BRIEFINGS

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What Now for the GST?

Fifteen years after the introduction of the GST in Australia debate still rages over what should be taxed and whether the GST rate should increase.

Unless the Government changes the GST Act, any change requires the approval of the States and Territories. The Treasurers' workshop late last month resolved to keep the GST rate at 10%, but enable a series of other changes. We look at the key areas of change:

GST on Online Products

From 1 July 2017 the GST will be broadened to apply to all goods purchased online and imported from overseas. Currently, GST does not apply to inbound goods under $1,000.

The latest NAB Online Retail Sales Index estimates that Australians spent $17.3 billion on online retail in the 12 months to June 2015 - around 7% of traditional bricks and mortar retail. It's difficult to find an accurate measure of how much of this online trade goes to overseas retailers, but the Productivity Commission report in 2011 estimated 7.5% - the rest is spent with Australian retailers. According to the same report, around 76.5% of all online sales are for goods made up of low value purchases under $100.

The Treasurers have opted for a vendor registration model, which means that they are relying on businesses based overseas and selling into Australia to register and comply voluntarily with Australian tax law. The problem is how to collect the tax from businesses that have no obligation to comply and the Government has no jurisdiction to pursue tax owing. It is almost impossible to bring all but the largest of providers into the GST net.

An OECD report at the beginning of the year recommended that foreign suppliers register in the country they are supplying to – Apple, for example, already does this in Australia. It will be interesting to see if, over time, this becomes the norm. While protecting the tax base it would be a major competitive disadvantage for small business looking to explore new markets.

The 'Netflix Tax': GST on Digital Goods

Draft legislation released on Budget night broadens the GST to digital products and other imported services supplied to Australian consumers by foreign entities in a similar way to equivalent supplies made by Australian businesses.

Expected to generate $350m over four years, the tax treats streaming or downloading of movies, music, apps, games, e-books as well as other services such as consultancy and professional services in a similar way to local suppliers. In some cases the GST liability might shift from the supplier to the operator of an electronic distribution service where those operators have responsibility for billing, delivery and terms and conditions.

GST on digital products is intended to apply from 1 July 2017.

GST to Remain on Tampons

GST on feminine hygiene products generates around $50 million in revenue per year. It has been a political sore point for some time that highlights the inequities of a system that taxes essentials, but not items such as personal lubricants. Toilet paper and nappies, other essentials of life, are also taxed.

At the Treasurers' workshop, the State and Territory Treasurers rejected Joe Hockey's proposal to remove the GST from feminine hygiene products.

When the GST was first introduced, to get the legislation through Parliament the Howard Government agreed to demands to make amongst other things food, health and medical supplies and education GST-free. The rationale is that because the GST applies evenly across all things, it hits low-income earners the hardest as they spend a higher proportion of their income on basic necessities. On these grounds, making feminine hygiene products, nappies and a range of other essentials GST-free sounds rational. The problem is that the wealthy benefit from GST-free products and the tax system becomes a quasi social welfare system that dramatically impacts on the revenue collected and revenue available to fund better targeted social welfare programs. It's a touchy debate, and one that the major parties are unlikely to want to enter into any time soon.

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.

Should Your SMSF Buy Property in the USA?

One of the most common questions from clients with a self-managed superannuation fund (SMSF) is, can I buy property? Followed by the second question, can I buy property in the United States?

SMSFs provide investment flexibility for those that understand the rules. They can also be a significant liability if you get it wrong. There are a few key things to check before purchasing a property:

- The SMSF's investment strategy and trust deed must allow for the purchase you are contemplating.
- You cannot purchase property from a related party (e.g. a relative or spouse) unless the property qualifies as business property (business real property, to use the technical term).
- When you are exploring the viability of the property purchase, be aware that the SMSF cannot lease the property to a related party (again, unless it is business real property). For example, you cannot have your children living in the property even if they pay market rate rent.
- Your SMSF needs to have cashflow and liquidity to purchase the property.
- Factor in transaction costs such as stamp duty into your planning.

Australian SMSFs can purchase property in the USA if it is correctly structured (you will need good legal and structuring advice). The question is, should you invest your retirement savings in a market where you have limited visibility or knowledge?

An SMSF would not usually acquire US property directly. Generally, the fund would structure the property investment through a Limited Liability Company (LLC) where the SMSF (and its associates) own and control the majority of the "membership" (the shares). The US LLC is likely to be required to lodge a tax return and pay US federal and state taxes.

As the actual investment the fund holds is the interest in the company (with the company owning the property), there are in-house asset issues to consider. One issue is that the company bank account needs to be with an entity that is classified as an Authorised Deposit Institution (ADI) - not all foreign banks are. Fail this criteria and the investment held by the SMSF may become an in-house asset and require the fund to sell the asset.

If you are contemplating purchasing property in your SMSF, talk to us about achieving the right structure and outcome.

Treasurer Raises the "Idea" of Personal Tax Cuts

Who doesn't like a tax cut when they personally benefit from it?

In a recent speech, the Treasurer said that personal tax cuts were required to prevent "bracket creep" – that's jargon for what happens when the tax rate thresholds do not keep pace with inflation and more people are pushed into a higher tax bracket (they get taxed more and potentially lose access to benefits, but are economically standing still).

The last change to the tax brackets was in 2012 to increase the tax-free threshold. The Government estimates that in the next two years 300,000 Australians will move into the second highest tax bracket. And by 2025 43% of taxpayers will be in the top two tax brackets. The political problem is that because personal tax rates are a percentage, any cut to personal tax rates benefits higher income earners - they earn more therefore the dollar value of the cut is more. As it stands, the top 10% of income earners pay almost half of all personal tax collected – in the 1990s it was closer to 25%.

The Treasurer also points out that in many cases women returning to work after being on maternity leave are often worse off or no better off once the cost of childcare is factored in. It's a big issue for many families and prevents women contributing in the workforce.

So the Treasurer has identified problems that most people would be aware of from personal experience, but what about solutions? That, it seems, is for another time. The Options Paper on tax reform is due out before the next election.