

ATO warns against profit-shifting arrangements

The ATO is actively reviewing certain arrangements used by multinationals and large companies operating in Australia to ensure they pay the right amount of tax on income they earn here.

Deputy Commissioner, Public Groups, Jeremy Hirschhorn said the ATO has released a series of taxpayer alerts as an early warning to taxpayers and their advisers about emerging profit-shifting arrangements that may lead to tax avoidance.

"Taxpayer alerts set out our concerns on emerging practices. They are an effective tool to stop the marketing, sale and implementation of schemes, support voluntary disclosures from those who may be involved in these schemes, and enhance community confidence in the integrity of our tax system," Mr Hirschhorn said.

"While the majority of large corporates pay the right amount of tax in Australia and are open and transparent in their dealings with us, we are concerned some arrangements may not meet the laws as intended.

"Today we have released four taxpayer alerts on particular areas of concern," Mr Hirschhorn said.

A taxpayer alert on the Multinational Anti-Avoidance Legislation (MAAL) cautions companies and their intermediaries about implementing arrangements to avoid the MAAL, which took effect on 1 January 2016.

Deputy Commissioner, International, Mark Konza said the MAAL was designed to counter the erosion of the Australian tax base by multinational entities using artificial and contrived arrangements to avoid attributing profits to a permanent establishment in Australia.

"Our view is that interim arrangements must reflect the economic and commercial reality of operating in Australia and we continue to engage with taxpayers and review these interim arrangements to ensure they do not themselves amount to tax avoidance schemes," Mr Konza said.

Mr Hirschhorn said a further three taxpayer alerts relate to profit-shifting risks including:

- artificial related-party finance using foreign currency loans and derivatives
- inappropriate recognition and valuation of intangible assets for thin capitalisation purposes
- cross-border leasing arrangements involving mobile assets.

More information

- [Taxpayer alert TA 2016/1 Inappropriate recognition of internally generated intangible assets and revaluation of intangible assets for thin capitalisation purposes \(/law/view/document?Mode=type&TOC=%2203%3ATPA%3A2016%3A%2300001%23TA%202016%2F1%20-%20Inappropriate%20recognition%20of%20internally%20generated%20intangible%20assets%20and%20reval...%3B%22\)](#)
- [Taxpayer alert TA 2016/2 Interim arrangements in response to the Multinational Anti-Avoidance Law \(MAAL\) \(/law/view/document?Mode=type&TOC=%2203%3ATPA%3A2016%3A%2300002%23TA%202016%2F2%20-%20Interim%20arrangements%20in%20response%20to%20the%20Multinational%20Anti%20Avoidance%20Law%20\(MAAL\)%3B%22\)](#)
- [Taxpayer alert TA 2016/3 Arrangements involving related party foreign currency denominated finance with related party cross currency interest rate swaps \(/law/view/document?Mode=type&TOC=%2203%3ATPA%3A2016%3A%2300003%23TA%202016%2F3%20-%20Arrangements%20involving%20related%20party%20foreign%20currency%20denominated%20finance%20wit...%3B%22\)](#)
- [Taxpayer alert TA 2016/4 Cross-border leasing arrangements involving mobile assets \(/law/view/document?Mode=type&TOC=%2203%3ATPA%3A2016%3A%2300004%23TA%202016%2F4%20-%20Cross-border%20leasing%20arrangements%20involving%20mobile%20assets%3B%22\)](#)

Any taxpayer who has, or is thinking of, entering into the above arrangements should seek independent advice, review their arrangement or discuss their situation with us by emailing PGIAdvice@ato.gov.au (mailto:PGIAdvice@ato.gov.au)

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