

# **CLIENT UPDATE**

## **tax news | views | clues**

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### **Higher education HELP changes announced**

The Government has announced a package of reforms to higher education – the Higher Education Reform Package – to take effect generally from 1 January 2018. Under the package the maximum student contribution will increase from 1 January 2018, but there will be no up-front fees and no deregulation of fees.

A new set of repayment thresholds will be introduced from 1 July 2018, affecting all current and future Higher Education Loan Program (HELP) debtors.

Maximum student contributions will also be increased, phasing in by 1.8% each year between 2018 and 2021 to cumulate in a 7.5% total increase.

**TIP:** Already have a HELP debt, or thinking about undertaking more study? Talk to us to find out how these changes may affect you.

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### **Super reforms from 1 July 2017**

#### **Rolling back excess pension balances**

If you are a member of a self managed super fund (an SMSF) you may need to take action before 1 July 2017 to avoid exceeding the new \$1.6 million transfer balance cap. You can do this by requesting that the trustee of your SMSF commutes some or all of your income streams, rolling the amount over as an accumulation interest within the SMSF or withdrawing it from the SMSF as a lump sum.

#### **Capped life expectancy and market-linked pensions**

The value of “capped defined benefit income streams” will count towards an individual’s pension transfer balance cap of \$1.6 million from 1 July 2017. However, capped defined benefit income streams cannot, of themselves, result in an excess transfer balance. This is because they generally cannot be commuted and cashed as a lump sum. Modified rules that will apply to achieve an equivalent tax outcome for defined benefits.

If a pension or annuity from a life expectancy or market-linked income stream (MLIS) product is payable, a credit

arises in the person’s transfer balance account equal to the “special value” of the superannuation interest that supports the income stream.

There will be additional income tax consequences for people with defined benefit pension income exceeding the defined benefit income cap (\$100,000 for a financial year).

#### **Death benefits**

Where a deceased fund member’s superannuation interest is cashed to a dependant beneficiary as a death benefit income stream, a credit will arise in the dependant beneficiary’s transfer balance account. The amount and timing of the transfer balance credit will depend on whether the recipient is a reversionary or non-reversionary beneficiary.

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### **Draft legislation: LRBA integrity measures for pension cap**

New exposure draft legislation contains integrity measures for limited recourse borrowing arrangements (LRBAs) as part of the Government’s super reform legislation.

The exposure draft proposes to include LRBAs in fund members’ total superannuation balance and the \$1.6 million pension transfer balance cap. The changes seek to address concerns about SMSF members’ ability to use LRBAs to circumvent contribution caps and effectively transfer accumulation growth to retirement phase that is not currently captured by the transfer balance cap regime. The amendments will only apply in relation to borrowings entered into on or after the Bill is enacted.

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### **Deductions for super funds: major ruling update**

The ATO has issued an important ruling to clarify its views on the deductions available for superannuation funds.

Superannuation funds are generally restricted to claiming deductions to the extent that they are incurred in producing assessable income. The new ruling sets out the acceptable methods for apportioning tax deductions for expenses incurred in partly gaining non-assessable income.

The ATO has also clarified its views on deductions for the costs of establishing a fund, managing the related tax affairs and amending trust deeds.

**TIP:** The ATO has extended the due date for lodgment of 2015–2016 SMSF annual returns from 15 May to 30 June 2017.

## Bill to reduce corporate tax rate

The *Treasury Laws Amendment (Enterprise Tax Plan No 2) Bill 2017* has been introduced to progressively extend the lower 27.5% corporate tax rate to all corporate tax entities by the 2023–2024 income year. The corporate tax rate will then be cut for all corporate tax entities, phasing down to a 25% tax rate for the 2026–2027 and later income years.

## Budget updates

### Foreign owners of “ghost” property

The 2017–2018 Federal Budget announced that the Government will introduce a charge on foreign owners of residential property where the property is not occupied or genuinely available on the rental market for at least six months per year. The charge will be levied annually and will be equivalent to the relevant foreign investment application fee imposed on the property at the time it was acquired by the foreign investor.

### Tougher residency rules for pensioners

The Government has announced it will revise the residency requirements for claimants of the Age Pension and Disability Support Pension (DSP). From 1 July 2018, claimants will be required to have 15 years of continuous Australian residence before being eligible to receive the Age Pension or DSP, or meet other, more specific, time requirements.

## Transfer pricing

### Chevron: interest rate on borrowing not arm's length

In a major transfer pricing judgment, the Full Federal Court has unanimously dismissed Chevron Australia's appeal, finding that its loan arrangement with its related US company Chevron Texaco Funding Corporation was not at arm's length and the Commissioner was justified in denying Chevron Australia's interest deduction claims.

### Draft guideline on cross-border related-party financing

The ATO has released a Draft Practical Compliance Guideline that sets out its compliance approach to the taxation outcomes associated with a related-party financing arrangement. It makes no direct reference to the Chevron decision, but has clearly been produced as a risk assessment tool for entities that engage in broadly similar related-party financing arrangements.

The ATO assesses related-party financing arrangement risk using a framework of six risk zones, ranging from white zone (arrangements already reviewed and concluded by the ATO) and green zone (low risk) to red zone (very high risk).

If a related-party financing arrangement falls outside the low risk category, taxpayers can expect the ATO to monitor, test and/or verify the taxation outcomes of the arrangement.

## Car expenses for transporting equipment disallowed

A taxpayer working as a stevedore has been denied a deduction for car expenses incurred in transporting equipment to and from work. The Administrative Appeals Tribunal (AAT) decided that it was not necessary for the taxpayer to take home her hard hat, safety glasses, hearing protection or headlight to clean them, and her overalls were laundered by the employer. Accordingly, she could only justify transporting her shirts, trousers and occasional wet weather gear, which were not bulky. The car expenses were therefore not deductible.

**TIP:** The ATO pays attention to unusual claims when it comes to work-related expenses. We can help you maximise your tax return while staying within the rules.

## Draft legislation: financial complaints and dispute resolution

As part of the 2017–2018 Budget, the Government announced that it would create a new one-stop shop for financial disputes – the Australian Financial Complaints Authority (AFCA) – to be established by 1 July 2018. AFCA will replace the existing framework of the Financial Ombudsman Service (FOS), Credit and Investments Ombudsman (CIO) and Superannuation Complaints Tribunal (SCT). These existing bodies will continue to operate after 1 July 2018 to work through their existing complaints. Financial firms will be required to be members of AFCA, and its decisions will be binding on all firms.

**Important:** Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.

Level 7  
488-490 Bourke Street  
Melbourne VIC 3000  
T: 03 9670 7044  
F: 03 9670 8209  
E: info@bellevillesmith.com.au  
W: www.bellevillesmith.com.au  
A.B.N. 98 096 990 939  
Directors:  
Timothy Smith C.P.A.  
Matthew Belleville C.P.A.



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