ATO initiative: Voluntary disclosure of unreported foreign income and assets

On 27 March 2014, the Commissioner of Taxation announced an initiative to allow eligible taxpayers to come forward and voluntarily disclose unreported foreign income and assets to the Australian Taxation Office (ATO). The Commissioner urged taxpayers with offshore assets to declare their interests ahead of a global crackdown on people using international tax havens. For further information see our TaxTalk Monthly Feature Article [http://www.pwc.com.au/tax/taxtalk/assets/monthly/pdf/ATO-Project-DO-IT-Apr14.pdf] on this initiative.

Protection measure for un-enacted tax measures

On 6 November 2013, the Commonwealth Government announced a process under which decisions would be made on how it would proceed with a backlog of 92 announced but un-enacted tax and superannuation measures. At that time, the Government also announced that "there will be legislated protection for any taxpayer who has self assessed with announced changes that the Government will not proceed with". On 14 December 2013, the Government confirmed that it had decided not to proceed with 48 of the measures.

On 25 March 2014 the Government released exposure draft legislation (together with draft explanatory material) which proposes to give effect to the announcement of a legislated protection for taxpayers in relation to the relevant discontinued measures. Relevantly, under the proposed law, the Commissioner will be prevented from amending an assessment where a taxpayer has reasonably, and in good faith anticipated the impact of identified announcements that will now not be proceeding. In this respect, it should be noted that not all of the 48 'not to proceed' measures appear to be included in the list of measures for which legislative protection is afforded. It is not clear at this stage whether this is simply an oversight. For further information, contact your usual PwC adviser.

Board of Taxation to review small business tax issues

On 28 March 2014, the Commonwealth Government announced that it had asked the Board of Taxation (BoT) to conduct a review to identify features in the Commonwealth tax system that are hindering or preventing small businesses from reaching their commercial goals. The BoT will draw on its extensive links with small business and the expertise of its Advisory Panel in developing its report to the Government before 31 August 2014.

Under the terms of reference, the BoT has been asked to provide business and broader community perspectives on issues in the tax system that are of most concern to small businesses, and identify the short- and medium-term priorities for small business tax reform in Australia - while noting that frequent change is often cited as a contributing factor to the compliance burden facing small business. In doing so, the BoT has been asked to focus particularly on high priority options for simplification and deregulation, and to report to Government by 31 August 2014.

High Court refuses to give special leave in promoter penalty dispute

In August 2013, the Full Federal Court upheld the
Commissioner’s appeal in the first Court case dealing with the civil penalty regime in Division 290 of Schedule 1 to the Taxation Administration Act 1953 (Cth) – see Commissioner of Taxation v Ludekens [2013] FCAFC 100. That regime was introduced in 2006 with the stated purposes being to deter the promotion of tax exploitation schemes, and to deter the implementation of schemes that have been promoted on the basis of conformity with a ‘product ruling’ in a way that is materially different than that described in the product ruling.

The scheme promoters in that case sought leave from the High Court to appeal the Full Court’s decision. The application was refused with costs on 11 April 2014.

The final stage in this matter will be the imposition by the Federal Court of civil penalties in accordance with Division 290.

Notice of Data Matching Program - On-Line Selling (2011-2013)

On 4 April 2014 the Australian Taxation Office (ATO) published a notification stating that it will request and collect online selling data relating to registrants that sold goods and services of a total value of $10,000 or greater in either or both of the periods from 1 July 2011 to 30 June 2012 and 1 July 2012 to 30 June 2013.

According to the notification, this acquired data will be electronically matched with certain sections of ATO data holdings to identify possible non-compliance with registration, reporting, lodgment and payment obligations under taxation law.

Inclusion in the program is based on the following principles:

- The data owner or its subsidiary operates a business in Australia that is governed by Australian law
- The data owner provides an online market place for businesses and individuals to buy and sell goods and services
- The data owner tracks the activity of registered sellers
- The data owner has clients whose annual trading activity amounts to $10,000 or more
- The data owner has trading activity for the year/s in focus
- Where the client base of a data owner does not present an omitted or unreported income risk, or the administrative or financial cost of collecting the data exceeds the benefit the data may provide, the data owner may be excluded from the program.

The notification specifically states that in accordance with this purpose and the principles listed above data will be sought from eBay Australia & New Zealand Pty Ltd, a subsidiary of eBay International AG which owns and operates www.ebay.com.au.

IGT work program

On 10 April 2014 the Inspector-General of Taxation (IGT) announced his new work program which consists of the following reviews:

- Review into the ATO’s Taxpayer’s Charter and taxpayer protections
- Review into the ATO’s approach to debt collection
- Review into the ATO’s services and support for tax practitioners and
- Review into the ATO’s conduct of employer obligation compliance activities.

The Inspector-General also acknowledged that there was strong support for reviews into the Australian Taxation Office’s (ATO’s) administration of the general anti-avoidance rules, public consultation arrangements and information gathering activities, but it would be more effective to conduct such reviews after the ATO has bedded down certain initiatives.

The IGT also noted in his media statement that the following reviews are also in progress:

- Review into the ATO’s administration of valuation matters; and
- Review of the ATO’s implementation of the agreed recommendations arising out of the of the so called ‘U-turns’ review and other IGT reports published between August 2009 and November 2010.

The IGT proposes to consult to refine the scope and focus of the four newly announced reviews and thereafter commence each review by announcing specific terms of reference and seeking submissions.
Let’s talk

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

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