

Australia: Tax amnesty for offshore income announced

April 8, 2014

In brief

The Australian Commissioner of Taxation recently announced a new offshore voluntary disclosure initiative (OVDI) for 2014, titled 'Project DO IT: disclose offshore income today.'

Taxpayers eligible for this initiative are those that have failed to declare non-Australian income or capital gains, or previously over-claimed tax deductions in Australian tax filings. This initiative will provide taxpayers with a mechanism to make disclosures to the Australian Taxation Office (ATO) concerning their international taxation while taking advantage of significantly reduced penalties and a shorter statute of limitations. Eligible Project DO IT taxpayers will not be further investigated for fraud or evasion.

In detail

Key difference from previous disclosure initiatives

Project DO IT will differ from previous OVDIs in that the ATO will treat the taxpayer's disclosure as a voluntary amendment request. In practical terms, this means the ATO will not investigate any income tax years beyond those for which the Commissioner generally can issue an amended assessment, typically a four-year period.

Eligible taxpayers

Taxpayers eligible for Project DO IT are those that have previously failed to declare foreign-source income or capital gains, or have claimed excessive deductions. A taxpayer that has recently submitted a voluntary disclosure outside the Project

DO IT process still may be eligible to participate in the initiative if amended assessments have not yet been issued and there has been no finding of fraud or evasion.

Taxpayers will be ineligible for Project DO IT if they are already under audit, or are involved in the objection stage or litigation relating to the undeclared offshore income, capital gains or excessive deductions.

Benefits to Project DO IT voluntary disclosure

Because Project DO IT will operate independently of a standard voluntary disclosure, this initiative will have the following unique benefits:

- the taxpayer will be assessed only for years that fall within the time limit for the

Commissioner to amend an assessment (generally four years); the normal rules which allow unlimited years of review for fraud or evasion

- the shortfall penalty will be capped at 10%; under the normal rules penalties of up to 75% can be imposed
- the ATO will agree not to investigate the disclosure for the purposes of a criminal prosecution, or refer the disclosure to any other law enforcement agency(note, however, that this will not apply to promoters of tax evasion schemes)
- for taxpayers seeking to wind up offshore structures and

repatriate their offshore assets to Australia, the ATO will provide certainty on the appropriate tax treatment of these transactions. A concession also will be provided regarding amounts repatriated to Australia when there is a winding up of the offshore structure, and

- a deed of settlement between the taxpayer and the ATO, providing certainty going forward.

Should taxpayers consider participating in Project DO IT?

The ATO's increasing focus on international tax avoidance, in

conjunction with the ATO's continuously enhanced capacity for the automatic exchange of tax information with other jurisdictions, makes the concessions offered by Project DO IT worthy of serious consideration by eligible taxpayers. Several features of the new initiative make it very attractive for eligible taxpayers to come forward, such as the capped number of years of review for investigations into fraud and evasion, particularly in light of the agreement not to investigate the matter further or refer it to other law enforcement agencies. Project DO IT will operate until December 19, 2014,

after which time the ATO has indicated that it will pursue more robust forms of audit in this area.

The takeaway

Australian taxpayers with undeclared foreign income should seriously consider whether they avail themselves of project DO IT. The PwC professionals listed below can assist with the disclosure criteria and settlement arrangements with the ATO.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact one of the following individuals:

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