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Taxwise Business News

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More small business tax measures are now law

On 26 August 2015 the Tax Laws Amendment (Small Business Measures No 3) Act 2015 received Royal Assent. The Act makes amendments in the following areas:

- tax discount for unincorporated small businesses;
- immediate deductibility for small business start-up expenses;
- fringe benefits tax exemption for portable electronic devices for small businesses.

A previous edition of TaxWise Business detailed these measures. In summary:

- Tax rate cut for unincorporated business entities – this involves a 5% tax discount for individual taxpayers capped at $1,000 with business income from an unincorporated business with an aggregated annual turnover of less than $2 million will be introduced from the 2015-16 income year.
- Professional expenses – new businesses will be able to claim an immediate deduction for professional expenses (e.g. for the cost of advice from lawyers, accountants and other professionals) associated with starting a business from the 2015-16 income year.
- Electronic devices and FBT – this involves a fringe benefits tax exemption for portable electronic devices used primarily for work purposes will be expanded from 1 April 2016.

To do!

Now that these measures have become law, you should speak to your tax agent about whether and how they might apply to your business.

Small business tax measures – regulatory costs

The Commonwealth Treasury has made estimates of the likely regulatory costs of several of the small business tax measures announced in the 2015-16 Budget which have subsequently been enacted.

- Tax discount for small unincorporated businesses - Treasury estimates that the measure will **increase** regulatory costs on small businesses by $15.6 million a year due to system changes for taxpayers and their tax agents.
- Small business company tax cut – Treasury estimates that the measure will **increase** regulatory costs on small businesses by $3.2 million a year due to system changes for taxpayers and their tax agents.
- Expanding accelerated depreciation for small businesses – Treasury estimates that the measure will **reduce** regulatory costs on small businesses by $6.1 million a year for the two years the measure is in place by reducing record keeping costs.
- Accelerated depreciation for primary producers – Treasury estimates that the measure will **reduce** regulatory costs for primary producers by $1.4 million per year by reducing record keeping requirements.

GST determinations

The ATO has made a number of legislative determinations affecting various aspects of GST law, as follows:

- Recipient created tax invoice (RCTI) determinations;

- Acquisition of second-hand goods - global accounting method;
- Telecommunication supplies through enterprise not carried on in indirect tax zone;
- Direct Entry Services - waiver of tax invoice requirements;
- Representatives of incapacitated entities - cash basis of accounting for GST;
- Gas and electricity retailers - extension of time to issue adjustment note;
- Supplies by electricity distributors to electricity retailers - extension of time to issue adjustment note;
- Supermarkets or convenience stores - simplified GST accounting method
- Margin scheme valuation requirements; and
- Distribution of multi-media products - application of intermediary arrangements.

GST treatment of cross-border transactions4/2

There is currently exposure draft legislation out in relation to two measures affecting supplies made from overseas into Australia to:

- extend GST to digital products and other services imported by consumers; and
- amend the 'connected with Australia' rules to minimise compliance costs for non-resident suppliers who deal with Australian-based businesses while maintaining the integrity of the GST base.

This exposure draft is likely to be tabled in Parliament and entered into law in the near future.

To do!

A number of these determinations may have an impact on your business' GST registration. Talk to your tax adviser about any possible implications for your business.

Note!

These changes may have implications for potential GST obligations for your business if you have cross-border transactions and deal with suppliers from overseas.

Individual interest of retiring partner - TD 2015/19

In October, the ATO finalised Taxation Determination **TD 2015/19** "Income tax: if a retiring partner is entitled to an amount representing their individual interest in the net income of the partnership for an income year, will section 92 of the Income Tax Assessment Act 1936 apply?"

The determination sets out the Commissioner's position on a retiring partner's individual interest in net income for the partnership for an income year.

Subject to paragraph 3 of the Determination, the partner's individual interest in the net income of the partnership is included in the partner's assessable income under section 92 for the income year regardless of:

- how the amount the partner is entitled to is labelled or described (including whether it is expressed to be consideration for something provided or given up by the partner);
- the timing of the partner's retirement (including whether he or she retires before the end of the income year); and
- the timing of any payment.

However, the partner's individual interest in the net income of the partnership is not assessable under section 92 to the extent that it is attributable to both a period when the partner was not a resident of Australia, and sources outside of Australia.

We previously alerted readers to this Determination in an earlier edition of *TaxWise Business.*

To do!

If you are part of a partnership, now that the Taxation Determination has been finalised particularly if you or one of your partners is close to retiring from the partnership, you should seek advice from your tax adviser about how this Determination might affect you.

Simplifying and reducing the harshness of the Superannuation Guarantee Charge

There is draft legislation out that will amend the superannuation guarantee charge laws to simplify the laws and reduce the associated harshness of penalties under these laws.

Under the current law, employers must make quarterly superannuation guarantee (SG) contributions for their eligible employees to avoid having to pay the SG charge to the ATO. The SG charge regime imposes punitive costs to deter employers from paying their SG contributions late or in part. This can have a significant impact on small businesses.

As a part of the announced changes, the SG charge will be simplified by aligning the earnings base for calculating the SG charge (currently total salary and wages) with the earnings base for calculating SG contributions (ordinary time earnings).

The changes will also reduce the harshness of the SG charge by aligning the interest component on any SG shortfall with the period contributions that are outstanding. These changes will also remove the additional penalties under the current superannuation guarantee administration laws and align them with the administrative penalties under the Taxation Administration Act 1953.

These changes complement two other measures to reduce small business superannuation compliance costs; expansion of the small business superannuation clearing house and simplifying when a standard choice form must be provided by an employer. Both of these changes have applied since 1 July 2015.

SuperStream compliance flexibility – deadline approaching

The ATO has issued a **reminder** that large and medium employers must be SuperStream compliant by no later than 31 October.

The ATO previously announced it would allow these employers (those with 20 or more employees) an additional four months to adopt SuperStream, following the 30 June deadline. At the time of issuing this reminder, the ATO said from 1 November 2015, it would turn its attention to identifying those employers not compliant with SuperStream.

The ATO will continue to help employers adopt SuperStream, but there could be penalties for those who deliberately choose not to adopt it.

The ATO has published a **checklist** for employers to assist them to prepare to make super contributions for their employees using SuperStream. Employers should note that:

- Employers with 20 or more employees need to be using SuperStream no later than **31 October 2015.**
- Employers with 19 or fewer employees need to be using SuperStream no later than 30 June 2016.

SuperStream - industry segment information

During the next few months, the ATO will be contacting small business employers that may not yet be using SuperStream to make super contributions. The ATO plans to contact employers in 22 industry groups.

Employers will receive a SMS message advising SuperStream has started and an email inviting them to register to attend an industry specific SuperStream webinar. The relevant industry groups are:

- Pharmacy and cosmetics
- General Practitioners, Dentists and Specialists
- Cafes and Restaurants, Catering & Take-away
- Fruit, Veg & Floristry
- Farming (livestock and crops)
- Hairdressing and Beauty Services
- Trades
- Automotive & Repair
- Engineering & Technical Services
- Bus & Taxi
- Road Freight
- Consulting (Management & IT)
- Banking & Finance / Insurance & Super
- Accommodation, Pubs & Clubs
- Food & Grocery
- Manufacturing – general
- Building & Employment Services
- Metals & Engineering
- Other specialist & boutique
- Accounting & Legal
- Hospitals, Clinics, Aged Care, Accommodation & Allied
- Education & Training

To do!

See your tax agent to ensure your business is meeting its SuperStream obligations.

SMSF Compliance

a) Lodgement of SMSF annual returns

The ATO has issued a reminder that once the audit of a self-managed superannuation fund (SMSF) has been finalised, an annual return should be lodged. The SMSF annual return is used to report income tax, regulatory information and member contributions, and to pay the supervisory levy.

If a fund was registered on or after 1 January 2015, it must lodge an SMSF annual return for the year it was registered, regardless of the amount of assets it holds, and even if a nil tax assessment is expected.

If a fund was registered before 1 January 2015 and does not have assets, it may not need to lodge a return.

b) Changes to "return not necessary" for SMSFs

The ATO has issued a **reminder** that every self-managed super fund (SMSF) registered on or after 1 January 2015 must now lodge an annual return for its first year, regardless of the assets it holds or if a nil tax assessment is expected.

If the SMSF was registered before 1 January 2015 and does not have assets, the ATO can be requested to either:

- cancel the registration, or
- flag the record as "return not necessary" (RNN).

A RNN is generally only available for a SMSF's first year of registration.

c) SMSFs must have active electronic service addresses

All self-managed superannuation funds now need to be able to receive SuperStream-compliant contributions.

To do this, an SMSF needs a bank account to receive the contributions, an active electronic service address to receive data associated with contributions, and an ABN.

An SMSF trustee can get an active electronic service address from an SMSF messaging provider, or through the SMSF's administrator, tax agent, accountant or bank.

To do!

Do you have an SMSF? If so, check with your tax agent to make sure it has met all the relevant compliance requirements, including having an active electronic service address.

Personal services income

The ATO has updated its **personal services income (PSI) page** in consultation with tax professionals and small businesses to make it easier to understand and navigate.

The ATO is also developing a PSI decision tool to make it easier to work out if the PSI rules apply. It is expected to be finalised by the end of the year. The ATO will advise when this tool becomes available.

Note!

If you derive personal services income through an entity you own, your tax agent or adviser is the best person who can inform you of your obligations under the tax law and ensure you are meeting your compliance obligations.

Data matching program - credit and debit cards 2014-15

The ATO is going to be collecting data relating to credit and debit card payments to merchants for the periods from 1 July 2014 to 30 June 2015.

The data will be collected from the following financial institutions:

- American Express Australia Limited
- Australia and New Zealand Banking Group Limited
- Bank of Queensland Limited
- Bendigo and Adelaide Bank Limited
- BWA Merchant Services Pty Ltd
- Commonwealth Bank of Australia
- Diners Club Australia
- National Australia Bank Limited
- St George Bank
- Tyro Payments Limited
- Westpac Banking Corporation.

The data requested will include information that enables the ATO to match merchant accounts to a taxpayer, including name, address and contact information as well as information on the number and value of transactions processed for each merchant account. This acquired data will be electronically matched with certain sections of ATO data holdings to identify possible non-compliance with taxation law.

The purpose of this data matching program is to ensure that merchants are correctly meeting their taxation obligations in relation to their business income. These obligations include registration, lodgement, reporting and payment responsibilities.

Data matching program - ride sourcing

The ATO is undertaking a data matching program through which data will be obtained to determine which individuals might be engaged in providing ride sourcing services.

Details of all payments to ride sourcing providers from identified accounts held by ride sourcing facilitators with various financial institutions will be requested for those financial years. Ride sourcing facilitators provide an electronic platform enabling members of the public to engage the services of a ride sourcing provider (e.g., a driver).

The data acquired will be electronically matched with certain sections of ATO data holdings to identify taxpayers that can be provided with tailored information to help them meet their tax obligations, or to ensure compliance with taxation law.

The ATO will obtain the following data items from the source entities:

- payee account name;
- payee BSB;
- payee account number;
- date of payment to the payee; and
- amount of payment to the payee.

Data matching program - Online selling

The ATO is undertaking a data matching program through which information about registrants who sold goods and services to a value of $10,000 or more during the period 1 July 2014 to 30 June 2015 online will be obtained.

Data will be sought from eBay Australia and New Zealand Pty Ltd, a subsidiary of eBay International AG which owns and operates **www.ebay.com.au**.

The data requested will include information that enables the ATO match online selling accounts to a taxpayer, including name, address and contact information as well as information on the number and value of transactions processed for each online selling account. This information will be matched electronically with certain sections of ATO data holdings to identify possible non-compliance with taxation law.

It is estimated that records relating to between 15,000 and 25,000 individuals will be matched.

Small business superannuation clearing house

The ATO has **advised** that advisors and their clients who are having difficulty accessing the small business superannuation clearing house (SBSCH) should ensure they are using the correct link to access SBSCH by visiting **Superannuation Clearing House - Logon.**

EmployerTICK enhancements

The ATO has **advised** that an enhanced EmployerTICK version 2 will be available from November.

EmployerTICK is an optional service used by employers (and their intermediaries) to validate employee identity details.

EmployerTICK version 2 will be deployed in Standard Business Reporting version 2(SBR2). Some of the potential benefits of using EmployerTICK version 2 include:

- the functionality to return a corrected tax file number;
- simplified interactions;
- maximised automation; and
- reduced costs.

SBR enables employers and tax professionals to report without having to log on to each individual government agency website and transcribe the information from their account systems into each agency's form. SBR2 is the current version.

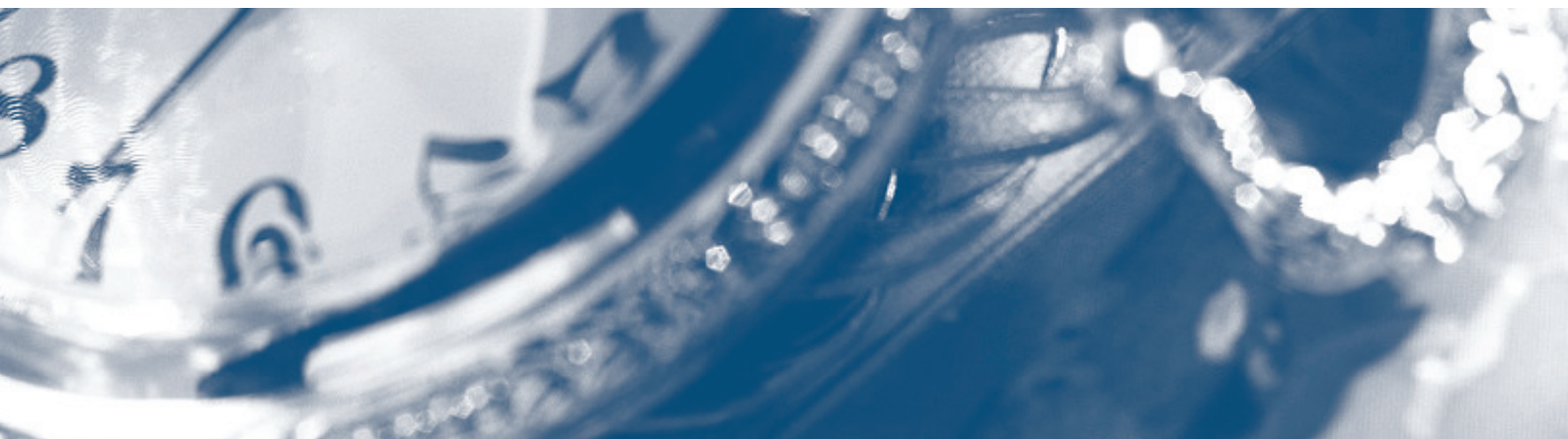
Single Touch Payroll consultation complete

In previous editions of *TaxWise Business*, it was noted that the ATO was consulting on the Single Touch Payroll proposal. The ATO has now advised that consultation on Single Touch Payroll with representatives from large businesses, industry and software developers has been completed and included in a summary to government.

Under Single Touch Payroll, employers' accounting software will automatically report payroll information to the ATO when employees are paid.

This will eliminate the need for employers to report employee-related Pay As You Go Withholding (PAYGW) in their activity statements throughout the year and employee payment summaries at the end of the year.

In addition, the Government will streamline Tax File Number declarations and Super Choice forms by providing digital services to simplify the process of bringing on new employees.



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