

client alert

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1. Borrowing by superannuation funds under scrutiny

Late last year, the Murray Financial System Inquiry called on the Government to restore the general prohibition on direct borrowings by superannuation funds.

The review was of the view that there was an emerging trend of superannuation funds using limited recourse borrowing arrangements (LRBAs) to purchase assets, and that over time growth in direct borrowing would pose risks to the financial system.

The Inquiry, chaired by David Murray, recommended that the current superannuation borrowing exception in the super rules should be removed on a prospective basis. Importantly, it was recommended that superannuation funds with existing borrowings should be permitted to maintain those borrowings. However, funds disposing of assets purchased via direct borrowings would be required to extinguish any associated debt at the same time.

The Government is expected to respond to the recommendations in late March 2015.

2. Bitcoin and ATO approach to past transactions

The ATO has finalised a number of its rulings (a GST Ruling and several Income Tax Determinations) relating to the application of the tax laws for Bitcoin and similar crypto-currencies.

The ATO says all these rulings have application to tax periods before their date of issue (ie 17 December 2014) as they discuss laws that were already operative. However, it notes the Tax Commissioner will not generally apply compliance resources to tax periods that started before 1 October 2014 for goods and services tax (GST), or 1 July 2014 for other tax

issues, for taxpayers that can show they have made a genuine attempt to determine the tax treatment of Bitcoin and have then adopted a consistent position regarding the tax treatment of Bitcoin in those past tax periods.

Some key points on the ATO's view on Bitcoin:

- Transacting with Bitcoin is akin to a barter arrangement, with similar tax consequences.
- Bitcoin is neither money nor a foreign currency, and the supply of Bitcoin is not a financial supply for GST purposes. Bitcoin is, however, an asset for capital gains tax (CGT) purposes.
- The records you require in relation to Bitcoin transactions are as follows:
 - the date of the transaction;
 - the amount in Australian dollars;
 - what the transaction was for; and
 - who the other party was.

TIP: If you receive Bitcoin for goods or services you provide as part of your business, you will need to record the value in Australian dollars as part of your ordinary income. This is the same process as receiving non-cash consideration under a barter transaction. The value in Australian dollars will be the fair market value which can be obtained from a reputable Bitcoin exchange, for example.

3. Are your superannuation savings goals on track?

Superannuation should never be a "set and forget" strategy. With the new calendar year here, now is a good time to review your circumstances and perhaps set some new goals to help boost retirement savings.

There have been a few changes to superannuation which applied from 1 July 2014 and it is important to understand how they may apply to you. The following are some considerations.

Making extra contributions

The general concessional contributions cap is \$30,000 for 2014–2015 (up from \$25,000 for 2013–2014). For people aged 50 and over, there is a higher concessional contributions cap of \$35,000 for 2014–2015.

Checking super savings

It is a good habit to check your superannuation balance regularly. In addition to getting to know your super better, you may also want to protect your super from identity crime. For example, you may want to change passwords for accounts that can be viewed online.

Consolidating multiple super fund accounts

You may want to consider consolidating multiple super fund accounts. This may help avoid paying multiple super fund fees, reduce paperwork, and make it easier to keep track of your superannuation.

Keep all your statements in a safe place, especially if you do need to maintain multiple accounts.

Salary sacrificing super

You may want to ask your employer about salary sacrificing super. Or you may want to consider reviewing an existing arrangement with your employer.

TIP: Professional tailor advice should be obtained before implementing a new retirement savings strategy. Please contact our office to discuss your circumstances.

4. GST treatment of credit card surcharges – GSTR 2014/2

The ATO has issued a Ruling which explains the goods and services tax (GST) treatment of a surcharge imposed by a merchant on a customer in respect of a credit card transaction concerning supplies of goods or services by the merchant to the customer.

According to the Ruling, a credit card surcharge imposed by the merchant on the customer for a credit

card transaction forms part of the consideration for the supply of the goods or services made by the merchant. The merchant will need to take into account the credit card surcharge that is connected with the supply of the goods or services when calculating the correct amount of GST.

The Ruling covers a number of scenarios involving credit card surcharges. The ATO provides the following basic example of a credit card surcharge imposed by a merchant on a customer for a purchase of a shirt, being a taxable supply:

Anna purchases a shirt with a price of \$55. A sign at the store's counter states that a surcharge of 3% of the price will be imposed if payment is made by credit card. When Anna pays for the shirt using her credit card, the merchant imposes a surcharge of \$1.65 on the sale. The price of the shirt is \$56.65 as the \$1.65 surcharge forms part of the consideration for the shirt. The GST payable in respect of the sale is \$5.15, being 1/11th of the GST inclusive price of \$56.65.

Note the ruling also discusses the ATO's view on the GST treatment of surcharges imposed on debit card transactions.

5. Tax Inspector's proposed new complaint-handling power

The Inspector-General of Taxation is about to obtain new powers to be able to hear tax complaints from individuals. The Government has introduced a Bill into Parliament which proposes to amend the law to transfer the tax investigative and complaint-handling powers of the Commonwealth Ombudsman to the Inspector-General of Taxation, and to merge those powers with the Inspector-General's existing powers of conducting system reviews of the ATO.

According to the Government, the Inspector-General is well-suited to have the sole jurisdiction to investigate individual complaints about the administration of taxation law matters, in addition to the current systemic function. It said that, under the changes, the Inspector-General will be given all of the powers and functions necessary to comprehensively investigate and handle complaints relating to the administration of taxation laws (of both a systemic and individual nature).

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