



Contents >>

Selling Property valued over \$2 Million? 1

Employee or Contactor? 2

Super Scheme Smart..... 3

Dairy Recovery Concessional Loans..... 3

Aussie Tax System Explained using beer! 4

Selling Property valued over \$2 Million?

The Australian Taxation Office (ATO) has introduced a new rule which has an affect on investors who plan to purchase or sell a property with a market value of \$2 million or more. Property, includes but is not limited to farm land & commercial buildings. The measure was announced in 2013 and legislated this year to ensure that foreign residents meet their capital gains tax obligations.

Effective from the 1st July 2016, the new withholding rule requires all Australian residents who are selling a property with market value of \$2 million or more to obtain a clearance certificate from the ATO. This is required even if you are aware the purchaser is not a foreign resident. The certificate confirms a 10 per cent withholding amount does not need to be withheld from the transaction. Ie. the certificate confirms, they

are not a foreign resident.

If a seller does not produce a clearance certificate, the purchaser will be required to withhold 10 per cent of the purchase price and pay this amount to the ATO. It is recommended that vendors obtain a clearance certificate as early as possible, as it must be provided to the purchaser prior to settlement. Sellers who fail to produce the certificate and purchasers who don't receive them are both at risk of being required to pay severe penalties to the ATO for any false or misleading declarations made.

Sellers can obtain a clearance certificate by downloading the relevant form from the ATO website. Once obtained, the certificate is valid for twelve months from the date of issue.



Please Remember

by necessity the contents of this newsletter are summary only. Clients should contact us on 6431 3933 to discuss matters prior to acting.



Congratulations to our team member Alysha and her partner Cameron on their recent marriage!

Employee or Contactor?

If you hire any of the following types of workers you need to treat them as an employee:

- Apprentices
- Trainees
- Labourers
- Trades Assistants

An employee must be a person. If you've hired a company, trust or partnership to do the work, then the relationship is contracting for tax and super purposes. The people who actually do the work may be directors, partners or employees of the contractor but they're not your employees. If you've hired an individual, you need to work out if they're a contractor or employee. This depends on the specific circumstances of the working arrangement. However, it is important to note that no single indicator can determine if a person is a contractor or an employee. Each determination is based on the individual merits of the work arrangement in place. Below is a list of common indicators that may contribute to determining whether a person is an employee or a contractor:

Indicator	Employee	Contractor
Degree of control over how work is performed	Performs work, under the direction and control of their employer, on an ongoing basis.	Has a high level of control in how the work is done.
Hours of work	Generally works standard or set hours (note: a casual employee's hours may vary from week to week).	Under agreement, decides what hours to work to complete the specific task.
Expectation of work	Usually has an ongoing expectation of work (note: some employees may be engaged for a specific task or specific period).	Usually engaged for a specific task.
Risk	Bears no financial risk (this is the responsibility of their employer).	Bears the risk for making a profit or loss on each task. Usually bears responsibility and liability for poor work or injury sustained while performing the task. As such, contractors generally have their own insurance policy.
Superannuation	Entitled to have superannuation contributions paid into a nominated superannuation fund by their employer.	Pays their own superannuation (note: in some circumstances contractors may be entitled to be paid superannuation contributions).
Tools and equipment	Tools and equipment are generally provided by the employer, or a tool allowance is provided.	Uses their own tools and equipment (note: alternative arrangements may be made within a contract for services).
Tax	Has income tax deducted by their employer.	Pays their own tax and GST to the Australian Taxation Office.
Method of payment	Paid regularly (for example, weekly/fortnightly/monthly).	Has obtained an ABN and submits an invoice for work completed or is paid at the end of the contract or project.
Leave	Entitled to receive paid leave (for example, annual leave, personal/ carers' leave, long service leave) or receive a loading in lieu of leave entitlements in the case of casual employees.	Does not receive

Also, a common pitfall: just because an individual has an ABN or earn less than 80% of their earnings from you, does not automatically mean they are a contractor only. If the individual is under your instruction & meets some of the other indicators above they may in fact be considered an employee. Meaning, you as the employer may be liable for superannuation & other employment obligations.

Super Scheme Smart

Currently, there are a number of schemes targeting Australians planning for their retirement to move money inappropriately through self-managed superannuation funds (SMSFs). If something seems too good to be true, then it generally is with regard to tax avoidance schemes. Your entire retirement savings could be at risk of being lost, individuals can lose their rights to act as trustees of their SMSF and SMSFs could close as a result of being caught up in a tax scheme. The ATO are currently concerned about the following:

- Dividend stripping - where shareholders in a private company transfer ownership of their shares to a related SMSF so that the company can pay franked dividends to the SMSF. The purpose being to strip profits from the company in a tax-free form.
- Non-arm's length limited recourse borrowing arrangements - When an SMSF trustee undertakes limited recourse borrowing arrangements (LRBAs) established or maintained on terms that are not consistent with an arm's length dealing.

- Personal services income - Where an individual (with an SMSF often in pension phase) diverts income earned from personal services to the SMSF where it is concessional tax or treated as exempt from tax.

Our suggestion if you are approached by a potential promoter of any of these schemes is to call our office and seek our opinion. If you feel it necessary to report a scheme you can contact the ATO on 1800 177 006 or email reportataxscheme@ato.gov.au

Dairy Recovery Concessional Loans

Dairy Recovery Concessional Loans are an initiative of the Australian Government to assist eligible Dairy Farm Businesses through the short-term crisis caused by the May 2016 decision of Murray Goulburn and Fonterra to reduce farm gate milk prices.

Under the scheme the Australian Government has provided Tasmania with a total of \$10 million for the provision of both Dairy Recovery Concessional Loans and Drought Recovery Concessional Loans.

Loans up to a maximum value of \$1 million will be available. The Department of State Growth/Tasmania Development and Resources will assess and decide if applications are eligible through a non-competitive, first come first served selection process.

Key features of the Dairy Recovery Concessional Loan Scheme

- Loans are available for eligible dairy farm businesses in Tasmania for the purpose of restructuring existing eligible debt, operating expenses necessary to continue normal operations, productivity enhancement, or any combination of these.
- Loan amounts will be up to 50 per cent of total eligible debt to a maximum of \$1 million per applicant.
- A maximum term of ten years.
- A concessional variable interest rate will apply for the ten year loan term.
- The interest rate set by the Australian Government as at 1 August 2016 is 2.66 per cent.
- Interest only payments available for the

first five years of the loan.

- Interest and principal repayments required for years six to ten.
- Loans must be repaid in full or fully refinanced at the end of the agreed loan term.
- Applications will be assessed on the criteria included in the guidelines. The criteria includes that the Farm Business must have supplied milk to either Murray Goulburn or Fonterra in 2015/16 financial year.

Applications may remain open until 31 October 2016 or when funding is fully committed, whichever occurs first.

Further details can be found on the Department of State Growth's website:

www.stategrowth.tas.gov.au/dairyrecovery



AUSSIE TAX SYSTEM EXPLAINED USING BEER!

Suppose that every day, ten men go out for beer and the bill for all ten comes to \$100...

If they paid their bill the way we pay our taxes, it would go something like this:

The first four men (the poorest) would pay nothing. The fifth would pay \$1, The sixth would pay \$3, The seventh would pay \$7, The eighth would pay \$12, The ninth would pay \$18, The tenth man (the richest) would pay \$59. So, that's what they decided to do!!

The ten men drank in the bar every day and seemed quite happy with the arrangement, until one day, the owner threw them a curve ball. "Since you are all such good customers," he said, "I'm going to reduce the cost of your daily beer by \$20". Drinks for the ten men would now cost just \$80.

Being good mates and Australians they still wanted to pay their bill the way we pay our taxes. So the first four men were unaffected. They would still drink for free.

Now what about the other six men? They were after all the paying customers. How could they divide the \$20 windfall so that everyone would get his fair share? They realised that \$20 divided by six is \$3.33. But

if they subtracted that from everybody's share, then the fifth man and the sixth man would each end up being paid to drink his beer. So, the bar owner suggested that it would be fair to reduce each Man's bill by a higher percentage the poorer he was, to follow the Principle of the Australian Tax System they had been using, and he proceeded to work out the amounts he suggested that each should now pay.

And so the fifth man, like the first four, now paid nothing (100% Saving). The sixth now paid \$2 instead of \$3 (33% saving), The seventh now paid \$5 instead of \$7 (28% saving), The eighth now paid \$9 instead of \$12 (25% saving), The ninth now paid \$14 instead of \$18 (22% saving), The tenth now paid \$49 instead of \$59 (16% saving). The six are better off than before and the first four continued to drink for free.

But, once outside the bar, the men began to compare their savings. "I only got a dollar out of the \$20 saving," declared the sixth man. He pointed to the tenth man and said "but he got \$10!"

"Yeah, that's right," exclaimed the fifth man. "I only saved a dollar too. It's unfair

that he got ten times more benefit than me!" "That's true!" shouted the seventh man. "Why should he get \$10 back, when I got only \$2? The wealthy get all the breaks!" "Wait a minute," yelled the first four men in unison, "we didn't get anything at all.

This new tax system exploits the poor!" The nine men surrounded the tenth and beat him up. The next night the tenth man didn't show up for drinks, so the nine sat down and had their beers without him. But when it came time to pay the bill, they discovered something important. They didn't have enough money between all of them for even half of the bill!

So! Boys and Girls, journalists and government ministers, is how the Australian Taxation System. The people who already pay the highest taxes will naturally get the most benefit from a tax reduction.

Tax them too much, attack them for being wealthy, and they just may not show up any more. In fact, they might start drinking overseas, where the tax atmosphere is somewhat friendlier!



Do you require any further information from this edition?

Simply tick which of the items interest you and we will be pleased to send you further information

- | | |
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| <input type="checkbox"/> Selling Property valued over \$2 Million? | <input type="checkbox"/> Dairy Recovery Concessional Loans |
| <input type="checkbox"/> Employee or Contactor? | <input type="checkbox"/> Aussie Tax System Explained using beer! |
| <input type="checkbox"/> Super Scheme Smart | |

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