

Practice Update

Please read this update
and contact this office
if you have any queries

May 2016

Impending blowout from the leaked 'Panama Papers'

Editor: Clients may have recently heard something about an unknown source who has leaked 11.5 million documents from the Panamanian law firm of Mossack Fonseca. Basically, the documents illustrate how many wealthy individuals hide their money from tax authorities.

Under a plan devised by the Commissioner of Taxation, Chris Jordan, 35 countries have agreed to mount the most ambitious international investigation in history to hunt down tax evaders identified in the Panama Papers leak.

About 800 Australians are listed in the files of Panama law firm Mossack Fonseca, from which confidential correspondence was leaked, and 80 of those are identified in the Australian Crime Commission's (ACC's) database for serious and organised crime.

The ATO says that it has now linked over 120 of them to an associate offshore service provider located in Hong Kong.

Deputy Commissioner, Michael Cranston, said that *"The information we have includes a large number of taxpayers who haven't previously come forward, including high wealth individuals, and we are already taking action on those cases"*.

The documents from Mossack Fonseca have been exposed in a global media project led by the International Consortium of Investigative Journalists (ICIJ).

The ICIJ plans to release the names of all of the 240,000 offshore entities set up by Mossack Fonseca, along with directors and shareholders, next month.

Gold Coast businesses under the ATO's microscope

As part of an ongoing, Australia-wide program, the ATO has advised that it will be visiting restaurants, cafés and take-aways, along with hair salons and nail bars, on the Gold Coast.

Assistant Commissioner Matthew Bambrick said *"In all, we'll be visiting around 250 businesses in the Gold Coast to talk about a range of topics, including business registration, record-keeping, superannuation and lodgement."*

"Where taxpayers are unwilling to work with us or continue to cause us concern, we will undertake further investigation. In Sydney and Melbourne, for example, we have now moved to auditing businesses that didn't want to work with us."

ATO – SuperStream deadline rapidly approaching

With the SuperStream deadline of 30 June rapidly approaching, ATO Deputy Commissioner James O'Halloran says **now** is the time for employers who are not yet using SuperStream to cross it off their to-do list.

SuperStream is the new way employers must pay super. It means paying super and sending employee information electronically.

More than 60% of all Australia's small businesses are now using SuperStream.

"Employers who are using SuperStream have reduced the time they spend on super by an average of around 70%, each cycle," says Mr O'Halloran.

"We are encouraging the remaining employers who have not yet adopted SuperStream to do so before 28 April."

"By taking action now employers will have a chance to test their SuperStream solution and ensure things are running smoothly and eliminate any stress around the 30 June deadline," says Mr O'Halloran.

ATO's 'High risk industries' for super guarantee

Each year, the ATO identifies industries that they believe are at risk of not meeting their super guarantee obligations for eligible employees.

This year they are looking at these industries:

- ◆ bakeries;
- ◆ supermarkets;
- ◆ car retailers; and
- ◆ computer system designers.

Letters will be sent to clients in these industries advising of planned audits from July 2016.

Lifestyle assets and CGT

The ATO has advised that it has identified some instances where lifestyle assets, such as artworks and collectables, are not being properly accounted for.

They said that they want to help taxpayers with these kinds of assets comply and be aware they may be subject to CGT on disposal.

They said that it's important taxpayers are aware that:

- items purchased for more than \$500 on or after 20 September 1985 are subject to CGT, even if they are kept mainly for the personal use or enjoyment of your client;
- special CGT rules apply to items that form part of a deceased estate; and
- the date of purchase/auction needs to be accounted for, not the settlement date.

The ATO is currently working with insurance companies to identify owners of these sorts of assets.

Editor: Clients who may be affected should contact our office.

New rules for selling property over \$2 million

From 1 July 2016, new rules will apply to sales of taxable Australian property (e.g., real estate) with a market value of \$2 million or above.

A 10% non-final withholding tax may be applied to **all** contracts to sell such property entered into on or after 1 July 2016.

Australian resident vendors selling such property will need to obtain a clearance certificate from the ATO prior to settlement to avoid the 10% non-final withholding tax.

Editor: This new 10% withholding tax was really only intended to apply to non-residents selling Australian property.

*However, it equally applies to **Australian resident vendors** and forces them to obtain a clearance certificate from the ATO to, in fact, prove that they are Australian residents.*

Generally speaking, clients will be affected for sales of residential and commercial properties, or companies or trusts that hold such properties.

Contractor payments data matching program

The ATO has advised that it is continuing its Contractor payments data-matching program.

It will acquire data from businesses that it visits as part of its employer obligations compliance program during the 2016/17, 2017/18 and 2018/19 financial years.

The data collected from businesses is used to identify contractors that may not be meeting their taxation obligations through:

- not registering correctly with the ATO;
- non-lodgement of returns;
- failing to report payments received; and
- not paying amounts of tax due to the ATO.

This is an ongoing data matching program and has been conducted for more than five years.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.