

IN THIS ISSUE

- Credit and debit card debt, online selling and ride sourcing data matching
- Simpler reporting with Single Touch Payroll
- 'Black Economy' Taskforce
- Targeted amendments to Division 7A
- ATO issues warning on contrived trust arrangements
- Goods taken from stock for private use
- Top cyber security tips
- GST matters
- Simplified approach for car fringe benefits
- Taxable payments annual report
- Foreign resident capital gains withholding
- Superannuation matters
- Working holiday makers

Credit and debit card, online selling, and ride sourcing data matching

The ATO is collecting data from financial institutions and online selling sites as part of their data matching programs for credit and debit cards, online selling and ride sourcing.

The data will include:

- the total amount of credit and debit card payments businesses received
- online sellers who have sold at least \$12,000 worth of goods or services
- payments made to ride sourcing drivers from accounts held by the ride sourcing facilitator.

The ATO matches this data with information they have from income tax returns, activity statements and other ATO records to identify any discrepancies.

Tip!

If you need to correct a mistake you have made in your income tax return, you should talk to your tax agent.

Ride sourcing data matching

The ATO's ride sourcing data matching program has been developed to address the compliance risk of the registration, lodgment and reporting of businesses offering ride sourcing services as a driver. It is estimated up to 74,000 individuals (ride sourcing drivers) offer, or have offered, this service.

The ATO will request details of all payments made to ride sourcing providers from accounts held by a ride sourcing facilitator's financial institution for the 2016-17 and 2017-18 financial years.

They will match the data provided by the facilitator's financial institution against our records. This will identify ride sourcing drivers that may not be meeting their registration, reporting, lodgment and/or payment obligations.

Where the ATO is unable to match a driver's details against ATO records, they will obtain further information from the financial institution where the driver's account is held.

The protocol has been prepared to meet the requirements of the Office of the Australian Information Commissioner's *Guidelines on Data Matching in Australian Government Administration (2014)* (the Guidelines).

This will impact you if you offer ride sourcing as part of your business.

Simpler reporting with Single Touch Payroll

Single Touch Payroll is a government initiative to simplify business reporting obligations. In the previous issue of *TaxWise Business*, we noted that the *Budget Savings (Omnibus) Bill 2016* which contains the Single Touch Payroll rules, had been introduced into Parliament. This has now become law.

The Single Touch payroll regime will enable employers to report salary or wages, pay as you go (PAYG) withholding and superannuation information to the ATO from their payroll solution, at the same time they pay their employees. This will mean simpler reporting obligations and more options for completing tax and super forms electronically.

Single Touch Payroll reporting will be available to all employers from 1 July 2017.

However, only employers with 20 or more employees will have to report this way under the law. They must start reporting through Single Touch Payroll from 1 July 2018.

Further information is available on the ATO website: [Simpler-reporting-with-Single-Touch-Payroll](#).

To do!

If you are an employer with 20 or more employees, you will need to look into your reporting to the ATO to ensure it complies with the requirements of the Single Touch Payroll regime.

'Black Economy' Taskforce

On 14 December 2016, Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP, [announced](#) that the government had established a taskforce to crack down on the 'Black Economy'. Ms O'Dwyer said, "While there is no single, internationally-agreed definition, typically, the 'black economy' refers to people who operate entirely outside the tax system or who are known to tax authorities but deliberately misreport their tax (and superannuation) obligations. The 'black economy' can also include those engaged in organised crime, including those who engage in the production and sale of prohibited goods."

The 'Black Economy' Taskforce, to be chaired by former chair of the B20 anti-corruption taskforce, Mr Michael Andrew AO, will provide an interim report to government in March 2017. Tackling the 'black economy' requires a whole of government approach and participants will include the Reserve Bank of Australia, the Australian Federal Police, ASIC, APRA, AUSTRAC, and the Departments of Human Services and Immigration.

The Taskforce will provide a final report in October 2017 which will include an overarching whole of government policy framework and detailed proposals for action to counter the 'black economy'.

Targeted amendments to Division 7A

In the [2016-17 Budget](#), the government announced it will make [targeted amendments](#) to improve the operation and administration of Division 7A of the *Income Tax Assessment Act 1936*.

The amendments will apply from 1 July 2018 and will introduce:

- a self-correction mechanism to assist taxpayers to rectify inadvertent breaches of Division 7A promptly;
- appropriate safe harbour rules to provide certainty and simplify compliance for taxpayers;
- simplified rules regarding complying Division 7A loans, including in relation to loan duration and the minimum interest rate; and
- a number of technical amendments to improve the integrity and operation of Division 7A and provide increased certainty for taxpayers.

The proposed changes draw on a number of recommendations from the Board of Taxation's post-implementation review into Division 7A.

To do!

This change may impact you if you have private loans from your business. In that case, you should seek advice from your tax professional.

ATO issues warning on contrived trust arrangements

The ATO recently released Taxpayer Alert [TA 2016/12](#) cautioning against arrangements that minimise tax by creating artificial differences between the taxable net income and distributable income of closely held trusts.

Deputy Commissioner Michael Cranston said the ATO is investigating arrangements where trustees are engineering a reduction in trust income to improperly gain favourable tax breaks, or sometimes pay no tax at all.

The ATO identified these arrangements through ongoing monitoring and reviews by the Trusts Taskforce, and continues to look for these arrangements using sophisticated analytics.

The Trusts Taskforce was established in 2013 to undertake targeted compliance action against people involved in tax avoidance or evasion using trusts. Since this time, the ATO has raised \$772 million in liabilities and collected \$164.5 million. In addition to cash collected, assets of \$55 million have been restrained under proceeds of crime legislation.

Goods taken from stock for private use

If you take items from your business' trading stock for your own use, make sure you include the value of these items as part of your business' assessable income.

To do this, you should record the actual value of the goods (excluding GST) or use estimates provided by the ATO if you are a sole trader or in a partnership. The ATO estimates are updated yearly and are available for the following industries:

- bakery
- butchery
- restaurant/café
- caterer
- delicatessen
- fruiterer/greengrocer
- takeaway food shop
- mixed business (including milk bar, general store and convenience store).

For more information on amounts the ATO accepts as estimates and small business benchmarks, visit the [ATO's website](#).

Note!

Seek advice from your tax agent or adviser if you are unsure how to treat stock used for private purposes in your accounts for tax purposes.

Top cyber security tips

It is important that businesses keep all their business and client information secure. If data is lost or compromised, it can be very difficult or very costly to recover.

The ATO has released a [list of tips](#) on how to keep your business and client data safe from hackers and identity thieves:

- Ensure your passwords are strong and secure
- Remove system access from people who no longer need it
- Ensure all devices have the latest available security updates
- Do not use USBs or external hard drives from an unfamiliar source
- Use a spam filter on your email account
- Secure your wireless network and be careful when using public wireless networks
- Be vigilant about what you share on social media
- Monitor your accounts for unusual activity or transactions
- Use a PO Box, or ensure your mail is secure
- Do not download programs or open attachments unless you know the program is legitimate
- Do not leave your information unattended – secure your electronic devices

GST matters

1) GST – applying to digital products and other services imported by consumers

In the 2015-16 Budget, the government announced that the application of the GST will be extended to cross-border supplies of digital products and other services imported by Australian consumers.

This includes digital products such as streaming or downloading of movies, music, apps, games, e-books as well as services such as architectural or legal services. Under the new law, overseas businesses will be required to pay GST on these sales from 1 July 2017.

If you have interactions with overseas businesses that supply digital products and services to Australian consumers, let them know they may be subject to the transitional rule for GST.

The transitional rule applies to businesses that:

- meet the registration turnover threshold of A\$75,000; and
- supply digital products and services before 1 July 2017 and continue after this date. The portion after 1 July 2017 is subject to GST.

A simplified system will be available on the ATO website from 1 April 2017 for these businesses to electronically register, lodge and pay GST.

To do!

Talk to your tax agent about the GST implications for you if goods and supplies you have been acquiring from an overseas business that you may have been using in your business become subject to GST.

2) GST on low value imported (physical) goods

In the 2016-17 Federal Budget, the government confirmed that from 1 July 2017, the GST will be extended to low value imports of physical goods imported by consumers.

A vendor registration model will be used where non-residents with an Australian turnover of \$75,000 or more will be required to register and charge the GST.

An [exposure draft](#) outlining the proposed law changes and application was released for public comment. More information will be provided as this measure progresses.

3) **Changes to GST for overseas business transactions**

Certain transactions between overseas and Australian businesses are no longer subject to Australian goods and services tax (GST). These changes came into effect on 1 October 2016. See the previous edition of *TaxWise Business* for further information.

Overseas businesses with whom you transact may no longer need to be registered for GST if they supply to (or are supplied from) Australian businesses.

They may therefore no longer need an Australian ABN and may no longer be required to identify the exact amount paid for international transport, insurance and other ancillary costs. This applies when calculating the value of taxable importations for GST purposes. They can choose to use an uplift factor of 10% of customs value as a proxy for these costs.

For more information on GST cross-border transactions between businesses, including specific changes for non-residents and Australian businesses, visit the [ATO's website](#).

To do!

Talk to your tax agent about how the change in GST status of overseas businesses you transact with may impact on your own GST obligations.

4) **When to charge GST (and when not to)**

i) When to charge GST

If your business is registered for GST, most of the sales in Australia will include GST.

Sales which include GST (taxable sales) are:

- made for payment (monetary or other);
- made in the course of operating your business (including any capital assets sold); and
- connected with Australia.

For these taxable sales, you:

- include GST in the price;
- issue a tax invoice to the buyer;
- pay the GST you've collected when you lodge your activity statement.

ii) When not to charge GST

You do not include GST in the price of goods and services that are:

- GST free – such as most basic foods, some education courses and health care products and services.
- Input taxed – such as lending money and renting out residential premises.

5) **Claiming GST credits – refresher**

You can claim a credit for any GST included in the price of goods and services that you purchase for your business and use to make either taxable or GST-free sales. This is called a GST credit.

You can't claim a GST credit for the GST included in the price of purchases you use to make your input taxed sales.

Note!

Your tax agent knows when you can and can't claim GST credits. They will be able to ensure you put the right information into your activity statement and make the right claims for GST purposes.

6) **Simpler BAS test findings**

The ATO has been working to make business activity statement (BAS) reporting simpler for small business.

From 1 July 2017, small businesses will only be required to report:

- GST collected (1A);
- GST entitled to be claimed (1B);
- Total sales (G1).

Talk to your tax agent to find out how this may impact on your activity statement reporting to the ATO.

Simplified approach for car fringe benefits

The ATO has collaborated with industry representatives to develop a safe harbour for car fringe benefits. A safe harbour is a guideline that allows businesses to make use of an efficient way to calculate their tax where certain conditions are met.

This safe harbour will simplify the approach for working out the business use percentage of car fringe benefits for fleets of 20 cars or more. The new approach reduces the record-keeping burden for your business clients. It allows them to use an 'average business use percentage' when using the operating cost method.

To find out how it works, talk to your tax agent.

Taxable Payments Annual Report

1) **Overdue taxable payments annual reports: building and construction industry**

The ATO is contacting businesses in the building and construction industry about their overdue taxable payments annual reports.

If you are in the building and construction industry and have not lodged your 2016 or any prior year taxable payments annual reports, now is the time to get them back on track to avoid penalties.

Regardless of where you claim contractor expenses in your tax returns, if you have paid contractors for building and construction services, you need to lodge a taxable payments annual report.

2) **Lodging your report**

You must lodge your *Taxable payments annual report* online using the Business, Tax Agent and BAS Agent Portals. The ATO only accepts reports that meet these [specifications](#).

To lodge online you'll need:

- an Australian business number (ABN);
- an [AUSKey](#) – to protect your security and privacy when dealing with the ATO online; and
- business software that meets the ATO's requirements.

Tip!

It is best to get the assistance of your tax agent when completing your Taxable payments annual report.

Foreign resident capital gains withholding

New rules apply to vendors disposing of certain taxable Australian property under contracts entered into from 1 July 2016. A 10% non-final withholding will be applied to these transactions at settlement.

Australian resident vendors selling real property will need to obtain a clearance certificate from the ATO prior to settlement, to ensure they don't incur the 10% non-final withholding.

This new withholding legislation assists the collection of foreign residents' Australian tax liabilities. It imposes an obligation on purchasers to withhold 10% of the purchase price and pay it to the

ATO, where a vendor enters into a contract on or after 1 July 2016 and disposes of certain asset types (or receives a lease premium for the grant of a lease over Australian real property).

The foreign resident vendor must lodge a tax return at the end of the financial year, declaring their Australian assessable income, including any capital gain from the disposal of the asset. A tax file number (TFN) is required to lodge a tax return; they will need to apply for a TFN if they don't have one. The vendor may claim a credit for any withholding amount paid to us in their tax return.

- Australian resident vendors can avoid the 10% withholding by providing one of the following to the purchaser prior to settlement:
 - for Australian real property, a clearance certificate obtained from the ATO
 - for other asset types, a vendor declaration they are not a foreign resident.
- Foreign resident vendors may apply for a variation of the withholding rate or make a declaration that a membership interest is not an indirect Australian real property interest and therefore not subject to withholding.

Purchasers must pay the amount withheld at settlement to the Commissioner of Taxation.

Note!

If you are buying or selling property and a foreign resident party is involved in the transaction, talk to your tax agent to ensure you meet your tax obligations in relation to this transaction.

Superannuation matters

1) **Superannuation reform package bills**

The previous edition of *TaxWise Business* covered the superannuation reform package extensively in detail. The reforms passed into law in December 2016.

In summary, the reforms include:

- Legislating the objective of superannuation;
- Introducing a \$1.6 million superannuation transfer balance cap;
- Reforming the taxation of concessional superannuation contributions;
- Lowering the annual non-concessional contributions cap;

- Introducing the Low Income Superannuation Tax Offset (LISTO);
- Improving access to concessional contributions;
- Allowing catch-up concessional contributions;
- Extending the spouse tax offset;
- Removing barriers to innovation in retirement income stream products;
- Improving the integrity of transition to retirement income streams (TRIS);
- Abolishing the anti-detriment rule;
- Streamlining administrative processes.

The ATO has also begun issuing guidance to assist taxpayers to understand the new superannuation reforms. However, your tax agent will be able to assist you to understand the new reforms and what they might mean for you.

2) **Being super compliant is easy**

If you are an employer, you must ensure you meet your super guarantee obligations. Some reminders of things you need to do are below:

- contribute at a rate of 9.5% of their employees' ordinary time earnings;
- make contributions by the quarterly due dates (28 January, 28 April, 28 July, 28 October) or more frequently;
- pay super for contractors if they are eligible, even if the contractor quotes an Australian Business Number;
- be SuperStream compliant; and
- keep accurate records to show they have met their obligations.

The ATO has a range of information, tools and calculators to help employers:

- [Super obligation employer's checklist](#) – Six easy steps
- [Super guarantee eligibility decision tool](#)
- [Super guarantee contributions calculator](#)
- [Super for employers home page](#)

Note!

Although the ATO has developed lots of tools to help employers meet their superannuation obligations in relation to employees, employers should still consult their tax adviser for help and support to meet their superannuation obligations.

3) **Support your clients to make the switch to SuperStream**

Previous editions of *TaxWise Business* have included information on SuperStream.

The deadline for all employers to be SuperStream compliant has now passed. All employers should be paying super and sending the corresponding data in an appropriate electronic format.

If you haven't made the switch to SuperStream, you should work with your tax adviser to help you become SuperStream compliant.

4) **Superannuation for employees working overseas – certificate of coverage**

Do you send employees to work temporarily overseas? If so, you still need to make super contributions in Australia for those employees.

Your employees may also have to pay super or social security in the foreign country. A certificate of coverage exempts them from those obligations in countries we have bilateral agreements with.

Your tax agent can use the automated form on the Tax Agent Portal to request a certificate of coverage on your client's behalf. However, you need to grant your tax agent access to your certificate of coverage account first. This can be done via Access Manager in the Business Portal.

Working holiday makers

From 1 January 2017, the first \$37,000 of a [working holiday maker's](#) income is taxed at 15%, with the balance taxed at ordinary rates.

The tax on any departing Australia super payment made to working holiday makers after 1 July 2017 has also increased to 65%.

A person is a working holiday maker if they have a visa subclass 417 (Working Holiday) or 462 (Work and Holiday).

When they lodge an income tax return, the ATO will work out how much tax they should have paid. If they have paid too much, the ATO will give a refund. If they have not paid enough, the ATO will send the working holiday maker a bill.

a) Employer registration

If you employ (or plan to employ), working holiday makers, [you must register with the ATO](#).

Once you register, a withholding rate of 15% applies to the first \$37,000 of a working holiday maker's

income. From \$37,001, normal foreign resident withholding rates apply.

If you do not register, you must withhold tax at 32.5% for the first \$37,000 of a working holiday maker's income. From \$37,001, normal foreign resident withholding rates apply. Penalties may apply for failing to register.

b) Change in tax rate for super payments to working holiday makers

From 1 July 2017, departing Australia superannuation payments (DASPs) made to working holiday makers (WHMs) will be taxed at 65%.

If an individual holds or has held a 417 (Working Holiday) or 462 (Work and Holiday) visa, they are classified as a WHM.

This change is related to a new income tax rate for WHMs which was introduced by the Australian government in December 2016. Payments made before 1 July 2017 will be taxed at the current rate, which is 38% for a taxed-element. Employers of working holiday makers will need to be aware of their relevant obligations.

DISCLAIMER

The content in this Newsletter is general commentary only and does not constitute specific advice. Clarke & Company accepts no responsibility for persons acting on information contained therein. Clients should consult us on specific matters