

TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

EDITION
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Shorrock Partners

Changes to GST at settlement forms

The Australian Taxation Office (ATO) has announced changes to the way GST is collected at settlement.

According to the ATO, those purchasing new residential premises or potential residential land who are required to withhold part of the purchase price for payment (to the ATO) must submit a number of online forms. These forms include:

GST property settlement withholding notification:

this form covers various areas including contact details, property details, purchaser details, supplier details and an overall summary. The form can be submitted any time after you have entered into the contract and before the date of the withholding obligation is due. Generally, the due date of the withholding obligation is due on the settlement day; unless you are using an

instalment contract. In this instance, the due date will be the date the first instalment is paid.

GST property settlement date confirmation:

this form is quite straightforward and requires you to check a yes or no box to the following questions:

- Have you completed the GST property settlement withholding notification form?
- Are you submitting the form as a purchaser or as a representative for the purchaser?
- Have the purchaser and/or supplier details changed since the GST withholding notification form was lodged?

The form can be submitted at the due date of the withholding obligation. This will be at the time of

settlement or when the first instalment is paid.

In addition to understanding when the forms are due, you must consider the following:

- Those who hire a representative need to complete a signed declaration and send it to their conveyancer or solicitor. This will allow for the two forms to be submitted on the purchaser's behalf.
- In regards to a standard land contract, it is required that the withholding amount is paid on the day of settlement unless an instalment contract is used. In this case, it is due when the first instalment (other than a deposit) is paid.
- Payment reference number should be included on all payments made.

SHORROCK PARTNERS

SUITE 604
99 BATHURST ST
SYDNEY, NSW 2000

TEL 02 9229 8200
FAX 02 9229 8248

ABN 37 136 424 112

EMAIL
office@shorrock.com.au

WEBSITE
www.shorrock.com.au

DIRECTORS
Bill Shorrock
Rohit Gupta
Will McDougall
Caitlin Rowe

Accounting & Taxation
Self Managed Super Funds
Estate Planning
External CFO Services
Charitable Funds



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Targeted amendments to Division 7A

The Government is widening the scope of Division 7A to include unpaid present entitlements from 1 July 2019.

This will apply where a related private company is entitled to a share of trust income as a beneficiary but has not been paid that amount (unpaid present entitlement).

Division 7A is an integrity rule that requires benefits provided by private companies to taxpayers to be taxed as dividends unless they are structured as Division 7A complying loans or where another exception applies.

The Government aims to clarify the operation of the Division 7A integrity rule to ensure the

unpaid present entitlement is either required to be repaid to the private company over time as a complying loan or subject to tax as a dividend.

Additionally, the targeted amendments announced in the 2016-17 Budget, aimed at improving the operation and administration of Division 7A, have now been delayed to commence from 1 July 2019. This will enable all the Division 7A amendments to be progressed as part of a consolidated package.

From 1 July 2019, the following measures will be introduced:

- A self-correction mechanism to assist taxpayers to rectify inadvertent breaches of Division 7A promptly.

- Appropriate safe harbour rules to provide certainty and simplify compliance for taxpayers.
- Simplified rules regarding complying Division 7A loans, including loan duration and the minimum interest rate.
- A number of technical amendments to improve the integrity and operation of Division 7A and provide increased certainty for taxpayers.

How are super death benefits taxed?

When it comes to how the super death benefit is paid out, there are specific tax implications involved which affect the amount a nominated beneficiary will receive.

In a situation where super is paid out after an individual has passed, it is generally split up into two components; taxable and tax-free. The tax-free portion of a super death benefit is tax exempt and can include payments of after-tax contributions and government co-contributions. While the taxable component is primarily made of employer contributions, personal contributions (when a tax deduction is claimed) and salary sacrificed contributions.

Upon receiving a super death benefit, the

amount of tax you as the beneficiary will be required to pay will depend upon your age and a number of considerations.

These include:

- The deceased individual's age at the time of their passing
- If the superfund has already paid all tax owing on the taxable component
- Whether the income stream is account-based or a capped defined benefit income stream
- Whether you are the dependant of the deceased individual (i.e., you rely on their financial support)
- If it is paid out in one payment or as an income stream

The Australian Tax Office (ATO) does not require you to pay any tax on the taxable component of a super death benefit you receive when you are a dependant of the deceased individual and receive the payment as a lump sum. However, varying rates may apply (depending upon the above considerations) if you accept the balance of the benefit as an income stream.

In cases, where you are not a dependant of the deceased individual, you will receive the balance of the benefit in one payment. The taxable component of the amount will be taxed at your marginal tax rate. However, you may have this rate reduced providing you are eligible for tax offsets.



Claiming the \$20,000 instant asset write-off

Businesses with an annual turnover less than \$10 million (from 1 July 2016) can claim the \$20,000 instant asset write-off.

Eligible businesses can take advantage of the instant asset write-off for the business portion of their assets, providing they bought and installed the assets for less than \$20,000 each.

Avoid underclaiming by applying the simplified depreciation rules. Always ensure to write-off eligible assets costing less than \$20,000 each and were bought, used and installed ready to use, from 7.30pm (AEST) on 12 May 2015 - 30 June 2018. Pool the majority of other depreciating assets that cost \$20,000 or higher and claim a 15 per cent deduction in the first year and a 30 per cent deduction every following year.

Write-off the small business pool balance providing it is less than \$20,000 before applying any other depreciation deduction at the end of the income year and make sure to only claim a deduction for the portion of the asset that is used for business or other taxable purposes.

The current instant asset write-off was meant to apply till 30 June 2018, however the Government has proposed extending till 30 June 2019.