Tax News & Insights

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OmniTax Professionals

Redesign of the Voluntary Tax Transparency Code

The Voluntary Tax Transparency Code ("VTTC") is a set of principles and minimum standards developed by the Board of Taxation to guide medium and large businesses on public disclosure of tax information. The VTTC has been adopted by various taxpayers who now publish annual TTC reports.

In light of significant changes to Australian and global tax transparency over the years, the Board of Taxation has redesigned the VTTC to simplify it and to complement and minimise duplication with the Country-by-Country ("CbC") reporting regime.

The key changes are:

- Updated and simplified format, design and structure
- Different reporting requirements for "public CbC reporter" and "non-public CbC reporter". Removal of duplication for public CbC Reporters.
- Additional optional elements for businesses that wish to provide comprehensive tax information
- Part A – Qualitative information – replaced with "Tax data". This includes:
    - Total tax contribution
    - Effective tax rate for Australian and global operations
    - Reconciliation of accounting profit to income tax expense and to income tax payable
    - Reconciliation to ATO Corporate Tax Transparency Disclosures (optional)
- Part B – Quantitative information – replaced with "Overall approach to tax", which includes:
    - Approach to tax
    - Tax governance, control and risk management (optional)
    - Stakeholder engagement and management of tax concerns (optional)
    - International related party dealings summary
- Additional guidance added including document navigation, guidance on completion timing, example template format of VTTC report for both "public CbC reporter" and "non-public CbC reporter", self-assessment VTTC checklist and glossary.

The redesigned VTTC will start for the year beginning 1 July 2026. Early adoption is optional. Taxpayers who have or intend to adopt the VTTC should consider the redesigned VTTC guidance and updated reporting requirements.

The VTTC report is designed to allow flexibility and can be published at any time. However, it is recommended for the VTTC report to be published no later than the publication date for the public CbCr report (if relevant) or else 18 months after the end of the relevant period.

XLZH v FC of T – Discretionary Trusts and Pre-CGT Assets

In XLZH v FC of T [2025] ARTA 2154, the ART considered whether shares in a company, Alpha Pty Ltd ("Alpha"), held since before 20 September 1985 by a discretionary trust ("Settlement Trust"), ceased to be pre-CGT assets under Division 149, where a new corporate beneficiary, Beta Pty Ltd ("Beta") had been appointed as a discretionary object of the trust prior to the sale of the Alpha shares. Beta was part of the broader family group of the applicant.

The ART was required to consider whether there was a change in "majority underlying interests", and in particular, the application of the Division 149 terms "majority underlying interests", "underlying interest", "ultimate owner" and "beneficial owner" to a discretionary trust.

The ART ultimately found that the mere appointment of Beta as a discretionary object of the Settlement Trust did not itself cause a change in majority underlying interests under subsection 149-30(1). An addition of an object introduces only a possibility of future benefit and does not quantify beneficial interests of ultimate owners. In coming to this decision, the ART relied on the pattern of actual distributions within the family group and the principles in Income Tax Ruling IT 2340 (which pertains to section 160ZZS, the predecessor to Division 149). The ART noted that, although not a public ruling, IT 2340 was still administratively binding on the Commissioner.

This case demonstrates the Commissioner's continued focus on privately owned and wealthy groups and succession planning, and in particular, entities failing to review the pre-CGT status of assets. Division 149 is a complex area of the law and care needs to be taken when adding new objects to a discretionary trust. In addition, this case highlights the importance of good record keeping in family groups from the outset, which can span a very long period of time.

Private Groups: CFC Focus Areas

The ATO has noted that their compliance reviews have revealed a high error rate in privately owned and wealthy group controlled foreign company ("CFC") disclosures.

Australian resident taxpayers must apply the CFC provisions if they have a controlling interest in a foreign company. Further, in such circumstances, taxpayers must disclose all CFCs and their income in tax returns and the international dealings schedule.

Common errors identified by the ATO include:

- Under reporting of CFC attributable income
- Incorrect application of the active income test
- Failure to recognise tainted income
- Deemed dividends from CFCs not included in assessable income
- CFCs not being identified where there is associate inclusive control
- Inaccurate reporting of gross revenue in international dealings schedule

Top 100 and Top 1,000 Reviews

In September 2025, the ATO released its Findings Report for the Top 100 and Top 1,000 income tax and GST assurance programs.

Areas of focus for the ATO include:

- *Transfer pricing* – mispricing of cross border dealings especially marketing / procurement hubs, related party loans, royalties and licence fees. Further, there were several cases where taxpayers failed to maintain adequate information to support transfer pricing positions.

- *Thin capitalisation* – the ATO has noted that the new thin capitalisation rules and debt deduction creation rules will be a key focus area of future combined assurance reviews. The ATO expects taxpayers to have processes in place to consider and apply ATO guidance.

- *Financing* – application of withholding tax rules including satisfaction of conditions for relevant exemptions, and maintenance of contemporaneous documentation. Further, related party financing has identified various concerns including the arm's length nature of the financing arrangements.

- *Tax losses* – various issues relating to tax losses including satisfaction of loss utilisation rules, application of available fraction provisions and lack of evidence to support calculation and use of losses.

- *Capital allowances* – focus on areas such as project pools, self-assessment of effective lives, identification of functional unit, and classification of costs between deductible repairs and capital improvements.

- *Tax integrity rules* – application of various tax integrity rules including in relation to the distribution of franking credits, complex group restructures, intra-group financing and other structured arrangements.

- *GST classification errors* – incorrectly classifying taxable supplies as GST free particularly for food and beverages, medical supplies and dual-purpose products.

- *GST and financial supplies* – incorrectly claiming input tax credits for costs relating to mergers, acquisitions, IPOs, etc.

- *GST and property* – eligibility and application of margin scheme, GST treatment of build-to-rent activities, going concern acquisitions, apportionment methodologies for mixed-use developments and retirement villages.

- *Governance* – the ATO expects taxpayers to have documented tax control frameworks, periodic internal controls testing, appropriate third party data governance, and appropriate data controls.

Contact

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