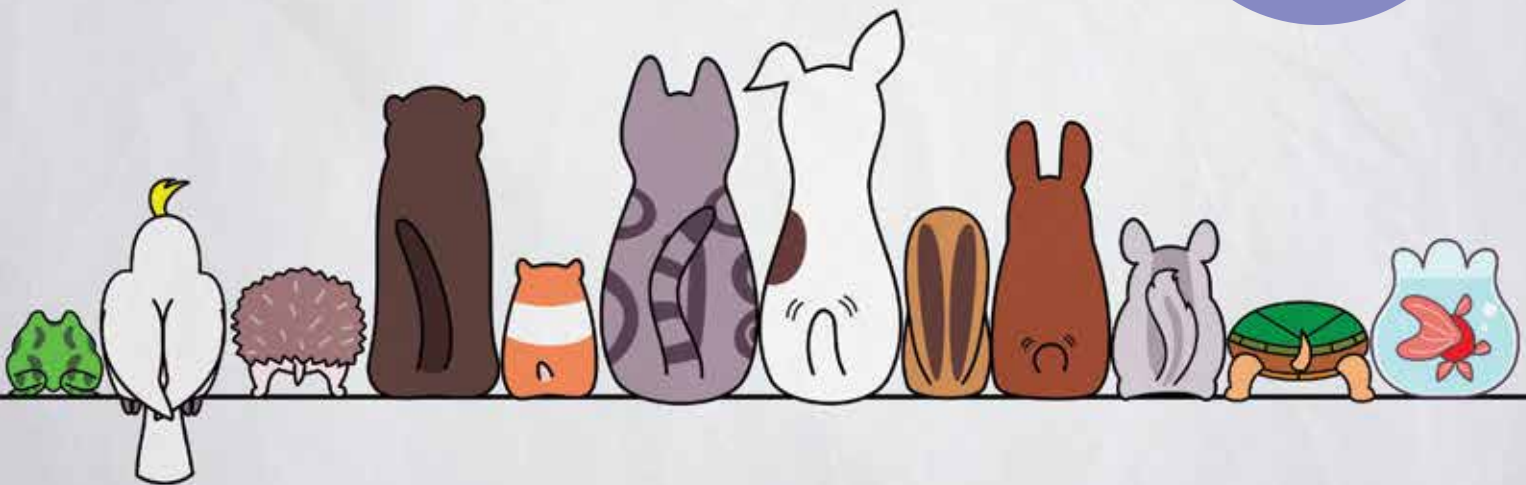


# Public accountant

THE OFFICIAL JOURNAL OF THE INSTITUTE OF PUBLIC ACCOUNTANTS



inside  
**A WRAP OF KEY  
ATO RULINGS  
FOR 2017-18**



## *The truth of* **DIVERSITY**

The push for parity and progress with gender equality in Australia is significant, but where do we stand on a wider diversity scale?



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Discussions around diversity in accounting circles often hover around gender gap issues and ignore the many other facets to achieving diversity and equality in the workplace. Why does it matter for accountants? A more productive and profitable business, for one, as well as improved employee wellbeing and reduced staff turnover.

This month, we also take a look at the increased scrutiny from industry regulators, including the contentious work-related over-claiming issue and how tax agents can make it out safely this tax time by sticking to their obligations.

Finally, we look to the honeypot of information that accountants hold and why it's such an attractive target for cyber criminals. With new data breach laws fully in place, we explore how accountants can help safeguard their business by developing a rock-solid defence plan.



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28

## Looking past gender: The truth of diversity in Australia

The push for parity and progress with gender equality in Australia is significant, but where do we stand on a wider diversity scale?

by Hannah Blackiston

## Features

34

### Hotspots on the regulatory radar

The regulators are gearing up for enforcement mode as the industry enters a new financial year. But tax agents who are fully aware of their obligations can make it out safely

by Linda Santacruz

40

### Beyond the scaremongering

New data breach laws are forcing accountants to take a closer look at their security systems. A handful of steps might help ensure they're on the right path to safeguarding their clients and staying on the right side of the law

by Linda Santacruz



**46**  
 'If you don't fail, you're probably not trying as hard as you could'

Alison Kitchen has been a career girl at KPMG, but she's literally one of a kind in her position at the helm of the big four's Australian operations

by Hannah Blackiston

"Don't ever, ever, ever talk yourself down because there are plenty of other people who will talk you down"

– Alison Kitchen, chair, KPMG

**10**

**One-on-one with Julie McKay**

PwC's chief diversity and inclusion officer, Julie McKay explains how Australian workplaces require firm and prescribed targets to achieve parity



**67**

A wrap of the latest news, strategies and insights on the technical front

**22**

**Reflecting on the 2018 federal budget**

A look back at the key measures announced and the federal budget breakfast event held jointly by the IPA and the Canberra Business Chamber

**Regulars**

- 4 **President's report**
- 6 **From the CEO**
- 20 **Advocacy**  
Insight to what the IPA is pushing government for on behalf of members
- 78 **Register of members**
- 80 **Business directory**

**Opinion**

- 26 **Exorbitant and unnecessary: New fees are on the horizon**  
The Institute of Public Accountants is firmly opposed to the phenomenal fee increases proposed for ASIC's new funding model  
by Vicki Stylianou and Tony Greco
- 64 **360 Degrees**



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## Federal budget 2018



The federal budget was handed down in May and came with mixed news for Australians and our members.

Personal income tax cuts for lower and middle-income earners will be introduced, which will be welcome news for those taxpayers.

Small businesses have been recipients of favourable tax concessions in the budget over the past few years with measures such as the \$20,000 instant asset write-off, lower corporate tax rate, unincorporated small business tax discount and increasing the small business turnover threshold from \$2 million to \$10 million.

The tax discount for unincorporated entities was a signature policy of the Institute which took a long time to get over the line. Tax concessions are important in reducing the regressive compliance costs on small businesses.

Small businesses will be the recipients of a growing economy so anything the government does in terms of tax cuts to those on lower incomes will contribute to small business growth. Many small businesses are unincorporated entities (sole traders, partnerships or trusts) and as such they will be beneficiaries of a lower PAYG tax burden.

The boost in infrastructure spending will also provide indirect benefits to the small business community. So, whilst there has been no further direct tax relief, small businesses will be beneficiaries

of the numerous infrastructure projects which the government announced on budget night.

A further relief on budget night was that there were no changes to work-related deductions. Despite claims of taxpayers over-claiming work-related expenses, the government refrained from making any ad hoc changes to the eligibility rules.

We are pleased that the government has not taken away the right of individual taxpayers to claim legitimate work-related expenses. Improving education and guidance materials in response to over-claiming is also welcomed.

One major announcement affecting members is that self-managed superannuation funds (SMSFs) with a track record of compliance will only need to undergo an audit every three years, instead of the current annual cycle. The IPA will be very much involved in the consultation that the government has flagged to ensure that all implications and 'unintended consequences' are considered.

In the meantime, affected members should not despair. Audits of SMSFs will still be essential and the focus on compliance will remain paramount. We will keep members informed throughout the consultation process.

Damien Moore FIPA FFA

# Client got a tax problem?

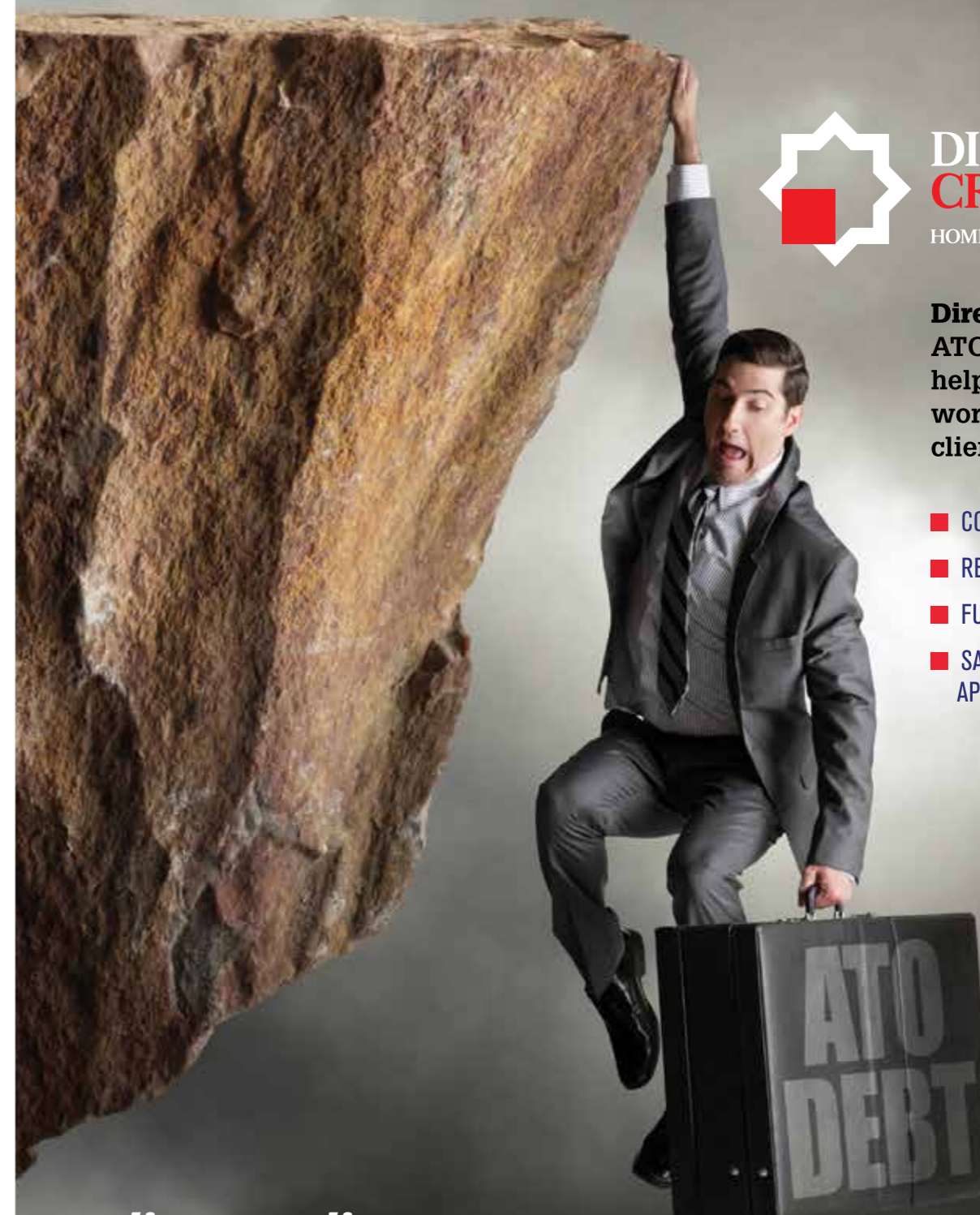
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From the CEO

## The accounting profession – centre of the global stage



Having recently attended a meeting with the International Federation of Accountants (IFAC) and the Confederation of Asian Pacific Accountants (CAPA), I am reminded of the vital role that accountants and the accounting profession as a whole play in their respective economies and communities.

However, I see major gaps in the global network and structure of the accounting profession. The IPA Group is focused on building and strengthening this network and meeting with IFAC and CAPA forms part of this focus.

Collectively, I believe we have a duty to assist developing nations and the role we play with CAPA is all about building capacity. Simply put, it is the right thing to do. Enhancing the capacity and capability of any given nation can only help their economy and in turn, the global economy.

This is akin to many of our members who volunteer their experience and services to assist their local community. The accounting profession has the capacity to drive global economies and prosperity. This is a responsibility we all share.

A key component of any developed, stable economy is transparency in the financial market. Transparency is driven in large part by the strength of the accounting profession and we should be proud of our contribution in this area.

As chairperson of the Professional Accountancy

Organisation Development Committee (PAODC) of CAPA, I am committed to doing my part in helping the regional economies and communities thrive. The double-digit economic growth in Asia heralds a call for greater assistance to ensure the development of accounting is at pace and where possible ahead of the development curve.

The World Bank has cited that to pursue an eradication of poverty, stronger financial systems are critical. How can we turn away from such a responsibility?

There are other factors in building stronger communities, particularly in education to ensure individuals and communities achieve their full potential.

To this end, our research into mental health through Deakin University is progressing well and I am looking forward to its inclusion in our small business white paper. This research is fundamental in looking at how we can assist in enhancing the health and wellbeing of small business owners and that of their advisers.

To cite the World Bank, 'the world is making progress toward the goals of ending extreme poverty by 2030 and boosting shared prosperity everywhere. By focusing our resources on three areas — promoting sustainable and inclusive economic growth, investing in human capital, and fostering resilience to shocks — and by measuring progress — we can get the rest of the way'.

The accounting profession therefore is, and should be, in the driver's seat.

Andrew Conway FIPA FFA



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## IPA in the media

The IPA has actively engaged with the media on a wide range of important and pressing issues such as tax advice deductibility, tax reform for votes, and ATO systems

### Deductibility of tax advice

"It is genuinely and obviously a revenue grab. If you cap it at \$3,000, the likelihood of a person engaging appropriate tax advice is reduced." ”

- Andrew Conway, Accountants Daily

### Tax advice cap

"We think it would have disastrous impacts on the community. If you look at the people who are generally deserving of a tax deduction, based on this proposal, they would be unable to get it. This is not affecting the top end of town, it's really affecting individuals who might be running small businesses." ”

- Andrew Conway, Accountants Daily

### Proposed policy hits retirees

"Self-retirees or prospective self-retirees who seek to invest to secure a self-funded retirement plan, alleviating pressure on a government-funded pension system, should be incentivised, not penalised." ”

- Andrew Conway, Selfmanagesuper Magazine

### ATO outages

"We need to make sure that the ATO, as a critical government agency, has access to the resources and the appropriate level of funding to deliver on the outcome." ”

- Andrew Conway, Accountants Daily

### Save the asset write-off

"If they do nothing, it ends and will revert back to \$1,000. We don't accept \$1,000 as an adequate number... that's just not acceptable for a lot of small businesses trying to finance assets." ”

- Tony Greco, MyBusiness

### Super guarantee penalties

"Repeat offenders that are doing the wrong thing by their employees should be dealt with but let's get human and do not tar every small business with the same excessive compliance brush." ”

- Andrew Conway, Public Accountant Hub

### Vote-grabbing tax proposals

IPA chief executive, Andrew Conway, said that the proposals currently put forward by political parties were not focused on effective or "true" tax reform, but instead just reflected that a federal budget and election were both looming." ”

- Money Management

### ATO portals

"Get it right ATO, and make sure it doesn't set people backwards," he [Tony Greco] told Accountants Daily. "They would rather continue with the clunky old system if stability is assured, rather than moving to something which is not reliable," he said." ”

- Accountants Daily

### Data breach resources

"The objective of the legislation is to try and get people to be more proactive about their security and to take their data security more seriously so the IPA is looking from the three perspectives of raising awareness, what your obligations are, and then actually being proactive and doing something about it if you haven't already." ”

- Vicki Stylianou, Public Accountant Hub

### ATO system down time

"We feel our role is to add the member and practitioner perspective, and drive home to government that this is a very real issue, and that ICT investment is an ongoing concern for the sector." ”

- Andrew Conway, Accountants Daily

### Estate planning

"The importance of estate planning isn't recognised whilst everything is fine," said Mr [Tony] Greco. "No one wants to talk about death, no one wants to talk about succession planning, and it's an Australia-wide issue that we don't want to talk about these things." ”

- Public Accountant Hub

### Payroll tax debate

"We've always said that state-based taxes need reform and payroll tax is in the mix. But you've got to understand that payroll tax is a significant generator of revenue for state governments, so you can't just eliminate payroll tax and leave a hole in their budgets." ”

- Tony Greco, Accountants Daily

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# The case for diversity targets in Australian offices

PwC's chief diversity and inclusion officer, Julie McKay says since it's impossible to achieve any ideal without first setting a goal, true gender equality in Australian workplaces will require firm and prescribed targets to achieve parity

by Julie McKay



**Julie McKay,** chief diversity and inclusion officer, PwC

## What is the gender pay gap at PwC?

For our employees, we know there is a like-for-like role gap of 0.3 per cent which has been holding steady the last couple of years. So we are getting close to parity, but there is more to do there.

Overall, at the partner level men earn about 16 per cent more. From our perspective, any gap is significant. It's good to have that information, without it, it's hard to know what to work on.

## Is there such a thing as an acceptable gap?

In time, if we are talking about reaching a time in Australian society where we have genuine gender equality, we wouldn't see pay gaps. We would see men and women equal in their leadership teams, because you would have as many women as men. But we obviously have a partnership of 649 people, and it will take some time to ensure that we have got

equality throughout the seniority of that partnership.

## What kind of material impact of gender-based targets do you see for the firm?

We are absolutely seeing and hearing from our clients, more and more, about the importance of diversity and inclusion. There are many more conversations now than there were about five years ago about what diversity on our teams is going to look like? How do we consider diversity and inclusion?

There is both the internal drive for greater diversity and inclusion, but also the external pressures, which has meant that this is a bigger part of our thinking in all aspects of team planning and client responses and relationships.

We know that in our teams that are more diverse and more inclusive, they are reporting higher levels of engagement, and even happiness. There are different measures we use as a

firm to see how people are feeling about their role. The higher the level of diversity and inclusions, the greater the satisfaction. That is absolutely aligned with the external weight of research and evidence. Simply, greater diversity and inclusion leads to higher productivity.

## What are some examples of this at the client level?

Our engagement with the big four banks will have requirements around the diversity on those accounts. But probably, more importantly than just this requirement, is the number of CEOs who are engaging us to say "this is important to us, how are you thinking about it, what can we share, what can we learn?"

There are a number of boards as well now thinking about diversity and inclusion from a risk perspective. It's not even so much "what must we do?" as it is "what if we fail to bring greater diversity and inclusion? What risks are



**27.1%**

The percentage of women on ASX 200 boards

(Source: Australian Institute of Company Directors)

"I think the first thing to acknowledge is that there's simply no evidence that incremental change and leadership commitment and good intentions work. There is no evidence anywhere in the world of that working"

we exposed to? What risks are our shareholders and investors exposed to?"

They are coming to firms like PwC to have those conversations, and there is clearly a real shift in attitudes around this issue.

## What kinds of risks can a firm be exposed to if they don't consider diversity and inclusion?

There are quite a few. There's one that is about legislative intervention, for example. This is something we've seen around

the world, like recently in the UK and France. Governments step in and legislate around diversity in leadership roles, and around issues like pay equality.

I think what this is demonstrating is that there is a sense of frustration about the slow rate of progress, and government is saying, enough is enough. I don't think in Australia there is enough political courage to do that yet, but I think in three to five years from now, we will be operating in an environment where there is tighter legislation around it.

There is a significant research base that shows diverse teams see risks differently. If you look at the concept of groupthink – it has been the catalyst of so many disastrous situations in corporate Australia and around the world. Diverse teams will identify and call out risks in a different way. Boards are starting to see this through that lens and realise that unless there is diversity in their leadership teams and key roles, they are exposing themselves to not seeing things through the eyes of their clients, investors and stakeholders.

## What kind of legislative triggers do you think are most likely to be on the agenda?

I think the likely two for Australia will be around the requirements for gender diversity in both political leadership and corporate leadership. Then, I suspect there will be further intervention around pay equality, so requirements to report pay gaps.

What I would love to see is requirements as well around diverse cultural backgrounds, so this conversation expands beyond gender.

## The gender equality debate has been raging for some time, have you seen it open the door to other conversations about diversity?

Absolutely. When I talk about the benefits of diversity and inclusion, I mean it in all of its forms. Teams that are inherently diverse will outperform teams that aren't. Diversity of experience, diversity of socioeconomic background, of ability, of life experience, of sexual orientation, of cultural background – all those things are considerations. What we tend to see is that companies at the beginning focus on gender first, and quickly realise there is a much bigger piece now about how we include people who, in all of our organisations, may otherwise not feel the ability to reach their full potential.

## We often sight pushback to modern arrangements, like flexible working, on grounds of productivity concerns. PwC has arrangements like this available for its staff, what kind of feedback have you had about the mechanisms you are using to achieve a more inclusive environment?

Net positive would be my overall summary. We have moved to a very flexible way of working. And that is both in our policies in the way we structure work and also in the physical space we operate in, where people determine where to sit and where to work. There are absolutely some people who have struggled in that environment, it is a significant shift from the way organisations have worked in the past. People do like the comforts of having a place and a space and knowledge of what hours are required.

In the main, we are finding our people are able to balance their lives and what is going on for them in their communities, knowing they are supported by work, and as a result deliver exceptional outcomes for clients because they are focusing on delivery, and not conflicted by other things going on around them.

But it isn't perfect. So, we know that about 80 per cent of our people have access to flexible work arrangements in some form. Is it perfect? By no means. We have a long way to go. And there are still pressures that people feel about being present or working at night, those things that we know are barriers to inclusion and diversity that we haven't cracked completely yet.

**What are the other benefits of these policies – I imagine staff retention would be one?**

Anecdotal, absolutely. I did a major national consultation across PwC last year where I spoke to 1,000 of our people. It's clear to me that when people had their work and life in some alignment, they were able to reach their potential. The level of comfort that people felt was much higher when they could



7  
The number of boards in the ASX 200 that don't have women  
(Source: Australian Institute of Company Directors)

trust their team to have no issues for them in addressing something outside of work, as long as their deliverables were being met. You heard stories of people who had accepted board roles, giving their times to those roles, in addition to challenging client priorities... who five years ago hadn't felt able to attend activities for their kids. Now it's a totally normal part of their week or day, the level of psychological safety that person feels is undeniable. What you see is someone who is feeling psychologically safe, who then of

course will bring their best self to their work.

**With that gap still existing at the top for PwC, and many mechanisms already in place to address diversity in the firm, what else can you do to remedy the inequity?**

There are a number of interventions. After having partner admission targets for a number of years... we realised we actually needed to target our director pool as well to ensure the pipeline flows through to the

partnership, and that continues to be really strong. So, from FY18/19, there'll be a 50/50 director target as well across PwC, then it's about looking at the partnership and what are the opportunities that are more likely to lead to leadership roles into the future.

**Some see targets as a form of reverse sexism, what's your answer to those concerns?**

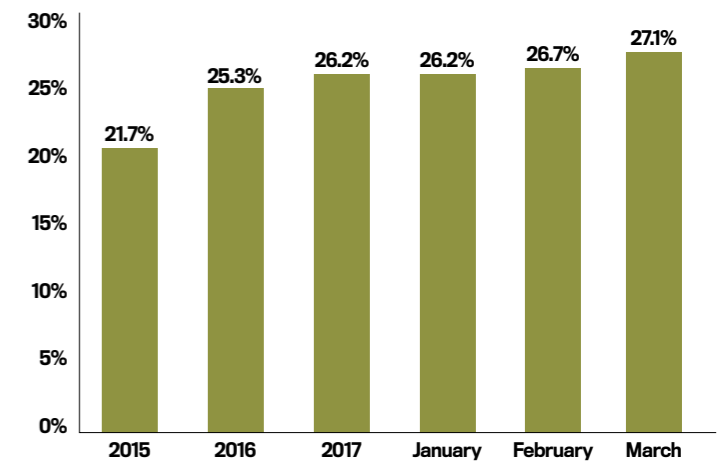
I know there's a lot of sceptics out there. I think the first

thing to acknowledge is that there's simply no evidence that incremental change and leadership commitment and good intentions work. There is no evidence anywhere in the world of that working. If we are serious about making change, then short of not having a legislative framework to do it from within through quotas, targets are the only things that will hold us accountable for making genuine progress.

Now of course when we talk about shifting fundamental power structures in society that makes people uncomfortable. And I'm comfortable with that. I don't accept that we have had a system that has been objectively based in merit. What we hear is that targets are anti-meritocratic. And in my mind, you don't reach the sort of [inequitable] numbers that we have reached in corporate Australia if you have got a genuine commitment to the full talent pool reaching their potential.

I think a strong policy is really important. Spend a lot of time working out which one is the best one. Ultimately, it's about mindset. Our leadership trusts our people and that people who are their best selves will outperform people who are under stresses and pressures

Percentage of female directorships on ASX200 boards



(Source: Australian Institute of Company Directors)

that they are trying to navigate constantly. So, to me, this can be less about the policy framework and far more about attitudes and role modelling. And this is where I think it is hard to change behaviours. A lot of people in corporate Australia feel comforted by going to work at a certain time, to an office at a certain place, delivering certain things and coming home, and this idea that it doesn't have to be the way we work in the future is very challenging.

For me, in a professional services context... we are all

challenged by the fact that the generation of employees coming into our firms don't want to work the way that we have traditionally worked, and they don't accept the model of professional services in the way it currently stands. And I really look forward to more conversations across the industry about how we disrupt that model. We have got some ideas and we hope we have some leadership to share, there is a lot more that we need to do if we are going to be able to keep attracting the top talent in the market year-on-year. ☺

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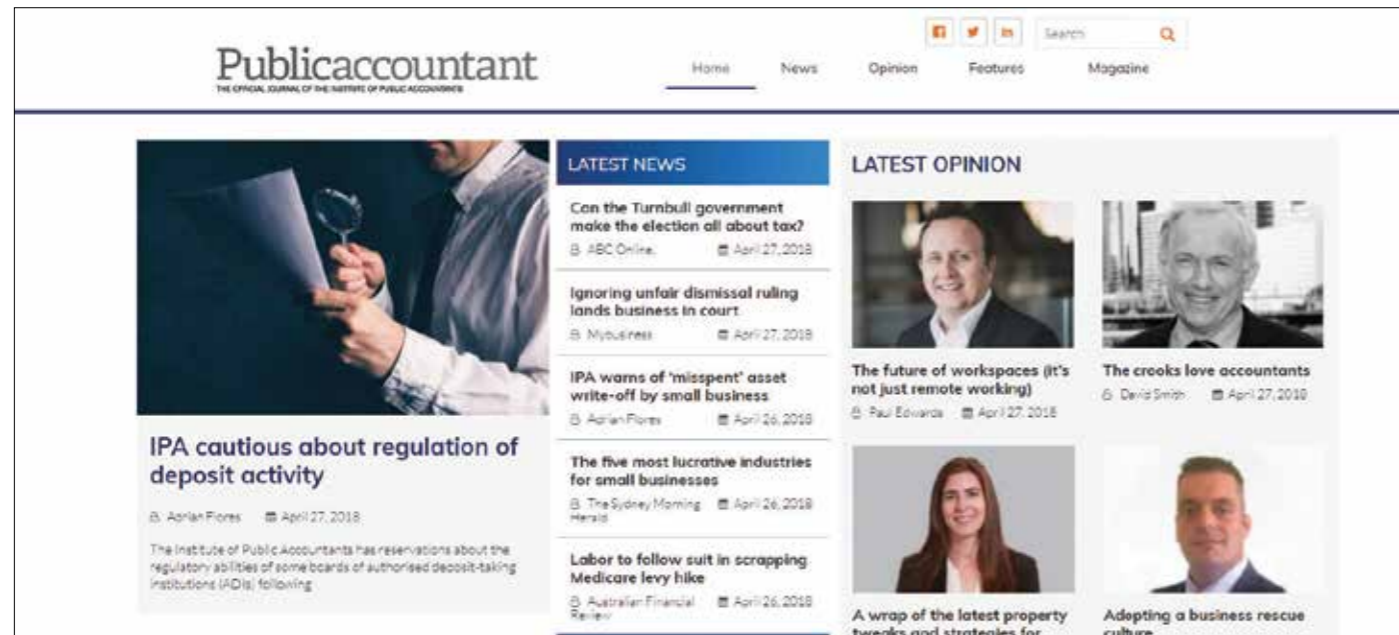
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## Win for tax agents in public stoush with commissioner

ATO boss Chris Jordan's recent public statements against tax agents have attracted the attention of the Inspector-General of Taxation (IGT), who believes it "wasn't the most prudent course of action", without the use of factual data to back it up.

At the Institute of Public Accountants (IPA) National Congress on the Gold Coast last year, Mr Jordan said over 900 audits showed tax agents were contributing to Australia's individual tax gap through "carelessness, miscalculation and simple mistakes".

More recently, at the Tax Institute's National Convention, Mr Jordan took another swipe at tax agents, saying the results of its random enquiry program showed

incorrect claiming was worst in agent-prepared returns over self-prepared returns.

"Some display a lack of competence, or outdated knowledge and practices, or do not take proper care when undertaking their work; others are deliberately scamming or cheating the system," said Mr Jordan.

"These results are really disappointing. For years I've heard how tax agents were guardians of the system - these random enquiry results tell me this is not the case for some agents."

Fronting the standing committee on tax and revenue, IGT Ali Noroozi fielded questions from MP Jason Falinski, who asked if it was appropriate for tax agents to be put in the spotlight without data to support those claims.

"It perhaps wasn't the most prudent course of action. It would

have been best to have released the facts at the same time," said Mr Noroozi.

"I think it would have been preferable for the facts to have been shared and the basis for which those comments were made when they were made. It's a relationship that can, at times, be fragile.

"But, as you say, those comments at the Tax Institute conference have stirred up a reaction from tax practitioners."

According to the Tax Office, the work-related expenses gap is estimated to be greater than the large corporate tax gap of \$2.5 billion, but has yet to publish actual figures.

Mr Falinski further questioned the appropriateness of the Tax Office to be making comments that could lead taxpayers to self-lodge in preference to using a tax agent.

"I don't think the commissioner's remark was saying, 'Don't use tax agents.' He did say that this is what the result of their random audits are, but I do agree that he did not produce the factual basis," replied Mr Noroozi.

In his reply, Deputy Inspector-General of Taxation Andrew McLoughlin said the IGT was not going to favour sides but would be navigating those issues in its ongoing review into the Future of the Tax Profession.

## IPA questions Treasury payroll findings

The Institute of Public Accountants says Treasury's latest research showing how payroll taxes do not typically affect business behaviour is inconsistent to feedback from members and SME owners.

Treasury's latest working paper

on payroll tax found that firms do not bunch below the payroll tax threshold, apart from isolated incidents in Victoria and Western Australia.

However, IPA general manager of technical policy, Tony Greco, says the results are inconsistent to public feedback received during its Small Business White Paper roadshows across Australia last year.

"When we asked business owners what the most hated tax was, payroll tax, by far, comes up as the number one," said Mr Greco.

"We just find that small businesses hate this tax with a vengeance because in their eyes it doesn't make sense to impose a tax on labour when they are trying to grow their business.

"You question the veracity of [Treasury's] data but if you take it as read then it appears that it's not acting as a disincentive to grow, but that's not what people are telling us when we have them in a public forum and a lot of them decide, or have decided, that they don't want to grow, citing payroll tax as an example because they don't want to incur this impost."

Further, Mr Greco believes the states will not make a move on payroll tax unless the government introduces a replacement revenue stream at a federal level.

"One doesn't expect changes unless the federal government has plans on how it could address the shortfall and make the decision for the states," said Mr Greco.

"There's already angst because of inconsistencies and it's very much a state-based tax so that's up to the states individually to decide what they do with payroll tax and, given the dollars that flow, it is unlikely they will find an alternative funding source other than if some wholesale changes were made at the federal level to compensate them.

"The GST was supposed to do

that but with the current level of exemptions and the rate of 10 per cent, it's not likely that will happen in the foreseeable future."

## 'A heck of a rise': IPA questions revised SMSF auditor fee

The reduction of proposed registration fees for new SMSF auditors under the ASIC funding model has been welcomed by the Institute of Public Accountants but it will continue to fight the increase as a deterrent to new entrants.

The government released draft legislation in April on the introduction of ASIC fees-for-service, the second phase of the ASIC industry funding model.

Under the new fees-for-service regime, fees for activities such as processing a licence application will be revised to reflect ASIC's actual costs. This is the final aspect of the ASIC Industry Funding Model and will commence from 1 July 2018.

Accordingly, new SMSF auditors will now face a one-off \$1,927 registration fee, down from the initially proposed \$3,429 last year, but still a considerable jump from the initial \$107.

"It's in the right direction at least and it is subject to further consultation and we'll be arguing the same points that it is still a heck of a rise," said IPA general manager of technical policy, Tony Greco.

"[The government] told us that the initial fee for SMSF auditor registration will be coming down to a lesser figure - we say that's a step in the right direction but we still think, given the number of auditors that are out there, we don't want less auditors.

"There's already a concentration of those services amongst large firms, we don't want that concentration - we don't want more barriers to entry for new auditors, we don't want this trend to continue and having a fee of that magnitude restricts that," he added.

"Auditor registration fees of that size might deter new entrants and further the concentration going forward and we've got to ask ourselves is that a good outcome for the SMSF sector?"

## Jail time ordered in \$135m tax fraud case

The Supreme Court of NSW has sentenced businessman Michael Issakidis to over a decade in jail for his involvement in a \$135-million tax evasion scheme, the largest ever successfully prosecuted tax fraud case in Australia.

The result follows the sentencing of co-conspirator, former EY executive Anthony Dickson, who in 2015 was sentenced to 11 years' jail, which was later increased to 14 years on appeal, marking the longest jail sentence ever handed down for tax fraud and money laundering.

Issakidis was sentenced to 10 years and 3 months in jail, with a non-parole period of 7 years and 6 months.

According to a joint statement by the ATO and the Australian Federal Police (AFP), the pair deliberately absorbed \$450 million of otherwise assessable income through falsely created losses overseas to evade \$135 million in corporate tax, netting themselves \$63 million in fees.

As directors of NeuMedix Health Australasia Pty Ltd, Issakidis and Dickson were found to have participated in a scheme from 2007 to 2010 to fraudulently claim depreciation expenses relating to offshore purchases of intellectual property and dealing in the proceeds of crime.

NeuMedix purportedly acquired the intellectual property from a Cayman Islands company, partly funded by a Samoan financier, and valued by an ostensible international valuer. The court found all of these entities were set up and controlled by Dickson and Issakidis.

The pair created a web of false identities to aid their deception and siphoned money through the UK, Hong Kong and the UAE via fake domestic and international companies to fund their lavish lifestyles, netting them approximately \$63 million.

In the end, Issakidis and Dickson were found to be directors of NeuMedix Health Australasia Pty Ltd; Athena Health (Cayman Islands company); Karkalla (fake Samoan company); Dampier Finance (Samoan financier); Athena Global (UAE); Meed Inc (UAE); Flying Dragon International Ltd (HK); and Intrepid Finance International Ltd (HK).

ATO commissioner Chris Jordan said the sentencing result was a wake-up call for accountants and lawyers who were devising and promoting tax evasion schemes.

"The sentence handed down... and Mr Dickson's sentence of 14 years, shows that those involved in tax evasion schemes will go to jail, and go to jail for a long time," said Mr Jordan.

"Those unethical lawyers and accountants devising these schemes don't want to have to face the reality of having to go home, pack your bags and to tell your family 'daddy's going to jail'."

Minister for Revenue and Financial Services, Kelly O'Dwyer, said the case was "the largest and one of the most complex investigations into tax fraud in Australia's history", while crediting the work of the Serious Financial Crime Taskforce (SFCT).

"The sheer size of the fraud and significant penalties imposed by the judge shows that this type of behaviour will not be tolerated, and the SFCT will bring those involved in such activities to justice," said Ms O'Dwyer.

Since the SFCT's establishment in 2015, 740 reviews and audits have been completed, and liabilities have been raised in excess of \$562 million. 📌

# Managing your wear and tear

BMT Tax Depreciation chief executive officer Bradley Beer discusses recent changes to depreciation law, the ensuing tax complications, and how accountants can best help their clients stay on top of depreciation

## 1. Could you provide us with an overview of what property depreciation is?

As a property gets older, the building and the items within it wear out. The Australian Taxation Office (ATO) governs legislation that allows property owners of income producing buildings to claim a deduction relating to this wear and tear.

## 2. I understand there have been some recent changes that have taken place to depreciation legislation. Can you give us an overview please?

As part of the 9 May 2017 federal budget, the Australian government proposed amendments to legislation relating to plant and equipment (division 40) deductions.

Property investors who purchase a second hand residential property after 9 May 2017 will no longer be able to claim depreciation on previously used plant and equipment assets in their property.

The new rules apply only to those investors who exchange

contracts on a second hand residential investment property after 7:30pm on 9 May 2017.

For investors who exchanged contracts prior to this date the rules have been grandfathered. This means that those investors who exchanged contracts prior to 7:30pm on 9 May 2017 can continue to claim depreciation using the existing rules.

Plant and equipment depreciation deductions can still be claimed on assets added to the property by the owner and the acquisition of existing plant and equipment assets will be reflected in the cost base for capital gains tax (CGT) purposes for subsequent owners.

Investors will still be able to claim qualifying capital works deductions (division 43) which are the deductions available on the structure of the building and assets considered to be permanently fixed to the building.

Capital works deductions are available on residential investment properties that commenced construction after 15 September 1987. These deductions typically make up

between 85 to 90 per cent of the total claimable amount.

## 3. Who won't be affected by the changes?

Owners of brand new residential properties, regardless of when purchased, will not be affected.

Residential property investors who exchanged contracts prior to 7:30pm on 9 May 2017 are also unaffected. However, a property owner will not be able to claim depreciation on pre-existing plant and equipment assets within properties which have been lived in as a primary place of residence and the owner decides to rent the property out after 1 July 2017.

A property that has been substantially renovated by a previous owner may still provide depreciation deductions, and there are a few rules around that. The important thing to note is that the work must be substantial in order for an investor to qualify.

All investors can still claim plant and equipment depreciation for assets they install and incur the expense for.

Non-residential commercial properties are also unaffected by

the changes. The new rules also state that the amendments do not affect deductions that arise in the course of carrying on a business.

Superannuation plans, other than SMSFs, that hold residential property, public unit trusts and managed investment trusts and corporate tax entities including properties held under company entities are also unaffected.

## 4. Are there any other scenarios where these changes could affect property owners that accountants should be aware of?

Depreciation deductions only apply to owners of income producing properties and not home owners. However, if an owner-occupier is thinking of turning their home into an investment property, they need to be aware of how these rules might apply to them.



Owners can continue to claim plant and equipment depreciation and capital works deductions for properties which have been lived in and turned into an investment property by their owners prior to 1 July 2017.

A property owner will not be able to claim depreciation on pre-existing plant and equipment assets within properties that have been lived in as a primary place of residence where the owner decides to rent the property out after 1 July 2017. Plant and equipment assets within this scenario are considered previously used.

The new legislation restricts an owner from claiming depreciation on any previously used plant and equipment unless the asset is considered trading stock.

Regardless of how existing assets are treated, under this scenario, owners can claim

depreciation on all assets they purchase and add to the property.

## 5. How will these rules affect renovation work completed by a previous owner or planned by the new owner?

Any additional work completed by the current owner on the property which is classified as capital improvements can be included in a tax depreciation schedule and claimed as normal. This includes both capital works and plant and equipment.

Qualifying capital works additions completed by a previous owner can be included in a tax depreciation schedule and claimed by the current and future owners for the remaining 40 years.

It is important to note that if an entity has previously been entitled to any depreciation deductions for plant and equipment assets, or if someone lived in the property

before it was held by the current owner/investor, then they will not be able to claim any ongoing plant and equipment depreciation.

All previously used plant and equipment will be excluded from the depreciation schedule. These assets will be included in a capital loss schedule for the purposes of claiming a capital loss, allowing the owner to adjust their CGT liabilities where applicable.

If a property is considered to have been substantially renovated by the previous owner for selling purposes, then an investor can claim depreciation on the new plant and equipment assets along with any new or old qualifying capital works deductions available.

Substantial renovation works can be structural or non-structural. Examples of substantial structural work include altering, removing or replacing foundations, floors, supporting walls, or parts thereof (interior or exterior), lifting or modifying roofs, replacing existing windows and doors where brickwork is altered (single to double door). Examples of substantial non-structural works include replacing electrical wiring or plumbing, replacing, removing or altering non-supporting walls, or parts thereof (interior or exterior), plastering or rendering an entire wall or walls, removing or replacing kitchen cupboards, bathroom fixtures, air conditioning or security systems.

Cosmetic changes like a lick of paint or replacing carpets and curtains are not considered substantial.

## 6. What effect do the changes have on CGT that accountants should be aware of?

Investors may not be liable for paying CGT if they fall within any of the exemption rules provided by the ATO. This includes a

six-month rule, a six-year rule and the CGT discount available to those who sell a property they have held for longer than 12 months.

The amended legislation following the 9 May 2017 budget outlines some detail around a reduced CGT liability for property investors. There are scenarios where the values of plant and equipment will be needed such as:

- When an asset is scrapped;
- Where there is a partial or full CGT exemption; and
- Where the exchange date and settlement date on the sale of the property occur in separate financial years.

Depending on the circumstances, a property investor who is unable to claim depreciation on previously used plant and equipment assets due to these amendments should be able to claim a capital loss for the decline in value of the plant and equipment assets. This capital loss should only be able to offset a capital gain and if needed can be carried forward to offset future capital gains.

A value that relates to the previously used depreciable assets will need to be established at the time of purchase. A decline in value will then need to be calculated for the assets so that a termination value can be determined at the time the assets cease to be used (e.g. when the property is sold).

The capital loss should be equal to the difference between the value at the time of purchase and the termination value, assuming that no amounts were allowed as deductions.

A specialist quantity surveyor will adjust the depreciation schedule to suit a variety of scenarios anticipating any affect that changed legislation will have on a property investor. ☺



## Member snapshot:

### Catherine Keogh

#### Tell your fellow members a bit about yourself

I was born in Ireland. I spent my late teens/early 20s wandering the cobbled streets of Dublin following the local bands in the freezing cold, working hard and having an altogether good time when I decided to venture to Australia for a sunnier climate after the craze of watching Neighbours.

Prior to that I worked on a cruise ship sailing on her maiden voyage from France Le Havre across the Atlantic to Miami, and then south to the Caribbean, which sounds perfect and it was.

Upon arriving Down Under, after long farewells to my family and friends back in Dublin, I first settled in Melbourne and just loved the lifestyle, restaurants and the arts.

I am married to a local Perth guy, have two teenage kids, one in uni and the other working his way through Year 11.

I have had the opportunity to travel and live for extended periods in England, Holland, Sweden and the USA and have now settled in the lovely Fremantle area of Western Australia. We head back to Ireland every few years as I feel angst if I don't see the green landscape and the stony beaches I loved as a kid.

#### How did your journey in accounting begin?

I had a long sabbatical from working whilst overseas and having children and after coming back home to Fremantle I wanted to get into a career pathway that I would enjoy and have a keen interest in. I had extensive work experience in hospitality and a stint at retail on the buying side of the business, and I thought now was the time to expand my horizons and delve into the finance side of running a business.

**“It was so good to be part of a professional community and it encouraged me to complete work and study to become a full member”**

A friend reckoned I should go to the local TAFE and that's when my accounting study commenced at entry level Cert III. I was so thrilled when I got the certificate I thought, “That's it now I can head off into the world of accounting”. A wise and wonderful lecturer smiled when I told her and suggested I head back to class and continue just a little longer. And that's when I got the study bug.

#### What led you to the IPA?

A representative dropped into the class at TAFE to chat about the merits of being a student member of the IPA (NIA at the time). I was intrigued and I signed up on the spot! It was so good to be part of a professional community and it encouraged me to complete work and study to become a full member. It gave me an outcome to achieve with full membership. The introduction of the Masters IPA Program was too hard to resist, and off I went into the world of online study which I enjoyed immensely.

I'm very proud to be the WA IPA member of the year 2017 and I recommend anyone to consider the IPA Program MBA, even if they are full members of IPA already. It's a very comprehensive course that opens your mind to inquire and grow professionally.

#### What drew you to your field of speciality?

I was a finalist in the WA Training Awards, Vocational Student of the Year after completion of Cert IV and got networking

as one does at such events. I got an offer of employment with a large accounting firm in the city to work part-time whilst studying. So I jumped on board the tax department, and away I went. I loved it, as it combined meeting clients face-to-face (all that customer service paid off) and assisting in their tax requirements. I currently work closer to home in Willetton and specialise in small business and individuals. This has brought my expertise full circle as I can relate to and understand the needs of my client base because of my various work experiences.

#### Any advice for new accountants?

My advice to someone starting out in their accounting career would be to get a strong understanding of the area of expertise you wish to pursue. Get networking and continuously keep yourself informed of ongoing events in the industry. Take advantage of your IPA membership by meeting and getting to know the local group of members through CPD and other networking events. Keep healthy in mind and body and remember that soft skills are just as important as technical expertise. 📌



# COMPLIMENTARY RESOURCES

INSOLVENCY REPORT

GUIDE TO PERSONAL INSOLVENCY

GUIDE TO CORPORATE INSOLVENCY

BREAKFAST SEMINARS

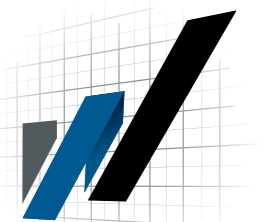
WORKSHOPS

CBD CONFERENCES

ON THE PULSE NEWSLETTER

ADVISOR CHECKLISTS

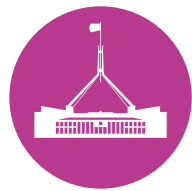
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## The latest on the IPA's advocacy work

The IPA lobbied the government on issues including the small business CGT concessions, the rollout of the ATO's new online portal and the deductibility of interest expenses incurred by a beneficiary of a discretionary trust on borrowings

### 1. House of Representatives standing committee on tax and revenue review of the 2017 annual report of the commissioner of taxation

The IPA provided testimony to the committee: The IPA is looking forward to the promised rollout of the new online portal with its enhanced features to enable practitioners' better access to much more detailed information about their clients. Unfortunately, the unscheduled outages in December 2016 and February 2017 halted development work on the portal's replacement as the ATO prioritised its IT efforts towards maintaining stability of its systems for the 2017 tax season.

The ATO has recovered from these unscheduled outages with more robust systems in place, which has led to minimal instability of the portals during tax time 2017. Confidence has started to rebuild gradually since the occurrence of those major outages, which is pleasing. The ATO has acknowledged that these two unscheduled outages caused significant reputational

damage. The tax practitioner community performs a critical role in vetting information on behalf of the ATO under our self-assessment model. Without such checks and balances, the ATO would need to do much more compliance work to ensure taxpayers were operating within the tax laws. For some time now the IPA has expressed concern about the impacts on small practitioners resulting from the ATO's use of technology. While the IPA supports the better use of technology, it is concerning that the ATO's push for more digital interactions has historically in part come at the expense of tax agent practices particularly in lost productivity.

### 2. Submission on 'Improving the integrity of the small business CGT concessions'

As part of its 2017-18 budget, the government announced proposed amendments to the tax law which would limit the application of the small business CGT concessions (SBCGT concessions). The draft legislation is seeking to prevent

the SBCGT concessions from being used by taxpayers with significant wealth, in a manner which is inconsistent with the underlying policy intention.

The draft legislation succeeds in addressing the above integrity issues. However, whilst doing so in the manner proposed, may also arguably exclude many genuine small taxpayers from obtaining the SBCGT concessions. The draft legislation proposes significant amendments that go beyond what most expected from what was announced. A simpler method to better target the mischief identified would be to require that the relevant asset have a sufficient link to the relevant small business carried on by the taxpayer. The measures contained in the draft legislation are extraordinarily complex.

If the proposed legislative changes to the SBCGT concessions proceed as tabled in the exposure draft, then given the extended scope of the changes made to the rules, which has moved the goal posts, the start date should be applied prospectively from the date of royal assent instead of from 1 July 2017. An interest in an entity worth more than \$6 million would now not qualify for the SBCGT concessions which can adversely impact business transactions that have occurred since 1 July 2017.

### 3. Draft Tax Ruling – TD 2017/D4 – deductibility of interest expenses incurred by a beneficiary of a discretionary trust on borrowings on-lent interest free to the trustee

The professional accounting bodies do not agree with the view expressed in the draft ruling that interest incurred in the circumstances considered will only be deductible if the relevant taxpayer (the beneficiary of a discretionary trust) is presently entitled to income of the trust estate at the time the expense is incurred. We submit that one does not only take into account whether the beneficiary has a present entitlement at the time of incurring the interest expense, but one can also take into account factors such as historical patterns of distribution and the presence of practical control. We submit that what is key is whether there would be an expectation of the derivation of income.

### 4. Productivity Commission inquiry into competition in the Australian financial system

The IPA made a submission to the Productivity Commission (PC) on its draft report on competition in the Australian financial system. The findings of the PC were scathing of the current state of affairs in Australia's financial system, including what might be termed 'mistreatment' of small business. The reputation of the banks and other financial service providers has deteriorated, particularly since the global financial crisis.

The behaviours of consumers and small businesses in Australia seem to reflect an apparent complacency when it comes to obtaining competitive financial products and services. The perceived inconvenience

associated with 'switching' financial provider, coupled with the complex array of products on offer, seem to deter many Australians from making changes that would, in fact, increase competitive behaviour between the providers. Perhaps consumers believe that 'they are all as bad as each other' and that there is little to be gained from shopping around. Accordingly, one of the recommendations by the IPA was that all stakeholders must do more to encourage a culture of competition by the consumers of financial services and products.

### 5. Treasury Laws Amendment (Australian Consumer Law Review) Bill 2018 and related regulations

The IPA made a submission to the Treasury on the Exposure

Draft of the Treasury Laws Amendment (Australian Consumer Law Review) Bill 2018 (ACL Bill) and related regulations. The ACL Bill proposes amendments to the *Australian Securities and Investments Commission Act 2001* and the *Competition and Consumer Act 2010* (CCA) following release of the Australian Consumer Law Review Final Report in March 2017.

The ACL Bill proposes a change that will allow a party bringing a private action for breach of the ACL provisions to rely on both admissions of fact, as well as findings of fact, in subsequent proceedings. This is consistent with the change made by the *Competition and Consumer Amendment (Competition Policy Review) Act 2017* in relation to private actions for breach of the competition law provisions (section 83 CCA).

The IPA is supportive of this change, however, in isolation, it will not be sufficient to address issues relating to access to justice for breaches of the ACL.

The ACL Review Final Report recognised "... the difficulty that consumers and small businesses face in accessing remedies". Unfortunately, as "[m]any of the issues relate to evidentiary rules and broader processes in civil justice systems" they are considered to be "beyond the scope of the consumer law and this review process". The IPA believes significant work needs to be done in this area to improve access to justice for small business. In many cases, small business walks away from legal disputes to their detriment because they simply don't have the resources to contest a legal dispute. The IPA is part of broader consultation and working groups to address this situation and level the legal playing field for small business. 📍

# Reflecting on the 2018 federal budget

A look back at the key measures announced and the federal budget breakfast event held jointly by the IPA and the Canberra Business Chamber

While there were no major tax reforms announced in the 2018 federal budget, it did see a raft of smaller integrity measures introduced and a continuation of certain tax concessions for small business.

Some of these integrity measures were targeted at the issues associated with the black economy. Discussing the new measures, IPA chief executive officer, Andrew Conway says addressing tax leakages will “reduce the high tax burden on PAYG”.

“Businesses operating in the cash economy, contractors and participants in the gig economy represent a revenue challenge for the ATO,” explains Mr Conway.

“The measures announced such as further expansion of payment reporting, introduction of cash payment limits and funding for enhanced ATO enforcement will help plug some of the leakages from our tax system.”

On the small business side, whilst there was no further direct tax relief, the government announced it would be extending the \$20,000 instant asset write-off for a further 12 months and boost infrastructure spending also.

“The boost in infrastructure spending will also provide indirect benefits to the small business community,” Mr Conway explains.

Despite speculation prior to the budget, there were no changes to work-related deductions.

“We are pleased that the government has not taken away the right of individual taxpayers to claim legitimate work-related expenses,” says Mr Conway.

In the morning following the release of the federal budget, the Canberra Business Chamber in conjunction with the Institute of Public Accountants held a federal budget breakfast in the Great Hall of Parliament House, Canberra.

The breakfast was an



Treasurer Scott Morrison and Prime Minister Malcolm Turnbull



Canberra Business Chamber board director Glenn Keys, shadow assistant treasurer Andrew Leigh, Canberra Business Chamber chief executive Robyn Hendry, Andrew Conway and Damien Moore

informative event providing attendees with a rundown of how the 2018 federal budget would impact businesses and the wider community.

Assistant Minister to the Treasurer Michael Sukkar and shadow assistant treasurer Andrew Leigh both provided insights about the budget at the event.

### A breakdown of the key budget measures impacting members

Measures in the 2018 federal budget included a further expansion of payment

reporting, introduction of cash payment limits, enhanced funding for ATO enforcement, proposed changes to the SMSF audit cycle and a boost in infrastructure spending.

### Continuation of small business tax concessions

Many of the existing tax concessions for small businesses over the past few years will continue, despite the fact there was no further direct tax relief in the budget.

The government extended the \$20,000 instant asset write-off for a further 12 months to 30

“The measures announced such as further expansion of payment reporting, introduction of cash payment limits and funding for enhanced ATO enforcement will help plug some of the leakages from our tax system”

June 2019. It has also continued its existing commitments to a reduced corporate tax rate and an unincorporated small business tax discount, as well as

an increase of the small business turnover threshold to \$25 million. Tax concessions, Mr Conway explains, are important in reducing the regressive

compliance costs on small businesses. “Small businesses will be the recipients of a growing economy so anything the

government does in terms of tax cuts to those on lower incomes will contribute to small business growth,” he says.

“Many small businesses are unincorporated entities such as sole traders, partnerships, trustees, and they will be beneficiaries of a lower PAYG tax burden.

The government announced a tax integrity measure in clarifying that unpaid present entitlements will now come within the scope of Division 7A.

From 1 July 2019, unpaid present entitlements will come within the scope of Division 7A



IPA president Damien Moore, Assistant Minister to the Treasurer Michael Sukkar and IPA chief executive Andrew Conway



Shadow assistant treasurer Andrew Leigh and Assistant Minister to the Treasurer Michael Sukkar



Steve Price



of the *Income Tax Assessment Act 1936*, in a move that will ensure the unpaid present entitlement is either required to be repaid to the private company over time as a complying loan or subject to tax as a dividend.

**Unchanged work-related deductions**

The government has refrained from making any ad hoc changes to eligibility rules around work-related expenses.

Regardless, it has committed \$130.8 million to the ATO from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents, in a bid to raise \$1.1 billion over the forward estimates period.

The funding will go towards new compliance activities, including additional audits and prosecutions, improving education and guidance materials, pre-filing of income tax returns and improving real time messaging to tax agents and taxpayers to deter over-claiming of deductions.

**Plans to battle the black economy**

The government's approach towards eliminating the black economy is part of a five-year implementation plan that will require co-operation between the states and government agencies.

Some of the tax-related measures, laid out in the budget in response to the Black Economy Taskforce final report, include:

- Providing additional funding to the Tax Practitioners Board to take action against tax agents facilitating activity in the black economy;
- Removing deductions for non-compliant payments;
- Changing the government's procurement procedures to incentivise tax compliance in supply chains;

“Small businesses will be the recipients of a growing economy so anything the government does in terms of tax cuts to those on lower incomes will contribute to small business growth”

- Consulting on reforms to the Australian Business Number (ABN) system;
- Introducing an economy-wide cash payment limit for large cash transactions of \$10,000 to reduce the ability of black economy operators to use cash to avoid their tax and reporting obligations and launder the proceeds of crime; and
- Expanding the taxable payments reporting system to contractors in industries with higher identified risks of not reporting their income.

Mr Conway says these measures represent further implementation of recommendations contained in the Black Economy Taskforce

final report. He expects the government to announce additional measures when the report is finally tabled for public release.

“The IPA looks forward to [the] full release of the Black Economy Taskforce final report and the government's responses to all the recommendations contained in it,” he says.

**Changes to SMSF audit requirements**

The government plans to change the annual audit requirement to a three-yearly requirement where SMSFs have a history of good record-keeping and compliance.

The measure will apply to SMSF trustees with a track record of three consecutive years of clear audit reports and have lodged the fund's annual returns in a timely manner.

The change is intended to start on 1 July 2019, but the government has said it will consult with stakeholders on the proposal.

“The government has advised there will be further consultation, in which, the IPA will be fully engaged,” Mr Conway says.



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# Exorbitant and unnecessary: New fees are on the horizon

The Institute of Public Accountants is firmly opposed to the phenomenal fee increases proposed for ASIC's new funding model

by Vicki Stylianou and Tony Greco



**Vicki Stylianou,**  
executive general manager –  
advocacy and technical, IPA



**Tony Greco FIPA,**  
general manager of  
technical policy, IPA

The Institute of Public Accountants (IPA) made a substantial submission to the Treasury on the Introduction of ASIC's Fees-for-Service under the Industry Funding Model. The consultation was aimed at trying to reduce the cost to government of operating ASIC by making it a user-pay model. In other words, the proposal is that instead of all taxpayers paying for ASIC, those who directly use its services should pay for the services they use.

The IPA contends there is no basis for some of the proposed significant fee increases; with our main focus being on the self-managed superannuation fund (SMSF) auditor registration fees and some of the financial adviser fees. The initial proposal was that the SMSF auditor registration fees would increase from \$107 to \$3,429 (over 3,000 per cent increase), however, it was recently announced that these fees would increase to

\$1,927. Whilst this may be moving in the right direction, it is still an exorbitant increase, which we contend is unviable and unnecessary. Consultation is currently continuing on the draft bill and regulations.

### Proposed methodology

The consultation paper issued by the Treasury did not appear to acknowledge the areas of regulatory overlap and the consequent impact on efficiency and over-charging of users. One such area relates to SMSF auditors, who are already subject to supervision and regulation by the Australian Taxation Office (ATO).

### SMSF auditors and the ATO

Each year, the ATO collects \$259 from each SMSF to finance the SMSF monitoring role the ATO performs on behalf of the government and ASIC. Based on roughly 550,000 SMSFs that amounts to \$142.5 million each year being collected from

SMSF trustees, to monitor SMSFs. Over a period of eight years to the 2013-14 year, the SMSF ATO annual supervisory levy has increased from \$45 to \$259, which is a 575 per cent increase. For the 2006-07 year, the annual ATO SMSF levy was \$45, but trebled to \$150 from the 2007-2008 year, to finance improvements in SMSF regulation.

In the 2011 federal budget, the government announced that the ATO SMSF levy was increasing from \$150 to \$180, to help cover the costs of new measures; which included: "The introduction of a new administrative penalty framework, registration of fund auditors subject to competency and independence standards, improved data collection and improvements to the self-managed superannuation fund registration process.

For the 2011-12 year, the ATO supervisory levy for SMSF funds was then increased from \$180 to \$200. Later increases have now taken the ATO levy to \$259 a year.

The ATO levy increase imposed during the 2011-12 year (extra \$20), was going to be divided between ASIC and the ATO. The government provided ASIC with \$10.7 million, over five years, to develop and maintain an online registration system for auditors of SMSFs.

### Proposed accountability

The IPA strongly believes that consideration of a fees-for-service model cannot be viewed in isolation of the revenue generating role of ASIC. Whilst cost recovery and other such models may be justified in principle, we contend that it may be misleading to state that "the cost of these activities has been subsidised by taxpayers"; and "will no longer be cross-subsidised by taxpayers".

In 2016-17 ASIC raised \$920.24 million for the Commonwealth in fees and charges, an increase of 5 per cent from the previous year. This was driven by net company growth and fee

indexation (Annual Report 2016-17, p26). The breakdown of ASIC's total revenue was \$801.72 million from fees; and \$118.53 million from fines (ASIC Annual Report 2016-17, p139 table 2.2). There is no indication of how much ASIC will be collecting under the user-pay model.

Also in 2016-17, ASIC received approximately \$349 million in appropriation revenue (\$342 million) and 'own source' revenue (\$7 million). ASIC's expenses were \$392.46 million, leaving a deficit of over \$43.5 million (Annual Report 2016-17 p26). In other words, even though ASIC is making significant income for the government, it is not even able to cover its own costs from the budget it receives from the government.

Whilst we appreciate that ASIC's revenue goes to consolidated revenue, it would be unfair and misleading to say that ASIC is subsidised by taxpayers, when it collects significantly more than its operating budget. An

assessment of ASIC's activities to ensure it is operating efficiently is a different matter; and proper resourcing is an ongoing issue.

Given the substantial revenue generated by ASIC, we see no credible reason for any fee increases, whatever methodology is applied.

### Impact on competition and innovation

The IPA has undertaken consultation with our members to gauge their reaction to the proposed fee increases, especially with respect to SMSF auditors. Other fee increases are also proposed including applications to cancel registration (from \$0 to \$899); and applications to vary conditions (from \$0 to \$1,028).

It would be an understatement to say that IPA members are bewildered and disappointed with this huge increase. Even though it won't impact existing auditors, as it is a one-off prospective fee (not retrospective), it may impact those who had planned to become auditors, especially since many won't have an established client base. The proposed increase will add even more pressure to the SMSF auditor sector which has seen the number of auditors decrease to 6,341, after 487 have been removed (including 287 who failed to lodge annual statements).

For those who are specialised or highly specialised, including sole practitioners or small firms, it will mean absorbing the cost increase as some feel the cost cannot be passed on; while others expect to pass on the cost to clients. It remains to be seen if the additional cost can be passed on in an environment where many clients are seeking discounted prices and especially given the mounting costs on trustees.

With over 550,000 SMSF funds in existence, this may

cause some disruption in the market place for trustees seeking independent SMSF auditors.

The ATO statistics indicate that the SMSF auditor sector is becoming more concentrated over time. Higher registration fees will only serve to increase the concentration.

### Co-regulation model

Essentially, if industry is to share the cost and burden of regulation in a co-regulatory framework then it must have sufficient legislative and legal support to make the model work as effectively and efficiently as possible.

The IPA proposes that the government seriously considers the establishment of a formal co-regulatory environment in which some of the responsibilities of ASIC are shared with private bodies such as the IPA and the other accounting bodies.

With increasing demands being placed on the public purse to finance and resource legislative reforms, we propose that the time is perhaps opportune to consider systems which share monitoring and enforcement obligations and thus ensure that responsible government agencies undertake their duties efficiently and diligently.

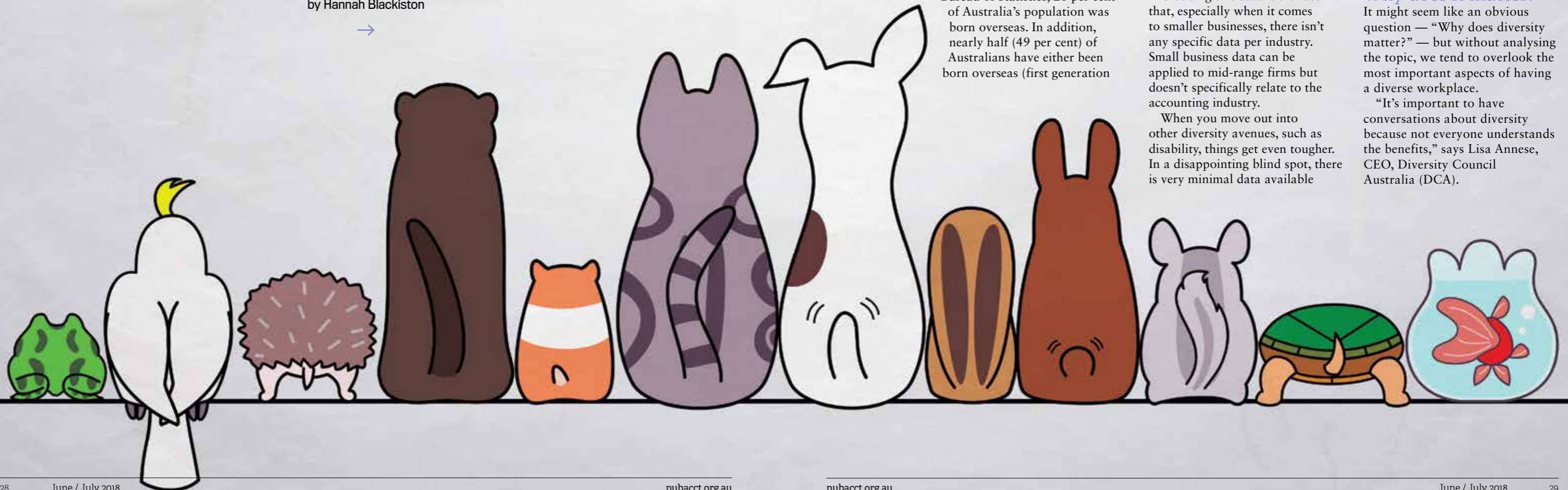
We wish to be more involved as a credible body of professionals in the ever increasing burden of regulation and monitoring, fuelled by globalisation, complexities in constantly changing financial markets, increased scrutiny from the public, and the ongoing restraints on the public purse. The fact that the professional accounting bodies are already undertaking regulation of their members, for which the members pay a subscription fee, and with no government funding at all, means there is an existing regulatory overlap. 📍



# The truth of DIVERSITY

The push for parity and progress with gender equality in Australia is significant, but where do we stand on a wider diversity scale?

by Hannah Blackiston



Gender has been at the forefront of discussions around diversity for the last few years, particularly in the accounting industry. The big four firms are all discussing gender targets and putting initiatives in place to address gender gap issues.

However, these discussions often skip over the other diversity issues facing the Australian workforce. As a wider picture, there are many facets to achieving diversity and equality in the workplace. Some of these can be harder to correct, because they can be harder to see. But that doesn't mean it's impossible to have a diverse workforce.

## The statistics

According to the Australian Bureau of Statistics, 28 per cent of Australia's population was born overseas. In addition, nearly half (49 per cent) of Australians have either been born overseas (first generation

Australian) or have one or both parents born overseas (second generation Australian) and nearly 21 per cent speak a language other than English at home.

A survey of Australian workforces conducted by Hays, a global recruitment agency, found that 49 per cent of employees said that immigrants face discrimination when it comes to gaining employment in Australia. However, when drilled down to a small business level, the statistics improve. Data by marketing company Sensis shows that 61 per cent of small business owners consider their workplace to be diverse. In fact, small businesses are the leading the way in diversity, with one-third of small businesses in Australia owned by migrants.

Clouding this data is the fact that, especially when it comes to smaller businesses, there isn't any specific data per industry. Small business data can be applied to mid-range firms but doesn't specifically relate to the accounting industry.

When you move out into other diversity avenues, such as disability, things get even tougher. In a disappointing blind spot, there is very minimal data available

for people with disabilities in workplaces. ABS data shows that 2.1 million Australians of working age (15-64) have a disability, and just over one million of those are employed, but there are no specifics around the type of work (full-time, part-time, etc.) or the severity of the disability.

The LGBTI community also faces a lack of data, although as inclusion and acceptance continues, this information may be easier to access. However, research conducted by La Trobe University shows that approximately 39 per cent of LGBTI community members have felt the need to hide their sexuality or gender identity at work.

## Why does it matter?

It might seem like an obvious question — "Why does diversity matter?" — but without analysing the topic, we tend to overlook the most important aspects of having a diverse workplace.

"It's important to have conversations about diversity because not everyone understands the benefits," says Lisa Annese, CEO, Diversity Council Australia (DCA).





These benefits go beyond the ethical reasons of having a diverse workforce. In fact, a workplace that doesn't support diversity has actually been proven to be detrimental to the business.

"There's a huge amount of research that demonstrates diverse workplaces deliver improved productivity and profitability, greater creativity and innovation, improved employee wellbeing and engagement and reduced staff turnover," Ms Annese says.

"As our Inclusion@Work Index recently found, inclusion is incredibly good for business and for employees. Workers in inclusive teams are 19 times more likely to be very satisfied with their job, 10 times more likely to be highly effective, nine times more likely to innovate and five times more likely to provide excellent customer/client service than workers in non-inclusive teams."

If it isn't assessed as a base level, diversity problems can push their way into leadership roles, which further spreads the issue. If a business, or industry, is led by people with similar backgrounds and histories, their lack of difference results in a lack of scope for growth and ideas.

For a consumer-facing business, there's an even bigger issue. According to Dr Katie Spearritt, CEO at Diversity Partners, a lack of diversity exposes a business to risks.

"We are potentially exposing ourselves to a lot of risk if we're not able to get a range of perspectives and be more representative of our customers," Ms Spearritt says. "That's one of the reasons why more and more organisations focus on diversity, because there's a lot of research showing that you're better off with a diverse workforce in terms of how you relate and engage with your customer base."

### Where are the issues?

When it comes to people with disability, Suzanne Colbert, CEO at Australian Network on Disability (AND), says the progress hasn't been anywhere near the levels it should be at.

"We haven't made very much progress in workplace participation of people with disability over the last 20 years, which has been disappointing," she says.

"The employment participation of people without disability sits at around 83 per cent, but only 53 per cent for people with disability, so there's a big difference.

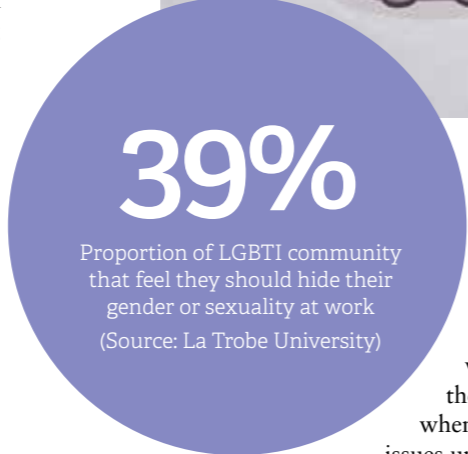
"In disability, we fall back on stereotypes, but disability can be very diverse. Only around 4 per cent of people use a wheelchair, so stairs don't have to get in the way."

This highlights one of the biggest issues facing workplace diversity: unconscious bias. For workers with disability, or anyone from a diverse background, facing these biases from employers or upper management can severely hinder the employment journey.

"Unconscious bias is the key barrier to diversity and inclusion progress, and recognising that we all have biases, is the first step," Ms Spearritt says.

"We are well past the days of 'my way or the highway' and good business thrives on understanding our own biases and our own preferences."

Another issue is the inability to immediately see the issues. In the discussion of gender, in the majority of cases, it's possible to see who is male and who is female. Likewise, when it comes to race.



But for religion, sexuality and some disabilities, things aren't so clear. What this means is that in the regions where workplaces may think they are being inclusive when it counts, there can be issues underfoot that they weren't even aware of, because they were unable to see them.

Mark Latchford, associate director of Pride in Diversity, says this is a big barrier towards the LGBTI community being properly included in the workplace. Pride in Diversity is the national not-for-profit employer support program for LGBTI workplace inclusion specialising in HR, organisational change and workplace diversity.

"LGBTI people are diverse in themselves. There's lesbians, gays

and transgender. There's intersex and others. And in some ways, the LGBTI community is an invisible community," Mr Latchford says.

Because of this, the LGBTI community faces a difficulty around inclusion. If they want their status to be known, more often than not, they will need to announce it themselves. Combining this with historical issues which have long faced the community, a lack of understanding and the hostility which comes from it, Mr Latchford says the community has often turned to "self-editing" to fly under the radar.

"Because of community norms, LGBTI people can undertake a process of self-editing. They might make up relationships, make up activities that they did on the weekend, make up

### Your toolkit

[www.jobaccess.gov.au](http://www.jobaccess.gov.au) - Job Access is the national hub for disability employment, funded by the Australian Department of Social Services. Job Access provides information to both employers and employees around all aspects of employment.

[www.and.org.au](http://www.and.org.au) - The Australian Network on Disability is a national, membership-based, for-purpose organisation that makes it easier for organisations to welcome people with disability in all aspects of business. It provides myriad free resources for employers looking to educate themselves around disability.

[www.prideinclusionprograms.com.au](http://www.prideinclusionprograms.com.au) - Pride in Diversity is Australia's first and only not-for-profit workplace program designed specifically to assist Australian employers with the inclusion of lesbian, gay, bisexual, transgender and intersex (LGBTI) employees. It provides education to businesses of all sizes around LGBTI community relations.

[www.dca.org.au](http://www.dca.org.au) - Diversity Council Australia (DCA) is the independent not-for-profit peak body leading diversity and inclusion in the workplace. It provides unique research, inspiring events and programs, curated resources and expert advice across all diversity dimensions to a community of member organisations.

[www.business.gov.au/info/run/employ-people/equal-opportunity-and-diversity](http://www.business.gov.au/info/run/employ-people/equal-opportunity-and-diversity) - Business.gov.au is a government department focused on providing information and resources to businesses. It has a wide range of resources around diversity and information around grants and assistance programs.

family circumstances and so forth because of the inherent fear of being stigmatised at work," Mr Latchford says.

### How can the diversity issue be addressed?

It can be easy to brush these issues aside and mark them as problems for someone else to fix, but it seems like a forced fix is on the horizon. Diversity targets have been a topic of discussion for a

while now, and as they prove to be successful in the inclusion of gender, it seems likely to expect a further rollout addressing the other issues workplaces face.

"Evidence suggests that setting assigned targets — where managers are held accountable and rewarded for achievement where appropriate — is effective," Ms Annese says.

"Moreover, targets are likely to be more effective where





organisations put in place strategies to encourage the acceptance of and commitment to targets by addressing mindsets, culture, systems and processes.”

However, it is worth noting that diversity organisations agree that targets need to be handled with a light touch, because what works for one industry or company may not work elsewhere.

With the likelihood of diversity targets being rolled out across the nation, as they find success in the UK, it's best to get on the front foot with diversity and make sure your business is already addressing the issues.

Ms Annese adds: “The best place to start is to take stock of your workplace to see how diverse and inclusive it really is. As well as gender diversity, are there people from different cultural backgrounds in your workplace? What about people with a disability or Aboriginal and Torres Strait Islander Australians? Is your workplace inclusive of LGBTI people? What about people from different age groups?”

In a practical sense, improving diversity in your workplace starts at making sure the job descriptions you use for hiring are appropriate.

“Even the words you use in your job description are important,” Ms Spearritt says. “Just knowing that if you use a mix of words that are associated with male and female characteristics you are more likely to attract a diverse talent pool.

“If you've got a whole bunch of words in your job ads, words like dominant, competitive, they are more likely to have a masculine connotation and therefore attract male applicants. Similarly, if you use words like committed, interpersonal, warm, they have a feminine stereotype.”

Another tip from Ms Spearritt is that if you are using an external party for your hiring process,



share your expectation with the agency in advance, and indicate that you are looking for diversity in the applicants.

A lot of public organisations will hide specific information when reviewing a CV — demographic details like gender, age, etc. — so the reviewer has the ability to focus on the skills and experience without any unconscious bias coming into play, Ms Spearritt

says. Removing names from the CV also allows the reviewer to skip any bias there may be around culture or race.

“The most important thing when selecting any employee is ensuring that the candidate is a good job fit,” Ms Colbert says. This is no different when selecting a candidate from a diverse background; you still want to ensure they're the right fit for that role.

Ms Colbert adds: “The most important thing is to be really clear about the role. If you're clear that a role really does require extensive use of the telephone, and there's no other way to achieve that, by making that clear, then a person who is deaf or hard of hearing who can't use their voice over a telephone will know not to apply. On the other hand, there are lots of roles where that's not so important.”

“There's a huge amount of research that demonstrates diverse workplaces deliver improved productivity and profitability, greater creativity and innovation, improved employee wellbeing and engagement and reduced staff turnover”

– Lisa Annese, Diversity Council Australia

Another tip from Ms Colbert was to ask people their preferred method of communication in the recruitment process, so if a person is unable to use the telephone, their application can proceed.

From a practical point of view, hiring a person with a disability isn't the task we may presume it is. With only 4 per cent of people with disability using a wheelchair, the common misconception of having to refit an office to make it accessible isn't necessarily going to come into play.

However, if your new hire does come with physical requirements which aren't currently met by your office, there's help available. Job Access is a government initiative which connects employers with the tools they need to make sure workers with disability are correctly included in the workforce. It's a system Ms Colbert has used personally through hiring a worker with a wheelchair. After Job Access sent out a case manager to access the needs of the worker and the current workplace offerings, a request was put in for a new door, something which was completed, and paid for, by the service.

Language is an easy place to start for employers and workers looking to be more inclusive. Mr Latchford says that particularly for an LGBTI

community member, language can be one of the hardest things to overcome in a workplace.

It's not just for employers; clients benefit from language considerations, too. Mr Latchford highlighted his accountant who doesn't use gendered terms when asking about family. While it can be hard to embrace these changes into your vocabulary, the benefit to your business in the long run is worth the initial uncomfortableness.

Education is considered the easiest place to start for businesses or employers looking to change. A lack of understanding leads to fear around such conversations, which then leaves us sticking to the patterns we know. Without taking that first step into education, the conversations that need to be had in order for diversity to progress can seem awkward or uncomfortable and easier to ignore.

The process of becoming more diverse doesn't have to be a hard one, says Mr Latchford, and the small steps are the ones that lead to the biggest changes.

He says: “Organisations don't have to suddenly commit to marching in the Mardi Gras; we're just talking about small steps to tell employees and future employees that it's a great place to work.”



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# *Hotspots* on the **REGULATORY RADAR**

The regulators are gearing up for enforcement mode as the industry enters a new financial year. But tax agents who are fully aware of their obligations can make it out safely

by Linda Santacruz





It is no secret that tax agents have come under immense pressure in recent times.

Public warnings and increased scrutiny from industry regulators have led many tax agents to wonder if clients are beginning to lose trust in the profession. Just two months ago, ATO commissioner Chris Jordan unleashed a string of scathing comments that questioned whether tax agents should still be considered “guardians of the system”.

His tone comes after the ATO discovered recently that incorrect claiming on tax returns was more common in agent-prepared returns than in self-prepared returns. In response, the ATO will be increasing its focus on a number of areas of concern for the new financial year.

Meanwhile, the Tax Practitioners Board has vowed to assist the ATO in taking action against the tax agents who are caught contributing to the claims disparity as well as those who are involved in the ‘black economy’. Corporate regulator ASIC is also said to be zoning in on limited licensed accountants who are not complying with the laws.

Vicki Stylianou, executive general manager of advocacy and technical at the Institute of Public Accountants, says that pressure from the regulators on accountants is indeed growing.

“We’re seeing overall a much greater level of scrutiny, of surveillance, of monitoring. More and more obligations are being passed onto the private sector,” she says.

### Work-related over-claims

In the new financial year, the ATO says it will be focusing on the areas that “taxpayers are getting wrong”. One of the biggest areas of concern is over-claiming on work-related expenses – in particular for cars, home offices, and clothing and laundry.

In order to lawfully claim a work-related expense, three rules must

be met: the client must have spent the money him or herself and not be reimbursed; the expense must be directly relating to earning income; and the client must have a record to prove it, the ATO says.

“If the expense was for both work and private purposes, you can only claim a deduction for the work-related portion,” an ATO spokesperson said. “The ATO wants taxpayers to claim what they are entitled to. No more, no less.”

But it seems that claims may be on the “more” side.

The ATO says it is seeing claims where there is no connection to

income earned or no evidence that an expense was incurred. The Tax Office is also seeing claims for private expenses or incorrect distribution between private and work use. Substantiation exceptions are also being used as ‘standard deductions’ – regardless of whether the taxpayer has actually spent the money, the ATO says.

“We are aware that tax practitioners can face a number of pressures in correct return preparation, including time and pressure to accommodate a client’s expectations of a refund. We will continue to work with

tax practitioners, professional associations and consultative bodies to address areas of concern that have been identified through our random enquiry program,” the ATO spokesperson said.

“For the small number of agents who seek to deliberately undermine or abuse the system, we have strategies in place to identify and monitor these agents. Our interventions include audits of their clients, the practice and the tax agent’s own affairs as well as referrals to the TPB. We also follow up on information provided by the community and other practitioners to protect the integrity of the profession

and the tax system, and ensure a level playing field for agents doing the right thing.”

The ATO says it has already referred 20 agents to the TPB this year for questionable practices involving false work-related expenses claims. TPB chair Ian Taylor says he is expecting the number of referrals from the ATO to increase.

“Agents have an obligation under our code of professional conduct to do a number of things, one of which is to ensure that they exercise reasonable care in ascertaining a client’s state of affairs. Secondly, they need to ensure that the tax

laws are applied correctly to those circumstances,” he says. “Agents need to ensure that they follow those rules. And if they did, then there would be no over-claiming of the expenses.”

### Rental property claims and newcomers

Other claims that the ATO plans to watch closely are ones made on rental property and holiday homes. The Tax Office will look at rental property income that is disproportionate to expenses as well as claims on holiday homes that are not genuinely available for rent.

It will also be watching for any

### Fast facts to prepare for FY18/19

**\$1 million**

penalties are proposed as result of the black economy for where there is evidence of intentional manipulation in problem industries

**900**

audits led the ATO to believe that tax agents may be contributing to the individual tax gap

**20**

tax agents have been referred to the TPB for questionable practices related to work-related expenses claims

**\$5 billion**

per annum in Commonwealth revenue is expected as a result of the Black Economy Taskforce



overstated claims interest, where a portion of a loan is private in nature.

“When reviewing claims for rental properties, the law has changed. Travel expenses related to inspecting, maintaining or collecting rent for the residential rental property can no longer be claimed and depreciation on second-hand assets for residential properties purchased on or after 7:30pm on 12 May 2017 can no longer be claimed,” the ATO spokesperson said.

“The ATO’s ability to identify unusual claims is becoming more sophisticated due to enhancements in technology and data analytics. Our improved analytics are allowing us to identify obvious errors quicker at the time of lodgement and correct the return before any assessment issues.”

While the ATO homes in on rental property claims, the TPB will be working with new tax intermediaries to ensure the right tax is paid on

property sales. From 1 July of this year, conveyancers will be required to ensure their clients pay the correct tax.

“The government in recent times is looking for ways to more efficiently ensure that the correct amount of tax is paid,” Mr Taylor says. “So, we’re involved in that process as well to ensure that the correct advice is provided and that nobody is in breach of the *Tax Agents Services Act* in providing services whilst unregistered.”

### Agents in the ‘black economy’

Another major focus area for the TPB is the government’s Black Economy Taskforce, which was established in a bid to crack down on taxpayers who intentionally misreport their tax and superannuation obligations.

One of the outcomes from the taskforce has been Minister for

Revenue and Financial Services Kelly O’Dwyer introducing a bill that is aimed at banning electronic sales suppression tools, and extending the current Taxable Payments Reporting System (TPRS) to the courier and cleaning industries.

According to the ATO, sales suppression technology and software allows businesses to understate their incomes by untraceably deleting selection transactions from electronic records in POS equipment. The bill also introduces amendments to require entities that provide courier or cleaning services to report to the ATO details of transactions that involve engaging other entities to undertake those courier or cleaning services for them.

But there is another expected outcome from the Black Economy Taskforce, and that is an increased focus on registered tax practitioners, says Mr Taylor.

“There are two elements of the black economy: There are those people who just totally ignore the tax system itself, and there are those that do become part of the tax system but don’t pay the right amount,” Mr Taylor says.

“Now, the question is what involvement do agents have in that whole process. Where agents are involved, then clearly we think there should be an increased focus on agents ensuring their clients are fully compliant with the law. If they don’t, or if the client is not willing to, then the agent will need to have a very serious discussion with their clients, potentially getting to a circumstance where the agent may decline to act for that client if they know the client is not doing the right thing.

“Because they have an obligation to ensure that they act in the best interest of their clients. But that only applies where they are acting legally.”

### Getting your house in order: limited licences

Beyond the tax issues, accountants with limited Australian Financial Services Licences (AFSL) are

expected to be further scrutinised by the corporate regulator in relation to certain paperwork about their businesses, says Ms Stylianou.

She says ASIC is slated to go into “enforcement mode” soon on limited AFSLs that are not complying with the legislation. Turns out, some accountants are not keeping up with the relevant paperwork that is required by law as a licensee.

“Having a financial services licence is a big deal in that there is a lot of compliance that comes with it,” Ms Stylianou says. “So, some of the people who are new to being a licensee are not aware of or haven’t got around to complying with things like putting in the paperwork.”

Some of the forms required include statements that show the accountants are financially viable

“We’re seeing overall a much greater level of scrutiny, of surveillance, of monitoring. More and more obligations are being passed onto the private sector”

– Vicki Stylianou, IPA



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as well as their systems. They also have to submit forms that show they are compliant with the conditions of their licence and that they are giving the right advice to their clients.

In addition, Ms Stylianou expects ASIC to continue conducting shadow shopping on accountants, although

this would mostly be for suspicious practitioners.

“We’ve been trying to prepare our members, and we’re going to be continuing to raise the awareness and help them. So there is going to be more enforcement around financial services, which we were expecting but now the time has come,” she says.

“Crunch time has come.”



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# *Beyond the* **SCAREMONGERING**

New data breach laws are forcing accountants to take a closer look at their security systems. A handful of steps might help ensure they're on the right path to safeguarding their clients and staying on the right side of the law

by Linda Santacruz





It won't happen to my business.

That is how many accountants respond when asked about the threat of cyber crime, according to Julian Plummer. The managing director at Midwinter Financial Services, who recently launched a cyber division known as Kamino, says this overconfidence is troublesome, considering accounting firms and tax agents are some of the biggest targets.

"Accountants are a honeypot because of all the information they hold on their clients," Mr Plummer says. "They have multiple clients with cash, which makes them a very good target."

If the threat alone was not enough, accountants now also have to make sure they comply with new mandatory laws that require firms to report data breaches to the Office of the Australian Information Commissioner (OAIC) as well as to the clients whose information had been hacked.

According to the OAIC, "a data breach occurs when personal information held by an organisation is lost or subjected to unauthorised access or disclosure". The new scheme applies to businesses with an annual turnover of \$3 million. However, smaller firms are still subject to the new laws if they store certain sensitive information, such as tax file numbers.

Individuals and corporations that fail to comply with the notifications rules risk being fined up to \$360,000 and \$1.8 million, respectively. The bigger consequence, however, would be the reputational damage that follows, Mr Plummer says.

"If an accountant has just been hit by a large data breach, and all of your information is now publicly available via Google or being traded on forums, you're going to lose trust in that accountant," he says. "Once a client loses trust in that accountant, you've lost them."

But just because the threat exists does not mean a data breach has to happen. In fact, there are several

steps that accountants can take that minimises their risks substantially. Mr Plummer believes many accountants lack the basic tools and safeguards that can protect their businesses.

"We did a survey that shows a large number of accountants and advisers, about 45 per cent, had a data breach last year, and a large number of them were spear phishing emails," he says.

"That suggests to me that there is a lack of basic security procedures and policies within those practices, because that shouldn't be that high."

### Password hygiene

One of the most important steps that accountants can take to lower

their risk is to stop using the same password for every application, especially for email, says Jamie Beresford, chief executive of security solution provider Practice Protect.

He gives an incident where an accountant had her password breached sometime in her life. But because she used the same password for several years, including for her work email, hackers got access to her mailbox.

"They were then able to very quickly go through her sent items, go through all the emails that were sitting in her mailbox and find out that she was, in fact, an accountant," Mr Beresford says.

"After two weeks, they sent an

email to all of her clients, saying, 'Hey, I've got some financial statements prepared early for you. Click here'. Three of the clients clicked on it and they had an impact. They had files corrupted.

"But here's the kicker: there's five years' worth of email in that individual's mailbox. Now, they have to troll through all five years of correspondence and find out who could potentially have been impacted, whose data could potentially be in there, and let them know."

Mr Beresford adds that saving passwords in a web browser is not a safe move.

"Google Chrome and Firefox both save passwords in clear text. You don't need physical access to that machine that they are saved on because, behind the scenes, these browsers are saving them to other devices," he says.

**"Accountants are a honeypot because of all the information they hold on their clients. They have multiple clients with cash, which makes them a very good target"**

- Julian Plummer, Midwinter and Kamino

"So, let's say you saved all your passwords on your work computer and you're very comfortable that no one has physical access to that machine. However, any passwords that you're saving are being synchronised to your phone, your tablet, your kid's computer potentially."

Mr Plummer would also agree that using the same password is

highly risky. His advice? Stop using passwords entirely. Instead, Mr Plummer recommends using a password manager such as LastPass, which can store several passwords for different applications in an encrypted database. All the user needs to do is remember the "master password" for the tool itself.

"Make sure everyone on your team has a [password manager]. No one



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should ever be typing a password ever again,” he says. “You wouldn’t believe how much that helps and it is so simple.”

### Access tracking

Another important step that accountants can take is to start tracking access to their applications. Mr Beresford says many accounting apps are now cloud-based in some capacity, which makes them more convenient to use, but also more at risk.

He adds that tracking access can also minimise the damage from any data breach incidents.

“Generally speaking, what tends to happen in a firm or to a tax agent is they have a suspected breach but they can’t then find out who was affected or how. In that situation, they have to assume that they were breached and notify every client,” he says.

“However, if you have some tracking in place, in the event that you have a breach, you can actually go back and look through logs and say, ‘Okay, we haven’t had a breach’, or, ‘Hey, it’s isolated to these four clients’. You can isolate the issue and prevent it from becoming a real damage to your reputation globally.”

Mr Plummer says accountants can start tracking access with intrusion detection systems, which can log intruders and show their IP addresses and what systems they gained access to. Without this, it is possible some accountants will not know if their data has been breached.

“How do you know you’ve been hacked? They don’t write you a thank-you letter,” the managing director says.

### Staff training

But safeguarding a business with tools such as trackers and password managers will be useless if staff members are not also trained on how to deal with suspicious emails. Mr Plummer says his company often sends out fake emails to staff to train them on how to spot spear phishing.

“It’s a simulated test we give to

our employees,” he says. “After a round of that, they quickly understand what is real and what isn’t and what a spear phishing attack looks like.”

Mr Plummer also says it is important to limit what access to data employees have.

“No one should have access to everything. Everyone should have access to their own bits. That way, a hacker can’t make their way,” he says. “It makes it difficult for them to move from one server to another.”

This step is especially important if there is, or ever was, a disgruntled employee in the business. Boaz Fischer, chief executive at CommsNet Group, which specialises in identifying and mitigating insider threats, recommends firms monitor tools used by employees.

“Monitor use of applications and access to data across the organisation, but also monitor users, privileges and behaviours in order to spot unauthorised use by employees or compromised users,” he says.

“Use security technologies to gain visibility and understanding of the behaviour indicating misuse or breach of personal data. For example, the control of removable media such as USB.”

Meanwhile, accounting firms who use outsourced contractors should be confident in their practices and have agreements in place, Mr Beresford says.

“Companies often have outsourced contractors, so either offshore or people working for them who aren’t on their payroll. They have IT companies that have access to their

## Bolstering your business’s defence

### Stop password “daisy chaining”

– use a different and complex password for every app

### Start logging activity

– track app activity to spot intruders accessing information

### Train staff members

– educate staff on spear phishing and limit their access to data

### Create a response plan

– develop a plan for containing a breach and notifying clients

a response plan in place, which, according to Mr Beresford, has two parts to it: communication and remediation.

“There’s a communication process that needs to take place. Basically, you’ve got to let everyone know,” he says. “The other one is remediation. What are you going to do about changing your passwords? Who are you engaging with to help you with that? Depending on how widespread the breach is, you’re going to need to speak to a cyber security lawyer in that scenario.”

Mr Fischer offers four steps that a good response plan should take. These include containing the data breach to prevent further compromise of data; assessing the breach by gathering facts and evaluating risks; notifying individuals and the commissioner, if required; and reviewing the incident to consider what actions need to be taken to prevent future breaches.

“In general, entities should take data breach or suspected data breaches seriously and move immediately to contain, assess and remediate the incident. Breaches that may seem initially immaterial may be significant when their full implications are assessed,” he says.

“Depending on the breach, not all steps may be necessary, or some cases, an entity may take additional steps that are specific to the nature of the breach.

“At any time, entities should take remedial action, where possible, to limit the impact of the breach on affected individuals. If remedial action is successful in preventing a likely risk of serious harm to individuals, the scheme notification obligations may not apply.”

Mr Plummer notes that firms that take these preventative measures are looked upon favourably in the industry. He says accountants need to be “obsessed” with safeguarding their businesses.

“Accountants are experts at risk. So, what’s stopping them?”

“What tends to happen in a firm or to a tax agent is they have a suspected breach but they can’t then find out who was affected or how. In that situation, they have to assume that they were breached and notify every client”

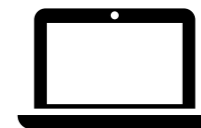
– Jamie Beresford, Practice Protect

information. If one of those entities happens to have a breach, or they have sloppy password hygiene or practices, the accounting firm needs to have an agreement in place with them to make sure that they are responsible and liable,” he says.

“Otherwise, the tax agent is the one that has got to front up to the privacy commissioner.”

### Response plan

One of the aspects of the new breach laws revolves around having



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*‘If you don’t fail,  
**YOU’RE PROBABLY NOT**  
 trying as hard as  
 you could’*

Alison Kitchen has been a career girl at KPMG, but she’s literally one of a kind in her position at the helm of the big four’s Australian operations

by Hannah Blackiston



**A**fter joining the company in the UK straight out of university over 30 years ago, she’s gone on to work in a number of industry groups and lead a diverse and interesting career. She held the role of head of energy for a number of years, as well as head of audit in Melbourne during the GFC. She’s been on the board for six years, chair of the audit community and worked in all five major capital cities in Australia. All this off the back of a two-year secondment from the UK – which she never went home from.

It would be impossible to cover Ms Kitchen’s career without addressing the equality elephant in the room; Ms Kitchen is the first female chair of a big four professional services firm in Australia. However, focusing the discussion around that fact both glosses over the work she has done to get to that position and doesn’t do justice to just how far the accounting industry has come in 30 years.

“It is worth reflecting on how far I think we have come as a profession. I joined the firm over 30 years ago and started my career in the north of England, which is perhaps not the most enlightened part of the world. I had a number of interviews with a number of different firms, and one of the interviewers had been told he had to interview a quota of women, but he didn’t look at me once during the whole hour-long interview. He asked me questions and stared out the window.

“I had one interviewer who told me that because I was marrying a doctor, my career would never be considered serious, and I had one interviewer who felt quite okay about writing on my form that I had nice legs where it was visible for me to see. So, I genuinely hope and believe that none of our female graduates coming to interview either here or at any of our competitors would experience, I hope any, let alone all, of those experiences.”

Alongside the gender discussions, Ms Kitchen is focused on diversity in a wider sense and the benefit it will bring to both KPMG and the industry as a whole. In fact, diversity was one of the platforms upon which she was elected into the position of chair, alongside trust and growth.

Particularly in the current climate, as clients and consumers face a lack of trust in the businesses that surround them, with a focus on the financial sector, Ms Kitchen feels that for the industry to turn these opinions around, trust needs to be at the forefront of company considerations.

Ms Kitchen believes that, “as a profession, trust is at the very essence of what we stand for”, and that taking a stronger line on social issues and working out the role that KPMG and the industry at large has to play in these conversations, will help strengthen the trust from consumers.

She also believes there’s a time and a



so she decided to use her position as chair to look outside the block.

When looking for the new people to bring in, Ms Kitchen was very specific that one be entirely external, and she also brought on two new partners who had recently joined and wouldn't be able to make the board through the normal avenues. In doing this, Ms Kitchen hopes their new insights and opinions will further challenge the work KPMG is doing.

"The brief I gave to the headhunter was we wanted someone who knew enough about us to have an understanding of what we did, but I actually said I don't particularly care if it's not someone who's ever worked in the profession, someone who actually knows in depth what we do, because we actually want someone completely different to challenge our thinking."

Ms Kitchen then said she looked at the areas where KPMG had experienced growth, and the areas where there were gaps in board knowledge, and sought out partners to fill those needs. It's a clear example of the growth and diversity platforms that Ms Kitchen stated as her key areas of interest being put into practice, and the out-of-the-box thinking that has got her to where she is today.

Someone with as long and successful a career as Ms Kitchen has plenty of tips to pass on to those on their way up, or those struggling at a career crossroads, although she is quick to say that her lessons have strong roots in failure.

"There are things that I have learnt from past mistakes and I'd love people to learn from my mistakes and not have to make exactly the same ones. If you don't fail, you're probably not trying as hard as you could. And you're probably not getting everything you want out of your life. One of the things that made me able to get my head around fear of failure is just remembering that when you fail, and you feel like the world is looking at you and laughing at you, 99 per cent of the time the

→ place for industries and companies to take a stance on social issues. KPMG took a firm stance for marriage equality in the debate at the end of 2017, and she said the company is always on the watch for causes it can support and ways to show the industry has a social conscience.

Not long after she had taken on the role of chair, Ms Kitchen was making waves by electing board members outside of the standard election process. This process is historically rarely used, board members are added via the voting process in which partners put themselves forward.

"It's really just putting into action the comments that I made about my belief that we're changing fast and therefore the businesses that succeed are the ones that are open to diverse thinking," Ms Kitchen said about the move.

The issues Ms Kitchen found with the traditional method were that the people being elected were already partners in the business; therefore, any outside views they had would have to come from a time prior to their work with KPMG, or not at all.

"I wanted to bring in someone that was genuinely outside of the business to make sure we didn't have groupthink. And that's been beneficial. The other thing that was important to me was that because it's all driven by partner vote, the people that tend to be well enough known to be voted for, are the people that are known, that are tried and tested, that have had previously roles in management in the firm, that have generally been here for a long time."

Ms Kitchen recognised that sticking to tradition in this manner was leaving a gap in the skills and customer service,

world's not even noticing what you're doing because they're just dealing with their own stuff.


"You shouldn't be so worried about what other people think, if it stops you having a go, and I most recently used that in my decision to run as chair. I really agonised over who do I think I am to think I am the person to lead these people, and I just thought well if I have a go and fail, people probably won't think badly of me for it, but if I don't have a go, I guarantee I'll never have a chance to do the job and I'll regret that for the next six years" said Ms Kitchen.

"I have a firm rule which took me a long time to get to and that's that I don't do regrets. We all make mistakes, and we all say things that we wish we hadn't said, there's no point in beating yourself up about it. What you can do is apologise, learn the lesson, change the behaviour in the future and do it differently

**"There are things that I have learnt from past mistakes and I'd love people to learn from my mistakes and not have to make exactly the same ones"**

next time if you have the same opportunity, but I've long moved away from lying awake at the two in the morning thinking 'how could I be that stupid?' or 'if only I'd done this' – I don't do that anymore."

Lastly, Ms Kitchen wants people to be their own champions. Especially when it comes to interviewing or moving up the career ladder, Ms Kitchen says it's time we embraced our skills and stopped being our own worst enemies.

"I say to people, women probably do this more than men, don't talk yourself down. If people ask, particularly in an interview, 'tell me why you're good at this' and the number of people that say, 'well actually I'm not that good'. Don't ever, ever, ever talk yourself down because there are plenty of other people who will talk you down, you should focus on what are your strengths and your learnings, and your way forward." 



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# The road to SUCCESS

Mitchell Moroney of Moroney & Associates needed a change to better serve his clients. So, he embarked on a journey that led him to that and so much more

by Linda Santacruz



**A**t the age of 22, Mitchell Moroney had already reached a crossroad in his life that is typically reserved for accountants in their later years. He had to decide whether to remain working for employers he struggled to see eye-to-eye with – or branch out on his own.

With less than \$1,000 to his name and zero clients of his own, Mr Moroney chose the latter.

“When I finally made the actual decision, I didn’t tell anybody until I resigned, including friends and family,” he says. “I didn’t want to be second-guessing myself. So for better or for worse, I knew I had to

make it work. And luckily, it has worked out for me since then.”

He’s right. Since January 2016, Mr Moroney has not only established and grown his own firm Moroney & Associates in Western Australia, but he also acquired a second accounting practice. Today, his two firms look after about 2,000 clients across Australia.

The young accountant has also collected a number of awards during this time, including the 2016 IPA Member of the Year as well as the 2017 IPA Practice of the Year (WA) and 2017 IPA Practice of the Year (National).


Mr Moroney says he left his

employers in 2015 to change the way his clients are served. This difference, he says, is what led to his success.

“Where I was working before, they had a very conservative, old-school approach. The partners met with the clients while the intermediate accountant was stuck in the back room knocking out tax returns,” he says.

“On top of that, I could see that there were areas in which we could have been helping the clients much more than we were. So, I got to the point where I thought I could do this myself and provide a better service to my clients. So, why not?”

“My clients know that if they’ve got an issue, they can call me and if I can’t deal with it personally, my network of associates, mortgage brokers, financial planners, lawyers would do their best to resolve it”



“I credit a lot of the success to purely the rapport and the actual caring about clients. My biggest marketing tool is word of mouth”



### Increasing client engagement

One of the biggest differences in Mr Moroney’s approach today is in how he treats his clients. He says his company makes an effort to treat clients like real people, and not just a number. For example, all of his clients receive birthday and Christmas cards each year.

“I think those little things show that we do care,” he says. “Other firms, they just don’t operate like that.”

But more than that, Mr Moroney says he has built relationships with his clients to the point where they know they can reach out for help with anything – even if it’s not tax-related.

“My clients know that if they’ve got an issue, they can call me,” he says. “And if I can’t deal with it personally, my network of associates, mortgage brokers, financial planners, lawyers would do their best to resolve it.”

“Finances are such a massive part of everybody’s life. When you’re talking about finances, [clients] will open up about their personal struggles as well. So, we kind of indirectly help them in that as well and try to assist them to get out of whatever position they’re in.”

The special attention to clients has paid off. In the two years-plus that Mr Moroney has been operating, his firm has only lost one client, and that was only due to a relocation.

“[Our firm has] roughly 99 per

cent client retention. That’s really good when the industry average is 80 per cent a year,” he says.

### Leaning on ‘word of mouth’ and fair pricing

When it comes to growing his practice, Mr Moroney says the amount he charges his clients has had an impact. He strives to be fair with his pricing, as there are so many companies that are charging “astronomical” amounts for merely decent services, he says.

“They would just do your tax return and then say, ‘See you next year’,” he says. “We’re probably slightly above mid-range. We didn’t come to undercut everybody, but other firms charge a lot of money for their work – well in excess of what it’s really worth.”

Mr Moroney also receives new clients from his professional referral relationships. These, however, are more casual in nature compared with other firms.

“My lawyer, I send him clients and he sends some to me. And the same with my insurance broker, but it’s not an expectation,” he says. “I refer clients to them because I know that they are good at what they do and they can help my client out. And because they know that’s how I work, that I want the best for my clients, they refer to me based on that.”

But the biggest source of new business, Mr Moroney says, has been word of mouth.

“I credit a lot of the success to purely the rapport and the actual



caring about clients. My biggest marketing tool is word of mouth,” he says.

“I get people referred to me all the time now.”

### Embracing technology

Another way Mr Moroney tries to be different is by implementing more technology into his practice. He says accountants typically have a negative attitude towards technology.

“Going to a lot of accounting conferences, I find a lot of accountants are afraid of the technology coming out. They think they’re going to lose their jobs and that technology is going to get rid of accountants,” he says.

“I personally don’t see it like that. Yes, technology is changing the world we work in. Aside from the fact that it’s not going to stop improving whether we like it or not, I think it’s

just a case of changing how our role actually works. All of the software we use has taken a lot of the manual time-consuming work away.”

And that’s not a bad thing. Mr Moroney says he uses Xero and Receipt Bank as well as other add-on software to boost efficiency in his work. This lets him concentrate on bigger services, such as advisory and planning.

He has also switched to electronic forms, which he says has been a simple yet necessary move. Now when Mr Moroney brings on a new client, he or she no longer has to set aside 10 minutes in a meeting to manually complete a form.

“Many firms still do the old manual form,” he says. “With an electronic form, clients are in my system before they walk in the door.”

Further, technology has allowed Mr Moroney to serve clients around



L-R: Jamie Johns, Damien Moore, Andrew Conway and Mitchell Moroney

Australia as well as operate in different offices.

“I’ve got two firms in different locations. So while I’m in one office, I’m able to look at the Xero files for the other office and make sure everything is up-to-date and that everything is getting done on time. The cloud really helps in that respect,” he says.

“I’m located just south of Perth, but I’ve got clients in Sydney, in the Gold Coast, all over the place. With the new technology, it’s allowed us to really support and facilitate the accounting work. Before the cloud, it would have been quite difficult.”

Mr Moroney says he is still experimenting with new technology, and is open to trying new add-ons that could benefit his firm or his clients.

He encourages more accountants to be the same.

“I think the world is getting more technologically advanced. As

accountants, we need to embrace the change, rather than fight it. The change is coming whether we like it or not.”

### Looking to new ventures

As for the future, Mr Moroney has a number of new projects lined up, including a new software company for accountants that is still in the development stage. He also plans to open more firms around Australia under the Moroney & Associates banner.

His dream? To continue to make a difference in people’s lives.

“When you get to give advice that really does change somebody’s life, that’s a massive thing,” he says. “They know I’m going to be in their corner no matter what.” 🍷

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# ... Business building

A wrap of the latest strategies, insights and trends affecting your business, as well as your clients' businesses



56

**How to deal with redundancies as an employer**

Making an employee redundant is not as simple as merely labelling the termination a redundancy, there are many steps that an employer should take to protect staff and themselves



58

**Women in business: beyond policy to real progress**

Australia's culture and business environment are incredibly diverse and leadership needs to reflect that - it's not a 'nice to have', but a 'must have' in order to drive sustainable growth



60

**The shortcut to an easier life**

What if you could increase your team's productivity by 10 per cent at no additional cost to your business? Wouldn't you jump on it?



62

**The power of positive psychology at work and home**

Journalist James Mitchell took some time out with Dr Tim Sharp from The Happiness Institute to discuss the positive psychology movement and what is worrying the Australian workforce

# How to deal with redundancies as an employer

Making an employee redundant is not as simple as merely labelling the termination a redundancy, there are many steps that an employer should take to protect staff and themselves

by Ann Thomas



**Ann Thomas,** lawyer, MistryFallahi Lawyers & Business Advisors

While the *Fair Work Act 2009* considers redundancy a legitimate reason for the termination of an employee's employment, employers cannot simply use it as a reason to remove an employee from the business. When making employees redundant, employers must ensure that the redundancy is a genuine redundancy and complies with the requirements of the *Fair Work Act*. If a redundancy is not genuine, the business may be exposed to legal liability if an employee brings a claim of unfair dismissal.

### Is the redundancy a 'genuine redundancy'?

Prior to making an employee redundant, an employer should consider whether the redundancy is genuine or whether it is simply an excuse to terminate an employee. If the termination falls into the latter category, an employer should consider whether such termination could result in the employee claiming they were unfairly dismissed. Genuine redundancies provide

limited scope for claims from an employee and will minimise the business' exposure to legal risk.

A genuine redundancy will arise if an employer no longer requires the job of the employee to be undertaken by anyone and it would be unreasonable to deploy that employee within the employer's company or the company of an associated entity.

For the redundancy to be genuine, an employer does not have to prove that the decision is necessary. For example, the redundancy may be justified on the basis that that business merely wishes to increase the profit margins by making a position redundant despite already being profitable.

Another requirement of a genuine redundancy is that the employee could not reasonably be redeployed. When making an employee redundant, employers must not only consider alternative positions within their business, but also within the businesses of any associated entities. The managerial interaction and integration between any associated entities will be a relevant consideration

in determining whether redeployment of the employee is reasonable. Other circumstances that will determine whether redeployment is reasonable will include:

- the location and any costs of relocation;
- the qualifications of the position and the qualifications, skills and experience of the employee; and
- remuneration of the other position.

If a redundancy is genuine, it will suppress any argument an employee may make that he or she was unfairly terminated. Consequently, in selecting which employees to make redundant, an employer does not have to take into consideration the employee's capacity to perform the role or their conduct at work. However, selection of employees for redundancy is not entirely irrelevant as even under a genuine redundancy an employer may be subject to claims from employees on other grounds under the *Fair Work Act*. For example, if the

employee was selected for redundancy for having exercised a workplace right, undertaking industrial activities or for reasons that amount to workplace discrimination, the business may have taken adverse action against the employee and incur liability for breaching the general protections afforded to employees under the *Fair Work Act*.

### Is a variation in the employee's current role considered a redundancy?

As redundancy considers the position of the employee rather than the employment of an employee, it is necessary to always consider whether variations to an employee's current position is considered a redundancy even if the employee's employment with the business is not terminated. When variations to the duties and responsibilities associated with the position are changed so substantially to the employee's detriment that the original position no longer exists, the position will have been made redundant and the employee will be entitled to redundancy pay.

### What steps must an employer take when making an employee redundant?

If a redundancy is a genuine redundancy, the employer must firstly provide the employee with written notice of the redundancy or alternatively make payment to them in lieu of notice. The length of the notice period will depend on the length of service of the employee and their age, and will range from one to six weeks of notice.

The employer must also pay the employee redundancy pay. The amount of redundancy pay that an employer will be liable to pay to an employee will also depend on the length of the employee's employment within the business. Redundancy pay is calculated by multiplying the employee's base rate of pay they receive for working ordinary hours with the redundancy pay period.

The redundancy pay period is determined by the length of an employee's continuous service and ranges from four weeks to 16 weeks. An employer's liability to make redundancy payments based on the employee's

continuous service means that any unpaid leave that an employee has taken will be deducted from the overall total length of employment. Additionally, any service that an employee undertook with any entity associated with the business may count towards calculating the redundancy pay period.

### Do the redundancy requirements apply to all employers and employees?

Employers are not required to make redundancy payments to all employees whose positions have been made redundant. There are a number of exemptions under the *Fair Work Act* which mean that not all employees are entitled to redundancy payments when made redundant, including employees who:

- are employed by small businesses of less than 15 employees;
- are casual staff;
- have been employed by the business for less than 12 months; and
- are employed only for a specific task or period of time.

For employees that do not have the right to a redundancy payment under the *Fair Work Act*, they will only be entitled to redundancy payments if they are afforded the right to such payments under an enterprise agreement, award or employment contract.

However, employers must be wary of making casual staff redundant as whilst such employees may be labelled as casual employees, they may in reality be a permanent employee. Before making a casual employee redundant and denying them redundancy pay, employers should double check whether the employee is in actual fact casual.

### Can the redundancy pay be reduced?

If an employer cannot redeploy an employee within the business or the business of an associated entity, they should consider sourcing a position for the employee with an alternative employer. If an employer is able to obtain acceptable employment elsewhere for the employee, the employer is entitled to apply to the Fair Work Commission to have the amount payable reduced.

Obtaining alternative employments essentially mandates that the employer must procure an offer of employment from another employer. Merely sourcing the employment opportunity will not be sufficient. Whether the alternative employment is acceptable is objectively assessed and will take into consideration factors including:

- whether the work is similar;
- whether the alternative employment is essentially a demotion;
- location;
- salary, pay structure and any benefits;
- expected hours of work and workload;
- seniority of the position; and
- job security. ☺

# Women in business: beyond policy to real progress

Australia's culture and business environment are incredibly diverse and leadership needs to reflect that – it's not a 'nice to have', but a 'must have' in order to drive sustainable growth, attract leading talent and remain competitive

• • •  
by Greg Keith



**Greg Keith**, chief executive officer, Grant Thornton Australia

While policies and programs are important enablers – they won't create the change. To achieve true gender diversity, and in this case, representation of women in leadership, we need to shift well beyond a game of quotas, policies and box-ticking exercises. While this is part of it, much more needs to come in to play.

Recent research shows that globally, businesses have taken one step forward and one step back when it comes to gender diversity in leadership. Research released by Grant Thornton International found that the percentage of businesses around the world with at least one woman in senior management has increased significantly, rising from 66 per cent to 75 per cent in the last year. However, at the same time the proportion of senior roles held by women has marginally declined.

So, what can we do to help create the change required?

We have been investigating the progress of women in business around the globe over the last decade and exploring how business leaders think and feel. Here are some practical steps that can create change.

### 1. Champion the cause

To create change, senior leadership needs to take the issue seriously and lead from the top. Chris Clarke, chief executive, AdviserPlus comments that "if you look at different businesses with the same policies in place, you'll see very different landscapes depending on how they're led from the top." The first step for any business leader is to demonstrate commitment to the cause.

### 2. Make diversity and inclusion a core value

Organisational values drive behaviour, so it's important that the whole business is signed up to diversity and inclusion. Our research shows that translating good intentions into practice is an

ongoing challenge for businesses, but Nicole Blythe, national managing partner of people experience at Grant Thornton LLP, highlights that "having a common set of values and identified associated behaviours as the foundation of the company culture can eliminate some of the cumbersome noise and allow you to move more quickly."

### 3. Set goals

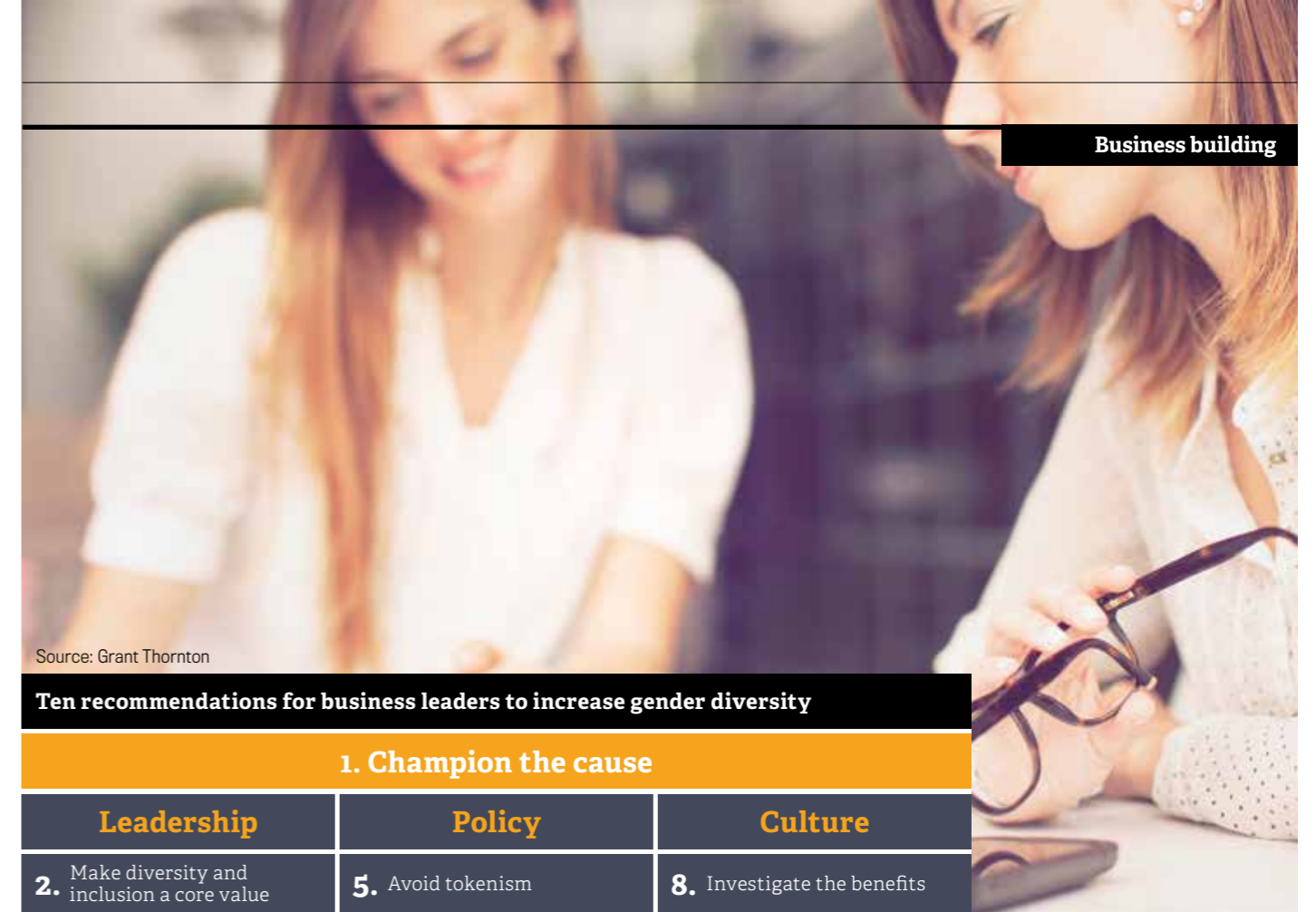
Making gender diversity a core value is not enough in itself; business leaders should set clear goals and specific targets by which they will measure progress. Stephanie Hasenbos-Case, Grant Thornton UK partner and people and client experience leader, believes this is crucial: "Diversity and inclusion targets are important so you can align leaders to a shared goal and work together to achieve it."

### 4. Link progress to pay

They say that what gets measured gets managed, so business leaders should make diversity and inclusion goals part of the leadership team's compensation packages to encourage change. Karitha Ericson, COO and deputy CEO at Grant Thornton Sweden believes that "one of the reasons there's been so little progress on gender diversity is because there isn't enough consequence for senior leaders."

### 5. Avoid tokenism

Simply putting one woman on the senior management team is not enough to ensure a range of voices is heard and for the business to reap the rewards of diversity. As senior director of research at Catalyst, Jennifer Thorpe-Moscon says, "one woman in leadership is better than no women in leadership, and parity is the ideal in representation, but gender



Source: Grant Thornton

## Ten recommendations for business leaders to increase gender diversity

1. Champion the cause		
Leadership	Policy	Culture
2. Make diversity and inclusion a core value	5. Avoid tokenism	8. Investigate the benefits
3. Set goals	6. Reduce 'mini me' recruitment and promotion	9. Be comfortable with discomfort
4. Link progress to pay	7. Introduce sponsorship	10. Share your story

diversity is about far more than that. The issue is not only about whether there are women present but also whether women feel their perspectives are valued."

### 6. Reduce 'mini me' recruitment and promotion

Ms Ericson says: "It is easy for both men and women to unthinkingly recruit and promote other men and women. It takes courage from leaders to choose diversity." Providing support to understand why this happens and how it can be avoided will forge a better process. Unconscious bias training can help people at all levels of the business avoid the temptation to hire and promote employees who look, speak and think in the same ways.

### 7. Introduce sponsorship

Sponsorship can have a significantly greater impact on gender diversity in leadership than simple mentoring schemes. As Madeleine Blankenstein, partner at Grant Thornton Brazil, says: "Businesses need to have a mindset of wanting more women to lead. They then need to recruit them or find, nurture and train the talent that is likely already present in their own organisations."

### 8. Investigate the benefits

Evidence of the commercial gains brought by gender diversity will help convince sceptics of the need for change and provide justification for investment in new initiatives. There is a wealth of research already available but, as Greg Keith, chief executive

officer at Grant Thornton Australia, says: "Increasingly organisations want to work with those who share their values base, so gender diversity can be a really important consideration when clients choose who they work with."

### 9. Be comfortable with discomfort

Creating an inclusive business environment that supports gender diversity in leadership will not be easy, so leaders need to be in it for the long term. Claire Paisley, financial services partner at Baringa Partners, believes attitudes need to change before we'll see real progress: "I think the first step needs to be willingness to talk about gender diversity. Business leaders can find this uncomfortable and don't

necessarily feel they have the right language to have these conversations. The best among them spend time listening to and interacting with their employees to acknowledge and dismantle the barriers to openness and honesty."

### 10. Share your story

Business leaders who are open about what is driving change in their own companies can encourage others and help them overcome the complexity of turning theory into action. It can be challenging for business leaders to feel able to be transparent about internal ways of working, and particularly about mistakes they've made, but without this we are unlikely to see widespread progress. As Vibeke Hammer Madsen, chief executive officer of Virke says: "Getting this honesty from business leaders sometimes feels like an even tougher job than achieving gender diversity!"

# The shortcut to an easier life

What if you could increase your team's productivity by 10 per cent at no additional cost to your business? Wouldn't you jump on it?

by David Smith



David Smith, director, Smithink

A few years ago, I was sitting in an open plan office and next to me was an executive assistant who was busily typing up a long document for her boss. It was a long and complex document requiring a lot of text manipulation. She was handling it OK, using her mouse to select the text she wanted to move and selecting the cut and paste options from the menu. She was doing fine except that what she was doing was incredibly inefficient.

After a while, I couldn't help myself. I stopped her and asked whether she realised there was a much faster way of doing things. She looked at me as though I was mad, but I persisted.

I suggested that instead of using her mouse she didn't need to take her hands off the keyboard at all. Just moving your hand to and from the mouse slows you down without even considering the time it takes to move the mouse to select the text or the options from the menus.

I then proceeded to show her the shortcut keys that can

enable her to achieve the same outcomes much faster without taking her hands off the keyboard. In the space of 10 minutes it was quite clear that I had increased her productivity in the order of at least 10 per cent.

Imagine if you could increase all your team's productivity by that amount.

The weird thing is that the Baby Boomers are the ones who know how to do this. In the pre-Windows era there wasn't a mouse (shock horror you might think). These magical shortcut keys were the only way that things could get done. The good news for the Boomers is that shortcut keys created in the 1980s persist today in modern Windows applications.

It's now time for the young Millennials to get with the program and benefit from the productivity lift that these keys bring.

As you would expect, Google comes to the rescue. Type in shortcut keys and you'll quickly find the list. You'll be surprised how many there are.

The key that surprises me the most is the Windows key on the

keyboard – you know the one with the Windows logo.

For many years I have stood in front of audiences at conferences and asked what the key is for. Nearly everyone knows that if you press it then up comes the Windows menu. But that is a very small part of its magic. Want to lock your computer Windows key+L will achieve that. In fact, there are many things the Windows key can do when it's combined with other keys. It's quite amazing how few people know about the uses of the Windows key given that it's been on keyboards for over 20 years!

For at least as long as the Windows key has been around, I have been a strong advocate of using multiple screens. Most people these days have two although I would suggest that



## The key to Ctrl

Many of these keys permeate through all Windows applications (Apple has its own if you live in the walled garden). Many applications have their own shortcut keys as well to improve productivity of their applications. Word and Excel have quite a number. You'll also find that other applications that you use will have them too. Seek them out. Search for them in user help. Here's some that should be in the armoury of every power user:

- Ctrl+C:** Copy
  - Ctrl+V:** Paste
  - Ctrl+X:** Cut
  - Ctrl+arrow (left or right):** Move cursor, one word at a time
  - Ctrl+End:** Move to end of document
  - Ctrl+Home:** Move to beginning of document
  - Ctrl+Z:** Undo
  - Ctrl+A:** Select all text
  - Ctrl+U:** Toggle underline on/off
- There's of course lots more but start with these.

### “If you keep doing this over a few months you'll be surprised how quickly you will have picked them up and improved your productivity”

you need at least three... I run four. Once again, the trusty Windows key provides an efficiency dividend. Windows key+Shift+Arrow will move the active window to the next screen in the direction of the arrow. Now that's a hell of a lot quicker than grabbing the window's titlebar with the mouse and dragging the window across to the other monitor.

Want to minimise all windows (Windows key+M); open Windows Explorer – Windows key+E will do that.

One of the challenges with so many shortcut keys is “how do I learn them all”. The answer is simple. You learn them incrementally. Pick two. Start using them. Put a post-it note on your screen to remind you. Very soon they become habit. A

week or two later pick another two. Do the same thing. They then become a habit. If you keep doing this over a few months you'll be surprised how quickly you will have picked them up and improved your productivity.

Hold training sessions for your team. Do the same thing. Point out to people when they should be using them. I did that recently with one Millennial. She looked at

me as though I was the Messiah. Always good to get one-up on those tech savvy youngsters (see The key to Ctrl box).

Let's assume you've got five people in your firm producing on average \$100,000 in fees each. If you can improve their productivity by just 2 per cent there's another \$10,000 for the bottom line. Methinks the productivity gain is much more than 2 per cent but it just goes to show the impact small changes can make.

People feel better too. They feel more efficient. Working with a PC is less frustrating.

Now's the time. Download the list of shortcut keys and start your incremental learning program. You'll be surprised how much it makes your life easier and adds to the bottom line. ☺



# The power of positive psychology at work and home

Journalist James Mitchell took some time out with Dr Tim Sharp from The Happiness Institute to discuss the positive psychology movement and what is worrying the Australian workforce

• • •  
by James Mitchell



**Dr Tim Sharp,**  
founder, The Happiness Institute

## What is the positive psychology movement?

Positive psychology was officially born in the late 1990s when a few, influential psychologists began to ponder the focus of psychology. For too long, they noted, we've focused on what's wrong with people; what if we were to ask what's right? As a result, a science of thriving and flourishing was born with an active focus on promoting healthy and happy living as opposed to just finding remedies for misery and dysfunction. The two are not mutually exclusive; but rather, they complement each other well and positive psychology can be seen as extending more traditional approaches. A metaphor that's often used is that traditional, clinical psychology, helped people move from minus 10 (distress and disability) to zero (okay-ness); Positive psychology asks: why stop there? Let's continue and

build on the momentum and go from zero to positive 10 (real health and happiness and living one's best life).

## Do you agree with Abraham Lincoln who said that 'Most folks are as happy as they make their minds up to be'?

Yes and no. Attitude is very important. Real optimism is indubitably correlated with health and wellbeing, happiness and resilience. And optimism is most definitely something we can choose to do; or at least it's definitely something we can learn to choose to do. But at the same time, it's important to note that situational and circumstantial factors do play a role; as do relationships and other external factors. So, although a large part of happiness is up to us and the choices we make; we don't necessarily or always have 100 per cent control.

## What is the difference between anxiety and depression?

One the one hand, anxiety and depression are both normal, human emotions. They're both part of being human and should not be denied or repressed. Part of real happiness is about accepting the full range of human emotions, doing what we can to accept and manage the unpleasant ones and create and maximise the more pleasurable ones.

At the same time, if or when these become excessive some people will experience a major depressive disorder and/or one of the anxiety disorders (such as panic disorder, agoraphobia, obsessive compulsive disorder etc.). The difference between "normal" negative emotion and a psychological disorder is that the latter involves pervasive emotion, over an extended period of time



“Part of real happiness is about accepting the full range of human emotions, doing what we can to accept and manage the unpleasant ones and create and maximise the more pleasurable ones”

(so not just a bad day or two) where regular functioning (at work or school or within a social or familial context) is impaired. When this happens, professional help should definitely be sought.

## Do you think social media can be bad for mental wellbeing?

There's no doubt that overuse of social media, or excessive screen time more generally, can be problematic. And particularly, if or when one compares

one's own "real" and "messy" and "imperfect" life with the seemingly "perfect" and "ideal" lives of others then feelings of inadequacy and depression can become common. But at the same time, social media can be informative, stimulating, inspiring and notably, it can help us connect with and maintain relationships with others. They key, therefore, is in using technology to facilitate and enhance "real life"; not replace it!

## What issue do most working Australian professionals have in common?

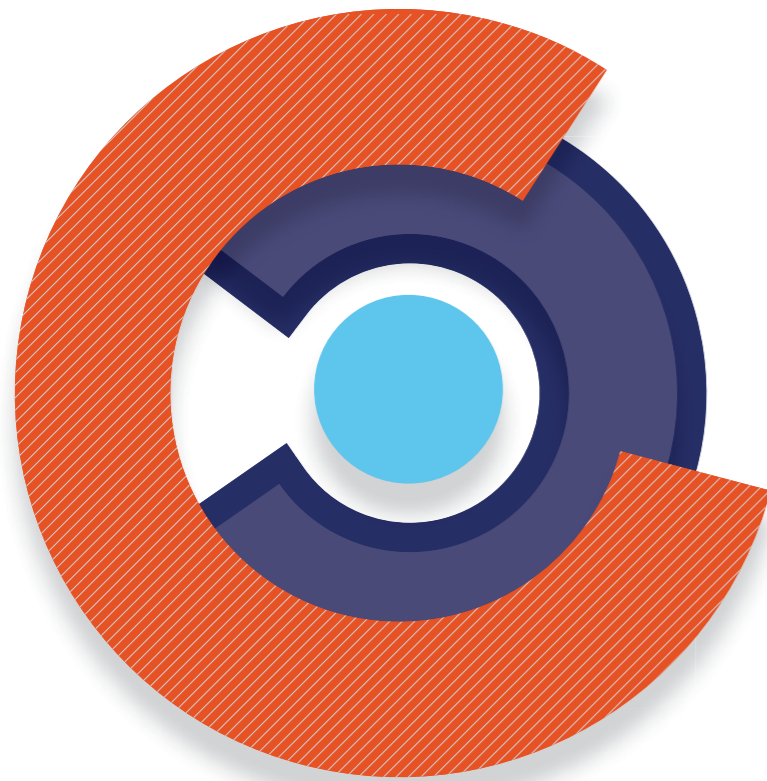
Stress. When it comes to workplace stress then the most common causes tend to be feeling under-resourced and overwhelmed, believing one doesn't have the ability to control one's circumstances, not feeling like it's possible to use one's strengths or attributes on a regular basis, and loneliness, or not having friends/confidantes within the organisation. ☹

## How can busy professionals avoid burning out?

1. Find ways to bring meaning and purpose to what you do;
2. Take care of your physical health and wellbeing (note that exercise is not just good for our bodies, but that it's also a potent stress buster and fantastic mood enhancer);
3. Make an effort to look for what's good; but when there's bad make sure you focus on what you can control, and on what you can do to solve or improve the situation;
4. Along similar lines, practice gratitude and think more about what you have and less about what you don't have;
5. Foster and maintain friendships, at work and beyond; and
6. And try to have fun! Although work requires a degree of seriousness, playfulness and fun can, when used appropriately, energise and motivate and improve performance

# 360 DEGREES

## What tax should the federal government reform and why?



### Simon Dorevitch

assistant manager,  
A&A Tax Legal Consulting



In my opinion, the CGT discount. A good tax is one that is fair; namely, imposing a higher burden on those with greater means to pay (efficient), imposing minimal distortions to the operation of the free market (simple), and imposing minimal costs (in terms of time and adviser fees) on taxpayers. The CGT discount (and the level it is set at) may be simple, but it is also too generous and, as a result, fails the first two of those tests miserably.

Capital gains are disproportionately made by wealthier Australians (who are more likely to have surplus funds to invest) and, therefore, they receive a disproportionate share of the benefits of the discount. This is illustrated by the fact that the two electorates that benefited most from the discount encompass Point Piper in Sydney and Toorak in Melbourne.

Furthermore, the CGT discount encourages taxpayers to structure their affairs in a way that favours capital investment over actions or investments that lead to other forms of income. When combined with negative gearing, this is a key driver of Australia's red-hot property market. While there are good reasons to encourage investment, I don't believe they are sufficient to justify a 50 per cent discount after only 12 months.

How would I reform the CGT discount? There are a number of good options, but one to consider would be to bring in a rough approximation of indexation. Apply the discount to capital gains at the rate of 5 per cent per full year that the CGT asset is held, capped at 50 per cent after 10 years. I believe this would strike the right balance between encouraging investment without distorting the market too much or providing a free kick to those who need it least.



### Chris Hooper

chief executive,  
Accodex



The taxation system is like software. Every time a loophole (bug) is found, policymakers patch it, then a new loophole is found, and so on. Over time you're left with what's referred to in software as technical debt, or spaghetti code. In these situations, software companies need to make the bold decision to nuke the entire system and start again.

Similarly, I believe that Australia is suffering from legislative debt. Our tax system has become so convoluted that no mere mortal can understand it in its entirety. I am convinced that reform is no longer possible; the tax system needs to be rebuilt from the ground up.

If I had to pick one, I would pick income tax; I believe that income tax is a tax on productivity and investment. I would replace it with a beefed-up version of GST that would include both positive and negative rates of taxation. Discretionary, non-essential goods and services would be taxed at a much higher rate. Essential consumption such as food, water, shelter, healthcare and education would be negatively taxed.

I believe that with extensive modelling, this version of GST could replace income tax revenues entirely, with negligible impact to taxpayers. The only thing missing from this equation is an administration brave enough to rebuild the entire system.



### Greg Hollands

consultant,  
Numbers Partnership



When the Keating government introduced FBT in 1987, it was part of a raft of tax changes covering a range of issues, but FBT always struck me as offending some of the fundamental rules of a modern tax system, and it is for that reason that I would like to see it gone.

However complicated you thought the original structure of FBT to be, including the complex rules of valuation and recordkeeping, it paled into insignificance when the changes were made to "gross up" benefit payments, and then such a gross up had to include the impact of GST in later years. What could be easier to comply with?

Thus, it easily fails the rule of simplicity in the construction of a tax system.

Another fundamental rule that it fails is that of the person who gains the benefit should pay the tax. It has always struck me as strange that the payer of the benefit is the one who bears the FBT liability. Sure, there is a recapture system in place in many situations, purely voluntary, of course. But it also strikes me as strange that the actual net tax recapture from the employee is employer-status dependent, that is, non-profits have an advantage over a standard commercial taxpayer.

At a pinch, that also ticks off offending the rule about being a progressive tax that has an element of "fairness".

When the regular "get rid of red tape" purge occurs, FBT is one of the "usual suspects", but it still continues on getting more complex with each step.



### Kevin San

director,  
Kevin San & Associates



The Singaporean gentleman on the phone suddenly grew silent. He'd introduced himself as the owner of a promising IT concern; they were looking at setting shop in Australia, and he'd asked about tax reporting requirements.

So, I explained that GST was reportable quarterly, but that wages and tax withheld were reportable monthly, on a return that looks a lot like the GST return, but isn't. Oh, but superannuation is quarterly... but there's no return to fill out. Income tax is annual, but pre-payments are quarterly... but not until next year after we file your first return. Oh, but GST for the first year may be annual... but not payable until the middle of next year, by which time we would have already started paying quarterly. And if you form a company group here, forget about transferring losses between the entities, because that's another three-hour phone call itself.

The gentleman had begun the conversation with a jovial anecdote about how difficult it was to deal with the compliance requirements of his entity in India, and at this point he was either thinking that he was the victim of an elaborate deception or that Australia was just as bad. And I hadn't even brought up payroll tax yet.

One of the challenges that SMEs face is that their reporting complexity is all out of proportion compared to a large business, and, on top of that, they miss out on some key concessions (like tax consolidation, which most SMEs can ill afford).

In an environment where it's so easy for a well-meaning SME to misunderstand their reporting requirements, the proposal over transparency of tax debts comes across like a bad joke. Small business reporting needs to be simplified. Surely we can do better.



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#### 68 Imputation credits: SMSFs unfairly cop it again

Whilst there is debate about the policy intent of our company tax imputation system, self-funded retirees can rightly claim that they are being punished for doing what was asked of them



#### 70 The business community's latest insolvency snapshot

By crunching some data and adding insight to the numbers on various forms of insolvency, we can calm the often-dramatic perception on debt issues



#### 72 The deadline is here, but are you STP ready?

From 1 July 2018, employers with 20 or more employees will have to use accounting and payroll software that is single touch payroll ready. Don't be one of the many that have fallen behind



#### 74 A wrap of key ATO rulings for 2017-18

With a host of public rulings during FY17/18, here is focus on a sample of them that have the potential to provide tax practitioners with the greatest insight into ATO thinking and manage potential taxpayer compliance risk



#### 76 All I want (before) Christmas... is holistic tax reform

Australia's ad-hoc, knee-jerk approach to tax reform has left us with a system in dire need of a major reboot, and there are some key items that top the priority list

# Technical

Our technical section keeps you abreast of the regulatory, legislative and policy developments affecting the accounting industry

# Imputation credits: SMSFs unfairly cop it again

Whilst there is debate about the policy intent of our company tax imputation system, self-funded retirees can rightly claim that they are being punished for doing what was asked of them

by Tony Greco



**Tony Greco FIPA,** general manager of technical policy, IPA

First there was the pension deeming change, which was quickly followed by the introduction of the \$1.6 million transfer balance cap, and now the proposal to take away the ability to claim back excess imputation credits. The pension deeming change has already created dead spots in super (balances between \$400,000 and \$800,000) where a self-funded retiree pension offers an annual income only marginally better than the government pension, further discouraging efforts to be independent of welfare.

This latest proposal unfairly discriminates SMSFs and creates a distinction between SMSF and

large industry and retail funds, including the Future Fund which needs to finance ballooning public sector pension entitlements. The policy change impacts SMSFs differently to other segments and this creates an uneven playing field. Pooled funds will become a more attractive option for SMSF members as they will continue to make full use of all the credits they receive whereas SMSFs may not have enough tax liabilities to offset the full value of any imputation credits they receive. Hence the policy change is sector specific, which is grossly unfair, especially when the objective of the superannuation industry is universally to provide for retirement.

Ad hoc changes undermine confidence in our superannuation system putting more pressure on our pension system. If confidence starts to sway, citizens start to question why they bother providing for their own retirement. Already the number of people who think it is the individual's responsibility for funding their own retirement represents a small minority. It seems self-funded retirees are becoming an easy target. The size of the nest egg is proving too irresistible as governments are

struggling to balance budgets and are not brave enough to engage in wholesale tax reform to fix the structural deficiencies in our tax system. Our Intergenerational Report already paints a worrying scenario around sustainability of government revenues to meet rising expenditures. Raiding people's retirement savings with impunity seems to be the order of the day.

There are two schools of thought on the principal purpose behind our company imputation system. Most say that its aim is to avoid double taxation but others beg to differ, and say its principal purpose is to apply a level of tax that reflects the recipient's tax position. No different from the tax withheld by an employer under our PAYG system. If the latter position is supported then the refunding of excess imputation credits is justifiable as it reflects the overall tax position of the taxpayer receiving the dividend.

Making sense of Labor's proposal to cancel a taxpayer's entitlement to excess franking credits is by no means straightforward as taxpayers' circumstances can vary which can create confusion.

In very simple terms our imputation system allows taxpayers to claim an imputation

credit for tax paid by companies when they receive dividends. Australia's imputation system goes one step further and allows taxpayers to claim a refund when the total imputation credits that are attached to franked dividends exceeds the tax income liability. The government's current policy is that pre-tax company profits distributed to shareholders should be taxed overall at the rate applicable to the shareholder who ultimately receives the dividend. So, in a very simple scenario where a taxpayer's taxable income is below the tax free threshold which is currently \$18,200, the end result is that such taxpayers pay negative tax in that the ATO sends them a cheque for all the imputation credits that they have received on dividends paid during the year. The same process applies for dividends received via a trust as imputation entitlements can flow indirectly.

The entitlement to a refund is therefore dependent on the taxpayer's taxable income and their marginal tax rate:

0 - \$18,200	Nil
\$18,201 - \$37,000	19c for each \$1 over \$18,200
\$37,001 - \$87,000	\$3,572 plus 32.5c for each \$1 over \$37,000
\$87,001 - \$180,000	\$19,822 plus 37c for each \$1 over \$87,000
\$180,001 and over	\$54,232 plus 45c for each \$1 over \$180,000

Ignoring the Medicare levy and low-income tax offset, if a taxpayer's taxable income is below the tax-free threshold then the taxpayer will claw back tax paid by the company on its dividend received. Pensioners or low-income taxpayers in this category will therefore, miss out on refunds as well. Between \$18,200 and \$37,000 the marginal tax rate is 19 per cent which is less than the company tax rate so these taxpayers will also benefit from receiving fully franked dividends as they will have a partial entitlement to a refund. Once a taxpayer's taxable income exceeds \$37,000, then the imputation credits are offset against the tax they need to pay on the dividend to avoid double taxation. Taxable incomes

exceeding \$37,000 incur a marginal tax rate of 32.5 per cent so in effect taxpayers will need to pay further top up tax with no refund entitlement. As you move up our progressive income tax scale more top up tax applies, but shareholders receive a imputation credit for the tax paid on their behalf by the company which is handed down to taxpayers.

We have a two-rate company tax system as some dividends will only have imputation credits calculated using a 27.5 per cent tax rate, so this will create less refunds or more top up tax complicating matters.

When it comes to SMSFs, the change to the rules will result in adverse outcomes for funds heavily invested in companies paying fully franked dividends. SMSFs in accumulation mode pay tax at 15 per cent so a refund entitlement can result in the fund paying no tax and receiving a refund. For SMSFs in pension mode, no tax is payable and all the imputation credits are refunded back to the fund. The entitlement belongs to the fund

and not its members, so it will depend on whether the fund has members in accumulation or pension phase or a combination of both which can impact on how the proposed change plays out. Another variable is how the fund has invested its assets (franked shares versus other asset classes) which can also vary the impact. The unfortunate aspect of the proposed change is members in pension phase who have based their decisions on the rules of the day will be significantly impacted by the loss of refunds.

Labor's original proposal was subsequently tweaked to include a "Pensioners Guarantee" by exempting both part and full pensioners and SMSFs with at least one pensioner prior to 28 March 2018. In addition, non-aged pensioners on other allowances such as carers, disability support pensioners, the unemployed and those on parenting payments will also be exempt. This arbitrary line in the sand grandfathers benefits for a certain part of the population and denies others the ability to ever be able to claim a cash franking rebate. Perverse outcomes are the outcome where part pensioners that are able to receive the full benefit of the franking credit will be better off than retirees with more retirement savings but are ineligible for the age pension. The differential worsens over time. SMSF members who become eligible for a part pension after 28 March 2018 will be ineligible for refunds of excess imputation credits. This proposed change fails the fairness test in spades some would argue, by grandfathering the entitlement to a specific segment of the population. The proposed tweaking of the policy will contribute to a narrowing of the gap between those who accumulate a larger pool of funds for retirement and are ineligible for aged pension and those who

have a smaller pool of funds but are eligible for age pension. This situation will create disincentives towards accumulating a larger asset pool for retirement to become self-funded or remain self-funded.

Retirement planning requires stability and this constant tinkering with the goalposts is creating a loss of confidence in the superannuation system especially for those who cannot re-enter the work place to make up for any loss in income to support their lifestyles for adverse changes. It's hard enough to get people engaged about planning for their retirement and financial future in the first instance.

The proposed changes to refunding excess imputation credits will hurt many SMSF retirees who have prudently saved for retirement, forcing them back to the drawing board to rethink yet again, their investment strategies. There are a number of strategies to mitigate some of the impacts by moving away from shares paying franked dividends into other asset classes.

Refunding of imputation credits has been a cornerstone policy of the sector's investment strategy for nearly two decades. Trustees are already coming to terms with the changes introduced on 1 July 2017 to make the super system fairer by limiting the opportunity to build large concessionally taxed super accounts. Trustees will now have another potential policy change to navigate and will need to turn their minds to the impacts that the proposed changes will have on their retirement planning. Stability was supposed to be a core element of retirement planning, but nothing can be further from the truth in the current environment. SMSF retirees can rightly feel demoralised, victimised, disincensed and now penalised. 🙄



# The business community's latest insolvency snapshot

By crunching some data and adding insight to the numbers on various forms of insolvency, we can calm the often-dramatic perception on debt issues

by Chris Cook and Aaron Lucan



▶ **Chris Cook**  
partner, Worrells



▶ **Aaron Lucan**  
partner, Worrells

## Industries susceptible to corporate insolvency

In the last financial year, 11,296 companies went into external administration, which was a decrease on the previous financial year of 2,551 administrations (18 per cent). Of those companies, the national profile by industry, the Worrells Report showed 'Other (personal and business)' services accounted for 35 per cent of those corporate insolvency appointments; 'Construction' with 19 per cent; 'Accommodation and food services' with 10 per cent; 'Retail' with 7 per cent; and, 'Manufacturing' with 4 per cent of the total.

Here, we discuss the following industries and our reasons for their susceptibility to insolvency:

1. Construction
2. Retail
3. Manufacturing
4. Transport
5. Registered Clubs

### Construction

As an industry, construction has been the focus of many enquiries and demands for reform. We see several reasons for failure in the construction industry. Chief among them is the power imbalance of contractors versus subcontractors. Financial strife

frequently happens due to a melting pot of trade credit being rife, poor payment practices, and the continuous status of unsecured goods/work being supplied/undertaken. Profit margins are negated by underquoting (part of a poor strategic management dynamic). Equipment that is hired upfront depends on a healthy cash flow for hire terms to be met. Unscrupulous business practices and/or illegal phoenix activity is also commonplace.

Business owners in this industry would benefit from a range of non-standard advisory services, including:

- Provisioning taxes and managing cash flows;
- Securing debts and where possible take advantage of security under payments' legislation;
- Costing and profit forecasting; and
- Using asset and group structuring, including special purpose entities for specific contracts.

### Retail

Certainly, the online marketplace has impacted the retail industry and will continue to do so. This coupled with an outdated

customer experience, price sensitivity, and generic or universal products, empowers selective and demanding consumer behaviour. Bricks and mortar retail shops are subject to high overheads in both rent and wages, and susceptible to over-capitalising on shop fit-outs (can be \$1 million plus).

Business owners in this industry would benefit from a range of non-standard advisory services, including:

- Understanding their supply chain and sourcing stock at the best price;
- Understanding alternative business models and hybrid "clicks and mortar" models;
- Leveraging online sales, marketing strategies, and unique selling points; and
- Knowing when to sell up and get out.

### Manufacturing

Manufacturing's inherently high labour and technology costs



against a low exchange rate and international competition makes this industry quite volatile. The future of Australian manufacturing is in applied technology solutions and high-value, low-volume customised manufacturing.

Business owners in this industry would benefit from a range of non-standard advisory services, including:

- Identifying changes in consumer behaviour and responding quickly;
- Monitoring and predicting life cycle stages to be profitable;
- Understanding cost structures, efficiencies, and economies of scale; and
- Knowing when to sell up and get out.

### Transport

Another two industries we see being particularly vulnerable to insolvency challenges are transport, and registered clubs. The Worrells Report

ranked Transport in fifth position for NSW, Victoria, Queensland, and South Australia with an average of 5.25 per cent of total corporate insolvency administrations.

As with the construction industry, the transport industry has a power imbalance, predominantly due to subcontractor hierarchies. Other factors include: high capital costs, high debt to asset ratios, price sensitivities, regulatory environment, and a lack of business acumen and diversity. The risk of 'one customer' is also high.

Business owners in this industry would benefit from a range of non-standard advisory services, including:

- Provisioning taxes and managing cash flows;
- Employing secured debt management and debt consolidation;
- Considering an asset protection structure through using asset

- holding entities and trading entities; and
- Promoting diversity in clients and revenue streams.

### Registered clubs

Many registered clubs are structured under state legislation, (e.g. *Queensland Incorporations Act 1981* as opposed to the *Corporations Act 2001*) and therefore those insolvency appointments are not recorded on ASIC's corporate insolvency administration statistics. Regardless, we see a burgeoning risk for this industry and the associated industries/communities it serves to support. In 2015, KPMG published 'Key Industry Benchmarks' that reported that 6,413 registered clubs were in operation across Australia, and at that time, contributed \$8.3 billion to the economy.

Registered clubs rely heavily on gaming revenue, which comes with high overheads. This coupled with a tough regulatory environment and very low membership fees creates a high-pressure business, often under the control of unsophisticated volunteer board members.

Business owners in this industry would benefit from a range of non-standard advisory services, including:

- Identifying strategic merge partners to reduce administrative overheads;
- Implementing business coaching and strategic business management and a board culture of governance; and
- Implementing a separation of duties.

In summary, three key issues affect and influence the success of many industries:

1. Power imbalance/dependence asymmetry;
2. Responding to change; and
3. Identifying opportunities.

## Increased use and success of the voluntary administration regime

The voluntary administration (VA) regime allows businesses to address insolvency issues and if possible, return to a healthy trading prospect, by empowering creditors to vote on a Deed of Company Arrangement (DOCA).

The Worrells Report found that the number of DOCAs (505) successfully converting from a voluntary administration appointment has increased by 16 per cent when compared to the previous financial year (399). This shows that creditors are finding the VA regime more advantageous from a financial return standpoint.

A range of stakeholders also benefit in the broader context of these businesses continuing to trade. This should give confidence that the VA regime can allow businesses struggling financially to rehabilitate past those challenges.

## Conclusion

In reflecting on the three main areas of which industries are particularly susceptible to insolvency; the success of the VA regime in the last financial year; and the current approach from the ATO; we think the business community can use this information to better advise their clients.

We believe that the ability to adapt to the changing business environment and new players in the marketplace is critical to move through insolvency challenges. Critically, accountants should be advising their clients to be more robust in their business acumen and invest their time on business strategy and performance. 📌

# The deadline is here, but are you STP ready?

From 1 July 2018, employers with 20 or more employees will have to use accounting and payroll software that is single touch payroll (STP) ready. Don't be one of the many that have fallen behind

by Stephen Rogers and Roelof van der Merwe



▶ **Stephen Rogers,**  
tax director, Nexia



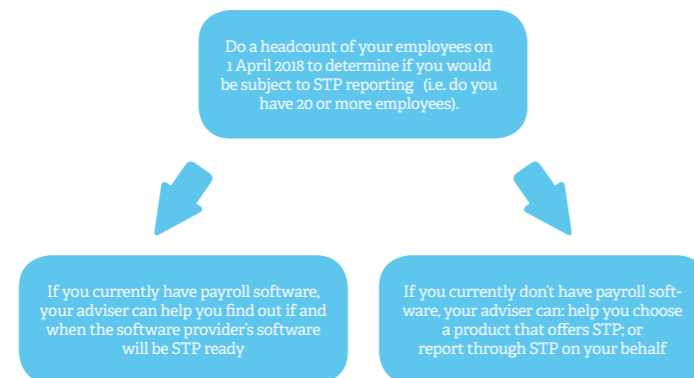
▶ **Roelof van der Merwe,**  
national tax director, Nexia

By using Standard Business Reporting (SBR) enabled software, the streamlined STP reporting system will digitally report payments such as salaries and wages, allowances, deductions, other payments such as pay-as-you-go (PAYG) withholding and superannuation information directly to the ATO at the same time the employer pays their employees (i.e. align ATO reporting obligations to payroll processes).

Such reported information will then be used to pre-fill business activity statements and thereby remove the need for employers to provide payment summaries to individuals or payment

summary annual reports to the ATO. Employees will also be able to see their year-to-date tax and superannuation information through myGov. However, information not reported or captured in the STP system will still need to be reported on payment summaries to individuals and payment summary annual reports.

The ATO is working closely with payroll software and service providers to assist them to update their payroll solutions – unfortunately the process is still a work in progress and the ATO acknowledges that some payroll providers may not be STP ready by 1 July 2018.



## How can you help your clients cope with the new STP system?

We understand that any change in a business (especially change in a payroll system) can cause unwanted uncertainty and stress in a business, and therefore advisers should be able to help answer these questions:

1. How to handle “pay event reporting” required by the STP system;
2. Which “employees” to include in your headcount (e.g. count employees of member companies of wholly owned group companies but not casual employees who did not work in March 2018, independent contractors or company directors);
3. Whether you can be exempted from STP reporting (e.g. employers involved in seasonal activities such as harvesting that only employ

20 or more employees for a short time in the year); and  
 4. Whether the start date of STP reporting can be deferred because of the employer’s specific circumstances (e.g. because the payroll software provider used by the business has not yet updated their software to be STP ready).

To ensure you save on preparing unnecessary reports (e.g. by not having to provide payment summaries to employees or payment summary annual reports to the ATO), we would recommend that you report as much allowable information as possible through the STP system and include these reported amounts in a finalisation declaration by 31 July 2019 for employers starting the STP system on 1 July 2018. Unfortunately, payments

that are generally not paid through the payroll process or payroll payments that are not withholding payments will still have to be reported on payment summaries and payment summary annual reports.

## STP is due to arrive on 1 July 2018: what’s next?

The government is proposing to extend the STP system to all employers (i.e. regardless of the number of employees) from 1 July 2019 as well as make further refinements to the STP system.

For example, from 1 July 2018, employers will only have to report amounts that constitute ordinary time earnings or salary and wages paid to an employee under the STP system. However, from 1 July 2019, it is proposed that salary sacrificed amounts (that would have constituted

ordinary time earnings or salary and wages had they been paid directly to the employee) would also have to be reported under the STP system.

## Before 1 July: Have a conversation with your clients

Because it is envisaged that STP will not fundamentally change how businesses do their payroll reporting (e.g. the payroll cycle and the payment due date for PAYG withholding and super contributions will not change) – the main change is that the ATO would now have instantaneous access to reported payroll information at the time employment liabilities are paid or withheld.

Therefore, it is more important than ever that businesses ensure they avoid unnecessary errors when doing a payroll run when using the STP system.

Help your business clients develop an STP implementation plan as well as devise strategies to minimise needless payroll errors when doing your payroll runs – for example to help ensure that:

- Employees are paid correctly (e.g. track start and end dates when employees take leave);
- Employees’ super entitlements are calculated correctly;
- Overpayments are addressed correctly; and
- Employee information (e.g. names, birth dates and addresses) is correct.

The new STP system is the future – especially because we live in the age of the digital economy. Unfortunately, as is always the case, there will be growing pains when implementing a new system, but once we can get all the computers talking together (e.g. in the exchange of payroll information) we are on the way to a new digital system that involves less compliance and greater transparency.

## After 1 July: what if your clients aren’t on track?

If your client’s current payroll software is not STP compliant by 1 July 2018, you should help your client to find out if and when the current software provider’s software will be STP ready or help your client choose another software product that offers STP. If your own systems are STP compliant you should also be able to report through STP on your client’s behalf.

As another alternative, you can also help your client determine whether the start date of STP reporting can be deferred because of the employer’s specific circumstances (e.g. the payroll software provider used by the business has not yet updated their software to be STP ready by 1 July 2018). ☺

# A wrap of key ATO rulings for 2017-18

There were a host of public rulings during FY17/18, and here we focus on a sample of them that have the potential to provide tax practitioners with the greatest insight into ATO thinking and manage potential taxpayer compliance risk

by Lynda Brumm and Peter Robertson



▶ **Lynda Brumm**, principal, PwC



▶ **Peter Robertson**, senior manager, PwC

Firstly it is worth noting that the start of 2018 saw the ATO's re-badging of Law Companion Guidelines (LCGs) to Law Companion Rulings (LCRs) to better reflect their binding nature. Specifically, LCRs (as were LCGs) are a form of public ruling providing guidance on newly enacted law. This means they offer the same level of protection and can be relied on in the same way as other public rulings. The change of name to LCRs will no doubt serve to reduce any misconceptions about their status.

### Potential trouble spots when dealing with trusts

The interaction of the trust taxation rules with the capital gains tax (CGT) rules is complex and difficult to navigate. Indeed, two taxation determinations finalised during the year highlight just how messy the rules can get. Both consider the treatment of capital gains – derived from the sale of assets that are not 'Taxable Australian Property' (TAP) – which are distributed to resident beneficiaries of a foreign trust.

Taxation Determination TD 2017/23 indicates that the residency assumption in working

out a trust's net income for tax purposes does not apply for the purposes of determining if certain capital gains of a foreign trust are disregarded. Accordingly, in calculating the net income of a foreign trust, a capital gain (or loss) arising from a non-TAP asset will be disregarded, and the trustee or the trust's beneficiary will not be treated as having received capital gains in respect of the particular CGT event.

However, according to TD 2017/24 if an amount attributable to the disregarded gain is paid or applied for the benefit of a resident beneficiary of the foreign trust, the amount may be included in the beneficiary's assessable income. In particular, the determination notes, that since the assessable amount is not treated as a capital gain, it cannot be offset by other capital losses of the beneficiary or qualify for the CGT discount. Although this outcome may not reflect the position that some advisers have taken in the past, the ruling indicates that ATO compliance resources will not be devoted to enforce the views to distributions received or already assessed in income years ending before 13 December 2017.

Another complex area of tax law is the application of the "family trust" rules and managing trust distributions so as to avoid the imposition of Family Trust Distributions Tax (FTDT).

The ATO's view in TD 2017/20 means that taxpayers will need to keep a close watch on the free or discounted use of a family trust's assets to ensure that a taxable position does not inadvertently arise. The determination indicates that a person need not be a trust beneficiary to be capable of receiving a 'distribution' for purposes of the family trust rules. This means that where a person who is not a beneficiary receives a benefit such as a loan, transfer or use of property, that benefit will be a 'distribution' to the extent that its amount or value exceeds any consideration provided in return. Example 2 in the determination illustrates that the free use of a trust's holiday home by family friends (who are not members

of the trust's 'family group' for tax purposes) would create a liability to FTDT on the full value of the use.

We also await the finalisation of Draft Taxation Ruling TR 2017/D10 to see the ATO's final views on the income tax consequences of a trust vesting. Advisers should ensure there is a clear awareness of impending vesting dates for clients' trusts, and that there is early consideration of the potential tax consequences that may follow.

### Risks from cross-border dealings

With the ATO and new legislation putting multinationals and cross-border transactions in the firing line, several rulings which address cross-border issues are worthy of mention.

The Diverted Profits Tax (DPT) is a new law which first applies to certain significant global entities for income years

commencing on or after 1 July 2017. Draft LCR 2017/D7 provides the commissioner's draft views on some of the key concepts associated with the DPT, including the principal purpose, sufficient foreign tax and sufficient economic substance tests. Despite this early guidance, it is our experience that many areas of uncertainty remain in relation to the practical operation of the DPT.

Two Taxation Determinations deal with the application of the participation exemption to certain foreign equity distributions made to an Australian corporate tax entity via an interposed partnership (TD 2017/21) or trust (TD 2017/22). The determinations confirm that a partnership and trust can hold a direct control interest in a foreign company when determining whether a corporate tax entity (as a partner or trust beneficiary) has satisfied the participation test. However, in working out the

indirect participation interest for a corporate tax entity that is a trust beneficiary, TD 2017/22 focuses on the beneficiary's entitlement to trust income at the time the relevant dividend is paid. This has the effect that it will be difficult (if not practically impossible) for an Australian corporate tax entity that is a beneficiary of a discretionary trust to access the exemption. Furthermore, a beneficiary in a fixed trust will not be able to access the exemption where it does not have an indirect participation interest in the foreign company of at least 10 per cent at the time the foreign company makes the distribution. Both of those positions were not reflected in the predecessor draft ruling and represent a change in ATO view.

The following final LCRs deal with the new goods and services tax (GST) rules which apply to low-value imported goods (AUD 1,000 and under) from 1 July 2018:

- LCR 2018/1 which broadly discusses the new rules including how to calculate the GST payable;
- LCR 2018/2 which explains how GST will apply to supplies made through electronic distribution platforms; and
- LCR 2018/3 which discusses who is a 'redeliverer' responsible for GST purposes including identifying who is responsible for the GST payable.

### Carrying on a business

It would be remiss not to mention Draft Ruling TR 2017/D7 which deals with the issue of when a company is carrying a business for the purposes of applying the reduced company tax rate (rather than the usual 30 per cent rate). Who would have thought something as simple as working out the tax rate for a company could become so complex?

The draft ruling indicates that a company established and maintained to make a profit for its shareholders, and investing its assets in gainful activities that have both a purpose and prospect of profit, is likely to be carrying on a business in a general sense. This is so even if the company's activities are relatively limited, and its activities primarily consist of passively receiving rent or returns on its investments and distributing them to its shareholders.

It is understood that the ATO is considering the scope of this ruling since the reasoning expressed in it, equally applies to determine whether a company is a small business entity for other purposes. Also note the government's proposed legislation to add integrity measures concerning the extent of a company's passive income before it is eligible for a lower tax rate.

### Conclusion

Public advice and guidance by the ATO, particularly legally binding rulings, is a critical resource for tax payers and tax professionals in navigating Australia's complex tax system. For the sake of certainty and managing compliance costs, it is important to the tax community that the ATO not only continues to engage with stakeholders in issuing rulings that deal with new areas of law and emerging potential technical risks, but also continues to progress its ambitious Project Refresh to archive, update and consolidate its past guidance and advice products.

We can already see in the ATO's advice under development pipeline and Project Refresh agenda there are plenty of rulings flagged for release which have the potential to make 2018-19 an even bigger year. ☺



# All I want (before) Christmas... is holistic tax reform

Australia's ad-hoc, knee-jerk approach to tax reform has left us with a system in dire need of a major reboot, and there are some key items that top the priority list

by Mark Molesworth



**Mark Molesworth,**  
partner, BDO

Not since the Ralph Report in the early 2000s, have we seen major tax reforms of the scale of income tax consolidation and GST. This year also marks a decade since the Australia's Future Tax System Review (the Henry Review) was commissioned, yet the tax system is in more disarray than it was in 2008.

Since then the majority of the 138 recommendations have not been implemented and Australia's tax reform efforts reduced to ad hoc amendments. Unsurprisingly, other nations have caught up.

BDO's 2018/19 pre-budget submission contains more than 20 recommendations for change beginning with a call for what the Henry Tax Review attempted to deliver 10 years ago – wholesale tax reform. That means not only examining corporate tax rate cuts but also looking at GST, state taxes, simplification of the tax system, especially for small businesses, and FBT. More importantly, we think Australia should aspire to a holistic tax reform process.

## Goods and services tax

It is very important that GST should be included in a broad tax reform review. Unfortunately, it always seems to fall into

the 'too hard basket' and was conspicuously missing from the Henry Review. This is unfortunate as GST is one of the more efficient taxes and it is underutilised in Australia. If the GST rate was increased and coverage widened it could replace a number of inefficient taxes like payroll tax, which is seen as a disincentive to employing more staff and stamp duty, which is a disincentive to commercially viable transactions.

First, we need to consider an increase in the GST rate to, for example, 15 per cent to ease the income tax burden through an increase in personal tax rate thresholds. Secondly, we need to consider a broadening of the GST base so as to spread the GST cost as widely as possible. The most obvious difference between our system and that of New Zealand's is our GST-free treatment of fresh food. Simply removing this exemption, with appropriate compensation to welfare recipients, should increase the efficiency of our tax system by shifting more of the focus of taxation away from income and on to consumption.

## Simplicity for small businesses

The federal income tax laws are overly complex and need simplification. The prolonged

process of re-enacting the provisions of the ITAA 1936 (*Income Tax Assessment Act*) into the ITAA 1997 should be expedited. Simplification of tax laws to alleviate the burden on small business is a particularly urgent requirement. Streamlining the definition of a small business which currently references varying asset value, turnover and staff limits would be a great start.

The small business company tax cut legislated in 2017 is an example of how a simple tax measure can become unnecessarily over complicated. The government stated in July 2017 that it wasn't its intention that passive investment companies receive the tax cut, which conflicted with draft ATO ruling TR 2017/D7 which allowed almost all companies (under the turnover thresholds) to receive the tax cut. Taxpayers and advisers were confused for months as to whether to adopt the view of Treasury or TR 2017/D7 (which has yet to be finalised).

BDO also considers that the government should create a new type of entity called a 'small business company' that allows asset protection, flexibility of distributions and/or retention of profits.

## Fringe Benefits Tax

FBT is another area that deserves a closer look and remains an overly complex system, particularly for the amount of tax it actually collects. The current design and rate of FBT is such that it is implicitly assumed that all employees are paying the maximum marginal rate of income tax. However, the corollary of this is that FBT applies regressively, as it implicitly taxes benefits provided to earners of income whose marginal rates of income tax are less than the maximum



marginal rate. In addition to taxing the wrong taxpayer (being the employer rather than the employee), FBT unfairly penalises the provision of fringe benefits to low income earners.

The Henry Review recommended that fringe benefits, including those incidental to an individual's employment, should remain taxed to employers at the top marginal rate (and non-reportable for employees) and that the scope of fringe benefits that are subject to tax be simplified. BDO's 2018/19

pre-budget submission recommends that FBT should be repealed with fringe benefits assessed to employees as salary and wages instead. Further, any such reform should be done in a way so as not to disadvantage not-for-profit entities that rely on FBT concessions.

## Corporate tax rate cuts

It's difficult to discuss tax reform without acknowledging corporate tax rate cuts. In the days leading up to last Christmas, the Trump

administration gifted the United States with a historic reduction in its corporate tax rate to 21 per cent. The United Kingdom is heading down to 17 per cent, and France's will be 25 per cent by 2022.

Overnight, Australia's corporate tax rate, even taking US state taxes and local dividend imputation into account, was rendered woefully uncompetitive compared with the nation that holds the largest stock of foreign investment in this country. The Coalition's plan to reduce the corporate tax

rate to 25 per cent by 2025 meanwhile has currently stalled before Parliament, two years after being announced.

## Public education about tax reform

BDO agrees with Ken Henry, who said "surely nobody needs to spell out why a businessperson, motivated by nothing more than profit, is going to have a hard time convincing anybody of the merits of a proposition to cut the rate of tax applying to profit."

The government needs to convince a cynical public that tax reform can actually improve their lives. We need to educate the public about the process of tax reform. Australia will get no progress in this area unless the community sees vested interest make way for the national interest.

## Holistic tax reform review required - the public agrees

Australia has been tinkering around the edges of holistic tax reform for over a decade. Often, we have seen that tweaking the edges of Australia's tax system triggers the butterfly effect – where "small causes can have larger effects in chaotic complex systems". Applying this to Australia's complex tax system, one change in one type of tax can distort the economy if care is not exercised.

Almost 95 per cent (93.6 per cent) of respondents in BDO's 2018 Tax Reform Survey believe the government should introduce a broad tax reform process that covers both federal and state taxes and not just tinker around the edges. This is up from 82.9 per cent the previous year, indicating that the public's patience is waning. 🗳️



# Register of members

The following list updates the Membership Register of the Institute of Public Accountants. The board of directors extends congratulations to all new members and to those who have advanced in status

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Roupen Egulian  
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Tracey Hinton  
Sami Houlla  
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**Register of members**

Ahmad Hashmi	Daniel Hay	<b>China</b>	Nilo Lim	Katerina JurickovaTaylor	Barry Olander
Robyn Jenkins	Michael McNamara	Duan Guofeng	Paul MacDonald	Teresa Szumski	Brian Pangler
Banyat Joikham	Mark Tannous		Colin Matthes	Sharon Taplin	Ryuichiro Suzuki
Colleen Miller		<b>Advanced to MIPA</b>	Debra McPherson	Stuart Thorpe	Md Zahid-Uz-Zaman
Keith Mortimer	<b>South Australia</b>		Malak Ange Ollaik	Quyen Tran	
Shaun Newton	Jonny D'Orsi		Lauretta Pitts		
Anna Raschella	Dawn Nowak		Radhika Shukla	<b>Western Australia</b>	<b>Overseas</b>
Darren Rigby		<b>New South Wales</b>	Satinder Singh	Lindsay Adam	Siew Ting Chan
Jacqueline Ryan	<b>Western Australia</b>	Nicholas Gregor-Sonter	Craig Somerville	Cherie Anglesey	
Matthew Shaw	Margaret Bain	Stella Metsikas	Senthuran Velautham	Rosemary Bailey	<b>Deceased</b>
Russell Smith	Foong Yuan Lu		Larry Vun	Robert Boni	The board of directors
Daniel Surjenko	Zong Qi Xie	<b>Victoria</b>		Sarah Callaghan	notes, with regret,
Adam Troeth		Cengiz Balci	<b>Queensland</b>	Gaetano Cappa	the passing of the
Ruth Watson	<b>Tasmania</b>	Emily Block	Renee Cooper	Monica Carmody	following members:
Kezheng Xie	Linda Cassidy	Salend Chand	Irene Hussain	Tam Christie	
	Garry House	Jason Chitty	Michael Mackechnie	Arlene Hutchison	Florence Krattiger
	<b>Hong Kong</b>	Ruth Dawson	Graham Malsbury	Margaret Lane	New South Wales
	Chun Ho Chu	Sunny Duong	Jane Purnell	Tracey Loubser	
	Shu Kin Ip	Chris El Moussalli		Nigel Lowery	Gregory Delfs
<b>Queensland</b>	Tat Fung Lam	David Flynn	<b>South Australia</b>	Andre Ludick	Western Australia
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**Business directory**

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