

December 2009

Undeclared Offshore Income – Chance to Come Forward Before Tax Office Crackdown

The Tax Office has announced a new offshore voluntary disclosure initiative (OVDI). Under the OVDI, the Commissioner is providing taxpayers with the opportunity to make a voluntary disclosure in relation to their undeclared offshore income and pay reduced penalties and interest.

The OVDI is available to all taxpayers until 30 June 2010.

Examples of unreported offshore income include:

- ▶ A taxpayer changes their country of residence to Australia and once in Australia they do not realise they are taxable on income from the country they came from, or
- ▶ A taxpayer has investments in offshore funds or bank accounts with income accumulating overseas, and they do not realise that income may be taxable in Australia.

No Names Basis Enquiries

If you have omitted foreign income and have wanted to 'come forward to set things right', but were concerned about the consequences of doing so, particularly the potential for criminal investigation, under the OVDI you can approach the Tax Office anonymously; and the Tax Office will indicate whether it would investigate their arrangements for any potential criminal law breaches.

In considering whether to investigate a matter, the Tax Office views favourably taxpayers who make a voluntary disclosure and cooperate with them or with law enforcement agencies.

Your PKF tax adviser can assist in discussing your issues with the Tax Office on a no-names basis.

Reduced Penalties for Coming Forward

If the taxpayer takes advantage of the OVDI and comes forward to voluntarily disclose offshore income which results in additional taxable income, the reduced shortfall penalties are as follows:

- ▶ If the taxpayer's additional taxable income is \$20,000 or less in a tax year, they will not need to pay a shortfall penalty for that year, or
- ▶ If the taxpayer's additional taxable income exceeds \$20,000 in any tax year, the shortfall penalty will be remitted to 10% of the additional tax for that year.

There will also be adjustments to the general interest charge (GIC) as follows:

- ▶ GIC will be reduced to nil for the tax years up to and including the 2002 tax year,
- ▶ GIC will be reduced to the base rate for the 2003 and 2004 tax years, and
- ▶ Shortfall interest charge applies for 2005 and later years at the normal rates.

If taxpayers have difficulties meeting payment obligations, the Tax Office will develop a payment plan taking their circumstances into consideration.

If taxpayers intentionally disregard the tax law and do not voluntarily disclose their offshore income, penalties can be up to 90% of the tax shortfall.

What Must Taxpayers Do To Take Advantage of the OVDI?

To qualify for this concessional treatment taxpayers need to submit a voluntary disclosure in writing on the Offshore Voluntary Disclosure Statement which is available from the Tax Office website.

Your PKF tax adviser can assist with the preparation of these forms.

Increased Tax Office Audit Activity

The Tax Office is increasing audit activities in cases where people may try to conceal income and assets offshore, particularly in low tax and bank secrecy jurisdictions. It is important for people to take early advantage of OVDI benefits as these benefits will not be available after notification of an audit.

The Tax Office has announced it is working closely with AUSTRAC, banks and other overseas tax jurisdictions to identify people with undeclared income, including those with highly complex and sophisticated arrangements. Further, the Tax Office is constantly expanding its ability to trace fund flows around the world and its capacity to identify Australians with income and assets hidden offshore.

If you have any concerns about undeclared offshore income, contact your PKF tax adviser to discuss your options.

Should you require assistance or additional information, please **contact your PKF Tax Adviser** or:

Lance Cunningham | Director of Taxation, PKF Australia Limited

02 9240 9736 | lance_cunningham@pkf.com.au

Level 10, 1 Margaret Street | Sydney | New South Wales 2000 | Australia

PKF Australia Limited is a national network of legally independent member firms that trade as PKF. Member Firms of PKF Australia Limited have offices in ACT, NSW, QLD, SA, TAS, VIC and WA. Member Firms of PKF Australia Limited, are also Member Firms of the PKF International Limited network of legally independent firms. Neither PKF Australia Limited nor its member firms accept responsibility or liability for the actions or inactions on the part of any member firm or firms of PKF Australia Limited or of PKF International Limited.

Disclaimer: The material contained in this publication is in the nature of general comment and information only and neither purports, nor is intended, to be advice on any particular matter. Readers should not act or rely upon any matter or information contained in or implied by this publication without taking appropriate professional advice. All financial figures are quoted in Australian Dollars unless otherwise indicated.