

ATO SME Hit List For 2011/12

The ATO recently released its compliance program which identifies areas that will be in their focus in each of its business segments. We examine the important aspects of the program on the micro and small to medium enterprises segments for the 2011/12 year.

MICRO ENTERPRISES

These have an annual turnover of under \$2M and are made up of companies (22%), trusts (19%), partnerships (12%), sole traders (34%) and superannuation funds (13%).

The major areas of focus include:

Employer obligations

The ATO will concentrate on sham contracting arrangements where individuals are incorrectly set up as contractors instead of as employees of the business. Industries to be targeted include call centres, cleaning, security, retail, education and aged care.

There will also be a focus on compliance with superannuation guarantee obligations.

Contractors

A major concern is that individuals are establishing entities to split 'personal services income' with a related party (usually the spouse), particularly in the engineering, computer and technology industries. The ATO will be reviewing these arrangements to ensure compliance with the law.

Data matching

The ATO will use data matching and risk profiling to identify non disclosure of income. This will occur in areas such as payments received from government programs, payments to contractors, partnership and trust distributions, property and share transactions and international funds transfers.

Cash economy

This is a continuing and major focus area whereby the ATO will be targeting businesses with inadequate records, those failing to record all sale transactions and paying wages in cash. The ATO will also examine businesses operating outside its small business benchmarks.

Internet trading

The ATO will focus on businesses trading over the internet to ensure that all income is being reported.

Investments

In addition to non-reporting of share and property sales, the ATO will review mistakes made in claiming the small business capital gains tax concessions and application of the GST margin scheme with property sales.

Self managed superannuation funds

There were some 445,000 funds in operation at 31 March and this number is growing. The ATO notes that trustees need to run their funds in accordance with the law and will act against the illegal access or release of superannuation benefits.

SMALL TO MEDIUM ENTERPRISES

These have an annual turnover between \$2M and \$250M and the areas in focus include:

Private groups

The ATO is concerned about the tax compliance by individuals controlling private groups and the entities within them. The ATO says it will use sophisticated data mining techniques to automatically detect and link private groups and the individuals controlling them.

Highly wealthy & wealthy individuals

The ATO will take steps to promote voluntary compliance by Australian resident individuals with a net wealth of over \$30M ("highly wealthy") and \$5M-\$30M ("wealthy"). The ATO says where it detects complex tax planning arrangements relating to capital gains tax, Division 7A, international operations and/or trusts it will move to more intensive 'interaction' with the relevant individuals.

Phoenix arrangements

The ATO will continue to focus on evasion of tax and superannuation guarantee obligations through what it describes as the deliberate and systematic liquidation of related corporate trading entities.

Overseas interests and international transactions

The ATO will exchange information with other countries and focus on areas such as transfer pricing, payments of interest, dividends and royalties to non-residents and the use of 'tax havens' to evade income tax obligations.

Division 7A compliance

The concern is that private company owners do not fully understand their obligations regarding the correct tax treatment of company funds received by shareholders and associates other than by way of dividends. The focus will be on Division 7A and unpaid present entitlements.

The ATO says it will be contacting the owners and shareholders of private companies to verify their compliance with these obligations and will issue around 350 pre-lodgment letters to remind taxpayers to put appropriate loan agreements in place prior to the lodgment of their tax returns.

GST compliance

The ATO will continue its focus on businesses making sales of property to ensure these transactions are correctly reported. The ATO says it will increase its focus on taxpayers selling property and disengaging from the GST system by not lodging their business activity statements.

Restructuring by professional firms

The ATO says it has noticed a considerable number of restructures among professional firms particularly in the accounting and legal professions which have resulted in a significant reduction in the practitioners reported income. The ATO has commenced several reviews where discretionary trusts are being added or substituted as partners.