



The politics of tax 2017

As the conclusion of 2017 draws near, we take a look back at some big events, classic quotes, and tax memories.

Tax word/phrase of the year

"Paradise Papers": New to the lexicon after only two months

Tax case of the year

The Chevron case

Most talked about section of the Constitution

Section 44

The once in a 100 year tax event

The signing of the Multilateral Instrument

ATO views of the impact of the Chevron case

"The judgement in Chevron is one of the most important decisions ever in corporate tax in Australia. Chevron sought to challenge Australia's transfer pricing rules and the appropriate method for establishing an arms-length interest rate for a related party loan. The withdrawal of the appeal means that the decision is now final.

Our initial estimates are that the Chevron decision will bring in more than \$10 billion of additional revenue over the next 10 years in relation to transfer pricing of related party financing alone. We have been very clear this case would have direct implications for a number of cases the ATO is currently pursuing in relation to related party loans as well as indirect implications for other transfer pricing cases. These impacts will not be limited to the oil and gas sector; they will be across the entire economy." Chris Jordan, 22 August 2017

Where to next for the ATO

"In particular, you will see us increase our attention on small businesses not doing the right thing to ensure there's a level playing field for all small businesses. We will be focusing on the black economy more generally and on phoenix operators and the individuals' markets. Lastly, we will have, over the course of this year, a very strong focus on the intermediaries - the lawyers, the accountants, the pre-insolvency advisers and liquidators who facilitate illegal activity in the black economy and in phoenix operations". Chris Jordan, 25 October 2017

The big tax (and non-tax) news items in 2017...

January	<ul style="list-style-type: none">• Black Economy Taskforce seeks comments on initial report• Government acts on Superannuation Guarantee non-compliance
February	<ul style="list-style-type: none">• ATO issues Tax Alerts in respect of a range of Research & Development matters
March	<ul style="list-style-type: none">• Stapled Structures Consultation Paper released by Treasury
April	<ul style="list-style-type: none">• ATO wins in Full Federal Court decision against Chevron• Commissioner of Taxation reappointed until 2024
May	<ul style="list-style-type: none">• Release of Interim Report into Black Economy• Draft Practical Compliance Guide on cross border related party loans released• Tax evasion and organised crime investigation Operation Elbrus breaks in media• Federal Budget 2017-18 includes Major Bank Levy• Additional funding of \$16.9M provided for Treasury drafting resources to address backlog of announced but unenacted measures
June	<ul style="list-style-type: none">• Australia signs OECD Multilateral Convention
July	<ul style="list-style-type: none">• Increased penalties for Significant Global Entities commence• Diverted Profits Tax commences operation• Government announces policy decision to cut the corporate tax rate was not meant to apply to passive investment companies• ALP releases policy proposal to tax adult beneficiaries of trusts at minimum rate
August	<ul style="list-style-type: none">• Black Economy Taskforce – additional policy ideas released• Chevron withdraws appeal to the High Court• ATO releases Superannuation Guarantee tax gap
September	<ul style="list-style-type: none">• Long-awaited tax consolidation measures exposure draft legislation released• Reforms to address illegal phoenixing announced• General Purpose Financial Statements guidance released by ATO
October	<ul style="list-style-type: none">• Fate of “Citizenship Seven” decided by the High Court• Large corporate group tax gap estimate released• New whistleblower protections exposure draft legislation released
November	<ul style="list-style-type: none">• US tax reform Bills released• Anti-hybrid exposure draft legislation released• Paradise Papers data breach publicised
December	<ul style="list-style-type: none">• A further batch of politicians are headed for the High Court to discuss citizenship• Senate Inquiry into Corporate Tax Avoidance further extended to 30 May 2018• The ATO publishes its corporate tax transparency report for 2015-16

The future of the Australian tax system

We currently have a two-class tax system in this country. What I mean is that the vast majority of Australians pay tax as they earn it.

Many probably have already done their tax return this year. They might have claimed a couple of vanilla deductions, maybe for their work uniform, if they're fortunate, perhaps some salary sacrificing for their Holden or Ford. This is the economy-class system.

But then there's the business-class tax system. Behind the curtain, on the other side of the rope. It's a different menu, another set of rules for those who can afford to upgrade to the pointy end of the tax system.

Australians with lavish property portfolios, using complex deductions and of course stashing their money in offshore tax havens. Using every tax loophole that money can buy and leaving working and middle class Australians to pick up the tab. Let me be clear: most of this is completely legal – but that doesn't make it right, it doesn't make it fair

- Bill Shorten, Address to the NSW Labor Conference, 30 July 2017

The Labor party seem hell-bent on leaving Australian businesses stranded on a tax island, uncompetitive with the US, uncompetitive with the UK, uncompetitive with our biggest trading partner, China.

- Scott Morrison, Address to the Business Council of Australia, 28 September 2017

Watching Scott Morrison trying to add up numbers is like watching an episode of Survivor or Lost. It's entertaining, but couldn't be further from reality.

- Chris Bowen, Media Release, 14 August 2017

Despite what my opponents are currently saying about me at the moment, I'm not a Soviet-sympathising, nostalgic East German economically trained, Kiwi-colluding, secret British agent.

- Bill Shorten, Address to COSBOA, 25 August 2017

More on citizenship

I have often said that the Deputy Prime Minister is all hat, no cowboy, and now we are entitled to question his right to even wear the hat.

- MP Joel Fitzgibbon, House Debates, 14 August 2017

Making BEPS Country-by-Country reporting public

People call for this to be made public - no-one would give us anything, so there'd be nothing to make public. We've signed up to an international agreement, as with the others, to say that this will occur as long as the information is only provided to tax authorities.

..... it would be a shame to kill the golden goose.

- ATO's Chris Jordan & Jeremy Hirshhorn, 25 October 2017

ATO comments on success of the Multinational Anti-Avoidance Law

As we've said, 18 companies have already restructured their operations, bringing \$6.5 billion worth of sales back into the tax space

- ATO's Mark Konza, 25 October 2017

Whether the ATO needs more tools to tackle corporate tax avoidance

I think we've got it about right. We've got the MAAL, we've got the DPT, we've got the expanded transfer pricing—which hasn't been fully tested yet—and we've got a stronger part IVA, which hasn't been fully tested ... so we're busy implementing what we've got

- ATO's Chris Jordan and Mark Konza, 22 August 2017



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