BusinessPlus+ Newsletter

CMA
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Happy New Year!!

GST Withholding Changes

- Residential property and GST rules are changing and these changes, are going to cause a lot of cash flow problems for people that are in the residential property development area and those who use the GST margin scheme in their residential property development.
- From 1 July 2018, all purchasers of new residential premises or new residential subdivisions will be required to pay the GST component of the purchase price directly to the Australian Taxation Office and not to the vendor. This means that $1/11^{th}$ of the purchase of any new residential premise or new residential subdivisions will be paid directly to the Australian Taxation Office upon settlement of the purchase of the property and the vendor will claim the GST paid upon lodgement of their Business Activity Statement (BAS).
- These changes are arising as part of the Phoenix Activities Anti Avoidance taskforce targeting what has been alleged to be happening in the building industry for many years, in particular where the Australian Taxation Office is left holding the unpaid debts for a liquidated company, and as part of the crack down on those areas, these changes have been implemented which are a significant shift from the usual way in which the GST Law applies.
- Under this new scheme, the vendor must provide the purchaser with a GST withholding notice which tells the purchaser whether they are required to withhold GST and if so how much. This notice must be provided at least fourteen days before making a supply (property being settled). This notice applies to the supply of any residential premise or any potential residential land.
- If this notice is not supplied before the relevant period, upon settlement the monies must be remitted to the Australian Taxation Office and the vendor will have to report a credit on their next BAS for a refund of the GST paid. The refund will usually only occur where the margin scheme has been applied or a notice has not been provided in due time.
- The biggest issue for taxpayers is the notice period and the payment of the GST upfront and claiming back the GST when the BAS is lodged. The cashflow implications can make a large difference as well as the difficulties which will initially arise as banks and lawyers adjust to the differences this will create at settlement and what effect it will have on cashflow and lending capacity.
- Taxpayers are entitled to use a new refund mechanism to receive their refund back in much more timely manner if they are quarterly lodgers for GST purposes, however, this new scheme basically requires the vendor to prove that they are entitled to a refund, often by providing their margin scheme calculations in order to demonstrate they are entitled to the refund.
- If you have any questions on how these rules might affect you, please do not hesitate to contact us.

Information to Guide You - Part 3

A key question for business operators is to decide what information sources you should be using to guide you in formulating business decisions. This is the third part of this series which commenced in November 2017.

You will probably benefit by monitoring other key data including:

- population forecasts that relate to the areas where you operate your business
- currency exchange rates
- interest rates

A key source of information is from:

- Australian Bureau of Statistics – http://www.abs.gov.au/
- Reserve Bank of Australia – https://www.rba.gov.au/

If you would like to discuss any of these key data sources, please contact us.

Business Prompts

- A medical certificate should state that the employee has an injury or illness that prevents them from undertaking their work on a specific date. (For more information – refer "Personal Leave Rules" – December 2017 - Business Plus).

- The. Fair Work Ombudsman is reported to be pursuing a national franchise for its compliance with workplace laws and is now alleging one franchisee knowingly used payroll software to produce false records.

  The Fair Work Ombudsman has alleged the time and wage records provided could not be correct, because the company had been knowingly using its payroll software in a manner that produced false records.

  The Fair Work Ombudsman has indicated that payroll record-keeping practises are high on the regulators hit list. In 2016/17 about 66% of the Fair Work Ombudsman court cases involved alleged poor record-keeping or pay slip contraventions.

Crowd-Sourced Funding - Gets the Starting Signal at Last!

After a long wait the Australian Securities and Investments Commission (ASIC) has licensed the first group of crowd sourced funding intermediaries under the Australian government's new Crowd-Sourced Funding Capital Raising Regime.

The announcement by ASIC Commissioner, John Price, that seven companies had been appointed as part of the initial group of intermediaries, enabled the "start button" to be pushed on what could be one of the most significant contributions to the growth of small and medium size companies in Australian history.

The opportunity to consider raising up to $5 million every 12 months from the public is available to every private company that agrees to convert to an unlisted public company. This process is not complicated and ASIC has released new forms and procedures to make this process relatively simple.

Companies which have converted to an unlisted public company and which have an annual group turnover of less than $25 million and group gross assets of less than $25 million and are not listed on any Stock Exchange will be able to utilise the Crowd Sourced Funding Capital Raising Regime.

The Federal Treasurer has tabled proposed amendments in Federal Parliament which would enable private companies to be able to raise capital utilising crowd sourced funding without having to convert to an unlisted public company. The proposed legislation has not yet been debated nor passed by Parliament. Based on the timelines that were adopted by the government for the commencement of the present version of Crowd Sourced Funding and Early Stage Innovation Company Legislation, it would probably be October/November 2018 before the amended legislation would be able to be used.

In the meanwhile, significant numbers of companies are expected to commence the process to be able to raise capital under the current rules.

The initial group of intermediaries who each hold an Australian Financial Services Licence appointed by ASIC are:

- Big Start - http://bigstart.com.au/
- Billfolda - https://billfolda.com/
- Birchal Financial Services - https://www.birchal.com/companies
- Equitise - https://equitise.com/invest
- Global Funding Partners - http://atlasca.com.au/taxonomy/term/20
- IQX Investment Services - https://www.capitallabs.com.au/#/
- On – Market Bookbuilds - https://www.onmarket.com.au/crowdfunding-investment/

Are You Using the PPSR to Safeguard Your Assets?

Unfortunately many businesses, both small and large, still encounter significant financial costs because their businesses have not registered a customer, or the owner of a property at which the business had an asset situated, on the Personal Property Securities Register.

One area that is causing a lot of problems, particularly for subcontractors, is preferential payment claims received from liquidators of companies that were customers of the business. In most cases, the subcontractor could have avoided the financial costs, if the subcontractor had registered their customer on the Personal Property Securities Register.

Non-registration on the PPSR can cause significant problems for other types of businesses. There are a number of different issues that vary from business to business relating to the PPSR summarised as follows:

Retail Business:
- supplying goods to business customers on credit
- supplying goods on a consignment basis to another business
- storing goods and equipment in someone else's property
- leasing of business premises (potential problems with fixtures, plant and equipment if the business remains in the premises when the lease ends)

Trades/Subcontractors:
- supplying products to customers which are added to other products within their customer's business (accession)
- customer may be on-selling products before paying the tradesman for the products
- preferential payments risk – this is a big problem for subcontractors if they have not lodged a registration (security interest) relative to the contract with the customer on the PPSR
- tools, equipment, motor vehicles, portable buildings, formwork and scaffolding stored on a third-party site

Farmers/Primary Producers:
- supplying goods which are mixed with products supplied by other farmers (co-mingled)
- storing goods on someone else's property e.g. grain in a grain silo owned by another business
- supplying crops to a livestock owner to be fed to livestock

Farm Suppliers:
- supply of goods for growing crops e.g. seeds, fertilisers, pest control
- supplier products for feeding cattle
- supplying consignment stock to retailers and other businesses

Thoroughbred Horses:
- leasing of thoroughbred horses
- thoroughbred horses stabled on someone else's property
- preferential payment claims relative to payments of fees

Manufacturers:
- supply of stock to wholesalers and retailers
- supply of products that are affixed to other products by the customer (accession)
- preferential payment claims by the liquidator of a customer
- storing property at someone else's premises

Wholesalers:
- supply of the stock to retailers without using a Retention of Title and Terms of Trade Agreements
- supplying stock on a consignment basis
- preferential payment claims by the liquidator of a customer

These are some of the items that should be examined to determine whether a registration should be made on the Personal Property Securities Register to protect the business' assets. If you would like to have a discussion about the implementation of a strategy, appropriate for your business, please do not hesitate to contact us.

Early Stage Innovation Company Investment - Attractive for Investors

When the government established the Early Stage Innovation Company amendments to the Taxation Act some people were surprised as to why this legislation was enacted via the Taxation Act and not the Companies Act.

The reason was that the Early Stage Innovation Company legislation introduced some attractive taxation benefits for investors. The company that receives investors' funds, for the issue of ordinary shares, do not receive any taxation benefit relating to the receipt of those funds (other than much needed capital for their businesses) the taxation benefits are solely for investors.

Retail investors can invest up to $50,000, in a 12 month period, to an Early Stage Innovation Company to be eligible to obtain the taxation benefits. There is no limit to the amount of investment that a sophisticated investor can make.

Subject to the Australian Taxation Office and AusIndustry being satisfied that the company is an Early Stage Innovation Company, investors will obtain a 20% tax rebate on the amount of the investment that they made. The maximum tax rebate for a retail investor is $10,000 and for a sophisticated investor the maximum tax rebate is $200,000.

The investors are also potentially entitled to the benefit of a capital gains tax exemption if they hold those shares in the company for more than 12 months and less than 10 years.

The government has introduced these incentives to encourage investors to consider investing in new innovative companies in Australia that have developed new products, processes, services, marketing or organisational methodologies.

An eligible company will normally be under three years of age (although in some cases the company could be up to 6 years of age) with expenditure in the previous year of less than $1 million and income in the previous year of less than $200,000, not including any grant income received from the Accelerating Commercialisation Grant.

If you would like to have a discussion with us about potential investment into an Early Stage Innovation Company, please do not hesitate to contact us.

Grants Update

The Australian government's Business Growth Grants Program is targeted at companies which operate in one of the following sectors:

- Advanced Manufacturing
- Food and Agribusiness
- Medical Technologies and Pharmaceuticals
- Mining Equipment, Technology and Services
- Oil, Gas and Energy Resources

Businesses that provide enabling or supporting technologies, inputs or services to drive business growth or improve business competitiveness in one or more of the above sectors from the enabling technologies sectors including:

- freight and logistics
- Infrastructure related construction and services
- information and communications technologies
- digital technologies and
- professional services

with turnovers over $1.5 million per annum (in northern Australia $750,000) and under $100 million that have been in operation for more than three years could be eligible for a Business Growth Grant of up to $20,000, on a 50% funding basis, to undertake virtually any activity which will contribute to an improvement in the company's performance.

If your company operates in any of these industry sectors and you are interested in applying for this grant, could you please contact us?

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