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UPDATE: ATO Tells Australian Businesses to Pay Their Unpaid Tax Debts or Lose Their Credit Rating

In an earlier article from CharterLaw Legal in February 2017, the ATO's new approach to debt collection was discussed. That approach related to the government empowering the ATO to notify Credit Reporting Bureaus (CRB) as to the outstanding tax debt of businesses. If you have any enquires please contact us.

The proposed changes

Although the legislation is yet to pass the Senate, it appears that the recommendations of the Mid-Year Economic and Fiscal Outlook 2016-17 are likely to be implemented.

At page 113 of that document under heading of "Tax integrity - improve the transparency of taxation debts" the recommendation was that:

"From 1 July 2017, the Government will allow the Australian Taxation Office (ATO) to disclose to Credit Reporting Bureaus the tax debt information of businesses that have not effectively engaged with the ATO to manage these debts."

At present, the ATO will only report a judgment debt to a Credit Reference Bureau (CRB) but the proposal goes on to include limitations:

"This measure will initially only apply to businesses with Australian Business Numbers and a tax debt of more than \$10,000 that is at least 90 days overdue."

What does it mean to "not effectively engage"

If this is to be the final version of the new measures to be applied, there are no doubt going to be some discussions about what it means to "not effectively engage" with the ATO. Clearly this would affect businesses who take absolutely no action with respect to any tax debt owed but

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leaves open a grey area for people that have engaged the ATO in some form but perhaps not to the ATO's satisfaction. It could be that to effectively engage a taxpayer may have to enter a payment plan or be in a genuine dispute, perhaps whereby proceedings have commenced, although it remains unclear. When Considering the ATO's own Taxpayer's charter we might expect to see a press release or practice statement on exactly what effective engagement might mean. The test of "not effectively engaging" appears to be critical in the question of whether or not a business will be caught by the new measures.

Why does the ATO want to make it harder to do business

It has been reported that the need to notify a CRB on tax non-compliance is to assist in providing a fair balance between those who do the right thing and pay on time and those who do not. Further, the ATO would no doubt claim that it is protecting future creditors from extending credit to a business that is at risk.

What are the limitations

Interestingly, the proposed changes exclude individuals and only apply to ABN holders. Perhaps sensibly, the ATO has set a threshold limit of \$10,000 so that businesses aren't unduly burdened with only small amounts of debt. In addition, the timeframe of 90 days might be viewed by some as being a significant time with which to effectively engage the ATO, subject to clarifying what that might entail.

Our view

Despite the somewhat sensible limitations, the fact remains that the new measures represent a further strain on businesses that already face the labyrinth of tax legislation and reporting obligations which does little more than take time away from doing what really matters - getting on with business.

If we can be of assistance, please call or email us. Thank you for reading this article.

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