Legislative Update

1 March 2014

Revenue measures introduced into Federal Parliament in the current session and since our previous monthly publication include:

**Tax and Superannuation Laws Amendment (2014 Measures No. 1) Bill 2014** introduced into the House of Representatives on 26 February 2014 proposes to:

- introduce penalties to deter and penalise persons who promote illegal early release schemes. *Illegal early release* refers to cases where superannuation benefits are withdrawn from superannuation contrary to the withdrawal restrictions that apply under the law, and where relevant exemptions do not apply. Prior to these changes, there were no specific penalties for promoters of illegal early release schemes who are not themselves trustees of a regulated superannuation fund.

- introduce administrative directions and penalties for contraventions relating to self managed superannuation funds (SMSFs) including rectification directions, education directions and administrative penalties. Currently, the Regulator has a limited number of tools available to deter and address instances of non-compliance including:
  - making an SMSF non-complying for taxation purposes;
  - applying to a court for civil penalties to be imposed. A person may also face criminal penalties for more serious breaches of the law;
  - accepting an enforceable undertaking in relation to a contravention; and
  - disqualifying a trustee of an SMSF.

- amend the *Income Tax Assessment Act 1936* to phase-out the net medical expenses tax offset by the end of the 2018-19 income year. During the income years 2013-14 to 2018-19 the tax offset will be subject to transitional arrangements. The amendments will apply from 1 July 2013 with the transitional arrangements and the tax offset ceasing on 1 July 2019.

- amend the *Income Tax Assessment Act 1997* to update the list of specifically-listed deductible gift recipients to include the National Arboretum Canberra Fund (for gifts made on or after 1 July 2013); to extend to 16 December 2014, the existing listing for the Bali Peace Park Association Inc. (which expired on 17 December 2011; and to include The Prince’s Charities Australia Limited (for gifts made on or after 1 January 2014).

**Tax and Superannuation Laws Amendment (2014 Measures No. 1) Regulation 2014** registered on 19 February 2014:

- prescribes an interim method for calculating the amount of an individual’s ‘defined benefit contributions’ for the purposes of ‘Division 293 tax’ (under Division 293 of the *Income Tax Assessment Act 1997*) to enable the Commissioner of Taxation to determine an individual’s liability for the 2012-13 financial year;

- updates the lists of public sector superannuation schemes in the *Superannuation Guarantee (Administration)*
Regulations 1993 (SG Regulations); and

- prescribes the Australian Taxation Office (ATO) as an ‘approved clearing house’ for the purposes of the SG Regulations.

*Excise Tariff Amendment (Tobacco) Bill 2014 and Customs Amendment (Tobacco) Bill 2014,* introduced into the House of Representatives on 26 February 2014, propose to amend the *Excise Tariff Act 1921*(Cth) and the *Customs Tariff Act 1995* (Cth) to:

- increase the rates of excise and excise equivalent customs duty on tobacco through a series of four staged increases of 12.5 per cent, commencing on 1 December 2013; and
- index the rates of excise and excise equivalent customs duty on tobacco to average weekly ordinary time earnings (AWOTE) instead of the consumer price index (CPI). The last CPI indexation occurred on 1 August 2013 and the first AWOTE indexation occurs on 1 March 2014.

The first of the staged increases applies from 1 December 2013. The first indexation adjustment under the new indexation arrangements occurs on 1 March 2014.

**Let’s talk**

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

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