

## March 2017 newsletter *from Tina and Peter*

### Information from Australia Taxation Office

#### 1) ATO data regarding Super Guarantee non-compliance

*Editor: The ATO has provided some information about Superannuation Guarantee (SG) non-compliance in its recent submission to a Senate inquiry into the impact of the non-payment of the Superannuation Guarantee.*

In addition to marketing and education activities to re-enforce the need for employers to meet their SG obligations, the ATO conducts audits and reviews to ascertain SG non-compliance, with 70% of cases stemming from employee Notifications (the remaining 30% of cases are actioned from ATO-initiated strategies). On average, the ATO receives reports from employees which relate to approximately 15,000 employers each year, although the ATO finds that nearly 30% of these employers have in fact paid the required SG to their employee. However, an SG shortfall is identified in the remaining 10,000 cases (this represents approximately 1% of the estimated 880,000 employers who make SG payments). The top four industries from which reports are received by the ATO are from:

- **Accommodation and Food Services;**
- **Construction;**
- **Manufacturing; and**
- **Retail Trade.**

These four industries represent approximately 50% of the audits and reviews undertaken. The ATO also noted that the proposed Single Touch Payroll ('STP') will help overcome certain limitations in the data currently provided to the ATO (as well as simplify taxation and superannuation interactions for employers, by aligning the reporting and payment of PAYG withholding and SG with a business's natural process of paying their employees).

**2) Protected Earnings for 2017** The Protected Earnings Amount (PEA) is the amount of wage or salary that is exempt from child support deductions. This is the minimum amount a worker must receive as net pay, that is, after the tax and child support has been deducted. It is calculated on the basis of 75% of the basic Newstart Allowance. The PEA is adjusted on 1st January each year. The new weekly rate for 2017 is \$358.05



**3) Ride-Sourcing is 'taxi travel'** In a recent case, the Federal Court has agreed with the ATO that 'ride-sourcing' (such as that provided using Uber) is 'taxi travel' within the meaning of the GST law. The ATO has advised people who are taking up ride-sourcing to earn income should:

- keep records
- have an Australian business number (ABN);

### ATO Lodgement Dates

These dates are from the ATO website and do not take into account possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

BAS/IAS Monthly Lodgement – January Activity Statement: 21<sup>st</sup> February, 2017 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – February Activity Statement: 21<sup>st</sup> March, 2017 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – March Activity Statement: 21<sup>st</sup> April, 2017 final date for lodgement and payment.

**2nd Quarter of FY 2017: BAS Lodgement** – October to December 2016 (including PAYGI) 28th February, 2017 final date for lodgement & payment

**3rd Quarter of FY 2017: BAS Lodgement** – January to March 2017 (including PAYGI) 28th April, 2017 final date for lodgement & payment

When a due date falls on a Saturday, Sunday or Public Holiday, you can lodge or pay on the next business day.

A public holiday is a day that is a public holiday for the whole of any state or territory in Australia

Due date for super guarantee contributions, for **2nd Quarter of FY 2017**, October to December 2016 - contributions to be made to the fund by 28th January, 2017

Due date for super guarantee contributions, for **3rd Quarter of FY 2017**, January to March 2017 - contributions to be made to the fund by 28th April, 2017

The super guarantee charge is not a tax deduction if not paid by these dates. Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.

- register for GST, regardless of how much they earn, and pay GST on the full fare received from passengers for each trip they provide
- lodge activity statements; and
- Include income from ride-sourcing in their income tax returns.

Drivers are also entitled to claim income tax deductions and GST credits (for GST paid) on expenses apportioned to the ride sourcing services they have supplied. The ATO warns that they can match people who provide ride-sourcing through data -matching, and will continue to write to them to explain their tax obligations.

**4) No overtime meal allowance, no overtime meal deduction** An employee construction project manager/supervisor was denied deductions for overtime meal expenses, as he was not paid an overtime meal allowance under an industrial agreement (award). The taxpayer often worked at nights and on weekends during the relevant income years, and so additional amounts were negotiated and 'rolled into' his salary to cover the fact that he was expected to work additional hours, and also to cover any out of -pocket expenses associated with such overtime. However, the taxpayer's salary was not paid under an award, which was simply used as a starting point in annual remuneration negotiations (and he was paid the same amount each week, regardless of hours worked or expenses incurred). Therefore, the AAT agreed with the ATO, finding that the taxpayer had received no overtime meal allowance under the relevant industrial award. As no deduction is claimable under the income tax law for overtime meal expenses unless an appropriate award overtime meal allowance is paid, the Tribunal swiftly dismissed the taxpayer's appeal, and also affirmed the 25% administrative penalty.

#### **5) New GST Registrations can Adopt Simpler BAS NOW Easier GST Reporting for New Small Business**

From 19 January 2017, newly registered small businesses have the option to report less GST information on their business activity statement (BAS). Small business owners who plan to register for GST after 19 January 2017 and let them know they can access the reporting benefits of the simpler BAS early. To take advantage, they need to do the following based on the reporting cycle they elect when registering for GST:

- Quarterly – select 'Option 2: Calculate GST quarterly and report annually' on their first BAS. We will not seek the additional GST information or lodgement of the Annual GST information report. This will provide them with a simpler BAS reporting solution.
- Monthly – insert '0' at labels G2, G3, G10 and G11 on their BAS.
- Annual – they can leave labels G2, G3, G10 and G11 blank on their Annual GST return.

**5) Diverting personal services income to SMSFs** The ATO is currently reviewing arrangements where individuals (at, or approaching, retirement age) purport to divert their personal services income to an SMSF, so that the income is taxed concessionally (or exempt from tax) in the fund, rather than being subject to tax at the individual's marginal tax rate. These arrangements normally involve the individual's income being paid to another entity (e.g., a company) which then makes distributions to the SMSF as a 'return on investment' (e.g., dividends, where the SMSF holds shares in the relevant company). The ATO advises any people that have entered into such an arrangement to contact the ATO by 30 April 2017, so they can work with them to resolve any issues in a timely manner, and minimise the impact on the individual and the fund. Individuals and trustees who are not currently subject to ATO compliance action, and who come forward will have administrative penalties remitted in full (although interest may still be payable on any tax collected later than it should have been).



Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances. For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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