
ATO Releases Offshore Voluntary Disclosure Initiative 2014- Project DO IT: Disclose Offshore Income Today

27 March 2014

The Commissioner of Taxation has today announced a new offshore voluntary disclosure initiative for 2014, 'Project DO IT: Disclose Offshore Income Today.' Taxpayers eligible for this initiative will be those who have omitted to declare foreign income or capital gains, or previously over-claimed tax deductions relating to foreign income. The initiative will provide taxpayers with a mechanism to make disclosures to the Australian Taxation Office (ATO) concerning their international taxation affairs with the ability to take advantage of significantly reduced penalties and a capped number of amendment years. The ATO has further undertaken that eligible Project DO IT taxpayers will not be further investigated for fraud or evasion.

Which Taxpayers are Eligible?

Taxpayers eligible for Project DO IT are those who have previously omitted foreign sourced income or capital gains, or taxpayers who have previously over claimed deductions relating to foreign income. A taxpayer who has recently lodged a voluntary disclosure outside of the Project DO IT process may still be eligible to participate in the initiative in circumstances where amended assessments have not yet been issued and there has been no finding of fraud or evasion.

Taxpayers will be ineligible for Project DO IT if they are already under audit, or are involved in the objection stage or litigation relating to the omitted offshore income, capital gains or over-claimed deductions.

Benefits for a taxpayer in making an offshore voluntary disclosure under Project DO IT

As Project DO IT will operate independently of a standard voluntary disclosure, this initiative will have the following unique benefits:

1. the taxpayer will only be assessed for years that fall within the time limit for the Commissioner amending an assessment (generally four years) compared with the normal rules which allow for unlimited years of review for fraud or evasion;
2. the shortfall penalty will be capped at 10 per cent compared to the normal rules which can impose penalties in a range of up to 75 per cent;
3. the ATO will agree not to investigate the disclosure for the purposes of a criminal prosecution, nor refer the disclosure to any other law enforcement agency (however this will not apply to promoters of tax evasion schemes);

4. for taxpayers seeking to wind up offshore structures and repatriate their offshore assets to Australia, the ATO will provide certainty on the appropriate tax treatment of these transactions. A concession is also provided in respect of amounts repatriated to Australia when there is a winding up of the offshore structure; and
5. enabling a taxpayer to enter into a deed of settlement with the ATO to provide certainty of outcome going forward.

How we can help

The ATO's increasing focus on international tax avoidance in conjunction with their continuously enhanced capacity for the automatic exchange of tax information with other jurisdictions makes the concessions offered by Project DO IT worthy of serious consideration by eligible taxpayers. This initiative makes it very attractive for eligible taxpayers to come forward given that investigations into fraud and evasion would ordinarily be unlimited in the years of review rather than the cap offered under the initiative, and particularly in light of the agreement not to further investigate the matter or refer it to other law enforcement agencies. Project DO IT will operate until 19 December 2014, after which time it has been foreshadowed by the ATO that more robust forms of audit will be pursued in this area.

The tax controversy team is comprised of experienced tax lawyers who have extensive experience navigating clients through voluntary disclosures and previous offshore voluntary disclosure initiatives including drafting deeds of settlement with the ATO. We can discuss any questions you may have and advise on your legal rights and obligations in a confidential, privileged and sensitive manner.

If you would like any further information on Project DO IT please contact one of the Tax Controversy specialists listed below.

Let's Talk

For a deeper discussion of this issue, please contact:

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