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Let's chat

Checking in on the PSI rules – October 2025

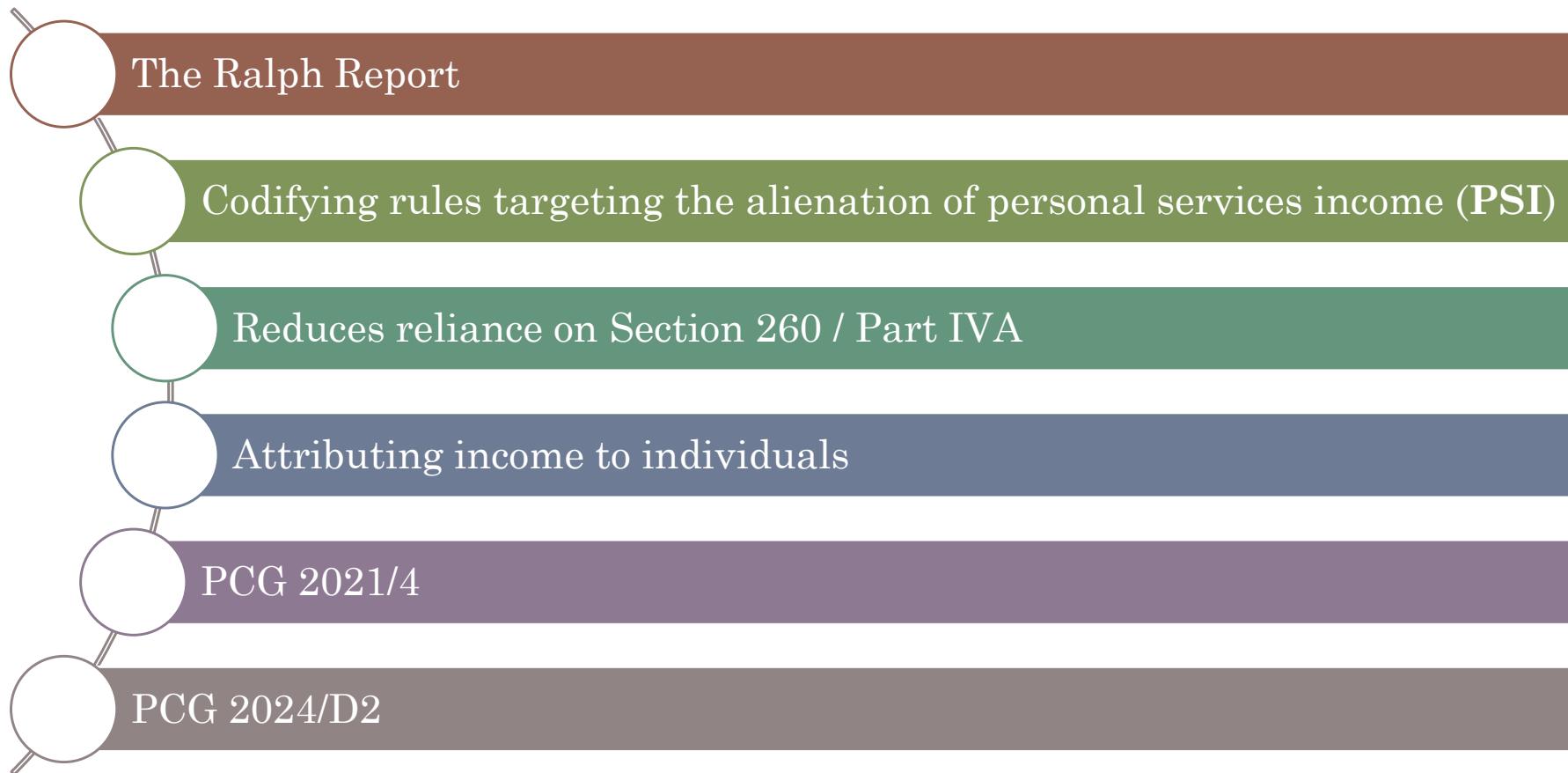
With:

Darius Hii – Tax and estate planning lawyer; Chartered Tax Advisor; and Director at Chat Legal

Information provided is general in nature; precise application depends on specific circumstances



Some history





What is PSI?

Your ordinary income or statutory income, or the ordinary income or statutory income of any other entity, is your personal services income if the income is mainly a reward for your personal efforts or skills (or would mainly be such a reward if it was your income)

- Section 84-5 Tax Act 1997



PSI or not?

Example 1

- NewIT Pty. Ltd. provides computer programming services, but Ron does all the work involved in providing those services. Ron uses the clients' equipment and software to do the work. NewIT's ordinary income from providing services is Ron's personal services income because it is a reward for his personal efforts or skills.

Example 2

- Trux Pty. Ltd. owns one semi-trailer, and Tom is the only person who drives it. Trux's ordinary income from transporting goods is not Tom's personal services income because it is produced mainly by use of the semi-trailer, and not mainly as a reward for Tom's personal efforts or skills.

Example 3

- Jim works as an accountant for a large accounting firm that employs many accountants. None of the firm's ordinary income or statutory income is Jim's personal services income because it is produced mainly by the firm's business structure, and not mainly as a reward for Jim's personal efforts or skills



A wide definition

Explanatory memorandum

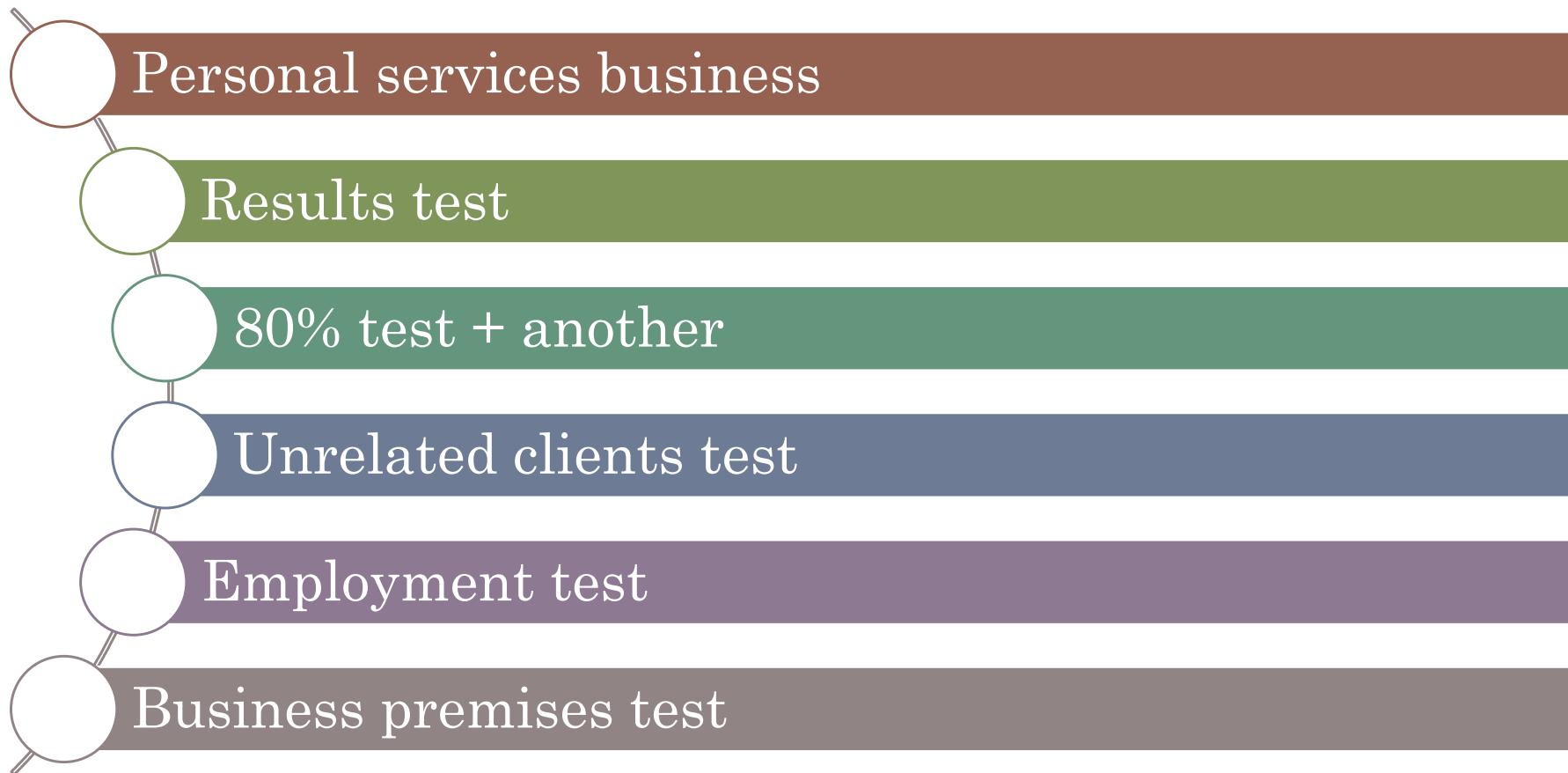
- Salary or wages
- Income of a professional person practising on their own account without professional assistance
- Income payable under a contract which is wholly or principally for the labour or services of a person
- Income derived by a professional sports person or entertainer from the exercise of his or her professional skills. This does not include income from endorsement by the person of a sponsor's products
- Income derived by consultants from the exercise of personal expertise.

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- "*The use of the word 'mainly' means that the income referred to needs to be 'chiefly', 'principally' or 'primarily' a reward for the provision of the personal efforts or for the exercise of the skills of an individual. That is, more than half (50%) of the ordinary or statutory income received is required to be a reward for the personal efforts and skills of an individual rather than being generated by the use of assets, the sale of goods or by a business structure*"



Exceptions to the rule





What is PSI?

Divisions 85 and 86 do not apply to personal services income that is income from conducting a personal services business.

It is not intended that the Divisions apply to independent contractors.

A personal services business exists if there is a personal services business determination or if one or more of the 4 tests for what is a personal services business are met

- Section 85-1 Tax Act 1997



Results test

Requirements

- At least 75% of personal services income satisfies following 3 conditions
- Income is for producing a result
- Individual is required to supply the plant and equipment, or tools of trade, needed to perform the work from which the individual produces the result
- Individual is, or would be, liable for the cost of rectifying any defect in the result

Cases and takeaways

- Douglass – leading a team to produce a result does not satisfy results test
- IR Technical Services – paid by the hour to produce results as part of a team designing and constructing a plant does not satisfy results test
- Skiba – paid by the hours and was provided with equipment and not required to remedy defects
- Raj Taneja – paid by the hour under four different contracts and **not** for a specific result



Unrelated clients test

Requirements

- Income gained or produced from providing services to 2 or more entities that are not associates of each other and are not associates of the individual or of the personal services entity
- Services are provided as a direct resolute of the individual or personal services entity making offers or invitations (for example, by advertising), to the public at large or to a section of the public, to provide the services

Cases and takeaway

- Fortunatow – LinkedIn profile but contracts obtained through a separate intermediary (some of whom identified the taxpayer through LinkedIn but not all). Causal connection required between making offers and obtaining the services
- Yalos Engineering – Okay to make offers to small number of large corporations if usually the case in the industry
- Cameron – word of mouth not enough to make offers to sections of public



Employment test

Requirements

- One or more entities (other than associates) to perform work
- Performs at least 20% (by market value) of the principal work

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- Accepts a calculation $\% = (\text{market value amount} / \text{contract price}) \times 100$
- Where not clear, additional analysis required to separate out value of work of the employee



Business premises test

Requirements

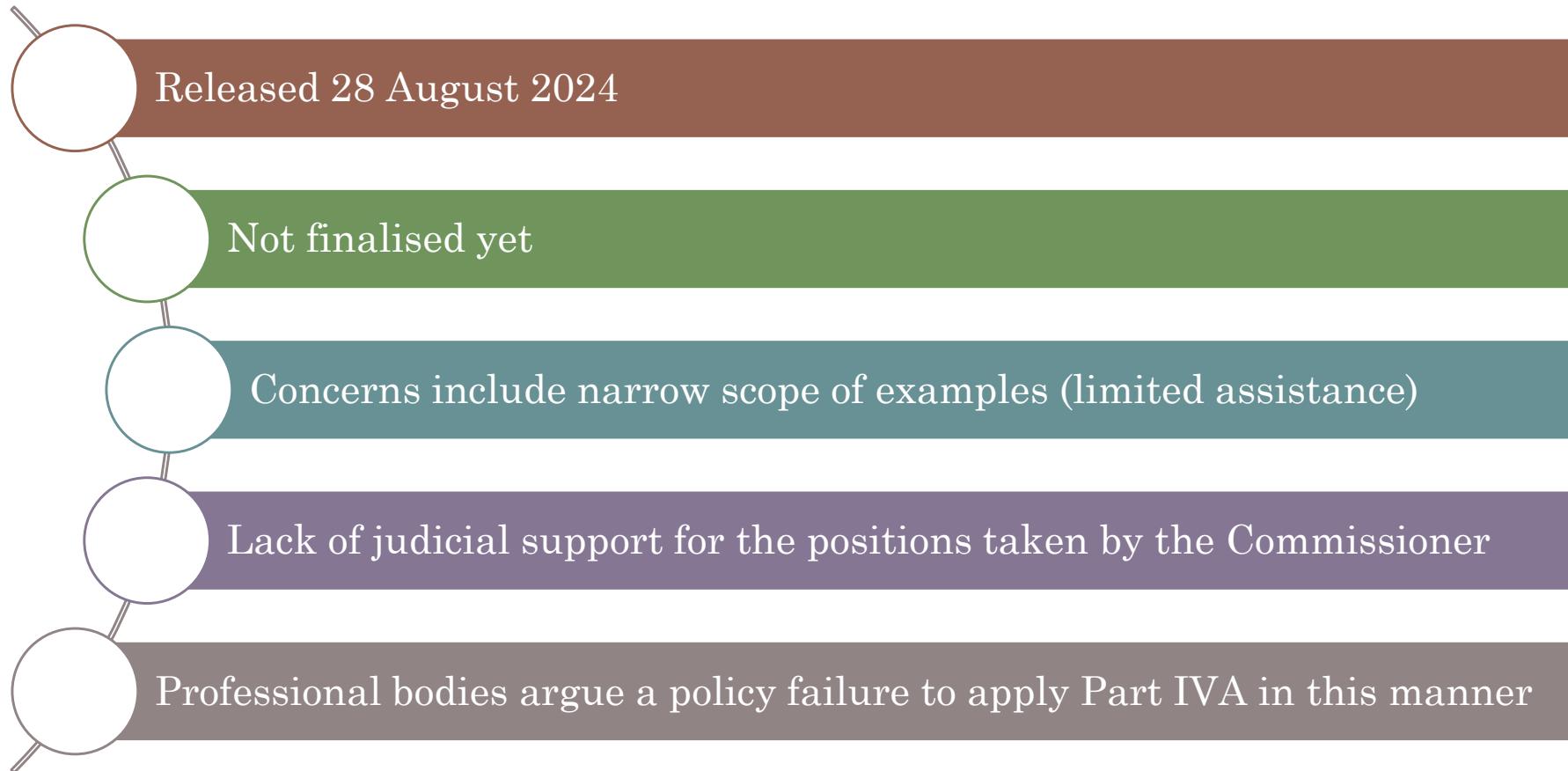
- Premises maintained and used to conduct activities from which personal services income gained or produced
- Exclusive use
- Physically separate from any premises used for private purposes of the taxpayer
- Physically separate from the premises of an associate entity of the taxpayer who provides services to

Case and takeaway

- Dixon and Consulting – premises not physically separate from location used for private purposes

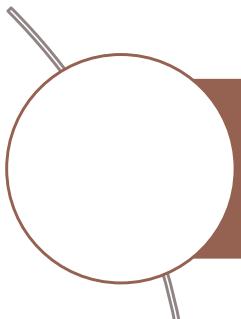


PCG 2024/D2

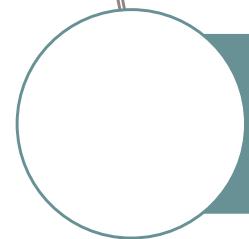




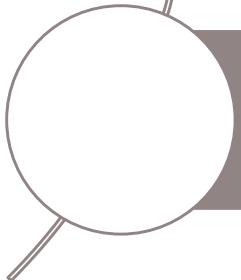
User beware



No Part IVA cases on alienation of income since introduction of PSI rules



Part IVA cases requires an analysis of Part IVA provisions (less bright line than PSI rules)



Part IVA cases come pre 2000, led famously by the 'Doctor cases'



Final takeaways

- PSI rules apply unless you are a personal services business
- Personal services businesses should consider scope of Part IVA
- PCG 2024/D2 applicable for micro businesses
- PCG 2021/4 another consideration on the application of Part IVA
- Risk and reward analysis – who knows the thresholds

Contact details

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