

Tax Compliance As A Non-Resident Property Investor

The financial year for Australia is from 1 July to 30 June. Generally, the deadline for lodging income tax returns is 4 months after the end of the financial year ie 31 October. As a Registered Tax Agent, usually we will be able to extend the lodgment date to 15 May of the following year provided that ATO conditions are met.

In Australia, once an income tax return is lodged Australian Taxation Office (ATO) will issue a Notice of Assessment (NOA) based on the income tax return. Although a NOA has been issued, this does not mean that the return cannot be audited at a later time by the ATO. Subject to certain time limits, the ATO can choose to audit the return at a later time. In the case of fraud or evasion, usually there is no time limit for the ATO to amend an assessment.

All taxpayers, whether resident or non-resident, are encouraged to comply with the tax laws and ensure that their tax obligations are met as follows:

- File their income tax returns and pay their taxes on time if any
- Keep all the necessary tax information and maintain their records to substantiate the contents of their income tax returns
- Take reasonable care to provide complete and accurate information in the tax returns so the amount of tax payable can be correctly determined
- Be cooperative by disclosing all required information in a timely manner.

The final responsibility for meeting your tax obligations within the law lies with you, the taxpayer.

The real tax compliance

Non-residents may think they have no obligations to file tax returns in Australia, on the basis that they are not citizens or permanent residents of this country. It is important to note that even if one is not a citizen or permanent resident of Australia, one may still need to file their tax return depending on their circumstances. For example, a non-resident property investor in Australia must file their tax returns.

Your obligation to file your income tax return begins when you receive income from your investments, or your property is available for rent, or when you dispose of your Australian property.

The consequences of non-compliance

The penalties and fines imposed by the ATO are designed to 'encourage taxpayers to take reasonable care in complying with their tax obligations'. The types of penalty which apply can be administrative, civil or criminal. Civil and criminal penalties are imposed by courts and administrative penalties are imposed without the need for court action.

General interest charges (GIC) apply to unpaid amounts, such as shortfall amounts, late payments and tax debts. Such charges will apply whether or not a penalty applies. The GIC is a uniform interest calculated daily on a compounding basis, and its rate is updated every quarter. Penalties and GICs applied are not to be taken as a substitution for the tax payable. They are in addition to the tax assessed and payable.

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A failure to lodge an income tax return where required to do so, and an intentional disregard for the Australian tax laws is considered as tax evasion by the ATO and will result in severe penalties being applied. Penalties also apply for failure to lodge a return in time, or for recklessness and lack of reasonable care in lodging a tax return which is known to be incorrect.

Myth buster

Due to lack of understanding of the tax legislations, some incorrectly assumes that they will automatically have to pay income tax when they file their tax returns. It is crucial to understand that filing an income tax return does not always necessarily result in tax being payable. Whether tax is payable or not depends on the assessable income and the tax deductions that can be claimed. It is not unusual that property investors do not pay tax when they have properly planned their tax affairs and hence is able to minimise their taxes legally.

Often taxpayers do not realize that if tax returns are not lodged annually, any income tax loss or capital loss will not be “recorded” and hence may result in the forfeit of this “tax benefit”. When tax losses are correctly recorded, it can be carried forward indefinitely to be offset against future income. Thus, reducing tax payable.

Conclusion

It is advisable that professional advice be taken in relation to the timely filing of income tax returns, as failure to comply with the tax laws will lead to more complications and problems in future. Taxation laws in Australia are complex. Hence, it is recommended that you should seek the services of a Registered Tax Agent to provide guidance and ensuring compliance with the tax laws and at the same time minimizing your tax in a legal manner. Tax minimization is legal while tax evasion is illegal.

With advancement in technology, ATO is also riding on the wave of advancement and is increasing its capability on tax audits. It is well known that ATO performs data matching with government and non-government agencies to identify tax evasion. Records held with the Titles Office in each state are available to the ATO if it wishes to undertake an audit in relation to real property.

It is therefore in the non-resident taxpayer’s interest to ensure that they are compliant with the tax laws of this country and ensure their tax affairs here are in order.

We would like to speak to you and assist if you have any questions or concerns. Contact us now for your **complimentary** and **no obligation** first meeting to discuss on your Australian tax obligations.

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