

HALL CHADWICK 

TaxTime Monthly

OCTOBER ISSUE 2018



1 INCOME TAX pg 3

- 1.1 Annual agreement now available to authorise registered agents to lodge Single Touch Payroll
- 1.2 Bill introduced – Tax Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2018
- 1.3 R&D Tax Incentive changes introduced as Bill
- 1.4 Changes to small business CGT concessions now law
- 1.5 \$20,000 instant asset write off and new rules to access lower company tax rate
- 1.6 Activities to develop an underground coal gasification pilot plant not R&D activities: *Moreton Resources Ltd v Innovation and Science Australia*



2 STATE TAXES pg 5

- 2.1 SA Budget 2018 - Lower payroll tax and land tax proposed



2

1 INCOME TAX

1.1 Annual agreement now available to authorise registered agents to lodge Single Touch Payroll

For an agent (such as a bookkeeper) to lodge on behalf of employers under Single Touch Payroll (STP), they are required a written authority from the employer to lodge the STP for each and every lodgement. This caused a significant burden for agents needing to follow up with their clients to sign off each STP lodgement.

The ATO advised that an annual agreement is now available. Where a registered agent reports STP for an employer, they may now obtain an annual authorisation called an *STP engagement authority*.

The STP engagement authority is subject to eligibility criteria and must only be used for lodging an STP pay event – not other approved forms. An authority must be reviewed and signed by an employer and their registered agent every 12 months or any time there has been a significant change in the industrial relations, taxation or payroll process.

To be eligible to provide a registered agent with STP engagement authority the employer must not:

- have any overdue activity statement lodgments
- have any outstanding debts, unless they are covered by a payment arrangement or subject to review
- currently be or have been the subject of ATO compliance activity for PAYG withholding in the last two years.

Directors of companies must not have been issued with a Director Penalty Notice (DPN) in relation to the company or any other company where they are or have been a director.

The STP engagement authority would need to be signed by the employer and the registered agent but would not need to be provided to the ATO. The STP engagement authority should outline the responsibilities of both parties. It should include the agreed terms of the employer's collation of payroll related inputs and their process for calculating and paying their employees, as well as their taxation and superannuation obligations.

1.2 Bill introduced – *Tax Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2018*

The Bill *Tax Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax in Australia*

and Other Measures) Bill 2018 was introduced into Parliament on 20 September 2018. The Bill proposes the following changes:

Managed Investment Trust: Increasing the withholding tax on payments from Management Investment Trusts (MIT) from 15% to 30% for fund payments that are non-concessional MIT Income. Non-concessional MIT income are as follows: MIT cross staple arrangement income, MIT trading trust income, MIT agricultural income, or MIT residential housing income.

Thin Capitalisation: For the purpose of determining associate entity debt, associate entity equity and the associate entity excess amount, a trust (other than a public trading trust) or a partnership will be an associate entity if it holds an associate interest of 10% or more in the trust/partnership (lowered from 50% or more). This is to prevent double gearing structures and reduce capacity for interest deductions.

The Bill also propose changes to withholding tax exemption for foreign superannuation funds and the sovereign immunity tax exemption.

1.3 R&D Tax Incentive changes introduced as Bill

Changes to the Research and Development (R&D) tax offset announced in the 2018 Budget were introduced as part of *Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2018*. The bill proposes changes to the R&D tax offset as follows:

- The current R&D expenditure threshold is \$100M and applies to eliminate the incentive component of the R&D tax offset in relation to notional deductions in excess of \$100M. This is proposed to be increased to \$150M, and making this a permanent feature of the law (currently legislated to cease on 1 July 2024).
- Currently, R&D entities with aggregated turnover of less than \$20M are entitled to an R&D tax offset rate of 43.5%. This is proposed to be an offset equal to their corporate tax rate plus 13.5% (such that the tax offset is linked to their corporate tax rate).
- Proposes a cap to R&D refund of \$4M per annum (currently there is no cap and entities with turnover of <\$20M are entitled to a tax refund of any R&D tax offset in excess of their income tax liabilities).
- For R&D entities with aggregated turnover of \$20M or more, the bill proposes a tax offset equal to their corporate tax rate plus a premium based on the level of their incremental R & D intensity (which is calculated based on R & D expenses as a % of total expenses).

These changes are proposed to start from 1 July 2018. Clients currently making R&D tax offset claims should contact Hall Chadwick for potential impact to these claims.

1.4 Changes to small business CGT concessions now law

Treasury Laws Amendment (Tax Integrity and Other Measures) Bill 2018 was passed by the Senate on 20 September with amendments which the House of Representative agreed.

This bill includes amendments to the operation of the small business CGT concessions (**SBCGT**) where shares in a company or interest in a trust are sold.

Under the bill, the conditions to apply SBCGT are significantly amended where shares in a company or interest in a trust are sold, as follows:

- Either the taxpayer must be a CGT concession stakeholder in the Object Entity, or CGT concession stakeholders in the Object Entity must hold at least 90% of the interests in the taxpayer;
- Unless the taxpayer satisfies the maximum net asset value test (MNAVt), the taxpayer must have carried on a business just prior to the CGT event;
- The Object Entity must either be a CGT small business entity for the income year or satisfy the MNAVt; and
- The shares or interests in the Object Entity must satisfy a modified active asset test.

The old SBCGT Concession rules treat shares or interests as active assets based on the underlying assets of the company or trust. Under the new legislation, the modified test looks through membership interests to include the proportionate amount of the value of the assets of others entities to which the membership interest ultimately relate.

Under the new legislation, when working out if the Object Entity satisfies the MNAVt or is a CGT small business entity:

- The turnover or assets of entities that may control the Object Entity would be disregarded; and
- An entity would be treated as controlling another entity if it has an interest of 20% or more (rather than 40% or more as is currently provided for in s328-125 of the ITAA 1997).

This will mean that more entities are 'connected with' each other for the purpose of calculating the turnover and assets of the Object Entity.

This was to apply to CGT events occurring on or after 1 July 2017, but Senate amendment changed this to 8 February 2018. Any clients considering application of SBCGT from 8 February 2018 should contact Hall Chadwick for advice.

1.5 \$20,000 instant asset write off and new rules to access lower company tax rate now law

On 12 September 2018, the bill to extend the \$20,000 instant asset write off to 30 June 2019 passed the Senate without amendment and received Royal Assent on 21 September 2018.

On 31 August 2018, the bill to ensure a company will not qualify for a lower tax rate of 27.5% from 1 July 2017 if more than 80% of assessable income is passive income received Royal Assent. For further details see [here](#).

Both of these bills languish in Parliament for many months before finally being passed and Assented to. There remains significant outstanding tax measures and Hall Chadwick will keep you updated as they pass through Parliament.

1.6 Activities to develop an underground coal gasification pilot plant not R&D activities: *Moreton Resources Ltd v Innovation and Science Australia*

A taxpayer has failed to satisfy the AAT that it's various activities conducted in connection with coal gasification projects are R&D activities and expenditure eligible for the R&D tax offset in *Moreton Resources Ltd v Innovation and Science Australia*.

Moreton Resources Ltd sought to have the following activities be considered as R&D activities in 2012, 2013 and 2014:

- Kingaroy Project "to design and develop an underground coal gasification (UCG) generated syngas cleaning and power generation pilot plant by integrating known technologies for the first time"
- Wandoan Project "to use the learnings from Kingaroy to design and develop a second UCG syngas processing plant to determine the most appropriate economical use for syngas"
- New Project "Development of a conceptual water model and rehabilitation plan following UCG pilot plant experimentation Project".

To be R&D activities, they must either be "core activities" or "supporting activities". Core activities are defined as "experimental activities whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work that is based on principals of established science and

proceeds from hypothesis to experiment, observation and evaluation and leads to logical conclusions". Further, the activities must be conducted "for the purpose of generating new knowledge (including new knowledge in the form of new or improved...processes or services".

The AAT concluded that none of the activities were R&D activities as they were not experimental. The design and development of a UCG were not activities required to solve a problem, develop a new product or improve a process. The taxpayer was only testing the application of existing technology at a particular site and not conducting R&D activities.

The application of the R&D legislation can be complex and recently there has been significantly more review and audit activity undertaken by AusIndustry and the ATO. Clients requiring assistance with this should contact Hall Chadwick for advice.

Land tax thresholds will continue to be increased each year in line with average increases in site values as determined by the Valuer-General.

2 STATE TAXES

2.1 SA Budget 2018 – Lower payroll tax and land tax proposed

The 2018-19 SA Budget was released on 4 September 2018. Proposed measures included:

Payroll Tax: Currently, payroll tax is levied on taxable wages at the rate of 4.95% above an annual tax-free threshold of \$600,000. The Budget has proposed that small businesses with annual taxable payrolls below \$1.5M will be exempt from payroll tax from 1 January 2019.

Businesses with annual taxable wages between \$1.5M and \$1.7M will pay less payroll tax. Businesses with annual taxable wages above \$1.5M will continue to receive a deduction of up to \$600,000 from their taxable wages, consistent with the existing tax-free threshold. To smooth the transition to standard rates of payroll tax, businesses with taxable wages between \$1.5M and \$1.7M will pay a tax rate that increases proportionately from 0% at \$1.5M to 4.95% at \$1.7M in taxable wages. Businesses with annual taxable wages above \$1.7M will continue to pay a rate of 4.95%.

Land Tax: Land tax is proposed to be reduced through an increase in the tax-free threshold and the introduction of a lower marginal tax rate from 1 July 2020.

The tax-free threshold will be increased from the current level of \$369,000 to \$450,000 from 1 July 2020. The marginal tax rate for the value of land tax ownerships between the existing top land tax threshold (currently \$1.2 million) and \$5.0 million will also be reduced from 3.7% to 2.9%.

Find out how we can help, contact your [local office](#)

NEW SOUTH WALES

Level 40, 2 Park Street
Sydney NSW 2000
Tel: 02 9263 2600
sydney@hallchadwick.com.au

VICTORIA

Level 14, 440 Collins Street
Melbourne VIC 3000
Tel: 03 9820 6400
hcm@hallchadwickmelb.com.au

QUEENSLAND

Hall Chadwick Brisbane - Insolvency
Services
Level 4, 240 Queen Street
Brisbane QLD 4000
Tel: 07 3211 125
brisbane@hallchadwick.com.au

Hall Chadwick QLD - General Services

Tel: 07 3221 2416
general@hallchadwickqld.com.au

WESTERN AUSTRALIA

Hall Chadwick Perth - Insolvency Services
Allendale Square, Level 11
77 St Georges Terrace Perth WA 6000
Tel: 08 6557 6200
perth@hallchadwick.com.au

Hall Chadwick WA - General Services
283 Rokeby Road, Subiaco WA 6008
perthgeneral@hallchadwick.com.au

NORTHERN TERRITORY

Paspalis Business Centre Level 1
Suite 11, 48-50 Smith Street
Darwin NT 0800
Tel: 08 8943 0645
darwin@hallchadwick.com.au

ADELAIDE

Level 21, 25 Grenfell Street
Adelaide SA 5000
Tel: 08 8545 8422
adelaide@hallchadwick.com.au

A Member of PrimeGlobal
An Association of Independent
Accounting Firms

