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Superannuation changes looming

On 1 July 2017, a number of changes to superannuation will take effect which will affect most Australians in one way or another.

- The annual non-concessional contributions cap will be reduced from $180,000 to $100,000
- The three year "bring forward" rule will remain to allow people to contribute up to three years' of non-concessional contributions if they are under age 65, i.e. contributions up to $300,000 will be permitted (reduced from $540,000)
- Those with a total superannuation balance above $1.6 million at the end of the financial year (commencing 30 June 2017) will not be eligible to make non-concessional contributions in the following year
- Those with a balance under $1.6 million will only be able to bring forward the $100,000 annual cap for the number of years that would take their balance to $1.6 million. For example, if you have a balance of $1.4 million, you will be able to contribute up to $200,000 under the bring forward rule
- The $100,000 annual non-concessional contributions cap will be maintained at four times the proposed annual concessional contributions cap of $25,000
- The concessional contributions cap will be indexed to wages growth in $5,000 increments.

$1.6 million cap

For those with superannuation balances over $1.6 million, the main impact of the changes is that after 1 July 2017 they will only be able to increase their balance via concessional contributions or investment growth.

It will therefore be important for people to identify suitable tax efficient investment opportunities outside super in which to continue saving for their retirement.

Superannuation pensions

The changes also mean that those in retirement, will only be allowed a maximum of $1.6 million in the tax-free superannuation environment. Anything over the $1.6 million limit will have its earnings taxed at 15 percent.

Planning opportunities

The changes raise a number of planning opportunities for the 2016/17 financial year, including:

- Those with available funds should make non-concessional contributions this financial year, before the lower limits apply. If the three year "bring forward" rule has not already been applied, people could contribute up to $540,000 in the 2016/17 financial year

Continued on page 2

HLB Mann Judd wins

HLB Mann Judd has been named Best Accounting Firm (revenue $50 - $500 million) in the prestigious AFR Client Choice Awards for the fourth time.

Perth partner Litsa Christoudulou was also a finalist in the Practitioner Award – Most Client Focused.

Thank you to all our clients who have supported us.

In this Issue

Super changes: use it or lose it!

The Government's decision to scrap the proposed retrospective lifetime non-concessional contributions cap of $500,000 and maintain the current cap of $180,000 until 30 June 2017 provides a final opportunity to ramp up super balances before a new, more restrictive, superannuation regime comes into force.

For example, a husband and wife could potentially have an extra $1,150,000 in super before 30 June 2017, by each making non-concessional contributions of $540,000 and concessional contributions of $35,000.

This opportunity to maximise non-concessional contributions under the current system represents a super contribution opportunity of a magnitude not seen since the 2007 financial year, when the Government allowed everyone a "one-off" non-concessional contribution limit of $1 million.

For those with more than $1.6 million in super, this may be their last opportunity to make non-concessional contributions to their super fund.

On the other hand, those with little or no supera have the opportunity to make a substantial start on their retirement savings. ■

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Tax updates

Backpacker tax

The so called "backpacker tax" came into effect on 1 January 2017, and is intended to tax short term visitors at a lower rate than that which applies to other non-residents.

Businesses that employ these workers must register with the Australian Taxation Office in order to withhold tax from wages at the reduced rates. If businesses are not registered, they must withhold at the normal non-resident rates.

Whilst much of the commentary relating to these new arrangements has been focussed on fruit pickers and other primary industries, they will apply to all working holiday makers with the correct visas, regardless of the industry in which they earn income.

To be eligible for the reduced tax rate, workers must be in Australia on either a 417 (Working Holiday) or 462 (Work and Holiday) visa. Any other foreign individuals earning income in Australia will be taxed at normal non-resident rates.

As with other non-residents, working holiday makers will be taxed on all of their Australian sourced income, with no tax-free threshold. However, a new 15 percent tax rate applies to the first $37,000 of income, rather than the 32.5 percent rate paid by other non-residents. Income over $37,000 will be taxed at normal rates.

Working holiday makers must still lodge income tax returns in Australia reporting their Australian sourced income. ■

Wine tax rebate

Businesses that make wine, import it into Australia or sell it wholesale, should be aware of a number of changes to the Wine Equalisation Tax (WET) rebate, intended to improve its integrity.

From 1 July 2018 the rebate will be reduced from $500,000 to $350,000. In addition, the eligibility criteria will be tightened to restrict eligibility, requiring wine producers to own at least 85 per cent of the grapes used throughout the winemaking process. This will apply to all wine for the 2018 vintage.

It is also proposed that the WET Rebate be limited to packaged wine sold in containers up to 5 litres, and branded with a registered trademark. ■

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Continued from page 1

- People with pension account balances above the $1.6 million "transfer balance cap" will need to make some important decisions prior to 30 June 2017.

  Initially, they will be required to roll some of their super back into an accumulation account. This will raise a number of planning issues around tax and estate planning
- A review of the transitional CGT relief rules is required prior to 30 June 2017. The key feature is the ability to restate the cost base of assets to their market value at 1 July 2017 for those with pension account balances greater than $1.6 million
- 'Transition to retirement' pensions may no longer be worthwhile for some individuals as the tax exemption on the related associated earnings is removed from 1 July 2017
- The small business CGT cap of $1.415 million will continue to apply and still provides a significant opportunity for eligible individuals to contribute additional amounts into their super.

Other changes

The Government has abandoned the proposal to remove the work test for individuals seeking to make super contributions after age 65.

The current work test, requiring an individual to be gainfully employed for at least 40 hours in a 30 day period before being eligible to contribute from age 65, will continue to apply.

The requirement to be able to claim a deduction for personal superannuation contributions will no longer require earning less than 10 percent of your income from employment.

The threshold at which high income earners pay higher tax on their concessional contributions has been decreased from $300,000 to $250,000.

The start date of the proposal to enable catch-up concessional contributions to be made by individuals with super balances below $500,000 will be deferred by 12 months to 1 July 2018. ■

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The sharing economy offers some tempting opportunities to make extra money, but beware of the tax implications, warns Helena Yuan.

Tax implications of the 'sharing economy'

Initiatives such as AirBnb, Uber and Airtasker are booming, but people aren't always aware of the tax implications of opening up the spare room in their home, sharing their car with others, or doing the lawn for the neighbours, in order to earn a little more income.

The ATO has announced that it will crack down on this so-called sharing economy in an effort to claw back the leakage of taxes.

As well as the well-known examples of AirBnb and Stayz, there are other, less popular offerings that fall under the umbrella of the sharing economy.

For example, providing home cooked meals through Eatro, or renting out a car space through Parkhound, also qualify.

HLB Mann Judd has put together a guideline to help people understand how supplementing their income may lead to exposure in various tax areas, such as income tax, capital gains tax and GST.

ATO activities

The ATO has stepped up its data matching activities using information from third parties, such as banks.

Therefore, it is crucial to determine whether there will be income tax and GST reporting obligations.

If so, adequate records must be kept, business and personal expenditure/income kept separate and all licenses and registrations appropriately applied for. For example, logbooks for Uber drivers or rental records for AirBnB.

Business vs hobby

The ATO allows a distinction to be made between running a business and engaging in a hobby or pastime.

However there are key criteria to help determine this, such as frequency/repetition of the activity, the type of work that is being done, and intentions with regards to deriving a profit.

Other factors that can influence the determination include size and scale of activity by comparison to industry norm or even just the decision to start a business.

PAYG obligations

There may also be PAYG instalment obligations on the business and investment related income.

Therefore, consider setting aside amounts for quarterly or yearly PAYG instalment liabilities. ■

Tax obligation cheat sheet

Service	Income tax requirements	GST requirements
Ride sourcing (Uber, Lyft)	Income earned is assessable. Deductions can be claimed if applicable	Must be registered for Australian Business Number (ABN) and GST from the first dollar earned. Business Activity Statement (BAS) must be lodged
Short term stays (AirBnB, Stayz)	Income earned is assessable. Deductions can be claimed if applicable. There may be capital gains tax (CGT) on a portion of profit if the residence is disposed of in the future	No ABN registration requirements or GST obligations on residential rental income
Odd jobs/ freelance work (Airtasker)	If the person is deemed to be running an enterprise, income earned is assessable. Deductions can be claimed if applicable	Must be registered for ABN if the person is deemed to be running an enterprise. If the annual projected turnover is less than $75,000, no GST registration is required. When calculating the annual turnover, consider all sharing economy activities and other business activities participated in, except for residential rental income.
Renting out a carspace (Parkhound)	All income is assessable. If expenses are incurred in deriving the rental income, they may be deductible. Furthermore, if the car space is attached to a person's main residence, there may be capital gains tax (CGT) on a portion of profit if the residence is disposed of in the future.	ABN registration is required if deemed to be running an enterprise. If the annual projected turnover is more than $75,000, GST registration is required. When calculating the annual turnover, consider all sharing economy activities and other business activities participated in, except for residential rental income.

Family trusts: more important than ever

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Family trusts are a useful investment vehicle that can be used for a range of different purposes, and the recent tightening of the superannuation rules makes them even more important than ever before.

In addition to building up their superannuation balances, families should also consider setting up a family trust to hold much of their family's investment assets.

A family trust may hold a range of different assets including:

- Investment properties
- Investment portfolio (comprising various asset classes)
- For SME business owners, shares in the business operating entities
- Business premises used by the operating entities
- Personal use assets such as holiday homes, boats (but not the family home).

Advantages over SMSFs

Unlike superannuation funds, there are no restrictions on the amounts that can be contributed to a family trust, and no specific compliance requirements other than documenting annual distributions to beneficiaries, preparing annual financial accounts and lodging tax returns.

This makes a family trust the perfect companion to a self-managed superannuation fund (SMSF) – as a first step a couple looking to build up their family wealth would each typically maximise their concessional super contributions each year.

If excess cash is available, families could also consider making non-concessional contributions to their SMSF, and/or loaning some of the excess cash into their family trust, which would then be used by the trust to acquire the desired investments.

"This makes a family trust the perfect companion to a self-managed super fund..."

Both SMSF and trust

It's not, however, a question of having either a SMSF or a family trust - we generally recommend using both under the family's overall strategy.

Key advantages of using a family trust as an investment vehicle include:

- Very strong asset protection from creditors (but not necessarily in family law matters)
- Total flexibility when distributing income and capital, which can be very tax effective and allows for changing family circumstances from year to year and over time
- Can improve ability to use small business capital gains tax (CGT) concessions and, unlike an investment company, allows individual beneficiaries to receive the 50% CGT discount
- The family trust falls outside a person's deceased estate, so control of the trust can be passed down through generations regardless of the terms of any Wills.

Disadvantages

One of the main disadvantages from a tax viewpoint is that losses from negatively geared investments remain trapped inside the trust, and cannot be distributed to family members. However losses can be carried forward and offset against future trust income.

So in the short term it may still be worthwhile holding negatively geared investments in individual names, but once the family starts building its wealth, especially if there are no borrowings or at least where they are positively geared, a family trust structure is usually preferable.

Super changes

The superannuation changes due to take effect from 1 July 2017 introduce two more key points that will push even more of the family's wealth into a family trust.

Firstly, the reduction in the annual non-concessional contributions cap to $100,000, and the concessional cap to $25,000, means that a couple will be able to contribute only $250,000 between them each year to their SMSF. Any additional savings that they wish to invest will need to use another investment vehicle, and this is where the family trust may be useful.

Secondly, the $1.6 million cap on the amount of assets that can be allocated in a super fund to pay a tax-free pension in retirement may provide an incentive to hold at least a portion of the excess investment assets outside of super, and again a family trust is likely to be a useful vehicle for this.

As people get closer to retirement, however, they will usually start to move more of their investment assets from the family trust or their own names into a SMSF.

But once they are in retirement and drawing down a tax-free retirement pension, any funds in excess of their immediate needs can be parked in the family trust and either accessed by them as needed, or accumulated to be passed on to their children and grandchildren as they wish, with total flexibility and without any immediate tax implications.

By contrast, any amounts that remain in the SMSF at the death of the second spouse will need to be paid out to their beneficiaries, and there will be tax consequences of the death benefit paid.

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Australians are increasingly interested in philanthropy and it's worthwhile understanding all the options available. Andrew Buchan explains.

Making a difference – a new approach to philanthropy

Philanthropy has been defined as 'the desire to promote the welfare of others'. It commonly takes the form of donating or raising money, or volunteering time and other resources.

In Australia, wealth-sharing of this nature has traditionally been ad hoc, with little clarity around the outcomes.

However an increasing number of people are seeking ways to take a more organised and impactful approach with their philanthropy.

There are a number of structures available to those wishing to manage their charitable objectives more formally. One such arrangement involves the establishment of a Private Ancillary Fund (PAF).

PAFs are foundations established under a company structure, with family members typically forming the board, along with one independent director. PAFs need a formal investment strategy, and must distribute five percent of assets annually.

Advantages of PAFs include:

- Simple and inexpensive to establish
- Tax deductible donations
- Tax exempt income environment
- Control of grants and investments remains within the family
- Opportunity to train the younger generation in philanthropy and investment
- Multi-generational legacy.

Due to their philanthropic focus and long time horizon, the trustees of PAFs often seek investments that are in concert with their humanitarian intentions.

Therefore a PAF portfolio may include assets which aim to deliver both social and financial outcomes.

One example is 'impact investing'.

Impact investing

In recent years, this relatively new form of investing has increased in profile and popularity, both in Australia and overseas.

The distinguishing feature of impact investing is the intention to achieve a positive social, cultural or environmental benefit, as well as some measure of financial return. Impact investing offers philanthropists new opportunities to put their capital to use, while aligning closely with their charitable values.

This form of investing offers opportunities across asset classes such as real assets, private equity and fixed income. Impact investments can be made directly into an organisation or via a managed fund structure, and there is an expectation that social and financial outcomes will be both targeted and measurable. Business, government and community are able to invest together to deliver common social objectives.

Examples of impact investing opportunities include renewable energy, low cost housing, job opportunities for long term unemployed, micro-finance, sustainable farming and aged care facilities.

An emerging trend is the use of the 'payment by outcomes' mechanism know as social impact bonds. Investors provide capital to private service providers who deliver outcomes that save public expenses.

Perhaps the best known example is the Peterborough Social Impact Bond in the UK. This project successfully sought to reduce the rates of re-offending of male prisoners in Peterborough Prison. Investors received a return based on the cost savings to the public.

The impact investing market is still in the early stages of development, but is believed to have strong global potential. It is estimated to reach a market size of $32 billion in Australia by 2022, and more than $600 billion in the US within a decade.

Anyone interested in learning more about philanthropic opportunities or impact investing should talk to their adviser who can help identify the best approach for their particular circumstances. ■

R&D tax incentive: what is the state of play?

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Businesses who undertake research and development (R&D) activities should now be preparing their R&D expenditure claims for the last financial year, with most companies looking at an April deadline.

Innovation is crucial to both new and established businesses and consideration of the R&D tax incentive is not only relevant to start-up and information technology companies, but should also be considered on an ongoing basis for established businesses doing things better to be more productive and to stay competitive.

However businesses that are claiming against R&D expenditure should be aware of recent changes to the R&D tax incentive.

Rates of tax offsets

From 1 July 2016, the rate of tax offsets available under the R&D tax incentive for the first $100 million of eligible expenditure was reduced by 1.5 percent.

The refundable rate (for eligible business with a turnover less than $20 million) was reduced from 45 percent to 43.5 percent. The non-refundable rate (other eligible entities) reduced from 40 percent to 38.5 percent.

R&D tax incentive review

The review panel set up by the Prime Minister last year has now made six recommendations aimed at improving the performance of the R&D tax incentive program and enabling its long-term continuation:

1. Retain the current definition of eligible activities and expenses under the law, but develop new guidance, including plain English summaries, case studies and public rulings, to give greater clarity to the scope of eligible activities and expenses.
2. Introduce a collaboration premium of up to 20 percent for the non-refundable tax offset to provide additional support for the collaborative element of R&D expenditures undertaken with publicly-funded research organisations. The premium would also apply to the cost of employing STEM PhD or equivalent graduates in their first three years of employment. If an R&D intensity threshold is introduced, companies falling below the threshold should still be able to access both elements of the collaboration premium.
3. Introduce a cap in the order of $2 million on the annual cash refund payable under the R&D tax incentive, with remaining offsets to be treated as a non-refundable tax offset carried forward for use against future taxable income.
4. Introduce an intensity threshold for recipients of the non-refundable component of the R&D tax incentive, such that only R&D expenditure in excess of the threshold attracts a benefit.
5. If an R&D intensity threshold is introduced, increase the expenditure threshold to $200 million so that large R&D-intensive companies retain an incentive to increase R&D in Australia.
6. That the Government investigate options for improving the administration of the R&D tax incentive (e.g. adopting a single application process; developing a single programme database; reviewing the two-agency delivery model; and streamlining compliance review and findings processes) and additional resourcing to implement such enhancements. To improve transparency, the Government should also publish the names of companies claiming the R&D tax incentive and the amounts of R&D expenditure claimed.

The Government intends to finalise its response before the end of March this year as part of a broader National Innovation and Science Agenda second wave.

Appointments

Brisbane

HLB Mann Judd Brisbane has appointed **Chew Mar** as director and head of its restructuring and risk advisory division in Brisbane. He has particular experience in corporate restructuring for large and medium size companies with operations throughout Asia.

He has previously worked for an international investment bank and corporate advisory firms in Hong Kong, London, Sydney and Brisbane. Chew is a member of Chartered Accountants Australia and New Zealand and a solicitor of the Supreme Court of New South Wales.

Melbourne

HLB Mann Judd Melbourne has expanded its team with four new appointments.

Adrian Kelly has joined as partner in its audit and assurance services division; **Bruce McMenamin** has been appointed director in the corporate and business advisory division; **Kapil Kukreja** has joined as senior manager in risk, assurance and advisory; and **Harjot Sahni** has been appointed a manager in the business advisory division.

Adrian Kelly has over 30 years' experience and knowledge of governance frameworks including tailored risk management, governance and project assurance services, and internal auditing.

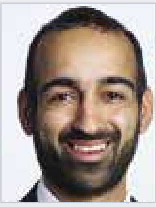
He is a chartered accountant, registered company auditor, a member of the Institute of Internal Auditors, and chair of the audit committee of the Torres Strait Regional Authority. He holds a bachelor of financial administration from the University of New England.

Bruce McMenamin has particular expertise in tax structuring, family business and succession, and business strategy. He holds a bachelor of business (accounting) from Monash University and is a chartered accountant.

Kapil Kukreja has over 12 years' experience in assurance and risk management, including the performance of operational, compliance, financial and risk management reviews.

He is a Certifed Internal Auditor (CIA) and a member of the Institute of Internal Auditors.

Kapil holds an MBA in finance and accounting and a post graduate diploma in Professional Accounting from Griffith University.



Harjot Sahni has almost 10 years accountancy experience. At HLB Mann Judd, he will provide strategic business advice to SMEs including business compliance, budgeting and financial analysis, and taxation planning.

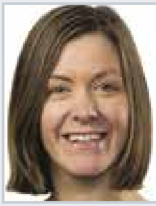
He holds a bachelor of accounting from Monash University and is a member of the Institute of Chartered Accountants in Australia.

Sydney

HLB Mann Judd Sydney has made three promotions to manager.

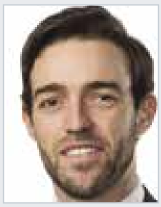
Ridhwaanah Iffat has been promoted to manager in the restructuring and risk advisory division. Ridhwaanah joined the Sydney firm in 2013 and has nine years industry experience.

She holds a bachelor of economics from the University of NSW and is a member of the Institute of Chartered Accountants Australia and New Zealand. She is currently studying for a graduate certificate with the Australian Restructuring Insolvency & Turnaround Association.



Audrey Krause has been made a manager in HLB Mann Judd Sydney's tax division, specializing in family groups and high net worth individuals. She joined the firm in 2008 and holds a bachelor degree (honours) in banking and finance from the University of Ulster in Ireland.

She is a member of the Institute of Chartered Accountants Australia and New Zealand.



Tom Roberts has been promoted to manager in the business advisory division. He joined the firm in 2008, and has also worked in its corporate taxation division.

He is a member of the Institute of Chartered Accountants Australia and New Zealand and holds a bachelor of business & commerce (majoring in accounting and economics) from the University of Western Sydney.

IPO market set for a strong year

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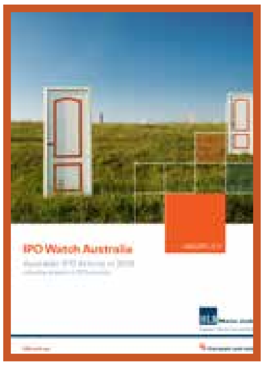
The initial public offering (IPO) market continued to strengthen in 2016.

The market saw an increase in both the number of listings and the total funds raised over the previous year, according to the latest annual HLB Mann Judd IPO Watch report.



During 2016 there were 94 new IPOs, compared to 85 in 2015 and 70 in 2014, and a five year average of 72 listings.

The total funds raised increased slightly in 2016 to $7.5 billion, an increase of seven percent on 2015 ($7.02 billion) and the previous five year average of $7.24 billion, which was inflated by the record set in 2014 of $16.70 billion when there were several very large IPOs.

On most metrics, the IPO market is looking healthier than in previous years, with a steady increase in both the number of IPOs taking place, and the funds being raised.

In addition, there is a good balance of newly listed companies in terms of both market capitalisations and sector representation.

Another key indicator of the health of the market is the fact that subscription rates for IPOs improved significantly during 2016.

In total, 83 percent of all new listings met or exceeded their subscription targets, and new IPOs obtained 102 percent of total funds being sought.

This is a positive step from 2015 and 2014, when only 68 percent and 65 percent of companies respectively were able to meet their funding targets.

Overall, the scene is set for a stronger year for IPOs in 2017, especially in the Materials sector.

At the start of 2017, there were 23 companies planning to list, an increase of 15 percent over the same time last year.

Most notably, the recovery in the Materials sector looks set to continue with 11 explorers, miners and associated businesses waiting to list.

A significant proportion of these are focused on lithium and cobalt, a sign of the continuing push for materials used in the creation of energy cells.

The ongoing sector diversity also highlights an improving market, with 20 different industry sector represented in 2016 (2015: 21; 2014: 17).

Last year, technology companies dominated the IPO pipeline but this year, only one technology company is seeking listing, raising $5 million. ■

** Emerging, or small cap, companies are defined in this report as those with a market capitalisation of $100 million or less. All data excludes property trusts.*

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