WATERHOUSE
CHARTERED ACCOUNTANTS

Mark Waterhouse CA, B.Bus, JP
Director

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Be Afraid, Be Very Afraid – Federal and State Regulators Ramp up Audit Activity

We're noticing an increased level of audits by the ATO and State regulators. Key audit areas include payroll tax and GST.

With payroll tax, the regulators are looking for those who understate or avoid their payroll tax obligations. A few of the common problem areas are:

- **Contractors** – just because you have a contract in place does not guarantee that the person is a contractor for payroll tax purposes (or the superannuation guarantee laws). The law looks at the character of the relationship. Don't rely on what your contractor tells you. We cannot emphasise enough how big the problem of mischaracterising contractors is.
- **Grouping provisions** – often an entity by itself can be under the payroll tax threshold but, when grouped, is drawn into the payroll tax net. Subsidiaries are a common example of a group, but the definition can be very broad extending to shared employees and shared control. Where there is a group, the payroll tax threshold applies to the whole group.
- **Interstate wages** – generally, where you have interstate wages the payroll tax threshold is determined as a portion of your payroll in the relevant State or Territory.
- **Miscalculating the payroll tax threshold** – calculating the payroll tax threshold is not as simple as just looking at your wages. Payroll tax captures directors' fees, fringe benefits, bonuses and commissions, etc. Also, for part years - for example where you are only in operation for part of the year in that State/Territory - are generally assessed on a pro-rata basis rather than actual payroll for the year.

If your business has underpaid its payroll tax obligations then you can also expect a call from the workers' compensation people.

With GST audits, if you have a refund due, your business is more likely to be audited. The trigger for a GST audit is often large or abnormal refunds, but can be as simple as not reconciling the quarterly activity statements.

It's worth remembering that every business is a potential audit target, and even if you pass with flying colours it will cost your business potentially thousands of dollars (and even more if there is a problem). The best insurance is not to give the regulators any reason to come and visit, but, failing that, audit insurance is available to protect you against the inevitable cost to your business.

We can do a full compliance risk review for your business to protect you from the ATO and other regulatory bodies. GST and payroll tax are just two of the areas we cover.

Free Trade with Korea and Japan – Opportunities for Everyone?

Australia formalised two Free Trade Agreements (FTAs) in April. Outside of the photo opportunity, what do the agreements with Korea and Japan really mean for business and, more importantly, are there opportunities for all?

It's important to remember that FTAs pick winners – so, the answer is no, not every sector is a winner. FTAs open markets and reduce tariffs in certain sectors only. They also create short-term losers by removing any protection a sector has from global competition. But where everyone can win is in the millions of dollars of investment opportunities that flow from FTAs as the two economies create closer economic ties.

Opportunities in Korea
Korea is Australia's third largest export market at $10 billion plus. Korean investment in Australia has grown rapidly since 2001, growing 25 fold to over $12 billion in 2012. The Korea-Australia Free Trade Agreement (KAFTA) is expected to add another $5 billion to the value of exports by 2030.

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Head Office
Suite 12 Level 3, Gateway Building
1 Mona Vale Road
Mona Vale NSW 2103

Sydney Office
Level 6
280 George Street
Sydney NSW 2000

T 02 8973 2222
admin@waterhouseca.com.au
www.waterhouseca.com.au

ABN: 60 535 258 608

KAFTA is the broader of the two FTAs – but to be fair there is already a significant level of trade with Japan. The winners are:

- **Agriculture** – beef, sugar, dairy (cheese, butter and infant formula – but not milk), lamb, pork, goat, fruits and nuts not generally produced in Korea or counter-seasonal (cherries, almonds, table grapes and dried grapes, macadamia nuts, fruit juice, mangoes, asparagus, lentils, chipping potatoes, oranges and mandarins), wine, malt and malting barley, and some seafood products (bluefin tuna, rock lobsters).
- **Industrial** – liquefied natural gas, titanium dioxide, unwrought aluminium, automotive parts and sea salt.
- **Pharmaceutical products, including vitamins**.
- **Services** – legal, financial services, accounting, telecommunications, education, film and television, engineering services.
- **Investment** – introduction of mechanisms to protect investors, ownership and intellectual property.

While there will be winners from KAFTA, other sectors will face competitive pressures from Korean companies. For some this will be driven by nothing more than the bilateral removal of tariffs from sectors such as manufacturing, energy and resources. This levelling will mean some Australian businesses will become uncompetitive where there are disparate wage and manufacturing costs. General Motors (GM) has stated that when the company stops making cars in Australia in 2017 it is likely that the Australian market will be supplied by product shipped from Korea. While KAFTA was not a factor in GM's decision, the "sustained strength of the Australian dollar, high cost of production, small domestic market" and fragmented market, was.

Some industries were locked out of KAFTA. Australian rice and honey were excluded from KAFTA. Honey, for example, currently faces tariffs of between 150% and 250% in Korea. Milk was also excluded.

Australia is not the first to formalise a trade agreement with Korea; the US, European Union, Chile and ASEAN nations already benefit from competitive access and the progressive lowering of the barriers to entry.

The details of the FTA with Korea have been available since December 2013 but only ratified with the signing in April this year. FTAs are all about access, to see if your industry has broader access to the Korean market, you can find the details on the Department of Foreign Affairs and Trade website – www.dfat.gov.au/fta/kafta/.

Opportunities in Japan

Japan is Australia's second largest export market at over $48 billion representing 16% of Australia's overall exports. The winners are:

- **Agriculture** – beef, dairy (cheese, milk, ice cream and frozen yoghurt), sugar, wine, fruits, nuts and juices, including canned products, seafood (prawns, rock lobsters, abalone, oysters, crabs, yellowfin and southern bluefin tuna, sea urchins and fish oils), chocolate, honey and pork.
- **Industrial** – coke and semi-coke of coal, petroleum oils, aluminium hydroxide, titanium dioxide.
- **Investment** – cross-border access for fund managers.

Japan's tariffs on vehicles, automotive parts and most pharmaceuticals are already set at zero.

What's Next?

There are three issues to address for any business regardless of whether you plan on exporting or not: is there an opportunity to develop your product overseas? Do the FTAs represent a competitive threat to the industry you are in? Is there an investment opportunity?

FTAs are generally implemented over time and with that you can expect opportunistic businesses to focus their products and services in areas where the greatest gains can be made. The benefits will not be immediate for most as Australia is not first on the list of FTAs with Japan and Korea. Also, as you would have seen, the list of 'winners' is selected and different terms of trade apply to different sectors and different products. With some, tariffs are removed immediately, others over 15 years.

The first step is to understand that an opportunity exists and what the parameters are. And for some, what the competitive pressures will be. For those interested in expanding overseas, Austrade has a lot of resources about international markets. And of course, we can help you with your strategy, approach and local professional contacts.

Don't forget that small and medium businesses in Australia have access to an Export Market Development Scheme that reimburses up to 50% of your eligible export promotion expenses above $5,000 as long as you are spending at least $15,000 – and you can receive up to eight grants.