Legislative update

1 April 2015

Revenue measures introduced into the Commonwealth Parliament or as legislative instruments or regulations include the following:

Privacy (Tax File Number) Rule 2015 registered on 4 March 2015 and made under the Privacy Act 1988, regulates the collection, storage, use, disclosure and disposal of an individual’s tax file number information and replaces the previous Tax File Number Guidelines 2011.

Customs Amendment (Anti-Dumping Measures) Bill (No.1) 2015 introduced into the House of Representatives on 26 February 2015 contains various amendments to the Customs Act 1901 to strengthen Australia’s anti-dumping provisions, simplify and modernise provisions relevant to anti-dumping notices, applications and submissions, and clarify certain provisions.

Customs Tariff (Anti-Dumping) Amendment Bill 2015 introduced into the House of Representatives on 26 February 2015 amends the Customs Tariff (Anti-Dumping) Act 1975 to simplify and modernise publication provisions for anti-dumping notices, clarify provisions regarding consideration of the lesser duty rule and clarify the operation of exemption provisions.

Norfolk Island Legislation Amendment Bill 2015 and related package of Bills (including Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Bill 2015) introduced into the House of Representatives on 26 March 2015, reforms governance arrangements of Norfolk Island, extends many mainland social security, immigration, and health arrangements to Norfolk Island, and amends the income tax and superannuation guarantee charge laws to repeal, with broad effect from 1 July 2016 (subject to transitional rules), the:

- Income tax exemptions that apply to Norfolk Island resident individuals, companies and trustees in relation to their Norfolk Island sourced income and their foreign sourced income, bringing them fully into Australia’s income tax system
- Medicare levy exemptions that apply to Norfolk Island residents, bringing them fully into Australia’s Medicare levy system, and
- Superannuation guarantee charge exemptions that apply to Norfolk Island employers and employees in relation to work performed on Norfolk Island, bringing them fully into Australia’s superannuation guarantee system.

The A New Tax System (Medicare Levy Surcharge–Fringe Benefits) Amendment Bill 2015 (introduced as part of the package of Norfolk Island reform Bills noted above) makes consequential amendments to A New Tax System (Medicare Levy Surcharge–Fringe Benefits) Act 1999 as a result of the repeal of the Medicare levy exemptions that currently apply to Norfolk Island residents.

The Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015, introduced into the House of Representatives on 25 March 2015, proposes to improve the taxation of employee share schemes (ESS) to ESS interests acquired on or after 1 July 2015 by:

- reversing some of the changes made in 2009 to the 'taxing point' for rights for employees of all corporate tax entities such that in 'ESS deferred
schemes’, the taxing point will be the earliest of:

For shares -
- when there is no real risk of forfeiture of the shares and any restrictions on the sale are lifted
- when the employee ceases employment, or
- 15 years after the shares were acquired
For rights -
- when there is no real risk of forfeiture of the rights and any restrictions on the sale of the rights are lifted
- when the employee exercises the right, and after exercising the right there is no real risk of forfeiture of the underlying share and the restrictions on sale of the share are lifted
- when the employee ceases employment, or
- 15 years after the rights were acquired.

- introducing a further taxation concession for certain ESS interests issued to employees of certain small start-up companies. A start-up company is one which is not listed on an approved stock or securities exchange and is incorporated less than ten years at the end of the most recent income year before the ESS interest was acquired (as an integrity measure, such restrictions are also applicable to other companies within the corporate group). The company must also have an “aggregated turnover” (using existing concepts in section 328-115 of the Income Tax Assessment Act 1997) not exceeding $50 million for the income year prior to the income year in which the ESS was acquired. These further concessions are an income tax exemption for the discount received on certain shares and the deferral of the income tax on the discount received on certain rights which are instead taxed under the capital gains tax (CGT) rules, and
- allowing the Commissioner of Taxation to approve optional safe harbour valuation methodologies, by legislative instrument, which will be binding on the Commissioner and enabling the method for calculating the value of an ESS interest to be specified by regulation.

Let’s talk
For a deeper discussion of how these issues might affect your business, please contact:

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