

AUSTRALIAN TAX UPDATE

OCTOBER 2014



WITHHOLDING IN AUSTRALIA

— Overview

— Withholding Taxes

Item	Treaty	NZ	Non Treaty
Dividend	0% / 0-15%	0% / 5% / 15%	0% or 30%
Interest	10%	0%/10%	10%
Royalty	5% - 15%	5%	30%

— Australian imputation for NZ companies

TAX UPDATE



TAX UPDATE

— Transfer pricing review - BEPS

— Budget repair levy

— FBT

— Superannuation GC

— 9.5%

— 10% -2021/2

— 12% - 2025/6

TAX UPDATE

- Proposed change to Corporate Tax rate
 - Planning
 - Internal procedures & Def Tax Balances
 - Stock
 - Accruals
 - Bonus
 - Bad debts

TAX UPDATE

- Paid Parental levy

- companies- \$5m
- Potential planning
- Expected complexity
- Imputation credits

- Thin capitalisation changes

- Pre \$250k & 75 Debt / 25 Equity
- 1 July 2014 - \$2m & 60 Debt / 40 Equity

TAX UPDATE

- Private company loans – “Div 7A”
- Complex
- Includes loans foreign companies
- Trust cascade
- October report

TAX UPDATE

— October report

- Loan types to be combined
 - 7 & 25 years P&I
 - 10 years I only
 - 10 year P&I with streamlined reporting & compliance
 - Planning opportunities

- UPE's

- Exclusions

TAX UPDATE

- “Div 7A” – Marriage Settlements
- Change in treatment
 - No longer utilise private companies
 - Change in settlement positions
- Alternative planning options
 - Loans
 - Share transfers

TAX RESIDENCY

- 4 exhaustive tests
 - Resident – ordinary concepts
 - 8 factors
 - Domiciled in Australia
 - 6 factors

TAX RESIDENCY

— 4 exhaustive tests

— 183 days

— Member of Commonwealth government scheme

TAX RESIDENCY

- Temporary residents
 - temporary visa;

 - not an "Australian resident" for Social Security;

 - spouse is not an Australian resident for Social Security.

- Protected Special Category Visa
 - 26 Feb 2001
 - Significant amount of time 2 yrs prior

TAX RESIDENCY

- Temporary residents
 - Australian source income or capital gains only –treated as a non resident
 - Individual capacity only – not trustee

TAX RESIDENCY

- Becoming a resident
 - Market value cost base for non Australian assets
 - Taxable Australian property retains existing cost base

TAX RESIDENCY

- Ceasing to be a resident
 - Deemed disposal non TAP assets
 - Election available to defer gain until sale

TEMPORARY RESIDENTS & TRUSTS

- Potential onshoring of off shore trusts
- Ongoing requirements

CASE STUDY

- 2 individuals each establish a trusts in NZ prior to moving to Australia
- Individuals were temporary residents
- Subsequently consolidated into a single trust whilst in residing in Australia
- Individuals as trustees
- Properties in NZ

CASE STUDY

- Onshoring generates market value cost base for assets
- consolidation of trusts results in deemed disposal with capital gains tax liabilities
- As no distribution taxed on trustee in capacity as trustee
- Outstanding tax returns and compliance years

PARTICIPATION EXEMPTION

- Encourage Australia as regional holding company
- Disposal of active companies
 - 12 months
 - <10%
 - >90%
- Book or market value methodology
- Exempt from tax – gain or loss but disclosure

QUESTIONS / OPEN FORUM

