

### In a nutshell...

On 3 December 2015, *Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015* was passed by Parliament resulting in certain Australian owned private companies losing exemption status from the tax transparency rules and the Australian Tax Office's (ATO) public website disclosures of tax return data. The Bill means that Australian owned private companies are exempt from such disclosures only if reporting total income of less than \$200M in the tax return. This is one of two late amendments in the Bill proposed by The Australian Greens, the other measure being a new requirement that Australian businesses of multinational corporations with global annual income of A\$1Bn or more must lodge general purpose financial statements starting from 1 July 2016.

### KPMG Observations

- The ATO is due to publish the first tax transparency report for the 2013-14 tax return data in the week commencing 14 December 2015.
- As of 4 December 2015, it was unclear whether the Australian owned private companies who have now lost their exemption status (approx. 280 entities) will now be included in the first report.
- *Postscript: the ATO has now provided clarification that affected entities will not be included in the first report. We expect they may be included in an updated report in the new year*

All must be satisfied to be exempt taxpayer...	Tax return indicators	Criteria
An Australian resident private company	Label 3 Status of company: - C1 Resident - D9 Private	The company is a resident company based on ordinary tax residency rules, and is not listed on a stock exchange and not a subsidiary of a listed company.
And... not a wholly-owned subsidiary of a foreign group	Label 1 Ultimate holding company name and ABN or country code	The company is not part of a wholly-owned group that has a foreign resident ultimate holding company
And... not a company with requisite foreign ownership	Label 2A Percentage of foreign shareholdings	Examine the top 10 shareholders of the company at year end. From these top 10 shareholders, identify the foreign shareholders and aggregate their percentage. The percentage needs to be 50% or less for the taxpayer to be exempt.
And...total income is less than \$200M.	Label 6S Total income	Accounting gross income

### ATO tax transparency reporting – legislative development summary

29 June 2013	Law enacted to require the ATO to publish certain tax return information of corporate taxpayers that report total income of \$100M or more, starting from the 2013-14 income year. Refer <i>Tax Laws Amendment (2013 Measures No. 2) Act 2013</i> .
12 November 2015	Law enacted to exempt corporate taxpayers if they are an Australian owned private company. Refer <i>Tax and Superannuation Laws Amendment (Better Targeting the Income Tax Transparency Laws) Act 2015</i> .
3 December 2015	Bill passed both Houses of Parliament to limit the exemption to Australian owned private companies with less than \$200M of total income. Refer <i>Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015</i> .

### Start date

The changes in the Bill to the exemption for Australian owned private companies, applies in relation to the 2013-14 and later income years.