

Tax Time Monthly

HALL CHADWICK 

OCTOBER 2017



INCOME TAX
SUPERANNUATION
STATE TAXES



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INCOME TAX

Bill introduced to limit deduction for travel and depreciation deductions on residential properties

On 7 September 2017, the Government introduced into Parliament a Bill which proposes to implement changes in this year's Budget as follows:

1. Travel expenditure incurred from 1 July 2017 will be denied where it is incurred to earn assessable income from residential premises.

2. Depreciation deductions on depreciating assets will be denied from 1 July 2017 where

- It is a depreciable asset installed in existing residential property (second-hand asset used in residential property); or
- Depreciable assets installed in a property at a time when it was used as a residence of the taxpayer (rather than a rental property), whether as a main residence or holiday home; but
- Depreciation deductions will continue to be available for depreciating assets acquired as part of new residential premises, subject to certain conditions, or if the property was acquired before 9 May 2017.

Deductions for travel and depreciation as above will not be denied if the expenditure is necessarily incurred in carrying on a business, or if it is incurred by a company, a superfund (that is not an SMSF), a managed investment trust (MIT), a public unit trust and a unit trust or partnership if each member of the unit trust/partnership is a company/superfund (not SMSF), MIT or public unit trust. Where the travel expenditure is not deductible it does not form part of cost base of the residential property. Where depreciation deduction is not available, it would form part of the cost base of the depreciating asset and a capital loss may be available under CGT Event K7 where the asset is disposed or scrapped. A quantity surveyor's report should be considered to assign consideration to such assets to bring forward capital losses where depreciating assets are to be scrapped (if this occurs prior to disposal of the residential property).

The proposed limitation on deduction for depreciating assets does not extend to deduction for building works under Division 43 which remains deductible for all

taxpayers. Clients considering investing in residential property should discuss the impact of this proposed legislation with their Hall Chadwick advisors.

3. A vacancy fee will be imposed on foreign owners of residential real estate where it is not occupied or genuinely available on the rental market for at least 6 months in a 12 month period. A foreign person must give the Commissioner of Taxation a "vacancy fee return" in respect of each dwelling on residential land which the foreign person holds an interest in within 30 days after the end of a "vacancy year". A vacancy year is a 12 month period that commences on the owner's initial right to occupy the dwelling. This fee is levied annually and will be equivalent to the relevant foreign investment application fee imposed on the property at the time it was acquired by the foreign investor.

Bill introduced for First Home Super Saver Scheme (FHSS Scheme)

A Bill to implement the FHSS Scheme was introduced into Parliament on 7 September 2017 and allows voluntary contributions to be made to superannuation from 1 July 2017, and withdrawn for a first home deposit from 1 July 2018. This provides for up to \$15,000 per year (to \$30,000 in total) to be contributed to super, subject to the contribution caps. Compulsory employer super and contributions for defined benefits schemes are not eligible for the FHSS Scheme.

Both voluntary concessional and non-concessional contributions are eligible for FHSS Scheme. Withdrawals of "FHSS released amounts" is calculated as associated earnings (calculated based on the shortfall interest charge rate) plus 85% of the concessional contribution (i.e. less 15% tax paid by the superfund), or 100% of non-concessional contribution.

FHSS release amounts are subject to tax when received with a 30% non-refundable tax offset for concessional contributions (and associated earnings), and 30% non-refundable tax offset for associated earnings only for non-concessional contributions.

Bill introduced for additional "downsizer contribution cap" of \$300,000

The same Bill to implement FHSS Scheme also proposes to allow individuals age 65 or over to make additional non-concessional contributions up to \$300,000 per individual from proceeds of selling their home from 1 July 2018.

This applies to capital proceeds received from disposal of an ownership interest in a dwelling in Australia that is a "main residence" that would have qualified for the main residence CGT exemption (in full or in part).

Either the individual or their spouse must have owned the home for a minimum of 10 years up to the point of sale. A spouse that is not on title may still make the contribution. Caravans, houseboats and motor homes are excluded.

The downsizer contribution cap of \$300,000 will be excluded from the non-concessional contribution cap, and exempt from contribution rules for those aged 65 years or older (such as the work test). The contribution must come from the capital proceeds and is limited to the sale price where it is less than the cap per individual. A person cannot make a subsequent downsizer contribution even if they sell another qualifying residence. The contribution must be made within 90 days after the home changes ownership (the date of settlement).

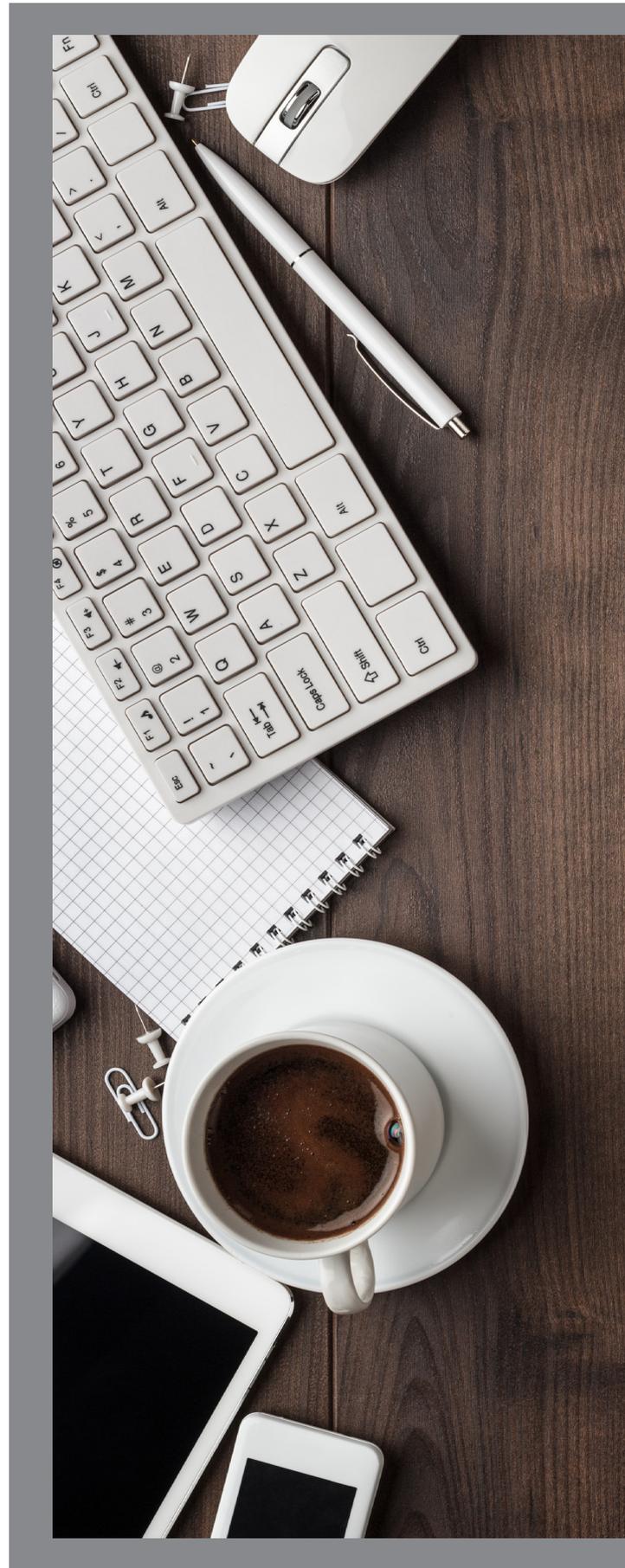
Note this downsizer contribution remains subject to \$1.6M pension transfer balance cap and would be treated as accumulation phase where the individual has already exceeded their transfer balance cap.

Draft legislation to clarify application of lower tax rate on passive investment companies

On 18 September 2017, Treasury released exposure draft legislation to ensure that the lower corporate tax rate 27.5% does not apply to companies with predominantly passive income (such as rent, dividends, interest and capital gains). Under the exposure draft, a company will only be eligible for the lower tax rate where it carries on a business, has an aggregate turnover of less than the aggregate turnover threshold (ie \$10M for FY2017, \$25M for FY 2018 and \$50M for FY 2019 and later years), and does not have "base rate entity passive income" of 80% or more of its assessable income for that year. "Base rate entity passive income" is defined as dividends (other than non-portfolio dividends), interest, royalties, rent, capital gains, gains on qualifying securities and distributions from partnership or trust which are passive income.

Note companies with access to the lower tax rate are also required to reduce their franking rate to 27.5% (resulting in more top up tax, depending on the marginal tax rate of the entity that receives the dividend).

Clients affected should contact Hall Chadwick for tax planning advice.



SUPERANNUATION

ATO announces superannuation guarantee crackdown

On 29 August 2017, the ATO released its first estimate of the Superannuation Guarantee (SG) gap estimate. The SG gap is the difference between the theoretical amount payable by employers to be fully compliant with their SG obligations and actual contributions received by funds. The ATO estimates the net SG gap to be 5.2% or \$2.85 billion of the total estimated \$54.78 billion in SG payments that employers were required to pay in 2014-15.

As a result, the ATO announced that in addition to following up on all reports of unpaid SG, they will be increasing their SG case work by one-third this year, including improvement in data analysis to detect patterns in non-payment, exchange of information with other government agencies and implementation of Single Touch Payroll to improve visibility on reporting and simplify tax and super interaction for employers.

Payments for superannuation are required to be made within 28 days of the end of each quarter, with the next payment due 28 October for the September quarter.

STATE TAXES

VIC: Vacant residential land tax

From 1 January 2018, a vacant residential land tax applies to homes in inner and middle Melbourne that are unoccupied for more than six months in a preceding calendar year. The vacant residential land tax is assessed by calendar year (1 January to 31 December) and the six months do not need to be continuous.

This is an annual tax set at 1 per cent of the capital improved value (CIV) of taxable land. For example, if a vacant home has a CIV of \$500,000, the tax will be \$5000. Homes that are exempt from land tax are also exempt from vacant residential land tax.

Also, homes that are unoccupied for more than six months of the preceding calendar year may be exempt from the tax if:

- Ownership of the property changes during the preceding calendar year
- The property becomes "residential" property during the preceding calendar year
- The property is used as a holiday home and occupied by the owner for at least four weeks of the preceding calendar year
- The property is occupied by the owner for at least 140 days of the preceding calendar year for the purpose of attending their workplace

State Revenue of Victoria (SRO) has provided an online tool to determine liability. If liable, the owner must notify SRO via their online portal by 15 January 2018, which will be available in December 2017.

Find out how we can help, contact your local office

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