

# TAXATION LAW

## CAPABILITY STATEMENT

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### Business taxes, personal taxes and international tax

#### OUR FOCUS



It is an unfortunate fact of life that tax affects almost every transaction generally contains a tax facet. At MBP Legal we provide comprehensive taxation advice in a whole range of federal and state taxes including income tax, capital gains tax, international tax, GST, payroll tax, land tax and stamp duty.

MBP Legal recognises that business and individuals are not focused on tax but rather on growing their businesses and personal wealth. With our combined commercial and tax experience we meld taxation advice with commercial legal advice to provide simple, practical tax effective solutions for your business and personal tax needs. Our commercial expertise allows us to provide the documentation to implement the taxation advice we provide.

All of our tax team hold either a postgraduate qualifications such as a Master of Tax or a Master of Laws (specialising in taxation) and are Fellows or Associate Members of the Taxation Institute of Australia, the leading independent body in Australia for tax professionals. We also have a NSW Law Society accredited specialist in taxation law.

#### BUSINESS TAX

MPB Legal advises all types of business entities ranging from:

- Companies and consolidated corporate groups;
- trusts (including unit trusts, discretionary trusts and hybrid trusts);
- partnerships (including limited liability partnerships);
- joint ventures; and
- sole traders.

#### BUSINESS STRUCTURING

We provide structuring advice through all life stages of a business from start up, growth to dissolution. Our structuring incorporates asset protection and estate planning advice for principals of the business. We also consider the different ways that a business owner can draw profits from a business in a tax effective manner.

Often a business may be established using one structure and then as it grows it is necessary to migrate to a more complex structure. A business may also grow by merging with or acquiring other businesses. At MPB Legal we can advise on how to minimise the tax payable on a business reorganisation via the use of various concessions including:

#### OUR TAX TEAM

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- capital gains tax rollovers (including scrip for scrip rollovers and demergers);
- the small business CGT concessions;
- the company tax consolidations regime;
- the GST going concern concession; and
- the corporate reconstruction exemption for stamp duty.

Tax effective exit is an issue which we consider from the outset when establishing a business structure and advice can be tailored to achieve this. This includes the implementation of tax effective buy-sell arrangements to ensure that a departing partner gets their fair share of the value of the business and the growing business does not become distracted by succession issues. Our tax advice for a departing business owner includes assessing eligibility for the small business CGT concessions and superannuation strategies that can reduce a business owner's tax payable on their realisation of their business interests and assist in retirement planning.

Even though a business ceases, tax issues may still arise. These issues include commercial debt forgiveness issues and liquidator's liabilities to tax. At MBP Legal we can advise on the income tax, GST and stamp duty consequences of liquidating a company or winding up a trust or partnership. Our tax advice is combined with our expertise in insolvency law.

## **EMPLOYMENT TAXES**

At MBP Legal we advise on all types of employment related taxes including:

- fringe benefits tax (FBT);
- Pay-As-You-Go withholding tax;
- payroll tax;
- superannuation guarantee obligations and the superannuation guarantee charge; and
- various income tax regimes affecting employment including the alienation of personal services income (PSI) rules.

We also advise on the appropriate structuring of employee incentive plans (including employee share schemes) so as to allow a business to encourage and retain key staff.

Payroll tax needs to be considered not only when a business employs staff, but also when work is outsourced to contractors and subcontractors. The sharing of employees between different entities in a business group also raises payroll tax issues. MBP Legal is able to advise on the complex contractor, employment agency and grouping provisions in payroll tax law.

## **REPRESENTATION TO ATO, ADMINISTRATIVE APPEALS TRIBUNAL AND COURT**

The complexity of tax law means that sometimes it is unclear what the tax result should be. We are experienced in making applications on behalf of clients for private binding rulings, class rulings and product rulings from the Australian Taxation Office (ATO). We also make applications on clients' behalf to the Office of State Revenue (OSR) for various exemptions from state taxes including applications for the corporate reconstructions stamp duty exemption and de-grouping applications for payroll tax purposes.

We provide representation in both state and federal tax disputes. This representation includes engaging in informal reviews with a revenue authority, litigating through the courts and the Administrative Appeals Tribunal (AAT) and negotiating settlements of tax disputes.

## PERSONAL TAX

MBP Legal provides personal tax planning advice for individuals. This includes advice on:

- salary packaging and salary sacrifice arrangements;
- capital gains tax in respect of personally held assets;
- superannuation planning in respect of personal contributions to superannuation and also the withdrawal of benefits from superannuation (covering both lump sum withdrawals and pensions);
- tax effective structuring of redundancy and employment termination payments;
- the principal place of residence exemption for land tax; and
- superannuation – *please refer to our wealth planning law capability statement on [www.mbplegal.com.au](http://www.mbplegal.com.au).*

Our personal tax advice will generally be combined with asset protection and estate planning advice.

We provide representation for individuals in respect of private rulings from state and federal revenue authorities. We also act for individuals in tax disputes with revenue authorities. This includes engaging in informal reviews with revenue authorities, litigating through the courts and the AAT and negotiating settlements of tax disputes.

## INTERNATIONAL TAX

Australia's tax system incorporates an international taxing regime that captures cross border transactions and cross border investments. MBP Legal provides international tax advice to business entities and individuals. This includes advice on:

- the Australian tax consequences of becoming and ceasing to be an Australian resident or an Australian temporary resident;
- the establishment of a business in Australia by a foreigner resident;
- the establishment of business outside Australia by Australian residents;
- interest, dividend and royalty withholding tax;
- the thin capitalisation rules;
- the various Australian tax rules which apply to income derived by Australian taxpayers who hold interests in foreign entities – this includes the controlled foreign companies (CFC) rules, the foreign investment fund (FIF) rules, the transferor trust rules and the managed investment trust rules;
- the application of double tax treaties to a taxpayer's particular circumstances;
- the tax consequences of exiting Australia including the capital gains tax consequences of changing residency status, and
- whether a transfer between your Australian resident company and a non resident associate will be subject to "transfer pricing rules"

In the personal tax sphere we advise on the Australian tax consequences of an individual entering and leaving Australia. This includes whether an Australian resident individual is exempt from Australian income tax in respect of personal services income derived overseas. Australian taxation in respect of personal income derived from overseas and the superannuation consequences when a person comes to and leaves Australia.