



## ATO Update

### STP and Superannuation

In a presentation at the Australian Institute of Superannuation Trustees Chairs Forum, the ATO's Deputy Commissioner confirmed that as a result of STP, the ATO now has an "unprecedented level of visibility" of super information.

In particular, the ATO's examination of Super Guarantee ('SG') contributions of some 75 million payment transactions for the first three quarters of 2019 (for approximately 400,000 employers) has shown that 90 - 92% of contribution transactions by volume and 85 - 90% of transactions by dollar value were paid on time.

The ATO is now starting to actively use this data to warn employers who appear not to be paying the required SG on time (or at all).

As a result, it has notified 2,500 employers that they have paid their SG contributions late during 2019. Due-date reminders were also sent to a further 4,000 employers.

### New Black Mark on Credit Rating

The Australian Taxation Office (ATO) can now disclose business tax debt information to registered credit reporting bureaus.

This is a new and unprecedented power for the ATO. And it is part of the government's strategy to reign in overdue tax and improve transparency and visibility; and to encourage businesses to engage with the ATO about its taxation debts.

The ATO's criteria for business debts being disclosed to creditor reporting bureaus is as follows:

- The business has an ABN; and
- The business's tax debts to the ATO are at least \$100,000 and are overdue by 90 days or more; and
- The business is not considered to be actively engaging with the ATO to manage its tax debt.

However the reporting to the credit bureaus is not automatic. First the ATO must notify the business in writing of its intentions, and give them 28 days to engage with the ATO to manage their tax debt.

Clearly there has never been a more important time to engage with the ATO to manage unpaid tax, and the strategy of buying more time by "burying your head in the sand" is a thing of the past.

## Office Christmas Closure

Our office will be closing at 5:30pm on Friday 20<sup>th</sup> December 2019, and will re-open at 8:30am on Monday 6<sup>th</sup> January 2020.

*We wish to thank all our clients and friends for your ongoing support and wish you a safe and enjoyable Festive Season.*

## Staff Update

### Heather McPhee

Heather is the proud grandmother of Matilda, born on 16<sup>th</sup> September, to parents Sandi and Cam.

To assist you with planning appointments we wish to advise of the following staff members work changes:

### Dallas Landwehr

Dallas will be away on leave for all of January 2019. He will be in the office a few hours per week during this period, and contactable via email.

### Sharon Robertson

Sharon will be away on leave for two weeks, commencing from Monday 20<sup>th</sup> January 2020. She will return to work on Monday 3<sup>rd</sup> February.

## Christmas Parties And Employee Gifts

The provision of a Christmas party to an employee may be a minor benefit and exempt from Fringe Benefits Tax (FBT) if the cost of the party is **less than** \$300 per employee and held on the business premises or worksite on a working day.

### Tax Deductibility Of A Christmas Party

The cost of providing a Christmas party is income tax deductible only to the extent that it is subject to FBT. Therefore, any costs that are exempt from FBT (ie. exempt minor benefits) cannot be claimed as an income tax deduction.

The cost of entertaining clients is not subject to FBT and is not income tax deductible.

### Gifts Provided To Employees

Gifts are tax deductible if they cost if they cost less than \$300 per employee and are not considered entertainment. This could include a Christmas hamper, a bottle of whiskey or wine, perfume, flowers, or a gift voucher.

Excluded from the list are tickets to attend the theatre, sporting event, movie, or similar entertainment items.

A GST credit can be claimed, except for gift vouchers.

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## New Gift Card Laws

If your business sells gift cards or vouchers you'll need to comply with new laws which came into effect from 1 November 2019.

### New Legal Requirements

- Mandatory minimum **three year expiry** period from the date the card is sold to a customer;
- gift cards must clearly show the **expiry date**;
- most **post-purchase fees** can no longer be charged, including activation fees, account keeping fees and balance enquiry fees.

The new laws apply to all gift cards and vouchers sold from 1 November 2019 onwards. Any gift card sold before 1 November 2019 date will continue to carry the same expiry period and fees as applicable at the time of purchase.

### What Is Included and Excluded

The new law applies to all gift cards or vouchers sold on or after 1 November 2019, unless specifically excluded. This includes gift cards for online stores that trade in Australia.

The three year requirement **does not** apply to gift cards that are:

- Able to be reloaded or topped up;
- For a good or service available for a limited time where the card or voucher expires at the end of that period;
- Supplied to a purchaser of goods or services as part of a temporary marketing promotion;
- Donated free of charge for promotional purposes;
- Sold for a particular good or service at a genuine discount;
- Supplied as part of an employee rewards program;
- Given as a bonus in connection with a purchase of a good or service for use in the same business (customer loyalty programs);
- Second-hand gift cards.

### What are the penalties for non-compliance?

If you breach the laws you could be fined \$30,000 in the case of a body corporate or \$6,000 for individuals.



## \$30,000 Instant Asset Write Off

The ATO is reminding businesses that are looking to expand or improve their business and thinking of buying new or second hand assets, that businesses with a turnover up to \$50 million are eligible for the instant asset write-off.

This now applies to assets that cost less than \$30,000\*\* and which were purchased and first used or installed ready for use from 7:30pm (AEDT) on 2 April 2019 to 30 June 2020.

Eligible businesses may purchase and claim a deduction for each asset that costs less than the \$30,000 threshold.

For assets over \$30,000 the general depreciation rules apply (which may vary depending on the entity).

\*\* Note: where entities are registered for GST and can claim the GST on the asset, the \$30,000 threshold is the GST exclusive amount.

## Reporting Asset Disposals for CGT

As the ATO's data-matching capabilities increase, they are paying close attention to capital gains made on shares, property and cryptocurrency.

Therefore, it's important to let us know about any asset disposals (which can include an asset's sale, loss or destruction) and to keep records relating to CGT events, including asset disposals, for at least five years after the year in which the event occurred (and maybe longer if you make a capital loss).

Good records will also help to work out a capital gain or loss correctly.

## ATO recommends updating ABN details for disastrous reasons

The ATO has provided a novel, though important, reason for businesses to update their ABN details: to help businesses to manage the coming disaster season.

ABN details are used by emergency services and government agencies to help identify and contact businesses during times of emergency and potential disaster.

Therefore, to make sure they don't miss out on receiving important information, the ATO asks that businesses update their ABN details, including authorised contacts, physical location, email and phone number.

Also, if a taxpayer is no longer in business, the ATO asks they cancel their ABN so they aren't contacted unnecessarily.

## Employers of working holiday makers

Any employer can hire a working holiday maker, especially when they need labour for a short period. You can identify a working holiday maker as they will hold a Working Holiday visa (subclass 417) or Work and Holiday visa (subclass 462).

Working holiday makers are taxed at 15% from the first dollar earned, regardless of their residency status. Working holiday makers can't claim the tax-free threshold and must provide their tax file number (TFN). If they don't, you need to withhold tax at the top rate (currently 45%).

Working holiday makers are entitled to superannuation, if they are eligible.

**Important:** you should not employ, or pay someone for work, if they don't have permission to work in Australia.

### What you need to do

To employ a working holiday maker in Australia on a visa subclass 417 or 462, you:

- Should check your worker has the correct visa using the [Visa Entitlement Verification Online](#) service; and
- Must register with the ATO to withhold tax at the working holiday maker tax rate before making your first payment to them. Penalties may apply if you fail to register.

### How to tax a working holiday maker

Once you register, you must withhold 15% from every dollar earned up to \$37,000. The tax rates change for amounts above this.

If an employee, who has been a working holiday maker, advises you they are no longer on a working holiday visa, you need to withhold tax at a different rate from then on.



## Using The Cents Per Kilometre Method

The 'cents per kilometre' method broadly allows an individual taxpayer to claim up to a maximum of 5,000 business kilometres per car, per year without the need to keep any written evidence (e.g., receipts) of car expenses.

Importantly, taxpayers making a 'cents per kilometre' claim are required to demonstrate that they worked out the number of business kilometres they claimed on a reasonable basis.

Taxpayers claiming under this method will generally fall into one of two categories, being either those who undertake a regular or irregular pattern of work-related travel.

If a taxpayer has a regular pattern of work-related travel (e.g., a 60 kilometre round trip to the warehouse to pick up supplies twice a week, 40 weeks in the year), then this type of explanation would generally be sufficient to justify the claim.

However, if the taxpayer has an **irregular pattern of work-related travel**, then they would need to make a note (e.g., in a diary) of each trip.

## Employee Or Contractor

At times working out whether you are engaging a worker or a contractor can be difficult to determine. For this reason the ATO have created an [Employee or contractor decision tool](#).

You can use the Employee/contractor decision tool to work out if your worker is an employee or contractor for tax and super purposes. Simply answer questions about the working arrangement and you'll generate a report that you can keep for your records. If you answer each question accurately and honestly, you can rely on the results.

### Workers That Are Always Employees

Any of the following types of workers are always treated as employees:

- Apprentices
- Trainees
- Labourers
- Trades assistants

### Companies, trusts and partnerships are always contractors

An employee must be a person. If you've hired a company, trust or partnership to do the work, then it is a contracting relationship for tax and super purposes. The people who actually do the work may be directors, partners or employees of the contractor but they're not your employees.

### Labour hire or on-hire arrangements

If you have obtained your worker through a labour hire (or on-hire) firm and pay that firm for the work undertaken in your business, then your business has a contract with the labour hire firm and they are responsible for the PAYG withholding, super and FBT obligations.

### Hiring individuals

If you've hired an individual, it is the details within the working agreement or contract that determines if they are a contractor or employee for tax and super purposes. The agreement or contract your business has with the worker can be written or verbal.

## SMSs From the ATO to SMSFs

As a general rule, the ATO does not usually send out SMS/text messages. Their SMSs will never ask you to reply by text or email, nor to provide personal information.

If you are unsure about any phone calls/SMS/emails saying they are from the ATO, please feel free to contact our office to verify them.

However, to protect your retirement savings from fraud and misconduct, the ATO may send you an email and/or a text message when changes are made within your self-managed super fund (SMSF).

To ensure you receive the messages, [update your contact details](#) with the ATO including your mobile number and email address.

The changes could include updates to the SMSF financial details or member information.

If you're concerned the changes have been made incorrectly and without your knowledge, first speak with the other trustees or the authorised agent of your SMSF.