Nexia Australia

How to be in good tax health by 30 June 2018

With the end of the 2018 income tax year ending on 30 June, this document draws your attention to year-end tax planning strategies and compliance issues you need to consider to ensure you are in good tax health.

Taking into account the most recent tax changes, this Planner will focus on the most important issues to consider by small to medium businesses and individuals to increase their tax refund or minimise their tax liability in respect of the 2018 income tax year.

Where relevant, mention will also be made of further impending tax changes (i.e. changes that are not yet law – for example the 2018 Budget proposals) that may affect your tax position in 2018 or later years.

This document is divided into 3 main areas:

i. Concise overview of 2018 year-end tax planning (i.e. what new or existing legislated measures or proposals affect 2018 year-end tax planning);

ii. Different tax year-end planning issues to consider in 2018 (i.e. general strategies or specific strategies for each type of taxpayer);

iii. Other proposed future changes to be aware of.

One interesting procedural matter this year is that because 30 June 2018 falls on a Saturday this year, ATO payments or lodgements due on that day or on Sunday 1 July can be made on Monday 2 July 2018 without incurring a general interest charge. If at all practically possible, all actions, payments or lodgements should be undertaken before Friday 29 June 2018.

However, we would recommend that for actions that must be undertaken by 30 June 2018 such as qualifying for a deduction for superannuation contributions, that those contributions be received by the superannuation fund well before 30 June; contributions not in the superannuation fund's bank account by 30 June will not be eligible for a tax deduction. Trading stock must also be valued on 30 June; detailed records must be retained of the stock taking process for at least five years.

Please keep this "date shuffling conundrum" in mind when reading our Planner and reference is made to actions to be undertaken by 30 June 2018.

This document serves as general information only, and should not be relied on as advice because the content may not be applicable to your specific circumstances.

Please speak to your Nexia adviser before implementing any tax planning strategies because unexpected tax or other consequences may arise (e.g. the general tax anti-avoidance provisions may still apply).

What are some of the main changes that will affect 30 June 2018 tax planning?

Brand new changes in the law that affects 2018 tax planning

1. Cut in company tax rates to 27.5% in 2018 for companies with a turnover of less than $25 million[1] (in 2019 the 27.5% rate will apply to companies with a turnover of less than $50 million – see Section 2.1)
2. Removal of the budget repair levy (i.e. top marginal tax rate including 2% Medicare levy is now 47% instead of 49% in 2017 – see Section 3.1)
3. Residential rental properties changes (i.e. travel deduction and depreciation changes – see Section 4.1);
4. Changes to the foreign resident CGT withholding rule (i.e. increase withholding from 10% to 12.5% and lower property sale price threshold from $2 million to $750,000 – see Section 4.2)
5. Start of First Home Super Saver Scheme (i.e. can contribute maximum of $15,000 to this scheme in 2018 – see Section 4.4.1)
6. Although the superannuation downsizing incentive only applies from 1 July 2018 – see Section 4.4.2 - taxpayers who qualify for this incentive may want to hold off selling their dwelling until after 30 June 2018;
7. Although the 10% GST withholding on the sale of new residential premises applies from 1 July 2018, property developers that sign sale contracts before 1 July 2018 will only be subject to this new GST withholding regime from 1 July 2020 – see Section 4.3.

Some pre 2018 changes in the law that affect 2018 tax planning

1. Increase of the **turnover threshold for small business entities** from 1 July 2016 onwards from $2 million to $10 million – See Section 2.2;
2. Increase the **discount percentage** on tax payable afforded to **unincorporated small business entities** from 1 July 2016 onwards to 8% as well as the turnover threshold from $2 million to $5 million – however, the maximum discount per taxpayer will be limited to $1,000;
3. **New Superannuation system** to apply from 1 July 2017 (e.g. lower contribution caps, $1.6 pension transfer balance cap, $1.6m total superannuation balance cap etc. – see Section 3.8)
4. **Usual suspects** (e.g. Action points to do every year)

Some proposed changes (not yet law at the time of writing this Planner) that may affect 2018 tax planning

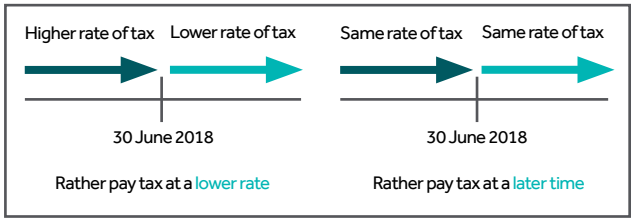
1. Potential loss of main residence exemption in the 2018 income tax year for houses bought after 9 May 2017 – see Section 4.5;
2. Potential loss of ability to claim small business CGT concessions from the 2018 income tax year on assets not used in the business – see Section 2.3;
3. Potential loss of small business CGT concessions for partners in Everett assignments in the 2018 income tax year – see our Budget summary.

1 - In 2017 a tax rate of 27.5% applied for companies with a turnover of less than $10 million and in 2016 a tax rate of 28.5% applied for companies with a turnover of less than $2 million.

1. Year-end tax planning - General

Speak to us to ensure you don't miss out on possible opportunities

The "holy grail" of tax planning is to use temporary differences to defer the amount of tax you should pay in one income tax year to the next income tax year by either deferring income or bringing forward expenses (subject to cash flow requirements).



Furthermore, when determining which expenses may be deductible for tax purposes in the 2018 income tax year, certain capital expenses (such as improvements that may be mistakenly categorised as repairs) will be non-deductible. For such expenses, the cost may be included in the cost base of the item for CGT purposes, depreciated or deducted over 5 years (i.e. "blackhole" expenditure).

1.1 Defer the derivation of income (if cashflow permits)

Don't raise an invoice for WIP before 30 June.

Defer receipt of interest to after 30 June

Businesses that recognise income on an **accruals basis** (i.e. when an invoice is raised), may consider delaying the raising of invoices for services rendered until after 30 June and thereby delay deriving assessable income until after the 2018 income tax year.

An example of this could be to delay raising some invoices in respect of Work in Progress (WIP). Also note that service income received in advance (e.g. where amounts are received before 30 June 2018 but services are only provided after 30 June 2018) may only be assessable income in the 2019 income tax year.

If income is derived on the **cash basis** (e.g. interest, royalties, rent and dividends), where possible, defer the receipt of the payment until after 30 June 2018 (e.g. set term deposits to mature after 30 June 2018 rather than before 30 June 2018).

Companies with a turnover of between $25 million and $50 million may want to defer the recognition of income to the 2019 income tax year – to ensure that the lower tax rate of 27.5% (as opposed to 30% in 2018) applies.

1.2 Bring forward your tax deductible expenses through prepayments

To qualify for deductions in the 2018 income tax year, taxpayers may bring forward up-coming expenses (i.e. incur the expenses before 30 June 2018) or small businesses and individual non-business taxpayers may prepay expenses up to 12 months ahead (i.e. pay tax deductible expenses relating to the 2019 income year before 30 June 2018). This should only be done subject to available cash flow and where there is a commercial basis for the repayment.

Examples of business expenses that can be prepaid:

- Short term consumables such as office supplies and stationery;
- Unpaid workers' compensation insurance premium instalments; or
- Superannuation guarantee payments (only due in July).

Also note that bonuses and directors' fees that are confirmed and committed to by 30 June (as evidenced in Board minutes), may be deductible in 2018, even if these fees are only paid after 30 June 2018.

Examples of expenses for individuals that can be prepaid:

- Investment property expenses such as insurance, rates, repairs and maintenance and strata fees;
- Subscriptions to professional journals and memberships to professional associations;
- Interest on investment loans (e.g. for share portfolios and investment properties);
- Income protection insurance; or
- Business travel expenses (e.g. airfares and accommodation) even if the trip will only take place in the 2019 income tax year.

2. Year-end tax planning - Business

2.1 Lowering of company tax rates and imputation

As illustrated in the table below, company tax rates are falling in Australia.

Income tax year	Turnover less than	Company tax rate
2016	$2m	28.5%
2017	$10m	27.5%
2018	$25m	27.5%
2019 - 2025	$50m	27.5%
2026	$50m	26%
2027	$50m	25%

Pursuant to the law in existence at the time of writing this planner, companies that are carrying on a business and have turnover of less than $25 million will be subject to company tax at a rate of 27.5% in 2018 (i.e. company tax will only be 30% in 2018 if turnover is $25 million or more or the company is not carrying on a business).

The rate at which dividends will be franked in 2018 will depend on whether the company's turnover of the previous year (i.e. 2017) is less than the current year's turnover benchmark (i.e. $25 million for 2018).

For example:

- If the turnover of the previous year (i.e. 2017) is less than the current year's turnover benchmark ($25 million for 2018), the 2018 dividend will be franked at 27.5%; and
- If the turnover of the previous year (i.e. 2017) is equal to or more than the current year's turnover benchmark ($25 million for 2018), the 2018 dividend will be franked at 30%.

Because company profits may be taxed at different rates from the rate at which dividends are franked, the disparate tax treatment can lead to either:

- Over-franking of dividends (i.e. if company profits are taxed at 27.5% but franking is done at a rate of 30%) – in which case certain actions need to be undertaken to avoid the imposition of franking deficit tax; or
- Under-franking of dividends (i.e. if company profits are taxed at 30% but franking is done at only 27.5%) – in which case franking credits may become trapped and may not be usable.

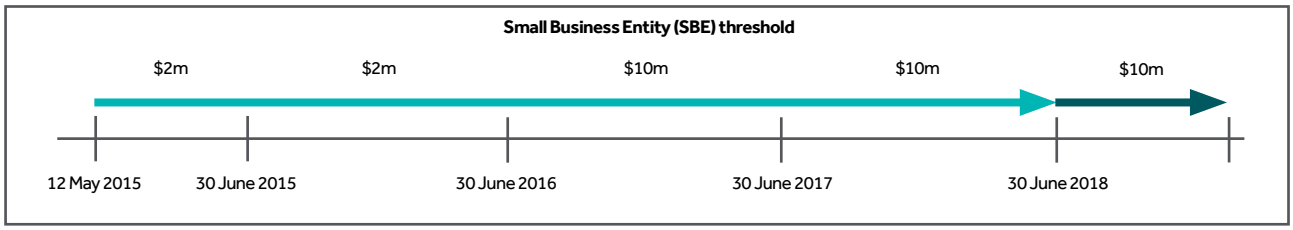
There are also further proposals (e.g. whereby companies deriving 80% or less of total income from passive activities may be taxed at 27.5% and whereby activities that we currently understand to be non-business activities, may be interpreted to mean business activities) that may affect the way companies and shareholders receiving dividends are taxed and how franking will be done.

Because these changes and proposed changes are extremely complex, we would recommend that you speak to your Nexia adviser for assistance if you are operating in a corporate structure.

2.2 Deductions available for small business entities

Businesses that are small business entities (e.g. companies, trusts, partnerships or sole traders with a total turnover of less than $10 million[2]) will qualify for the following raft of tax concessions in the 2018 income tax year:

1. $20,000 instant asset write-off (e.g. immediate deduction if buy and install depreciating assets costing less than $20,000);
2. Simplified depreciation rules (e.g. accelerated depreciation rates of 15% or 30% for depreciable assets costing $20,000 or more;
3. Small business restructure rollover.
4. Immediate deduction for start-up costs;
5. Immediate deduction for certain prepaid expenses;
6. Simplified trading stock rules (e.g. don't need to do end of year stocktake if value of the stock has changed by less than $5,000);
7. Simplified PAYG rules (e.g. ATO to calculate PAYG instalments);
8. Cash basis accounting for GST, ATO to calculate GST instalment payable and annual apportionment for input tax credits for acquisitions that are partly creditable;
9. FBT car parking exemption (from 1 April 2017) and the ability for employees to salary-sacrifice 2 identical portable electronic devices such as laptops (from 1 April 2016 to align with the FBT year).



These concessions are very powerful for small businesses, and if applied correctly, can lead to substantial tax savings.

> Please note that the $10 million turnover threshold will not apply to the application of the small business CGT concessions – to qualify for the small business CGT concessions, businesses must still have an annual turnover of less than $2 million or satisfy the $6 million net asset value test.

2.2.1 $20,000 instant asset write-off

Small business entities ($10m turnover threshold for 2017 onwards) will have the benefit of the $20,000 instant asset write-off for most new or second hand depreciating assets bought and used or installed ready for use in the business in the 2018 income tax year.

Whether GST should be included in working out whether the $20,000 threshold is met depends on whether the purchaser is registered for GST or not:

1. If the purchaser is registered for GST – the GST exclusive amount is the cost of the asset; and
2. If the purchaser is not registered for GST – the GST inclusive amount is the cost of the asset.

Small business entities that make eligible purchases of less than $20,000 and use or install the asset ready for use before 30 June 2018 will be able to instantly claim a tax deduction for the cost of that asset in the 2018 income tax year.

However, assets costing $20,000 or more can be pooled in a general small business pool, treated as a single depreciating asset and depreciated at:

- 15% for such assets acquired during the 2018 income tax year; and
- 30% for the 1 July 2017 opening written down value balance of the assets in such a pool.

Originally, 2018 was the last year taxpayers could claim the $20,000 instant asset write-off – however, the recent 8 May 2018 Federal Budget proposed to extend this write-off by another year – which will mean that after 30 June 2019 (i.e. from 1 July 2019), the instant asset write-off threshold will revert to $1,000 a year.

2 - For the 2016 income tax year the small business entity threshold was only $2 million.

2.2.2 Immediate deductibility of start-up costs

If you started a small business this year, you would be entitled to an immediate deduction of all start-up costs (e.g. lawyer's and accountant's fees, costs of company constitutions or trust deeds) incurred in the 2018 income tax year.

2.2.3 Small business restructure rollover

Small business entities (i.e. entities with less than $10 million turnover) can restructure their operations (e.g. changing the business structure from a company to a trust or from a sole trader to a trust etc.) without income tax consequences (i.e. no income tax consequences on transferring depreciating assets, revenue assets, trading stock or CGT assets between the different restructured entities).

The most appropriate structure for a small business (e.g. company, trust, sole trader, partnership or any combinations of these) may change over time – and therefore we welcome this new legislation that will enable us to help businesses seamlessly restructure to a more appropriate business structure to suit the needs of the business.

As always, the devil is in the detail and therefore we would recommend that you contact your Nexia Australia adviser if you are planning a business restructure.

We look forward to hearing from you and discussing potential opportunities with your business in more detail with you.

2.3 Claiming small business CGT concessions

Claiming small business CGT concessions can be tricky

Broadly, if you are selling your business and you have an aggregated turnover of less than $2 million (i.e. CGT small business entity) or the value of your net CGT assets is $6 million or less (i.e. $6 million net asset value test), you may qualify for the small business CGT concessions (provided other conditions are met).

Depending on your particular circumstances (e.g. you are thinking of selling your business, but are unsure when to do so), if your business is expanding rapidly (e.g. you exceed the $2 million turnover test) and you may be at risk of also breaching the $6 million net asset value test, you may consider selling your business before breaching those tests so that you can qualify for the small business CGT concessions.

Examples of the concessions are:

- 15-year exemption (no tax payable);
- 50% active asset reduction (a 50% CGT discount in addition to the 50% general discount);
- Retirement exemption (up to $500,000 life-time tax free limit); and
- Active asset roll-over (minimum 2 years' deferral).

You may be entitled to any of the above concessions that may result in no tax on the capital gain made on the sale of your business.

Because the requirements to qualify for these concessions are complicated, we would strongly encourage you to speak to your Nexia adviser so that we can assist you in determining whether you may be eligible for these concessions.

Further, when commencing a new business, the above CGT concessions must be considered to ensure eligibility at the time of eventual sale of the business.

At the time of writing this Planner, a Bill is before Parliament that aims to restrict access to the small business CGT concessions from 1 July 2017 onwards to only the sale of:

- Assets that were actually used in the small business (e.g. no concession on the sale of assets that are not used in the business); or
- Shares or units in companies or trusts that are also small businesses (i.e. no concession on the sale on shares or units in an entity that is not a small business).

If this Bill is enacted, taxpayers who intend to claim the small business CGT concessions in 2018, will need to reconsider whether they would be eligible for the concessions pursuant to the new law once enacted.

2.4 General Business Issues

2.4.1 Manage your private company loans

Beware of private company loans and unpaid trust distributions

The shareholders of some companies operating businesses often treat their companies as their own piggy bank by making drawings from the companies to either fund other business interests or their private lifestyle.

If such cash advances are documented with a complying loan agreement requiring minimum principal and interest repayments at the benchmark interest rate by 30 June, such advances will not give rise to a Division 7A deemed dividend.

Care must also be taken when a private company makes a loan, payment or forgives a debt of a shareholder (or the shareholder's associate) or if a trust declares a distribution to a private company without the cash payment to the company; such unpaid present entitlements (UPEs) made after 16 December 2009 by a trust to a company may be treated as either a loan by the company to the trust or remain a UPE (if put on sub-trust).

This is a very complicated area of tax law so please speak to your Nexia adviser regarding any form of advance or credit from trusts or companies to associated parties.

2.4.2 Apply look-through treatment to earnout rights

If a business was sold in the 2018 income tax year subject to an earnout arrangement[3] where the sale price is paid in instalments (if future performance markers are satisfied), the capital gains are recognised in the income year that the business was sold. This look-through approach will not only defer the taxation of the capital gain on the earnout, but will also allow the financial benefit arising from the earnout to potentially qualify for the small business CGT concessions (i.e. the instalments paid after the sale will form part of the same CGT event as the original sale).

3 - The Tax and Superannuation Laws Amendment (2015 Measures No 6) Act 2015 received Royal Assent on 25 February 2016 and applies from 24 April 2015.

2.4.3 Review your trust deeds and make trust resolutions by 30 June

Make trust distribution resolutions by 30 June (or an earlier date if the trust deed stipulates an earlier date)

Trustees must make valid distribution resolutions before 30 June (or an earlier date if specified in the trust deed) to distribute trust income to eligible beneficiaries. If trustees fail to make valid distribution resolutions before 30 June, the trustee can potentially be assessed on all the Trust's net income at the top marginal tax rate (i.e. 45%).

Also note that beneficiaries must quote their TFNs to trustees before a trust makes a distribution to them for the first time – failure to do so will result in the trustee withholding tax at 47% from all future distributions to the beneficiary

To ensure that valid trustee distribution resolutions are made, the terms of the Trust Deed must be complied with.

For example, if the Trust Deed defines trust net income to be equal to taxable net income, but your trustee resolves to distribute only accounting income to beneficiaries, this resolution may not be an effective distribution of trust income (in part or whole) – and may result in the trustee being assessed at 45%.

Also, since the exact Trust net income will not be known by 30 June, trust distribution resolutions should be made distributing different percentages to beneficiaries (adding up to 100%) or distributing specified dollar amounts to certain beneficiaries – and the balance to a default beneficiary.

By following the above steps, you may be able to ensure that all the amount of trust income – regardless of the definition of what constitutes trust income – will be distributed – and hence avoid a trustee assessment at the highest marginal tax rate.

Trust taxation is another very complicated area of Australian tax law. Please also consult your Nexia adviser if:

- You are uncertain whether you can stream capital gains and franked dividends to specific beneficiaries;
- Trust resolutions have been made pursuant to reimbursement agreements with third parties (e.g. Section 100A of the Income Tax Assessment

Act 1936 may deem such a beneficiary not to be presently entitled and may lead to a trustee assessment at 45%);

- More than one trust resolution has been made and there is uncertainty which resolution should have precedence (e.g. recent Full Federal Court decision of Lewski v Commissioner of Taxation [2017] FACF 145 on 18 September 2017).

2.4.4 Review your bad debts & obsolete plant and machinery

Before 30 June unpaid debts should be reviewed to determine the likelihood of not receiving payment of these debts and whether attempts to recover the debts will be successful (keep documentation to evidence that the debt is considered to be non-recoverable). If the debt is irrecoverable and if income is reported on an accruals basis, the debt can be regarded as a bad debt for which a tax deduction may be claimed. This process must occur before 30 June.

Ensure that you have not forgiven these bad debts because forgiven debts will not qualify as bad debts.

This same methodology applies to scrapping obsolete plant and machinery. In such a case you should review your asset register, identify, scrap (i.e. physically dispose of) and claim a deduction for the written down value of such assets.

2.4.5 Value trading stock at the lower of cost, market value or replacement value

Revalue trading stock at 30 June

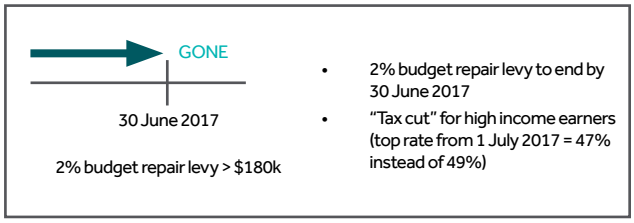
The valuation of trading stock at year-end may impact on the amount to be included in assessable income for the 2018 income tax year.

Because a lower closing value for trading stock may result in a lower taxable income, taxpayers have the choice of valuing trading stock on hand at 30 June as the lower of cost, market value or replacement value.

3. Year-end tax planning - Individuals

3.1 No more Budget repair levy in 2018

The Budget repair levy (i.e. a levy of 2% on that part of an individual's taxable income which exceeds $180,000) no longer applies in 2018. Therefore, the top marginal rate for 2018 (including the 2% Medicare levy) will be 47% (as opposed to 49% in the 2017 income tax year). The FBT rate is also 47% for the 2018 FBT year[4].



3.2 Review salary-packaging arrangements

Review any salary packaging arrangements (e.g. for motor vehicles) to ensure that they were entered into before the services have been performed by employees or before salary review time to be effective.

Also, with the lowering of the concessional cap to $25,000 for everyone from 1 July 2017 (as opposed to either $30,000 or $35,000 for the 2017 income tax year - depending on the age of the individual), ensure that salary sacrifice agreements are reviewed to ensure there are no excess concessional contributions in 2018.

4 - For more details on FBT, please see our publication, 'The FBT year end is (almost) upon us. Do you know what you need to do?'.

3.3 Manage your exposure to capital gains tax

CGT event happens when contracts are exchanged

If possible, delay the exchange of contracts to sell an appreciating capital asset until after 30 June 2018. That way, the capital gain will only be assessable in the 2019 income tax year.

If you have already made a capital gain this year, you may wish to crystallise capital losses (e.g. by selling shares that have declined in value) to reduce the capital gain. However, when adopting this strategy, ensure that you are not engaging in "wash sales" (where you sell shares shortly before 30 June solely to realise the capital loss and then buy the shares back shortly after 30 June).

Also, a capital gain realised in 2018, will be eligible for the 50% CGT general discount to the gross gain if the asset has been held for at least 12 months before the happening of the CGT event (e.g. sale of the asset).

3.4 Deduct work-related expenses

Substantiate claims where necessary

Taxpayers who are over-claiming work-related expenses (e.g. vehicle, travel, internet and mobile phone and self-education) are on the ATO's hitlist.

Although a myriad of tax law considerations are involved when claiming work-related expenses, the main three rules are:

1. Only claim a deduction for money actually spent (and not reimbursed);
2. The work related expense must directly relate to the earning of income; and
3. An employee must have a record to prove the expense.

For example, a claim for work-related expenses would not be allowed if deductions are claimed for private expenses (e.g. travel from home to work and not required to transport bulky equipment), reimbursed expenses

(e.g. an employee is reimbursed for the cost of meals, accommodation and travel) or if no records are kept.

Other practical issues to consider when claiming work-relates expenses include:

- When claiming work-related expenses relating to a vehicle, travel, internet, self-education or a mobile phone, taxpayers should ensure that the amount claimed for these expenses is reasonable and verifiable because the ATO is using real-time data to compare deductions claimed by taxpayers in similar occupations and income brackets to identify higher-than-expected or unusual claims;
- When claiming deductions up to $300 (allowable without a receipt), taxpayers must still be able to substantiate the deductions claimed (if ever questioned by the ATO);
- When claiming deductions for work uniforms, taxpayers should ensure that they only claim for uniforms that are unique and distinctive (e.g. those uniforms with the employer's logo and specific to the taxpayer's occupation) and not clothing for everyday use (e.g. plain suits worn by office workers).

If you are working from home, you may be able to deduct a pro rata portion of water and electricity costs as well as depreciation for office equipment provided you keep a diary of the hours worked at home to substantiate your claim.

An individual may claim the amount that was actually incurred on self-education expenses as a tax deduction, provided the expenses were incurred to maintain or improve the individual's skill or knowledge necessary to perform the individual's current job (as opposed to securing a new job).

An example of such a deductible expense would be an accountant attending an accounting seminar, conference or workshop to stay up to date with the latest accounting developments.

3.5 Make donations

Donations of $2 or more to a deductible gift recipient are tax deductible. Donations of property to such recipients may also be tax deductible. Donations to overseas charities may not be tax deductible.

3.6 Use negative gearing

Which spouse has the higher marginal tax rate?

An investment property is negatively geared if the rental income is less than interest and other costs of maintaining the property.

In such a case, the loss on the investment property can be offset against other income to reduce taxable income.

Because individuals on higher tax rates will gain a greater tax benefit from the loss deduction compared to individuals on lower tax rates, a possible strategy (provided CGT consequences and other circumstances have been considered as well) with married couples is to have the negatively geared property in the name of the spouse who earns the highest income. Of course the benefit of this strategy reverses when the property yields a net income. Therefore, investment properties that are positively geared (i.e. when rental income exceeds the costs associated with the investment property) may be held in the name of the spouse with the lower taxable income. This also applies for interest-bearing deposits such as term deposits.

3.7 Pay superannuation contributions before 30 June

Find out how long your superannuation payment processing time is

From 2018, both employees and self-employed individuals can claim a tax deduction annually to a maximum of $25,000 for personal superannuation contributions, provided the superannuation fund has physically received the contribution by 30 June 2018 and the individual has provided their superannuation fund with a notice of intention to claim document.

You must be aware of exactly how long a superannuation contribution takes to reach a superannuation fund – for example if a superannuation contribution is made one day before 30 June, but the payment is received in the superannuation fund's bank account 2 days later (i.e. after 30 June), no tax deduction will be allowed in the 2018 income tax year.

Please note that if the employer is utilising the ATO small business clearing house, the super guarantee contributions are counted as being paid on the date the

clearing house accepts them (provided the fund does not reject the payments). Also, be careful if the retail superannuation fund closes off their acceptance of contributions before 30 June.

> An easy way to prevent any late payment issues is to simply pay superannuation contributions at the beginning of June each year.

3.8 Take note of the 1 July 2017 superannuation changes

Fundamental changes to the superannuation landscape have occurred from 1 July 2017 (i.e. the current 2018 income tax year). For more information on these changes please our publication 'Superannuation Changes from 1 July 2017'.

We have included a short summary of the most important superannuation rates and caps that apply for the current 2018 income tax year:

Important superannuation numbers for the 2018 tax year	
CGT cap for non-concessional contributions	$1.445 million
Concessional contributions cap	$25,000
Non-concessional contributions cap	$100,000 (or $300,000 under the 3 year bring forward rule)
Superannuation guarantee	9.5%
General transfer balance cap	$1.6m
Total superannuation balance threshold	$1.6m

For further convenience (and ease of reading), we have set out the main issues to consider after 1 July 2017 in table format below :

1. How can contributions to superannuation be made?

Non-concessional contributions	Consider after 1 July 2017
$1.6m restriction	Can't make non-concessional contribution if total super balance previous 30 June > $1.6m Spouse contribution splitting strategies
3 year bring forward rules and cap reduction	Non-concessional contributions lowered to $100k a year Watch out for $1.6m rule

Concessional contributions	Consider after 1 July 2017
Lower concessional cap to $25k	Adjust salary sacrifice arrangements for new cap
Division 293 tax applies at $250k	Division 293 applies at lower threshold
Blanket deduction for personal contributions	Should employee salary sacrifice or make personal concessional contributions?

2. How will money in superannuation be taxed?

$1.6m Transfer balance cap	Consider after 1 July 2017
$1.6m Transfer balance cap	Spouse contribution & splitting strategies Minimum drawdown from pension & other withdrawals from accumulation

TRIS	Consider after 1 July 2017
Returns & realised capital gains on assets supporting TRIS no longer exempt	Review benefits of TRIS in light of: • Taxation of TRIS assets • Only $25k concessional cap • Division 293 tax

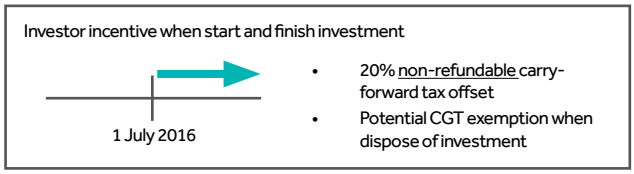
Please speak to your authorised Nexia representative if you are not sure what superannuation strategies may be best suited to your circumstances.

Because the ability to contribute money to superannuation is severely curtailed from 1 July 2017, individuals may therefore wish to consider alternative investment strategies outside of superannuation (e.g. in family trusts, innovation companies etc).

3.9 Innovation incentive

From 1 July 2016, certain investors in certain small Australian innovation companies will basically qualify for 2 incentives for investments made on or after 1 July 2016:

1. When they make the investment – a 20% non-refundable carry-forward tax offset on their investment (capped at $200,000[5]); and
2. When they dispose of their investment – a CGT exemption if disposal after holding the investment for more than 1 year but less than 10 years.



For a more detailed discussion of how the innovation incentive will operate, please see our publication, 'Innovation Incentive: How can you benefit?'.

5 - There is no limitation on the amount sophisticated investors (i.e. investors with net assets of at least $2.5 million or gross income for each of the last 2 financial years of at least $250,000) may invest (though the maximum amount of offset will remain at $200,000. However, non-sophisticated investors (i.e. mum & dad investors) may only invest a maximum of $50,000 a year in such companies.

4. Property ownership issues to consider by 30 June 2018

Nexia recently hosted an Australia-wide property roadshow where various tax developments that may affect taxpayers buying, selling or simply owning property were discussed.

Because property ownership is such an important issue for many of our clients, we want to remind everyone of some recent changes to:

1. The tax treatment associated with residential rental properties (e.g. travel deduction and depreciation changes);
2. Withholding tax obligations on purchasers of property:
   a. 12.5% CGT withholding on the sale of any property for $750,000 or more unless the vendor has a tax clearance certificate evidencing the vendor's Australian tax residency);
   b. 10% GST withholding on the sale of new residential premises (from 1 July 2018) ; and
3. Superannuation measures impacting home ownership (e.g. first home super saver scheme and superannuation downsize incentive); and
4. Stamp duty and land tax issues (different in each state)

There is also a proposal to abolish the main residence exemption for taxpayers who are no longer Australian tax residents. Furthermore, foreign investors need permission from the Foreign Investment Review Board (FIRB) before purchasing residential properties (excluding some new dwellings) or agricultural land in Australia.

Because there are a myriad of complex tax issues and red tape affecting property transactions and ownership, we would recommend that you work closely with your Nexia representative to assist you in addressing the various issues (e.g. increased compliance obligations for purchasers of property under the GST and CGT withholding regimes) and risks involved in property transactions.

4.1 Changes affecting residential rental properties in 2018

From 1 July 2017, individuals, discretionary trusts and SMSFs will no longer be able to claim travel expenses (e.g. motor vehicle expenses, taxi or car hire costs, airfares or public transport costs or meals or accommodation related to the aforementioned travel) incurred to inspect residential rental properties. Such disallowed travel deductions will also not be included in the cost base or reduced cost base of the rental property.

However, taxpayers may still claim travel expenses to inspect commercial premises and residential premises used to carry on a business (e.g. premises used as a retirement village). Property management expenses paid to real estate agents (which may involve real estate agents incurring travel expenses to inspect the residential rental property) will still be deductible.

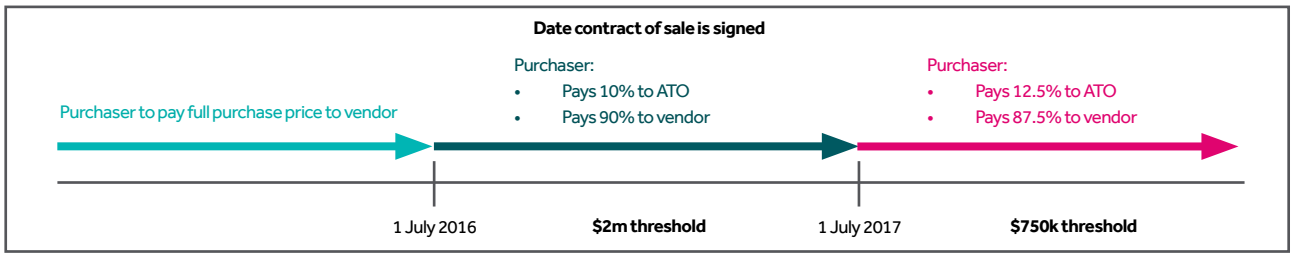
Also, from 1 July 2017 the depreciation on plant and equipment (e.g. washing machines and refrigerators) in residential rental units will be severely limited depending on whether:

- the plant and equipment was acquired before or after 9 May 2017;
- the plant and equipment have been previously used;
- the plant and equipment have been used in the taxpayer's residence before; or
- whether the plant and equipment is installed in new residential premises.

For more details on these changes affecting rented residential investment properties, please see our publication 'Do you own residential investment properties that you rent?'.

4.2 Changes to the foreign resident CGT withholding rule in 2018

For the current 2018 income tax year, a 12.5% non-final withholding tax applies when a non-resident sells property in Australia for more than $750,000 (note, in 2017 the CGT withholding rate was 10% and the sale price benchmark was $2 million). Therefore, in 2018, a non-resident vendor will only be paid 87.5% of the sale price because 12.5% must be withheld by the purchaser and paid to the ATO as a prepayment of tax on behalf of the foreign vendor.



This measure will result in extra compliance measures (e.g. tax resident vendors will also be subject to these rules unless they obtain ATO tax clearance certificates) but carve outs from this rule are available (e.g. for purchases of Australian real property valued at less than $750,000 in 2018).

We can help tax resident vendors to obtain ATO tax clearance certificates to avoid application of the 12.5% withholding rule when they are selling a residential property for $750,000 or more. A tax clearance certificate – basically an ATO certificate confirming that the vendor is an Australian tax resident - provided to the purchaser before settlement date would enable such a vendor to receive 100% of the purchase price from the purchaser instead of only 87.5% of the purchase price at settlement.

If more than one vendor is involved, each vendor must apply separately for a tax clearance certificate and if any of the vendors fails to provide such a tax clearance certificate to the purchaser, the purchaser must withhold 12.5% of the purchase price (in proportion to each vendor's interest in the property).

4.3 New GST withholding rule on the sale of new residential premises from 1 July 2018

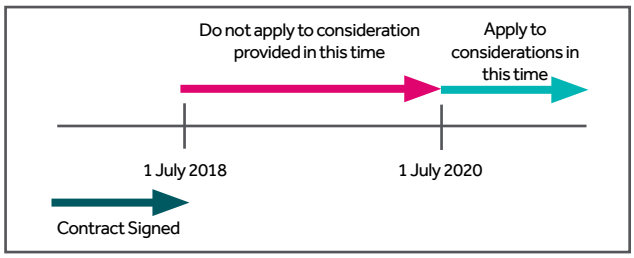
For the 2018 income tax year, purchasers of new residential premises pay a GST inclusive amount to the seller (i.e. GST is included in the purchase price so the purchaser pays GST to the seller and the seller must remit the GST to the ATO).

However, from 1 July 2018, under a recently enacted law, purchasers of new residential premises will have to pay the GST component of the purchase price directly to the ATO:

- For sale contracts signed on or after 1 July 2018, the purchaser will be required to withhold and pay 10% of GST to the ATO on the day the consideration is provided (i.e. at instalment dates or at settlement if lump sum at settlement); and
- For sale contracts signed before 1 July 2018, the 10% GST withholding rule will only apply to payments made on or after 1 July 2020 (i.e. there is a 2-year transitional period where GST withholding will not apply to consideration provided in this transitional period).

1. Contract signed after 1 July 2018

2. Contract signed before 1 July 2018



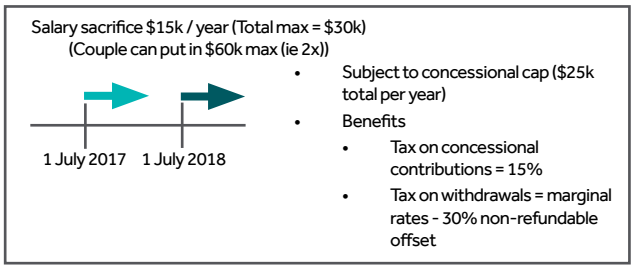
This new GST withholding regime does not apply to the sale of used (i.e. not new) residential properties or the sale of new or used (i.e. not new) commercial premises.

4.4 Superannuation measures impacting home ownership

4.4.1 First Home Super Saver Scheme

From 1 July 2017, a first home buyer can salary sacrifice a maximum of $15,000 a year (take care not to breach the $25,000 concessional contributions cap) to save for a deposit to buy a first home. The maximum amount that can be saved in such a way is $30,000. Provided the buyer's partner does not already own his or her first home, the couple can put in a maximum of $60,000 ($30,000 x 2) to buy a first home.

Money saved in this way can only be withdrawn from the superannuation fund from 1 July 2018 with strict rules applying on how to use such withdrawn money (e.g. must buy a home within a certain time and the ATO must be notified of the withdrawal).

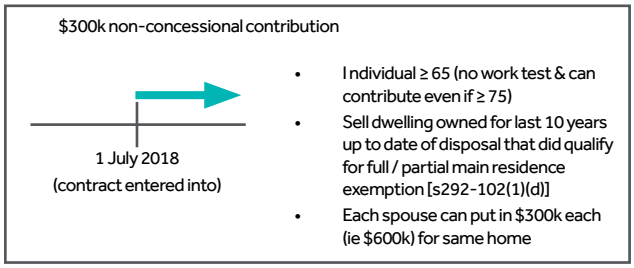


4.4.2 Super downsizer incentive available from 1 July 2018

Although the Superannuation downsizer incentive only applies from 1 July 2018, this incentive is in our 2018 Tax Planner because taxpayers who qualify may decide not to sell their homes before 30 June 2018.

Broadly, under this incentive, an individual aged 65 or above, may make a $300,000 non-concessional contribution (and coupled with a spouse the total contribution can be $600,000) from the proceeds of selling his or her home (i.e. provided the home was owned for the last 10 years up to the date of disposal and would have qualified for either a full or partial main residence CGT exemption).

Individuals need not buy a replacement residence or to satisfy the so-called "work-test" (i.e. work for at least 40 hours over 30 consecutive days) to be able to contribute to their superannuation fund. Furthermore, this incentive can only be utilised once by each person.



The biggest drawcard of this incentive is that non-concessional contributions made pursuant to this incentive will not be subject to the $1.6 million total superannuation cap. Therefore, individuals that already have more than $1.6 million in superannuation can use this super downsizer incentive to potentially contribute an additional $600,000 to superannuation.

4.5 Proposal that foreign residents will no longer qualify for the main residence exemption

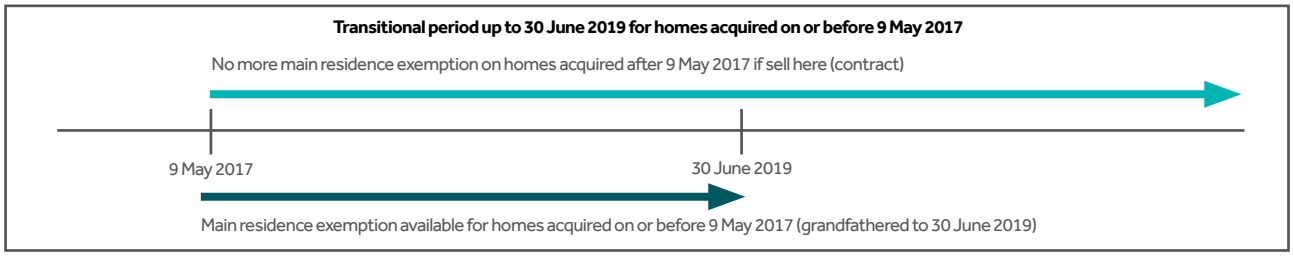
Currently, any individual (regardless of their tax residency status) who sells their home can qualify for either:

- the full main residence exemption (e.g. if the residence has been used as a main residence throughout the whole ownership period – whether through actual use or imputed use[6]); or
- the partial main residence exemption (e.g. if the residence has been used partly as main residence and partly for income-producing purposes during the ownership period).

However, a Bill[7] before Parliament, if enacted, will mean that any individual vendor that is a non-resident (for tax purposes) at the time they sign a contract to sell their home will no longer be able to qualify for the full or partial main residence exemption – regardless of how long the home has actually been used as a main residence.

The timeline below illustrates that the full or partial main residence exemption will not be available for non-residents signing a contract of sale to sell their homes:

- after 9 May 2017 – for homes acquired after 9 May 2017; and
- after 30 June 2019 – for homes acquired on or before 9 May 2017.



Assuming the Bill becomes law in its current format, a non-resident who disposes of his/her main residence in the 2018 income tax year, will not qualify for the main residence exemption if the dwelling was purchased after 9 May 2017.

For more details on the proposed main residence measure, please see our publication, 'Consider not selling your home when you are a non-resident for tax purposes'.

6 - There are various main residence extension rules that impute main residence use to taxpayers even though the home was not used as a main residence in that time (e.g. 6-year absence rule).

7 - At the time of writing this year-end planner.

5. Year-end tax compliance

5.1 Keep all relevant documents and make appropriate elections by the necessary time

Taxpayers must keep all relevant documents, usually for 5 years, to show that they have incurred the expense for which they are claiming a tax deduction. If a taxpayer needs to make an election to have a specific concession apply (e.g. small business CGT concessions, family trust and FBT elections), ensure such an election is made by the relevant time.

Also note that generally only the taxpayer incurring the expense (and deriving the income) may claim the tax deduction.

5.2 Get ready for the single touch payroll (STP) system from 1 July 2018

From 1 July 2018, employers with 20 or more employees (as determined by the number of employees an employer has on 1 April 2018) will have to run their payroll and pay their employees through accounting and payroll software that is Single Touch Payroll (STP) ready.

Please talk to us (especially if you are likely to have 20 or more employees at 1 April 2018) so that we can assist you to choose a payroll service provider that is STP enabled to ensure STP compliance by 1 July 2018.

Please see our publication, 'Get ready for the Single Touch Payroll (STP) system', to see how Nexia can help you be STP ready.

5.3 GST on low value goods from 1 July 2018

From 1 July 2018, overseas vendors with a GST turnover of AUD $75,000 or more (calculation of turnover is limited to Australian sales only), will have to account for GST on sales of low value goods (i.e. imported goods costing AUD $1,000 or less) to consumers in Australia (i.e. purchasers not registered for GST or GST-registered purchasers that acquired such low value goods solely for private purposes).

For more information on GST on low value goods, please see our article, 'GST on low value imports to Australia' which was published in the Nexia International Global Insights newsletter.

5.4 Report your payments made to contractors in the building and construction industry

Businesses in the building and construction industry must report the total payments they make to contractors on a taxable payments annual report by 28 August 2018.

Currently there are proposals to extend this taxable payment reporting regime to cleaners and couriers (from 1 July 2018) and to security providers, road transport and computer design services (from 1 July 2019)

5.5 Trustees to report TFN withholding by 30 September 2018

As mentioned in Section 2.4.3, where a beneficiary has not quoted a TFN to the trustee of a trust before a distribution of trust net income, the trustee must withhold tax at 47% from all future distributions to the beneficiary.

Such amounts withheld need to be reported by the trustee in an annual TFN withholding report and lodged with the ATO by 30 September 2018.

These compliance issues can easily be incorporated into your 2018 end of year tax planning work.

6. Other proposed changes to watch

The following rates and proposed changes (from 1 July 2018 onwards) may be relevant when you are considering your 2018 year-end planning.

Proposed change / Issue *(Not yet law at time of writing)*	When does it apply?
Individuals	
$530 low & middle income tax offset	From 1 July 2018
Prevent bracket creep (i.e. increase 32.5% bracket to taxable income greater than $90k (was $87k))	From 1 July 2018
Testamentary trusts & minors (closer scrutiny of assets in trust to determine if should be taxed at penalty or adult rates)	From 1 July 2019
Celebrity images changes (no longer assessed to family company/trust)	From 1 July 2019
No more main residence exemption if foreigner sells home that was bought before 9 May 2017	From 1 July 2019
Superannuation	
Patrol notice of intent lodgements	From 1 July 2018
Prevent breach of $25k cap (i.e. $263,157 and 2 jobs)	From 1 July 2018
Changes to working out non-arm's length income (NALI)	From 1 July 2018
Abolish work test for 65-74 year old	From 1 July 2019
Abolish exit fees for all accounts	From 1 July 2019
<$6k accounts (cap on fees, no automatic insurance)	From 1 July 2019
SMSF increase from 4 to 6 members	From 1 July 2019
Audit some SMSFs only every 3 years	From 1 July 2019
Businesses	
Extend $20k instant asset write-off	From 1 July 2018
Research & Development rate changes	From 1 July 2018
Cleaner & courier reporting	From 1 July 2018
No more interest deductions for vacant land	From 1 July 2019
Reporting: Security provider, road transport and computer design services	From 1 July 2019
No PAYG, no tax deduction	From 1 July 2019
Payments > $10k no longer by cash	From 1 July 2019
GST & online hotel bookings	From 1 July 2019

Are you using the most efficient structure to run your business?

Are you effectively tracking all your business expenses?

Tax is complicated and is constantly changing. Quite possibly strategies used in the past have become outdated and may not work for you anymore. When doing year-end tax planning, you should assess whether your current business structure (e.g. company, trust, partnership, sole trader) is still appropriate for your current situation.

We hope that this Tax Planner helps you to identify some extra ideas for tax time to assist you in operating your business more tax efficiently.

Please speak to your Nexia adviser if you would like to discuss any of the strategies mentioned above or would like us to perform a financial and tax health check on your business.

After all, why pay more tax than you legally need to?

Nexia Australia

Contact us

For further information or to discuss how Nexia Australia can assist your organisation, please contact a local Nexia Advisor below.

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