The speculation was whether a passive investment company could be “carrying on a business for all or part of the income year”. It has long been the ATO’s view that passive investment companies are not actively carrying on a business. However, in a recent Draft Ruling (TR2017/D2) the ATO stated the following as part of a footnote *“This ruling is not concerned with what amounts to carrying on business. However, generally, where a company is established or maintained to make profit or gain for its shareholders it is likely to carry on business.”*

Following this statement, the position that passive investment companies could be said to be carrying on business began to circulate in the industry and media. As a result, Revenue and Financial Services Minister, Kelly O’Dwyer, issued a media release on 4 July 2017 stating “*As always it is up to the ATO to determine how the law applies and in this case whether a company is carrying on a business or not. However, the policy decision made by the government to cut the tax rate for small companies was not meant to apply to passive investment companies”*.

It is the Minister's position that, even if legislative amendment is required, passive investment companies are not actively carrying on a business, and therefore unable to benefit from the 2.5% tax rate reduction. Small businesses are required to pass both the carrying on a business test and turnover test in order to be eligible.

It is important to note that as the tax rate of passive investment companies is unchanged at 30%, it maintains its ability to frank dividends at 30%.

Simpler BAS Reporting from 1 July for SMEs

The ATO has introduced Simpler BAS Reporting to reduce the level of complexity involved in BAS preparation. Simpler BAS Reporting is effective from 1 July 2017 and applies to all businesses with a GST turnover of less than $10 million.

Under Simpler BAS reporting, there is less disclosure required as small businesses are only required to report **G1**(Total sales), **1A** (GST on sales) and **1B** (GST on purchases).

How does it affect bookkeeping?

Most of the common accounting software, such as MYOB AccountRight, Xero, Reckon and Quickbooks Online have made changes to their software, in particular, GST coding of different transactions in order take the full advantage of the Simpler BAS reporting.

The most evident changes going forward under Simpler BAS include:

- No requirement to separately identify capital purchases and non-capital purchases in the accounting software, and these are no longer required to be reported on the BAS at G10 and G11. Only the 10% GST credit claimed on the combined purchase is required to be reported at 1B.

- Further, there is no requirement to separately identify export sales, GST free-sales and sales which are input taxed. They can all be coded as GST Free or No Tax, depending on the software you use. On the BAS, they are all reported at G1, there is no additional requirement to separately report these as G2, G3 and G4.

- Similarly, for purchases that are input taxed and GST free, there is no requirement to report these at G13 & G14, nor are they required to be separately identified in the accounting software. Depending the software you use, they can all be coded as either GST Free or No Tax.

Please keep in mind, Simpler BAS bookkeeping is optional. If you prefer to keep detailed GST transactions, you can certainly keep your accounting software in its current format.

For clients who lodge their BAS online, the ATO will automatically generate forms that require less reporting. However if you lodge a paper BAS, you will need to self-assess your eligibility (i.e. GST turnover of less than $10 million). For eligible businesses, only G1, 1A and 1B are required to be completed.

Simpler BAS does not affect the GST reporting cycle. It also does not affect how other taxes are reported such as PAYG income tax instalments and PAYG tax withholding.

If you require further clarification on the matter or require assistance in setting up Simpler BAS for your accounting software, please do not hesitate to contact us.

WGC Seminar

WGC has a forthcoming Seminar scheduled for Wednesday 25 October 2017 - held at The Hotel Windsor.

Topics for discussion shall include a Session on "Estate Planning" and "Superannuation".

Invitations shall be sent shortly.

WGC looks forward to seeing you there!

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