Other news

1 July 2015

Discussion Paper for the reform of the Federation

On 23 June 2015, the Government released a draft Discussion Paper for the reform of the Federation as part of the process to develop a White Paper that will seek to clarify roles and responsibilities to ensure that, as far as possible, the States and Territories are sovereign in their own sphere. The draft Discussion Paper considers, among other things, how revenue is raised and distributed in the Federation, and notes possible reforms to address vertical fiscal imbalance and horizontal fiscal equalisation. By way of background, the Federation White Paper and Tax White Paper are being developed in close collaboration so that tax, revenue sharing, and expenditure proposals can be developed together. Specifically, the Federation White Paper will consider the allocation of spending and policy responsibilities, and how tax revenue should be shared between all Governments so they can meet their spending responsibilities. The Federation draft Discussion Paper confirms that elements of the options relating to tax will also be considered in the Tax Options Paper which is expected to issue later this year.

Asia funds passport

On 4 June 2015, the Finance Ministers of the Asia-Pacific Economic Cooperation (APEC) issued a media release noting that the Asia Region Funds Passport is on-track for launch in 2016. According to the media statement, finance officials and regulators of participating APEC members (which includes Australia) are working to finalise the rules and governing arrangements for APEC members to sign on to by the end of 2015. This will enable the scheme to be piloted in 2016. See the APEC website for further details. See also PwC TaxTalk Alert publication, Funds Passport Regimes in Asia Pacific Taxing Issues, dated 16 June 2015.

Measures to boost philanthropy

On 28 May 2015, the Assistant Treasurer announced new measures to encourage philanthropy in Australia. Specifically, the taxation law is to be amended to simplify the valuation requirements for donations of listed shares and managed funds, so that donors will not need to obtain a valuation from the Australian Taxation Office (ATO) for listed shares or managed funds greater than $5,000. An effect of this is that donors will no longer need to pay a $241 fee to the ATO for these valuations.

Board of taxation reports

On 4 June 2015, the Commonwealth Government released the following reports from the Board of Taxation:

- Review of the Tax Arrangements Applying to Collective Investment Vehicles (CIVs), including recommendations for a larger suite of Australian CIVs to be introduced into the tax law to provide tax neutral outcomes, and to cater for different needs of foreign investors seeking to invest into Australia (including a corporate CIV using an exemption model and a flow-through limited partnership CIV).

- Post-implementation Review of Division 7A of Part III of the ITAA 1936, which recommends significant short-term reforms be made to the private company deemed dividend rules in Division 7A of the Income Tax Assessment Act 1936 (ITAA 1936), including new
prescribed terms for complying Division 7A loans, and amendments to align the treatment of Unpaid Present Entitlements (UPEs) with loans for Division 7A purposes.

- **Debt and Equity Tax Rules**, which makes a range of recommendations including amendments to clarify the operation of the *ability and willingness to pay* carve out, amendments to the requirement to re-test following changes to the terms of an arrangement, and amendments regarding the interaction of taxation of financial arrangements (TOFA) and thin capitalisation. The Board has also recommended that the interaction of new Subdivision 768-A of the Income tax Assessment Act 1997 (ITAA 1997) and the controlled foreign company (CFC) rules should be considered by Treasury as soon as practicable.

- **Review of the Thin Capitalisation Arm’s Length Debt Test** (ALDT), with the Board concluding that the ALDT should be retained for all taxpayers, and that a 'tax integrity framework' be developed in consultation with the ATO to ensure the level of compliance cost associated with preparing analysis and documentation is reduced in circumstances where the risk to revenue is low. Other recommendations include amending the law so that in some situations, credit support is not required to be excluded from the ALDT analysis.

- **Review of Tax Arrangements Applying to Permanent Establishments (PEs)**, which includes 14 observations regarding the advantages and disadvantages of Australia adopting the functional separate entity approach to the determination of profits attributable to a PE, and a recommendation regarding the appropriateness of having the ‘LIBOR cap’ as a safe harbour for the interest rate charged for the use of internal funds by foreign banks in their Australian branches.

The Government has not indicated whether it supports any of the recommendations contained in these reports, and has instead noted that they will be considered alongside submissions received in response to the *Re:Think Tax Discussion Paper*.

**White Paper on developing Northern Australia**

On 18 June 2015, the Commonwealth Government released its *White Paper on Developing Northern Australia*. No new tax measures are proposed as part of the White Paper.
Let’s talk

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

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