TaxWise

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CERTIFIED PRACTISING ACCOUNTANTS

Business News February 2019

Focus on small business

What the ATO is seeing in the small business market

On 2 November 2018, the Deputy Commissioner of Small Business, Deborah Jenkins, delivered a keynote address at a conference run by a national accounting body outlining the main tax issues the ATO is seeing in small businesses. These are:

- claiming private expenses through the business;
- how to attribute business and private use to an asset;
- how tax applies to different tax structures used for small business that may be complex and varied;
- not always including all taxable income.

Other easily avoidable errors were also identified.

Other areas of focus include:

- cracking down on the 'Black Economy';
- assisting small businesses to manage their cash flow and tax debt; and
- Single Touch Payroll (STP).

Here is a link if you would like to read the Deputy Commissioner's speech in detail.

To do!

Always seek advice from your tax agent or tax adviser to ensure you are getting all your tax obligations right.

Motor vehicle expenses - how to get them right

The ATO has published a new factsheet on motor vehicle expenses to help small businesses get this right.

The small business motor vehicle expenses fact sheet will help you answer common questions about:

- types of motor vehicle expenses you can claim;
- methods you can use to calculate your claim;
- private use of a business car;
- whether your vehicle is considered to be a car, and how this affects your claim; and
- records you need to keep.

If you use motor vehicles in your business, this fact sheet is for you.

Disqualifying directors of phoenix companies

In November 2018, the Australian Small Business and Family Enterprise Ombudsman, Kate Carnell, supported the proposal made by the Shadow Assistant Treasurer, Andrew Leigh, to allow the Commissioner of Taxation to apply to ASIC to have directors who don't meet their tax obligations disqualified in egregious cases.
The ALP would also put in place 'name and shame' powers.

Directors involved in phoenix activity deliberately shut down companies to avoid their obligations to small businesses, employees and the Government (including the ATO).

In response, Ms Carnell stated: "This is another approach that could help deal in part with the problem of company phoenixing, which destroys small businesses".

To read more of Ms Carnell's response, go here.

Supporting Indigenous small business

The ATO is committed to supporting small businesses run by Indigenous Australians. They have dedicated staff on the Indigenous Helpline who specialise in

helping Aboriginal and Torres Strait Islander people understand their tax and superannuation obligations in their small business.

The Helpline number is 13 10 30 (8.00am to 6.00pm, Monday to Friday, except public holidays).

Tip!

If you are starting a small business, your tax adviser will be able to assist you with working out the best structure for your business, understanding your tax and superannuation obligations and meeting those obligations on time.

Don't forget about the small business income tax offset

If you run your business as a sole trader, or receive a share of small business income from a trust or partnership, don't forget you may be able to save up to $1,000 on your tax bill by claiming the small business income tax offset.

The offset is worked out based on the proportion of income tax payable on your business income.

Your business aggregated turnover must be less than the relevant threshold – see the following table:

Income Year (s)	Aggregated turnover threshold	% Rate of offset	Maximum offset amount
2016	$2,000,000	5%	$1,000
2017 - 2020	$5,000,000	8%	$1,000
2021	$5,000,000	13%	$1,000
2022	$5,000,000	16%	$1,000

Note!

You cannot claim the small business income tax offset if you run your business through a company. Talk to your tax agent about what other small business tax concessions you may be eligible for.

Instant asset write-off for small businesses extended and increased

Small businesses will get an extra tax break following the recent announcement by the Government that the instant asset write-off scheme will be extended to 30 June 2020 for assets purchased under $25,000 in value.

Small businesses will be able to immediately deduct assets costing less than $25,000 instead of claiming

deductions over a number of years. The new increased threshold of $25,000 applies from 29 January 2019 (instead of $20,000). There is no limit on how many assets can be claimed.

Tip!

A helpful tip from the Australian Small Business and Family Enterprise Ombudsman, Kate Carnell: "Small and family businesses need to remember that this is a tax deduction, not a rebate. So you need to have sufficient profit to write off the new asset against."

Taxable payments reporting system expanding

The Taxable payments reporting system (TPRS) is slowly being expanded to cover more and more industries. It first started with the building and construction industry and from 1 July 2018 also includes contractors that provide courier and cleaning services. Businesses that make payments to contractors in these industries will need to lodge their first annual report by 28 August 2019.

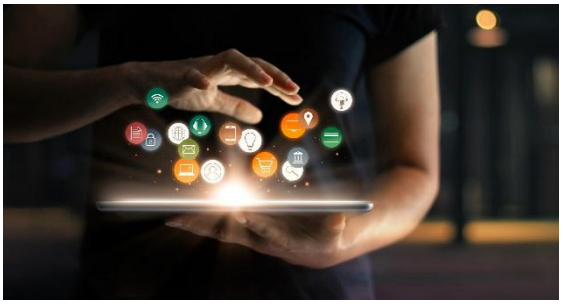
The ATO has issued some guidance (LCR 2018/8) on how these rules will apply. Your tax agent or tax adviser will, of course, be able to assist you to meet your reporting obligations.

In late November 2018, legislation was passed to further expand the TPRS to contractor payments in the following industries:

- security providers and investigation services;
- road freight transport; and
- computer system design and related services.

Businesses will be required to lodge their first annual report for payments in these industries by 28 August 2020.

The ATO has issued some digital resources, fact sheets and webinar recordings to assist taxpayers to understand their reporting obligations. However, your primary resource for assistance is your tax agent or adviser.



Digital economy

The digital economy and Australia's corporate tax system

The Government is working with other countries, through the G20 and the OECD, to develop sustainable, multilateral responses to address the challenges to our tax system arising from digitalisation. A discussion paper was issued by Treasury for comment by 30 November 2018 to explore options to move towards a fairer and more sustainable tax system for the digitalised economy.

E-commerce and digital economy outcomes for the Tax Avoidance Taskforce

The rapidly evolving nature of the e-commerce and digital economy industry has significantly transformed the way multinational enterprises conduct their operations. This has resulted in complex arrangements being used as well as new, emerging business models. Consequently, highly complex and often unique business and financial structures are used by these enterprises, usually aiming to minimise tax obligations.

As a result of the proliferation of these artificial structures aimed at tax minimisation, this industry was chosen by the ATO as a focus area in the ATO's ongoing efforts to ensure an even playing field for all taxpayers.

As part of the work undertaken by the Tax Avoidance Taskforce, the ATO has done substantial compliance work focusing on the e-commerce and digital economy industry.

Multinational enterprises operating in this industry have significantly increased the profits declared and the tax they pay in Australia as result of the ATO's efforts. The playing field is starting to level out.

Single Touch Payroll

Smaller employers – when to use Single Touch Payroll

If you are an employer with **19** or less employees, you should consider switching to reporting through Single Touch Payroll (STP).

Though you are not yet required to report through STP, you will be from **1 July 2019**. If you use online or cloud-based payroll software, you may be able to start reporting now.

You will need to report payments such as salary and wages, Pay As You Go (PAYG) withholding and super information when you pay your employees.

Low-cost Single Touch Payroll solutions for micro businesses

A range of simple, low-cost Single Touch Payroll solutions are expected to be available in the market from early 2019. These solutions will best suit micro employers (with one to four employees) who need to report through STP, but do not currently have payroll software.

There is a list of software companies on the ATO website that intend to develop solutions for micro businesses.

Tip!

Your tax agent will be able to assist you in meeting your STP obligations. This may save you the expense of obtaining your own STP software. Talk to your tax agent before 1 July 2019 to help you decide what to do about meeting your upcoming STP obligations.

GST and small business

GST and property transactions

When will you get credits?

To ensure you can receive GST input tax credits on time, as part of the property settlement process, you should ensure that the supplier details you provide to the purchaser in your notification are correct. If you get the details right at the time of settlement, this will help avoid delays in the processing of your credits by the ATO.

Providing details to the ATO that are not quite correct can delay you accessing your credits and may require the ATO to validate your details.

To ensure timely processing, the ATO has detailed the following 6 steps to follow:

Step 1: provide correct Supplier details to the purchaser

Step 2: purchaser to enter Supplier details into Form 1 *GST Property Settlement Withholding notification*

Step 3: purchaser to pay the withholding amount and lodge Form 2 *GST Property Settlement Date confirmation*

Step 4: ATO to allocate a credit to the Supplier GST property credits account if this matches the details provided in Form 1

Step 5: Supplier to lodge a BAS declaring the property transaction

Step 6: ATO to process BAS and transfer credits to Supplier Activity Statement account.

Changes to GST settlement for residential property - can you apply the margin scheme?

New legislation affecting GST on purchases of new residential premises and potential residential land started to apply from 1 July 2018. The new legislation requires purchasers of certain land to withhold an amount from the purchase price and instead remit this amount to the ATO.

If you are in business and registered for GST and you are selling new residential premises or potential residential land, you may be able to apply the GST margin scheme to your sale.

If the margin scheme applies to your sale, you must notify the purchaser of the withholding amount to ensure the purchaser withholds the correct amount. The withholding amount is 7% of the contract price (cents are not included).

The new legislation has not changed the way the margin scheme applies or operates, including business activity statement (BAS) reporting. All property sales continue to be reported at label G1 and the GST on sales reported at label 1A on your BAS.

Do you make any GST-free sales?

Do you sell food? Do you supply education? Do you provide medical services? Do you sell any of the products and services in the list below?

- Most basic food
- Some education courses, course materials and related excursions or field trips
- Some medical, health and care services
- Some menstrual products (from 1 January 2019)
- Some medical aids and appliances
- Some medicines
- Some childcare services
- Some religious services and charitable activities
- Supplies of accommodation and meals to residents of retirement villages by certain operators
- Cars for disabled people to use, as long as certain requirements are met
- Precious metals
- Farmland
- Exports.

If so, some of the products and services you sell may be GST-free. This means, you don't need to charge GST on them and you can still claim any input tax credits you may be entitled to.

To do!

If you are not sure whether you should be charging GST on the goods and services you sell, check with your tax adviser.

Fringe benefits tax

Did you throw a party for your employees to celebrate the festive season?

If so, you need to consider whether you have any FBT obligations associated with the party. If you also gave your employees a gift, there may be an FBT implication too.

It also makes a difference whether the party was held on your business premises or somewhere else.

If the cost of everything per person is less than $300, you may have provided a 'minor benefit' which may be exempt from FBT.

Your tax adviser will be able to tell you whether there are any FBT implications for your business for the party and the gifts.

Private use of cars and FBT

A car fringe benefit may arise when your business owns or leases a car and makes it available for an employee to use for private travel. It is the availability of the car for private use by an employee that is the 'fringe benefit'.

A car is 'available for private use' if it is garaged or kept at or near the employee's residence at any time on a day. Generally speaking, using the car to travel to and from work is 'private use' of the car.

If your business has recently acquired a car, you may have received a letter from the ATO to help you understand what your FBT obligations might be. If you are not sure what your FBT obligations are, you should speak with your tax adviser.

Note!

An 'employee' also includes a director.

The FBT rules are being reviewed

Board of Taxation FBT Compliance Review

The Board of Taxation is conducting a review into the compliance costs associated with fringe benefits tax. They recently ran a survey which employers could complete to provide information to the Board about their own experience with FBT compliance costs.

Shortly the Board will make recommendations to the Government about whether any changes to FBT compliance are required. However, as is typical of government reviews, it may be a while before any changes are made.

Productivity Commission review into the Zone Tax Offset, Fringe Benefit Tax remote area concessions and Remote Area Allowance

In February 2019, the Productivity Commission intends to begin a review into 'remote tax assistance' - the Zone Tax Offset, Fringe Benefits Tax remote area concessions and Remote Area Allowance – which provide financial support to people living in remote areas of Australia.

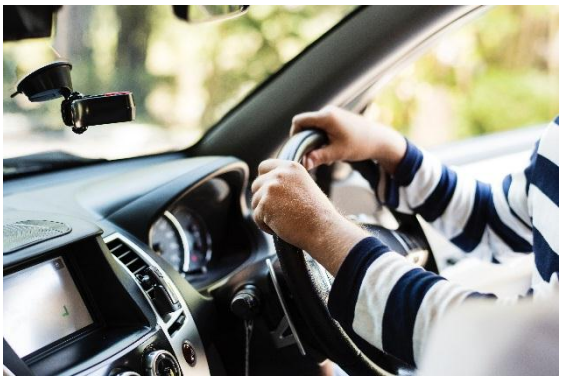
Eligibility for assistance is determined by geographical location divided into zones. The zones have been largely unchanged since 1945. The main concern from this is that the current financial support doesn't reflect the current status of demography, infrastructure and the cost of living.

The Productivity Commission is not due to report for 12 months following commencement of the review. So, any change in this area may not occur for a long time.

Does your business own a rental property?

If you own residential rental property, you are only able to claim deductions for travel expenses relating to inspecting, maintaining, or collecting rent from the property if you are carrying on a rental property business or the property is owned by an excluded entity (eg a company).

The law changed on 1 July 2017 to restrict when travel expenses associated with rental properties could be claimed. If you haven't yet lodged your 2018 income tax return for your business, check with your tax adviser whether you are eligible to claim these travel expenses.



Ride sourcing

If you are running or are about to start running a ride-sourcing enterprise, you will need to get an Australian Business

Number (ABN) and register for GST. Fares you receive are subject to GST and the money you receive from ride-sourcing is subject to income tax.

You can register for an ABN and GST at the same time online via www.abr.gov.au. Your tax agent can also apply for an ABN and GST registration for you.

Your GST registration will need to start from the date you start your ride-sourcing enterprise.

If you are already registered for GST as an individual for another industry, you can use the same GST registration. Though, if you have a company, the company must have its own separate GST registration.

Your tax agent or tax adviser will be able to help you understand what your tax obligations are for running a ride-sourcing enterprise.

Superannuation

Proposed superannuation guarantee amnesty

There is a proposal to provide employers with a 12-month amnesty to self-correct past superannuation guarantee non-compliance without penalty.

If the *Treasury Laws Amendment (2018 Superannuation Measures) No.1 Bill 2018* (Amnesty Bill) is passed by Parliament, the amnesty will be available from 24 May 2018 to 23 May 2019.

Given the time period it covers, the ATO will apply the new law retrospectively to voluntary disclosures made within the time period.

Until the new law is passed, the current rules apply, which includes a '$20 per employee per period' mandatory administration component to SG charge statements lodged by employers.

If you are concerned that you may have super guarantee corrections to make, please speak with your tax adviser.

Event-based reporting for SMSFs

On 1 July 2018, the event-based reporting framework for self-managed superannuation funds (SMSF) began to apply.

The new framework helps the ATO to administer the transfer balance cap. Once the first member in the fund starts to receive a retirement phase income stream, the SMSF will have to report to the ATO.

The report about the transfer balance cap ('transfer balance account report' (TBAR)) is a separate reporting obligation to the Annual Return for the SMSF. The TBAR enables the ATO to record and track an individual's balance for both their transfer balance cap and their total superannuation balance. However, it is important that SMSF trustees and members monitor their own account balances.

To do!

If you have your own SMSF, you should speak with your tax adviser about

monitoring members' account balances and the fund's reporting obligations.
A TBAR was due to the ATO on 29 January 2019 if a fund member had a total superannuation balance of more than $1 million or a member had a transfer balance account event occur between 1 October 2018 and 31 December 2018.

Are the details of your SMSF up to date on the Australian Business Register?

If you make changes to the details of your SMSF, the Australian Business Register (ABR) needs to be updated within 28 days of those details changing. Changes to the following details must be updated on the ABR:

- trustees
- directors of the corporate trustee
- members
- contact details
- address
- fund status.

Your tax agent can check the ABR for you and confirm with you whether the details of your SMSF are up to date or make any changes for you.

The Small Business Superannuation Clearing House: updated communication

The ATO has updated the way it notifies users of the Small Business Superannuation Clearing House (SBSCH) of changes to the SBSCH. The terms and conditions of the SBSCH have also be updated to provide small business users with a better understanding of:

- when a payment is 'accepted' by the SBSCH for an employer's superannuation guarantee contributions;
- what happens when a fund doesn't accept a payment (due to missing or incorrect payment instruction details); and
- when the superannuation guarantee charge applies.

Removing tax deductibility of non-compliant PAYG payments

From 1 July 2019, an employer can only claim deductions for payments made to employees or contractors where an employer has complied with the Pay As You Go (PAYG) withholding and reporting obligations for that payment.

If the PAYG withholding rules require an employer to withhold an amount from a payment they make to an employee or contractor, they must withhold the amount from the payment before they pay it and report the amount to the ATO.

Any payments made where the PAYG amount has not been withheld or reported are called 'non-compliant payments'. Non-compliant payments are not eligible for a deduction. If a mistake is made and the employer has withheld or reported an incorrect amount, the employer will not lose their entitlement to a deduction. ■

Key tax dates

Date	Obligation
21 Feb 2019	Lodge and pay January 2019 monthly BAS
28 Feb 2019	Lodge and pay SMSF Annual Return for new SMSFs (unless otherwise advised) Lodge and pay December 2018 Quarterly BAS (paper & electronic) Lodge and pay December 2018 Quarterly instalment notice Lodge Annual GST Return (if no tax return due) Lodge and pay December 2018 Quarterly SGC (if required)
21 Mar 2019	Lodge and pay February 2019 Monthly BAS
31 Mar 2019*	Lodge and pay tax return for companies and super funds with income >$2M (unless due earlier) Lodge return for trust whose latest return has a tax liability ≥$20,000
21 Apr 2019*	Lodge and pay March 2019 Monthly BAS
28 Apr 2019*	Lodge and pay March 2019 Quarterly BAS (paper) Pay March 2019 Quarterly instalment notice Employer super guarantee contributions due
15 May 2019	Lodge 2018 income tax returns not due earlier
21 May 2019	Lodge and pay April 2019 Monthly BAS
26 May 2019*	Lodge and pay March 2019 Quarterly BAS (electronic)
28 May 2019	Pay FBT return (if your business lodges one) Lodge and pay March 2019 Quarterly SGC (if required)

*Next business day applies instead.

Note!

Talk to your tax agent to confirm the correct due dates for your own tax obligations.

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