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NOV/DEC 2017

CHRISTMAS
Tax Savers

RENTAL PROPERTY
Claims Reduced

LATEST TAX NEWS

SUPERANNUATION
Crackdown on Employers

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Web: www.mytaxsavers.com.au. My Tax Savers is a trading name of My Tax Savers Pty Ltd ABN 36 609 058.

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The ATO has released staggering figures on the level of employer superannuation non-compliance. With a massive crackdown on the way, how can you stay out of trouble in this area?

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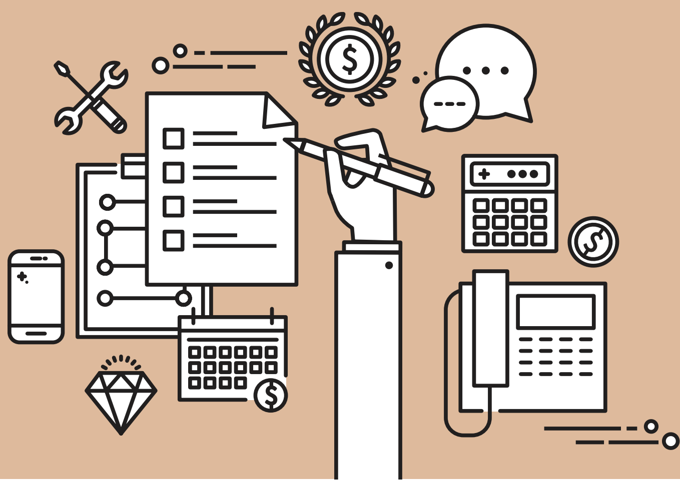
With the simpler BAS now here, to assist compliance, find enclosed our BAS and bookkeeping guide.



KEY DATES

Many key dates are looming for business including those relating to Activity Statements, superannuation, and more.

NOVEMBER 2017

11 NOVEMBER
July-September quarterly Activity Statements – due for lodgement and payment (if lodging electronically)

21 NOVEMBER
October monthly Activity Statements – due for lodgement and payment

28 NOVEMBER
Superannuation Guarantee Charge (SGC) Statement – due for lodgement and payment if insufficient contributions or late contributions were made for the July-September quarter

DECEMBER 2017

1 DECEMBER
Due date for income tax payment for companies that were required to lodge by 31 October

21 DECEMBER
November monthly Activity Statements – due for lodgement and payment

Where the due date falls on a weekend or public holiday, it is deferred until the next business day (except in the case of Superannuation Guarantee deadlines).

T'IS THE SEASON TO BE *Jolly*

Christmas is traditionally a time of giving – including employers showing gratitude towards staff for a job well done throughout the year. However gifts and Christmas Parties can attract the attention of the Taxman. With the FBT rate sitting at 47%, avoiding or minimising this impost is important. This article looks at a range of common Festive Season scenarios, how FBT applies, and how it may be minimised.

PARTIES AT RESTAURANTS

In certain circumstances an employer can hold a Christmas party for staff and it be exempt from FBT.

Take for example an employer holding a Christmas party at a restaurant for employees and their partners and it is the only social function of this type/scale they provide for employees each year. Where this is the case, it's very likely to be exempt from FBT provided the per-head cost (dinner and drinks) is kept to under $300 per person. To enjoy this exemption you must use the Actual Method for valuing FBT meal entertainment. The Actual Method is the default method for valuing meal entertainment and no election is required to use this method. Under this method, an employer pays FBT (in the absence of an exemption) on all taxable meal entertainment provided to employees and their associates i.e. their partners (but not to other parties such as clients, contractors, or suppliers). However, an FBT exemption may apply for such a party in particular circumstances.

If the meal entertainment meets certain requirements, the party is exempt from FBT under the Minor Benefits Exemption. Broadly speaking, under this exemption a benefit will be exempt from FBT where its value or cost is less than $300 and, if similar or identical benefits are provided, they are only provided on an infrequent or irregular basis. The less frequent and regular, the more likely each single similar or identical benefit will be exempt from FBT. The ATO has not specified an exact number of times a benefit can be provided before it is considered frequent (and therefore less likely to satisfy the Minor Benefit Exemption). However, the ATO has confirmed that a once-per-year benefit (such as a Christmas gift or gym membership) will not be considered frequent. The downside of using the Minor Benefit Exemption is that the meal entertainment is not tax deductible, and nor can you claim a GST credit.

This Minor Benefit Exemption is not available if you elect to value your meal entertainment under the alternative 50/50 Method. Under this method, you pay FBT on only 50% of all taxable meal entertainment provided to employees, associates AND clients, contractors, customers etc. regardless of the cost. Likewise, you can only claim a 50% income tax deduction and 50% GST credits on such meal entertainment.

Example Common Scenario

Smith Pty Ltd uses the Actual Method to calculate its meal entertainment and is contemplating having a $220 per head (including GST) Christmas party in December 2017 for its 9 employees plus their spouses ($3 960 in total). This is the only meal entertainment provided for staff during the year. The Directors wonder about the FBT, income tax, and GST consequences of the two methods for valuing meal entertainment.

ACTUAL METHOD

The following tax treatment applies for both employees and their spouses:

- *FBT* – Zero is payable as the benefit is an exempt minor benefit
- *Income Tax Deduction* – Cannot be claimed as the benefit is an exempt Minor Benefit and meal entertainment
- *GST* – Cannot be claimed as the benefit is an exempt Minor Benefit.

Therefore, the employer's out of pocket expense is simply the cost of the Christmas Party ($3 960).

50/50 METHOD

The following tax treatment applies for both employees and spouses:

- *FBT* – The taxable value of the meal entertainment would be $1 980 ($3 960 x 50%). The fringe benefits taxable amount would be $4 118 ($1 980 x 2.0802 gross up rate). The FBT payable would be $1 935 ($4 118 x 47% FBT rate).
- *Deduction* – $ 1800 (50% of the $3 600 GST-exclusive cost of the party) would be deductible. At a 27.5% tax rate, this would reduce the cost of the party by $495
- *GST* – $180 (50% of $360) could be claimed back as a GST credit.

Thus, the after-tax cost of the party would be $5 220 ($3960 + $1 935 - $495 - $180).

CONCLUSION

In this common scenario, by using the Actual Method (rather than the 50/50 Method) and keeping the party under $300 per-head, the employer has saved $1 260 after-tax. This example illustrates the sting in the tail of FBT; payable as it is at 47%. Although the company enjoyed a tax deduction and GST credits under the 50/50% Method, the FBT cost far outweighed this.

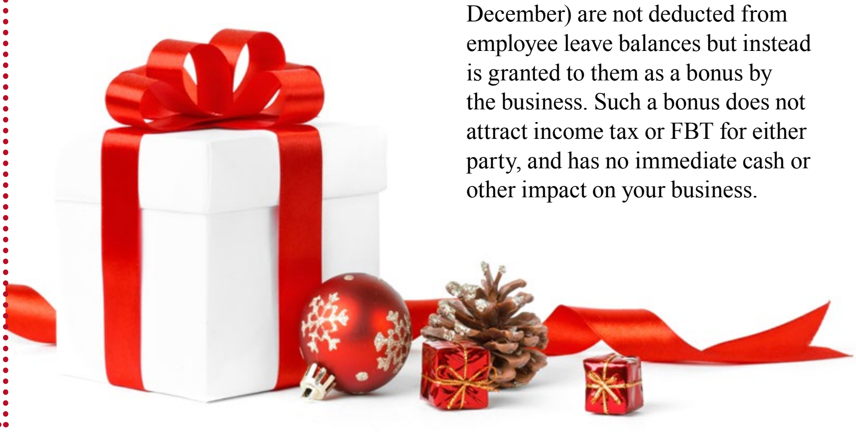
GIFTS

Provided gifts are only given at Christmas time and are less than $300, the Minor Benefits exemption can be used to exempt from FBT all sorts of common Christmas gifts to employees including hampers, gift vouchers, movie or sporting tickets, perfume, flowers, pen sets, bottles of alcohol etc.

WEEKENDS AWAY

An employer may also consider rewarding their staff at Christmas time with a weekend away, which typically may involve an evening meal at a restaurant and an overnight stay at a nearby hotel. Under the Actual Method, FBT will be payable in respect of the accommodation which will be deemed to be meal entertainment as it is provided in connection with the function. FBT will also be payable in respect of the dinner/drinks. FBT will apply to both employees and their partners. However, each of the benefits will be eligible for the $300 minor benefits exemption – with each receiving its own $300 threshold (i.e. $300 threshold for employee accommodation; $300 threshold for partner accommodation; $300 threshold for employee dinner/drinks; $300 threshold for partner dinner/drinks).

Under the 50/50 Method, FBT will be payable in respect of 50% of the total meal and accommodation expenditure, with a 50% GST credit and a 50% income tax claimed accordingly. Again though, with the FBT rate at 47%, the 50% tax deduction and 50% GST credits available under the 50/50 Method is unlikely to provide a better after-tax result for the employer.



WHY?

Given the significantly better results that can be achieved with the Actual Method for valuing meal entertainment (by utilising the Minor Benefits exemption) it's reasonable to ask why an employer would choose to value their meal entertainment under the 50/50 Method? The answer is typically that where an employer provides meal entertainment to their employees on a reasonably frequent basis, the minor benefit exemption may not apply (remember, for the exemption to apply the meal entertainment must be less than $300 and be infrequent/irregular). Where this was the case, then the 50/50 Method would provide a better outcome than the Actual Method, given the 50% GST claim and income tax deduction.

CASH/LEAVE BONUS

With the FBT rate sitting at 47%, you may instead opt to provide employees with a cash bonus rather than a non-cash benefit this Christmas. This transfers the tax liability to the employee to be assessed at their marginal tax rate, ensures the benefit does not attract FBT, and allows you to claim an income tax deduction for the full value.

Alternatively, if your business is shutting down over the Christmas break and your employees are required to take annual leave (over and above the public holidays such as Christmas Day and Boxing Day) then you may wish to consider providing them with a leave bonus. This is where the compulsory annual leave days where your business is closed down (e.g. 27-29 December) are not deducted from employee leave balances but instead is granted to them as a bonus by the business. Such a bonus does not attract income tax or FBT for either party, and has no immediate cash or other impact on your business.

This article provides a range of tax tips for both individuals and those in business.

MORE GENEROUS SPOUSE SUPER TAX OFFSET

The spouse contributions tax offset has been made more generous. More taxpayers can now reduce their own personal tax liability while helping to provide for the retirement of their spouse.

From 1 July 2017, where you make a superannuation contribution for your spouse you can claim a tax offset equal to 18% of your contributions, subject to the following rules:

- The maximum offset is $540. This means that the offset can be claimed for a maximum of $3, 000 contributions (18% of $3, 000).
- If the sum of your spouse's "total income" (consisting of assessable income, plus reportable fringe benefits total, plus reportable employer superannuation contributions) is greater than $37, 000 (up from $10, 800), the maximum contributions eligible for the tax offset ($3, 000) is reduced by the excess. Consequently, no tax offset can be claimed where the spouse's total income is greater than $40, 000 (up from $13, 800).

Leaving aside the spouse tax offset, making contributions to your spouse's account is also a useful strategy where one spouse is a low-income earner or is not working as it can help equalise your account balances. One of the advantages of this is that if you or your spouse opts to take a lump sum payment between Preservation Age and 60, you can both access the $200, 000 tax-free threshold (2017/2018 rates) and consequently withdraw up to $400, 000 from your superannuation accounts tax-free before the age of 60.

TAX TIP

DEDUCTIONS FOR ALL

Another superannuation reform that came on stream from 1 July 2017, is the ability for individual taxpayers to claim a deduction for their after-tax superannuation contributions, All individuals under the age of 65 are eligible. Those aged 65 to 74 must meet the superannuation 'work test' (that is, work for at least 40 hours in a period of not more than 30 consecutive days in the financial year in which you make the contribution). For more details, see the July/August 2017 edition of this publication which is available on our website www.mytaxsavers.com.au

WHAT IF YOU RENT THE FAMILY HOME?

A CGT exemption exists for any capital gains made on the sale of an individual's main residence. This is referred to as the main residence exemption and means that any gains made on the sale of a main residence that hasn't been used for any income producing activity, are tax free to the owner.

So what happens in the situation of an individual who purchases a new family home to reside in, but decides to retain ownership of the previous family home as a rental property?

Section 118-192 of the Income Tax Act ITAA 1997 deals with the situation of the capital gains tax calculation required on a main residence which has also been used for income producing purposes.

The section only applies to properties where the income producing activity started after 7.30 pm on 20 August 1996 and the owner would have been entitled to a full main residence exemption if they had sold the dwelling immediately before the first time it was used for income producing purposes.

If these conditions are met, the taxpayer is taken to have acquired the property at the time the property is first used for income producing activities for the market value at that time.

For example, Brady purchases a home in 2007 for $300 000 and lives in it as his main residence until 2011. He then purchases another home and rents the original property until its sale in 2013. The market value of the property at the commencement of the rental arrangement was $400 000. Therefore, the value to be used in calculating any capital gain or loss on disposal will be $400 000. Interesting to note is that the property must be held for at least 12 months from the time it is first used for income producing activities to be eligible for the 50% Capital Gains Tax exemption (as distinct from being held for 12 months from when the property was first purchased).

HAVE YOU CANCELLED YOUR GST REGISTRATION?

When a business cancels its GST registration, often overlooked is the potential GST adjustment that may be necessary on existing business assets. The GST Act provides that an increasing adjustment be made for anything that forms part of the assets of an entity immediately before the cancellation of the GST registration. The rationale for the adjustment is that, on cancellation of registration, the assets of an entity are assumed to go into private use. The increasing adjustment recovers amounts claimed as GST credits on acquisitions, as the asset no longer qualifies as a creditable acquisition. The amount of GST payable is calculated by reference to the GST inclusive market value of the asset, where the market value is less than the initial consideration provided in acquiring the asset.

Take, for example, a business that has ceased operation and has a motor vehicle on hand with a market value of $11 000. GST credits had been claimed on the acquisition and running costs of the vehicle. The GST payable will be 1/11 of $11 000, that is $1 000.

CLARITY ON COMPANY TAX CUTS

The Government has just released legislation clarifying how the recent company tax cuts will apply. Will your company benefit, and by how much?

BACKGROUND

In mid-2017, the Government passed into law company income tax cuts. For companies with a turnover less than $50 million, the company income tax rate will be progressively reduced to 25%. How quickly this decrease happens depends on a company's level of turnover as follows:

FINANCIAL YEAR	AGGREGATED TURNOVER LESS THAN	COMPANY TAX RATE FOR ENTITES UNDER THE THRESHOLD	COMPANY TAX RATE FOR ENTITES OVER THE THRESHOLD
2015/2016	$2 million	28.5%	30%
2016/2017	$10 million	27.5%	30%
2017/2018	$25 million	27.5%	30%
2018/2019 to 2023/2024	$50 million	27.5%	30%
2024/2025	$50 million	27%	30%
2025/2026	$50 million	26%	30%
2026/2027 ONWARDS	$50 million	25%	30%

The reductions apply to "corporate tax entities". An entity is a corporate tax entity if it is a company, corporate limited partnership, or a public trading trust.

CONFUSION

It appears that the Government's intention in making these reductions was to encourage small to medium businesses to reinvest the income tax savings back into their business. This in turn would promote employment and investment growth. However, this intent became clouded recently when the ATO issued draft *Taxation Ruling TR 2017/D2* in which it seemed to indicate that companies that were solely engaged in passive investments such as shares and property could be deemed to be carrying on a business and therefore be eligible for the reduced company income tax rate as follows:

"This ruling is not concerned with what amounts to carrying on business. However, generally, where a company is established or maintained to make profit or gain for its shareholders it is likely to carry on business. (Brookton Co-operative Society Ltd v FCT (1981) 147 CLR 441 per Aicken J at 469; American Leaf Blending Co Sdn Bhd v D-G of IR [1978] 3 All ER 1185 Per Lord Diplock at 1189; Inland Revenue Commissioners v Westleigh Estates Company Ltd; South Behar Railway Company Ltd; Eccentric Club Ltd [1924] 1 KB 390). This is so even if the company only holds passive investments, and its activities consist of receiving rents or returns on its investments and distributing them to shareholders. (Brookton Co-operative Society Ltd v FCT (1981) 147 CLR 441 per Aicken J at 469."

In response to this, the Government issued a Press Release in July stating that the company income tax cuts were introduced to assist actively trading companies, and not entities such as bucket companies or companies that just held passive investments in shares or property for example. The Press Release went onto state that the Government would move to introduce legislation to this effect and clarify once and for all, to which companies the income tax cuts would apply. That legislation has now been drafted.

CLARIFYING LEGISLATION

Rather than address the question of which companies are actually carrying on a business, the draft legislation applies the lower income tax rate to companies that have an aggregated turnover less than the specified threshold for the year (see earlier table) and whose total assessable income comprises less than 80% of 'passive income' (i.e. if the companies' "passive income" is 80% or more of their total assessable income in an income year the company would continue to pay income tax at the 30% rate despite being under the annual turnover threshold).

For this purpose, "passive income" is defined as:

- Dividends (but not those from holdings with voting rights of 10% or more)
- Non-share dividends by companies
- Interest income, royalties and rent
- Gains on qualifying securities
- Capital gains, and
- To the extent attributable to any of the above, amounts included in assessable income from a partnership or trust.

This commences from 1 July 2016.

The 80% passive income test must be applied each year in order to determine a company's eligibility for the lower income tax rate for that year. Under this new test, some anomalous results may arise. For example, a corporate beneficiary may be eligible for the reduced rate on trust distributions attributable mainly to business income in the trust, provided that it carries on business itself and satisfies the 80% test overall. On the other hand, a company carrying on business managing the rental of its commercial or residential properties would not. What constitutes 'carrying on a business' is still not defined by the new legislation.

TAKE AWAY POINTS

1. Under the new rules, not only will bucket companies and companies merely holding passive investments conceivably miss out on the reduced company income tax rate, but also other companies that may be carrying on an actively trading business (such as those managing a large portfolio of properties, or companies that have a large one-off capital gain during the year etc.).

2. If you operate through a company structure, have an eye to the 80% passive income test when varying or otherwise calculating your PAYG instalments for 2017/2018. Instalments should be based on the higher 30% company tax rate where the 80% threshold is likely to be exceeded.

3. Because the 80% test is applied each year, you may need to take action leading up to 30 June to avoid exceeding the threshold. For example, by delaying the realisation of a capital gain until after this date.

4. Applying the 80% passive income test each year could result in different income tax rates and consequently different franking credits, as the franking credits are dependent on that year's income tax rate, which may then differ from the current year to the next year.

5. If the company has all Australian resident shareholders it could be to their advantage in applying the higher income tax rate and thus receiving the higher franking credit.

HOMING IN ON DEDUCTIONS

Legislation has now passed through the lower house of Parliament limiting tax deductions for owners of residential rental properties. This article takes a close look at the changes.

TRAVEL EXPENSES TO RENTAL PROPERTIES

Under the new law (backdated to 1 July 2017), most residential rental property owners will be denied deductions for travel expenses related to their properties.

While initially it was thought, when this measure was announced on Budget Night, that deductions for travel would be denied only when "inspecting, maintaining and collecting rent" (these were the words used in the Budget Papers) the legislation goes much further. Any travel deduction – including travel to undertake repairs/maintenance or even to see your tax agent for advice or services in respect of your property – is denied from 1 July 2017.

Furthermore, the travel expenses cannot be capitalised either. That is, they cannot be included in any element of the property's cost base or reduced cost base (and therefore cannot decrease your capital gain or increase your capital loss) when you sell the property. The travel expenses (such as airfares, accommodation and motor vehicle expenses) are disregarded altogether.

EXCLUSIONS

The legislation is primarily targeted at individual landlords not in business. Travel deductions can continue to be claimed by the following taxpayers who own the residential rental property:

- Corporate tax entities (companies, corporate limited partnerships, corporate unit trusts, and public trading trusts),
- Superannuation plans that are not a Self-Managed Superannuation Fund (SMSF),
- Public unit trusts,
- Managed investment trusts, or
- Unit trusts or partnerships, all of the members of which are entities of a type listed above.

Also excluded are taxpayers who are carrying on a business of renting residential properties (e.g. owners of hotels, motels etc.). It is quite rare however that the traditional individual landlord owners of individual residential rental properties are carrying on a business, even where they own multiple properties. To evidence that a business is being carried in such a situation, these individuals would generally need to demonstrate facts such as that they are servicing the properties (e.g. changing linen, cleaning the property regularly, providing meals etc. during the stay etc.); that they maintain a degree of control over the property (e.g. are able to enter without advance notice, retain a copy of all keys etc.); that they pay all utility expenses such as electricity/gas/water etc. Thus, just merely having a traditional landlord-tenant relationship will not suffice in terms of evidencing that you are carrying on a business.

'RESIDENTIAL'

The changes apply to residential premises. This takes on its ordinary tax law meaning of land or buildings that are occupied as a residence and are capable of being occupied, as a residence or for residential accommodation and includes a 'floating home', and commercial residential premises such as a boarding house. Whether a property is residential in nature is determined by the property's physical characteristics e.g. does it have kitchen facilities, bathroom, bedrooms etc.? However, under the amendments, where you are not using the property to derive rental income but are using it for other income producing purposes (for example, you are using it in a business – see earlier) travel will continue to remain deductible.

Where there is a mix-use of the property, each trip must be considered on its merits and if necessary apportioned.

Example (from the Explanatory Memorandum)

Anna owns multiple workshops across Australia as part of her business operations. She owns a two-storey brick shop-house in Melbourne. The building comprises a workshop on the ground floor and an apartment on the first floor. The apartment is rented out separately to a couple, Leon and Michelle. Therefore, Anna derives assessable income from both her workshop and the apartment.

Anna travels from her home town in Canberra to her property in Melbourne for the purpose of carrying out maintenance to the floor of the workshop. This maintenance activity is solely related to gaining or producing assessable income from the workshop. Anna incurs airfare costs associated with this travel.

Anna will be able to deduct her travel expenditure as it relates to gaining or producing assessable income in the course of carrying on her business from her workshop, not from gaining or producing assessable income from the use of her apartment as residential accommodation.

Anna then takes a second trip from her home town in Canberra to her property in Melbourne for the purpose of carrying out maintenance to the wall of her apartment. This maintenance activity is solely related to gaining or producing assessable income from the apartment. Anna incurs airfare costs associated with this travel. This time Anna will not be able to deduct her travel expenditure as it relates to gaining or producing assessable income from the use of her apartment as residential accommodation.

TAKE AWAY POINTS

1. Only travel related to the earning of residential rent is denied a deduction and cannot form part of your cost base

2. Note the excluded entities such as companies etc.

3. You can still claim a deduction for the cost of employing other parties to carry out tasks on your behalf (such as real estate agents for carrying out property management services such as inspections, or tradespeople for carrying out repairs). Indeed, where your travel expenses are significant, you may now wish to consider engaging the services of these other parties.

4. The strategy of combining a weekend holiday with travel to your rental property, and apportioning the deduction is no longer allowable. None of the travel will be deductible from 1 July 2017.

LIMITING DEPRECIATION CLAIMS

In another major change to residential property deductions, plant and equipment depreciation claims in these properties will be limited to outlays actually incurred by investors. By way of background, plant and equipment items are usually mechanical fixtures or those items which can be "easily" removed from a property such as dishwashers and ceiling fans. It also includes curtains, desks, carpets, bookcases and other depreciating assets not fixed to the building. This is a significant reform as depreciation deductions can be worth thousands of dollars each year. Note, however, that the regime for capital works deductions (depreciation on the building itself and the assets fixed to the building) is unchanged. The changes to plant and equipment depreciation apply on a prospective basis, with existing investments grandfathered. Plant and equipment forming part of residential investment property as of 9 May 2017 (including contracts already entered into at 7:30pm (AEST) will continue to give rise to deductions for depreciation until either the investor no longer owns the asset, or the asset reaches the end of its effective life.

Investors who purchase plant and equipment for their residential investment property after 9 May 2017 will be able to claim a deduction over the effective life of the asset. However, subsequent owners of a property will be unable to claim deductions for plant and equipment purchased by a previous owner of that property.

In other words, depreciation deductions will be denied if an asset has been 'previously used'. An asset will have been 'previously used' by a taxpayer if any of the three following conditions apply:

1. THE TAXPAYER IS NOT THE FIRST TAXPAYER THAT USED THE ASSET OR INSTALLED THE ASSET READY FOR USE

This condition does not apply to new residential premises or substantially renovated premises if no taxpayer was previously entitled to a deduction for the depreciation of the asset and either:

- Nobody resided in the premises before the current owner, or
- The asset was installed in new residential premises that were supplied to the current owner within six months of the premises becoming new residential premises, and the asset had not been used or installed in a residence before that use or installation.

So for example, where you buy new premises off a property developer or builder, and then commence to rent out those premises, the depreciation on the plant and equipment will be able to be claimed.

2. THE ASSET IS USED OR INSTALLED READY FOR USE DURING ANY INCOME YEAR IN PREMISES THAT ARE, AT THE TIME, A RESIDENCE OF THE TAXPAYER

For example, if you buy a new house or apartment and use it as your 'residence' before renting it out, any assets used in the premises would generally have been used wholly for personal use or enjoyment. Consequently, depreciation deductions could not be claimed when you subsequently rent the property. For this purpose, 'residence' has a slightly wider meaning than the tax law definition of 'main residence' and includes situations where you have more than one residence that you currently occupy. For example, you may have a holiday house that you rent out to tenants for 10 months of the year, and occupy for 2 months of the year. Under the new law, the depreciating assets in the holiday home would no longer be able to be claimed even though the holiday home is not your main residence.

3. THE ASSET IS USED OR INSTALLED READY FOR USE DURING ANY INCOME YEAR FOR A PURPOSE THAT IS NOT A TAXABLE PURPOSE OTHER THAN INCIDENTAL OR OCCASSIONAL USE OF THE PROPERTY

According to the Explanatory Memorandum to the new legislation, use is "incidental" if it is minor in the context of the overall use of the property and arises in connection with another non-incidental use. As an example, the Explanatory Memorandum states that staying at the property for one evening while carrying out maintenance activities would generally be considered 'incidental'…and therefore claims could still be made on depreciating assets.

"Occasional" use, according to the Explanatory Memorandum, is use that is infrequent, minor, or irregular. As examples, the Explanatory Memorandum states that "spending a weekend in a holiday home or allowing relatives to stay for one weekend in the holiday home free of charge that is usually used for rent would generally be occasional use". This could be interpreted on a cumulative basis so allowing different relatives to stay in the holiday home every weekend over the course of a year would not be occasional use. Therefore, for the many holiday home owners who spend more than a single weekend in their properties, you will very likely render your depreciation deductions on the plant and equipment in that property non-deductible.

Example

Tom purchases a two-year old apartment that he plans to rent out. The property has been used as a main residence as well as a rental property by previous owners.

Contained within the property are a number of depreciating assets including carpet installed by the previous owner. Tom also himself purchases a number of depreciating assets to install in the apartment before he rents it out including:

- Curtains, which he purchased brand new, and
- A second-hand washing machine purchased from a friend.

Tom also installs his old fridge that he has used from his own residence.

Under the new laws, Tom cannot claim deductions for depreciation of the washing machine, fridge or carpet as they have all been previously used (other than as trading stock) either privately in a residence or in the case of the carpet, used in the rental property itself.

The brand new curtains however can be depreciated as they have not been previously used either privately in a residence or in a rental property.

EXCLUSIONS

The same entities that are excepted from the disallowance of the travel deductions, are also excluded from this measure, including entities carrying on a business. This new law also only applies to residential rental properties not used in a business (see earlier).

TAKE HOME MESSAGES

1. Note the prospective application of the laws and the grandfathering provisions (see earlier).
2. Given the narrow definition of 'incidental or occasional use' you may need to adjust your use of your property as a holiday home if you wish to claim ongoing depreciation deductions going forward.
3. New depreciating assets that you purchase and install for use in your rental property, as well as assets in a new rental property (that you may purchase from a building company for example) are still claimable.
4. If you are contemplating turning your residence into a rental property, depreciation deductions cannot be claimed for existing assets in that property.
5. Capital works claims (building depreciation) are not affected by the new law.

LANDMARK TRAVEL RULING

The ATO has just released a landmark draft Taxation Ruling setting out the circumstances when employee travel expenses (including meals and accommodation) will be deductible. When finalised, it potentially creates an entirely new landscape which will affect both employees and employers.

THE RULING

Draft Taxation Ruling *TR 2017/D6* was released by the ATO on 28 June 2017 and provides welcome, updated guidance on when an employee's travel expenses will be deductible. These rules are important for not only employees when determining the deductibility of travel expenses, but also for employers in terms of FBT treatment when they pay for or reimburse an employee's travel, meal or accommodation expenses. It also has implications for employees receiving travel allowances. When finalised, the ruling will replace the ATO's Miscellaneous Taxation Ruling *MT 2030* which is more than 30-years old. As well as providing worked examples of a range of circumstances where employees travel away from their normal place of work and from their home for work, the Ruling also introduces a new category of travel (Special Demand Travel), and significantly expands the time period when an employee may claim travel expenses when away from home.

SPECIAL DEMAND TRAVEL

The Ruling introduces a new kind of deductible travel – Special Demands Travel. Essentially, this involves travel between the employee's home and a regular work location where:

- The journey or part of the journey is included in the activities for which the employee is paid under the express or implied terms of their employment, and
- This is reasonable because of the special demands of their particular work.

According to the Ruling, this type of travel will be onerous physically or logistically, and may involve any of the following:

- **A remote work location.** By way of example, a fly-in, fly-out employee such as a miner may be able to claim the cost of their travel from the airport to the remote work location (and therefore under the otherwise deductible rule the employer will not be liable for FBT if they pay this expense). In this situation, employees would be expected to report to the meeting point (e.g. airport) after which they are subject to the employer's control.
- **A requirement to move continuously between changing work locations.** For example, a construction foreman for a State-wide building company who is required on-site. In this case, travel between home and each project location may be deductible in certain circumstances.
- **A requirement to work away from home for an extended period.**

EXAMPLE
(FROM THE DRAFT RULING)

Chris is an IT consultant working for a large consultancy firm based in Sydney and is paid an annual salary.

A large client based in Melbourne is about to undertake a major upgrade of its computer system, and Chris is required to travel to Melbourne for two months to oversee the system upgrade.

The following arrangements have been agreed to between Chris and his employer for the two-month period that Chris will be in Melbourne:

- Chris's employer will arrange and pay for an airfare from Sydney to Melbourne at the start of his two month work assignment and from Melbourne to Sydney at the end
- Chris's employer has decided that the specific demands of his work, including his remoteness from Sydney and his family, reasonably require that the airline travel between Melbourne and Sydney each week will be arranged and paid for by the employer. Chris will be subject to the direction and control of the employer during the period of the travel
- Chris will receive a daily travel allowance from his employer to cover his costs of accommodation, meal and incidental expenses for the periods he is working in Melbourne (Chris will not receive the allowance for weekends as he will be at home in Sydney)
- Chris will rent a furnished apartment in Melbourne CBD for the period, and
- Chris's family will remain in Sydney in the family home.

The costs of Chris's flights between Sydney and Melbourne are 'otherwise deductible' to his employer under the FBT rules. The flights are attributable to Chris having co-existing work locations and his employer has determined that the special demands associated with him working away from home for an extended period reasonably require that the travel is part of his work.

Expenses Chris incurs for accommodation, meals and incidentals for the periods he stays in Melbourne are deductible, as Chris is required to work away from home and stay overnight because of travel undertaken in the course of performing his work activities, and he is not living away from home. Chris declares his travel allowance as income in his tax return and claims a deduction for these expenses.

LIVING AWAY FROM HOME / TRAVEL DISTINCTION

As per the previous example, the Draft Ruling appears to set a 2-3 month maximum period where an employee may be deemed to be travelling for work purposes (as distinct from living away from home). Another example in the Ruling deems that 4 months is too long to be deemed travelling for work purposes, and instead deems that the employee is living away from home for work.

This 2-3 month benchmark is a significant increase on the 21-day threshold set in *MT 2030*. This time period matters because if you are deemed to be travelling overnight for work purposes, then you can generally claim your accommodation and meal expenses while away, and the employer can also pay an overnight travel allowance. Where this allowance is paid within the limits set out in Taxation Determination *TD 2017/19*, no substantiation of expenses is required. On the other hand, where an employee is deemed to be living away from home for work purposes, their accommodation and meals cannot be claimed as a tax deduction. However, an employer may be eligible to pay them a Living Away From Home Allowance (LAFHA) which may be exempt from FBT, and will not be assessable to the employee.

Thus, the significant increase from 21 days to 2-3 months has implications for employees and employers alike.

SUMMARY OF EXAMPLES

The following table provides a basic summary of the travel examples provided in the Ruling, and whether the travel involved would be deductible. To view the full details in the examples (which we recommend), access the Ruling in the legal database section of the ATO website **www.ato.gov.au**

EXAMPLE	DEDUCTIBLE	NOT DEDUCTIBLE
Travel between home and a regular work location		✓
Travel by car between home and an alternative but regular work location		✓
Travel between home and a remote work location as a fly-in, fly-out employee	Work-related accommodation	Ordinary home to work travel
Special demands travel – fly-in, fly-out employee	Travel from airport to work, and accommodation/meal/incidentals	
Special demands travel – working at new locations every few weeks and staying away from home	Work-related accommodation/meals and incidentals	
Day trip to alternative work location (e.g. flight from Brisbane to Rockhampton, once each fortnight)	Co-existing work locations travel	
Short-term travel to a temporary alternative work location (4 days) with a private component (therefore requiring apportionment)	Co-existing work locations travel and work portion of accommodation/meals/ incidentals	Non-work related accommodation/meals/ incidentals portion
Longer-term travel to a temporary work location for a 6-week training course	Travel to course is deductible, as is accommodation/meals/incidentals	
Ongoing car travel to alternative work location 200 km from home	Co-existing work locations travel, and accommodation/meals/incidentals	
Ongoing travel to an alternative interstate work location where the employee stays in premises leased by the employer	Co-existing work locations travel, and work-related accommodation/ meals/incidentals	
Ongoing travel to an alternative work location (3 weeks on, 1 week off) where employee rents accommodation from spouse away from home	Co-existing work locations travel, and work-related accommodation/meals/ incidentals	
Ongoing travel to alternative work location (Sydney to North Coast of NSW) – Employee purchases an additional home to stay in	Co-existing work locations travel, and work-related accommodation/property financing costs partially deductible	
Special Demands Travel – Short-term travel to temporary work location (3 weeks)	Co-existing work locations travel, and work-related accommodation/meals/ incidentals	
Special Demands Travel - Working temporarily at different location for an extended period (2 months) See earlier example	Co-existing work locations travel, and work-related accommodation/meals/ incidentals	
Special Demands Travel - Working at a different location for an extended period (4 months)**		Living away from home accommodation/meals/ incidentals**
Secondment to Australia for between 90-120 days		Relocation travel, and accommodation/meals/ incidentals
Basic accommodation (caravan) while working away from home		Living away from home accommodation**

**As the employee is deemed to be living away from home for work purposes, their accommodation/meals/incidentals are not deductible to them. In such a case, the employer may wish to consider paying the employee a Living Away From Home Allowance (LAFHA). If paid within certain dollar limits, the allowance may be exempt from FBT for the employer, and will not be assessable to the employee as income.

Access our **Travel** publication in the subscriber section of our website **www.mytaxsavers.com.au** for more information on LAFHAs.

WHERE TO NOW?

The Ruling, when finalised, has the potential to create an entirely new landscape for claiming travel expenses which – for the reasons outlined above – has significant impacts for employees and employers alike. Once finalised, both parties may need to reconsider how remuneration packages are structured going forward.

SUPER CRACKDOWN!

The Government recently announced a renewed focus on employers who are not paying their workers Superannuation Guarantee or who are paying it late. We look at what this focus entails, and answer some frequently asked Superannuation Guarantee questions.

COMPLIANCE PROGRAM

In early September the ATO released research indicating that the net superannuation gap – being the difference between the value of Superannuation Guarantee (SG) required to be paid by law, minus what is actually paid – is approximately $2.85 billion. This gap has increased from 3.8% in 2009/2010 to 5.2% in 2014/2015 of the total amount owed to employees. Indeed, there are approximately 20 000 complaints of unpaid SG each year.

On the back of these alarming statistics, a number of measures were announced by the Government in late August to boost employer SG compliance including:

- Requiring superannuation funds to report contributions received from employers to the ATO more frequently, and at least monthly. This in turn will enable the ATO to identify employer non-compliance and take prompt action.
- Improve the effectiveness of the ATO's recovery powers including strengthening the Director Penalty Notice regime and the use of security bonds for high-risk employers. This is aimed at ensuring that unpaid SG is better collected by the ATO, and paid to employees' superannuation accounts.
- Give the ATO the ability to seek court-ordered penalties in the worst cases of non-compliance, including employers who are repeatedly caught but fail to pay their SG liabilities.

For its part, the ATO – armed with additional funding from Government – will be increasing its 'proactive' SG casework by more than 1/3rd in 2017/2018. This will involve reviews and audits of employers. Penalties of up to a massive 200% per employee may be applied where an SG payment has not been met.

According to the ATO, among main reasons for SG non-compliance is poor cash-flow management, poor record-keeping, and insolvency. Indeed, when a business is struggling, typically one of the first obligations to be put off is SG. Another contributing factor is education – business owners are simply not across the details of SG – and low levels of business experience. Given this, the rest of this article recaps some frequently asked SG questions.

WHAT ARE THE DUE DATES?

SG is payable quarterly; 28 days after the end of each quarter by the following dates (even where they fall on a weekend):

- 28 April (for the January-March quarter)
- 28 July (for the April-June quarter)
- 28 October (for the July-September quarter)
- 28 January (for the October-December quarter).

Your SG payment must be received by the superannuation fund by these dates where you are paying directly to the fund. However, where you are using the ATO's *Small Business Superannuation Clearing House*, your SG payment is deemed to have been made on the day that the Clearing House receives it. On the other hand, if you are using a commercial Clearing House, your SG payment is deemed to have been made when the superannuation fund receives it from the Clearing House. For this reason, depending on processing times, you may need to make payment to your commercial Clearing House up to 10 business days before the above due dates. Check with your Clearing House to confirm its processing times.

TIP

The ATO's *Small Business Superannuation Clearing House* is now available to employers with a turnover of less than $10 million (up from $2 million) or less than 20 employees.

This is a free service which reduces red-tape and compliance costs for employers by allowing them to make a single electronic payment to the Clearing House which will then distribute the payments to each employee's individual super fund. To register for the Clearing House, visit the ATO's website.

These due dates are important because, by law, if you are even one day late you are required to lodge an *SG Charge Statement* with the ATO (see later).

WHICH EARNINGS?

SG is only payable on payments that you make to workers that constitute "Ordinary Time Earnings". This is broadly defined as certain payments made in respect of ordinary hours of work. It's important to determine these hours because payments made for work performed outside ordinary hours (i.e. for the many employees who are paid overtime) do not attract SG.

An employee's 'ordinary hours of work' are the hours specified as his or her ordinary hours of work under their employment agreement / Award etc.

That document need not use the exact expression 'ordinary hours of work', but it needs to draw a genuine distinction between ordinary hours and other hours. In particular, it would be expected that the other hours are remunerated at a higher rate (typically described as overtime) than the ordinary hours, or otherwise identifiable as a separate component of the total pay in respect of non-ordinary hours.

Any hours worked in excess of, or outside the span (if any) of, those specified ordinary hours of work are not part of the employee's 'ordinary hours of work'.

If the ordinary hours of work are not specified in the written document, the 'ordinary hours of work' are the normal, regular, usual or customary hours worked by the employee, as determined in all the circumstances. This is not necessarily the minimum or maximum number of hours worked or required to be worked.

In such cases, it may often not be possible or practicable to determine the normal, regular, usual or customary hours of an employee's work. If so, the actual hours worked should be taken to be the ordinary hours of work. Therefore, in those cases, all hours worked will attract SG.

It follows that 'ordinary hours of work' are not necessarily limited to hours to be worked between 9am and 5pm, Monday to Friday. They may (depending on the provision in the relevant Award or agreement, if any) include hours to be worked at other times, including at night, on weekends or on public holidays.

EXAMPLE

Beryl is a call centre worker. Her employment contract requires that she work a minimum number of hours per week. As agreed with her employer, she may work additional shifts each week when mutually convenient. She often does this, although there is no consistent pattern to it and nor is she paid at a higher rate for these shifts. Neither her contract, or any other Award or agreement specify her ordinary hours.

Conclusion?

All of Beryl's hours will constitute ordinary hours of work and therefore all hours will attract SG because:

- There is no consistent pattern to her extra shifts
- There is no employment agreement or Award specifying her ordinary hours
- Her extra shifts do not attract a different rate of pay.

WHAT PAYMENTS?

Having determined the 'ordinary hours' of the worker, use the following checklist as to which actual payments attract SG:

PAYMENT	SG PAYABLE?	
	Yes	No
Base salary during ordinary hours	✓	
Overtime hours		✓
No ordinary hours stipulated or able to be determined	✓	
Payments of salary while on paid leave e.g. annual leave and long service leave	✓	
Cashed out annual leave or long service leave for continuing employees	✓	
Allowances (excluding those expected to be expended – see later example)	✓	
Reimbursements		✓
Parental leave		✓
Jury duty		✓
Termination payments in lieu of notice	✓	
Unused annual leave or long service leave on termination		✓
Performance bonuses and Christmas bonuses	✓	
Bonuses in respect of overtime		✓

ALLOWANCES

One of the main areas of confusion centres around allowances – which of these attract SG, and which do not? As per the table above, allowances (including those paid for conditions such as danger allowances, and those paid for specific duties such as fire warden) will generally attract SG unless because of the nature of an employee's duties it would be expected that the allowance would be fully expended. However, where the allowance specifically relates to overtime work (e.g. overtime meal allowance), no SG will be payable.

EXAMPLE

Cameron is a mobile home loan lender with no fixed office. In addition to his normal salary, his employer pays him a motor vehicle allowance to cover the travel costs he incurs in meeting with borrowers.

Conclusion?

This allowance will not attract superannuation. Because of the nature of his duties (he is required to travel around to meet potential and existing customers), the allowance paid by Cameron's employer is paid in the expectation that it will be fully expended. The allowance is a pre-determined amount (not a reimbursement) calculated to cover Cameron's estimated motor vehicle expenses. It is not therefore paid as a reward for services but in recognition of the costs that are expected to be incurred by Cameron in providing his services.

EXAMPLE

David is a senior manager at a law firm. He is paid a flat $4 000 per year entertainment allowance to cover any expenses he may incur if and when he entertains potential or existing clients.

Conclusion?

The allowance will attract superannuation for the following reasons:

- The nature of David's work means that the allowance may not necessarily be fully expended – as a lawyer, he may not incur $4 000 of entertainment expenses on clients
- The amount paid to David is an unconditional extra payment made to him regardless of whether he spends it
- David has complete discretion as to whether the allowance is spent, and what he spends the amount on.

WHICH WORKERS?

Subject to certain exceptions (see later) all of your employees are entitled to superannuation even where they: are full time / part time / casual; receive a superannuation pension while working; are temporary residents; are company directors; are family members working in your business. Also note that there is no upper age limit on SG entitlements.

Employees who are excluded include:

- Non-resident employees paid for work outside Australia
- Employees paid less than $450 (before tax) in a calendar month
- Persons paid to do private or domestic work for not more than 30 hours per week for a non-business employer (e.g. nannies and housekeepers)
- Employees paid under the Community Development Employment Program
- Employees temporarily working in Australia who are covered by a bilateral super agreement. You must keep a copy of the employee's certificate of coverage to verify the exemption
- Employees under 18 years of age who are working part-time (i.e. not more than 30 hours per week)
- Members of the army, naval or air force reserve for work carried out in that role.

EXAMPLE

Brenda is 17 and works part time for a small boutique. In September she was paid $810 over 4 weeks, as follows:

WEEK	HOURS	WAGE
1	25	$200
2	15	$110
3	35	$340
4	20	$160

As Brenda was paid over $450 in the month, her employer must make super contributions on her behalf.

The contributions would only be based on the earnings paid in the week where Brenda worked more than 30 hours (that is, $340), because the amounts paid in the other weeks are excluded by Section 28 of the Superannuation Guarantee Administration Act. This Section provides that 'salary and wages paid to a part-time employee who is under 18 are not to be taken into account for the purpose of making an SG calculation.' This, in conjunction with the definition of part-time employee in Section 6, means that if a person works less than 30 hours per week and is under 18 years old those earnings are not to be taken into account when calculating your SG obligation.

If Brenda was paid the total amount of $810 in week 4 instead of receiving weekly payments, the answer would still be the same. In this situation Brenda is still a part-time employee in the weeks in which she is employed to work not more than 30 hours per week. Because she is under 18, this means that any payments for work in respect of the weeks when she works less than 30 hours are excluded by Section 28 regardless of when they are paid.

CONTRACTORS?

Contractors may or may not be entitled to SG. Contractors who are not entitled usually exhibit at least a couple of the following factors: they work offsite; they provide their own tools and equipment; they are personally/legally/contractually responsible for rectifying mistakes in their work and are liable for any damage/injury/loss caused by any defective work; they can subcontract the work; they are paid for a result rather than for time worked. While usually a worker's status will be clear-cut – employee or contractor – where a worker exhibits at least one or two of the above characteristics, you may wish to verify their status for SG purposes by using the ATO's *Employee Contractor Decision Tool* on their website **www.ato.gov.au**

The ATO itself uses this Tool as the initial step in its employer SG audits. The ATO advises that:

The Tool is free and anonymous. You simply answer questions about the working arrangement and the tool will give you a result, including a report that you can keep in your records. Provided you answer the questions accurately, you can rely on the result provided by the Tool.

Employers using the tool can therefore move forward with confidence. We recommend using the tool for the workers you engage and also checking the status of current workers. Where the tool provides a favourable outcome (for most employers this will be the classification of the worker as a contractor) print out the result and keep it on file. Where the tool provides an unfavourable outcome (for most employers this will be the classification of the worker as an employee) all is not lost! You should speak to your advisor as the tool in its current form has we believe a slight bias towards classifying workers as employees. For example, if a worker is paid on the basis of achieving a result (rather than on an hourly basis) then the tool virtually always classifies them as employees. Such a classification is incorrect in law as the case law requires that a range of factors (as many as eight) must be taken into account and no single factor is determinative – see Taxation Ruling *TR 2005/16* and Superannuation Guarantee Ruling *SGR 2005/1*).

If you and your advisor believe that, after weighing these eight factors, the tool has incorrectly classified your worker, then you may wish to apply for a Private Ruling from the ATO to provide absolute certainty around your position.

SO YOU HAVEN'T PAID ON TIME?

An employer must lodge an *SG Charge Statement* (part of which involves paying an *SG Charge*) where they have an *SG Shortfall*, as at one of the quarterly due dates listed above. An employer will have an *SG Shortfall* if their actual SG contributions owed for a quarter across all of their eligible workers is less than the amount required by law. Therefore, if there is an *SG Shortfall* for any eligible worker, then the employer will have an SG Shortfall for the quarter. This may be the case where the employer:

- Doesn't pay enough SG for its workers (they pay less than 9.5% on all of the ordinary time earnings of any SG eligible worker)
- Incorrectly classifies the worker as a contractor who is ineligible for SG when in fact they are eligible (see earlier)
- Pays the required SG amounts after the quarterly cut-off dates listed earlier, or
- Doesn't pay the contributions to a worker's chosen fund or to the ATO's *Superannuation Clearing House* where the employer is eligible to use that Clearing House (this is called a Choice Liability).

It's important to understand that there is no discretion in this area. Employers must pay the required amount of SG contributions by the quarterly cut-off dates. There is no provision in the SG legislation that allows for any extension of time beyond these quarterly deadlines (even by a single day).

TIP

In practice, in most cases it will be obvious if there is an SG Shortfall (for example, for cash-flow reasons you may not have paid any SG contributions at all for a worker by the due date). However, if you are unsure whether you as an employer has an SG Shortfall for the quarter, apply the following formula to determine how much SG the employer should have paid an eligible worker for a quarter:

Ordinary Time Earnings (OTE)
x
Charge Percentage (9.5%)

Then compare this amount to the amount of contributions you as the employer actually made for the worker by the cut-off dates outlined in the table above. Alternatively, you can use the ATO's SG Contributions Calculator available on its website.

Having established there is an *SG Shortfall* for a quarter, employers must then self-assess their liability for the *SG Charge* (i.e. they must report their *SG Shortfall* to the ATO). Where an employer has an SG Shortfall for a quarter, they must raise an assessment by lodging an *SG Charge Statement* and pay the *SG Charge* to the ATO by the due date.

Where an employer lodges an *SG Charge Statement* for a quarter, the ATO is taken to have made an assessment of the employer's *SG Shortfall* and *SG Charge* payable on the Shortfall as calculated and specified by the employer in the *SG Charge Statement*.

The due date for the *SG Charge Statement* and payment of the *SG Charge* is the 28th day after the second month following the end of the quarter (i.e. one month after the SG was due) as per the following table:

SG CHARGE STATEMENT AND PAYMENT DUE DATES

Period	Due Date
Quarter 1 (1 July – 30 September)	28 November
Quarter 2 (1 October – 31 December)	28 February
Quarter 3 (1 January – 31 March)	28 May
Quarter 4 (1 April – 30 June)	28 August

Interest continues to accrue until a completed and signed statement is lodged with the ATO. Any unpaid amounts will incur General Interest Charge (GIC) from the lodgement date.

To be clear, if an employer has not paid sufficient SG by the quarterly cut-off dates, simply paying the outstanding SG amounts as a late contribution straight to the employee's superannuation fund after those quarterly cut-off dates and not lodging an *SG Charge* Statement in the hope that this does not get detected, is not a legal solution. It's not up to the ATO to detect employers who have not met their superannuation obligations. Under the *SG Charge* self-assessment model – an employer must raise an assessment themselves by lodging an *SG Charge Statement* if there is any amount of *SG Shortfall* by the quarterly cut-off dates listed on the first page of this article. The *SG Charge* calculation can be complex. For this reason we recommend using the ATO's *SG Charge Calculator* housed on its website **www.ato.gov.au**

Not paying SG or SGC is often a trigger for a wider ATO audit. Thus, by lodging an *SG Charge Statement* and paying the required amount will not only get you SG compliant, but will also potentially help stave off a wider ATO audit of your business.

TAKE-HOME MESSAGES

1. There's set to be a massive crackdown on SG – including increased ATO reviews, and superannuation funds reporting more regularly and directly to the ATO
2. Large penalties apply for non-compliance including penalties of up to 200% per employee *SG Shortfall*, plus interest!
3. Where uncertain, take advantage of the ATO's calculators and tools **www.ato.gov.au**
4. Lodge an *SG Charge Statement* if you have not met your SG obligations on time. This makes you compliant and may take you off the ATO's audit radar.

SIMPLER BAS BOOKKEEPING GUIDE

Simpler BAS was introduced on 1 July 2017. Recently, the ATO produced a bookkeeping and BAS guide for business. Please find enclosed a beefed-up version of the guide. This will assist your bookkeeping and Activity Statement preparation under the new Simpler BAS regime.

BACKGROUND

Simpler BAS commenced on 1 July 2017. All Small Business Entities (SBEs) including sole traders carrying on a business now operate under the *Simpler BAS* regime. It is compulsory – you do not have a choice to opt out and use the more detailed BAS. SBE's are defined as businesses with a GST turnover of less than $10 million; including the turnover of connected entities and affiliates. *Simpler BAS* involves a reduction in the number labels on the BAS itself. Under *Simpler BAS*, eligible businesses now only need to report the following information on their BAS:

- GST on sales (label **1A**)
- GST on purchases (**1B**)
- Total sales (**G1**).

Under *Simpler BAS*, SBEs are no longer required to report Export Sales (**G2**), Other GST-Free Sales (**G3**), Capital Purchases (**G10**), and Non-Capital Purchases (**G11**). These labels are removed from the BAS altogether.

TAXABLE SALES

You must charge GST when you make a taxable sale, and you can claim GST credits on expenses you incur in making a taxable sale. Use the following table to code in your software, and record on your BAS, taxable sales:

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Goods and services	Sales of goods or services that your business typically supplies (e.g. trading stock, professional services etc.).	GST	G1 and 1A
Assets	Sales/trade-ins/transfers of ownership of assets other than trading stock used in your business such as furniture/equipment, as well as capital assets including motor vehicles and machinery...even where these are second-hand.	GST	G1 and 1A
Property	Sales of land and buildings or sales of businesses (part of which may involve property). Property sales can however be GST-free if they are part of a sale of a business as a Going Concern. The GST on property sales can also be subject to the Margin Scheme; which has the effect of reducing the GST payable. Speak with your advisor if you are uncertain as to the GST treatment of property.	GST	G1 and 1A

GST-FREE SALES

No GST should not be charged when the sale qualifies as GST-free.
However, you can claim GST credits on expenses you incur in making a GST-free sale.

Use the following table to code in your software, and record on your BAS, GST-free sales:

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Fresh food	Most food e.g. fruit, vegetables, fish, bread, meat products, cheese, eggs, milk, soup, tea, coffee, sugar etc. However, exceptions include: restaurant/dine-in/catered food, hot takeaways, bakery products (excluding bread), prepared meals, alcohol and most soft drinks, confectionary/snacks/ice-cream/biscuits.	No GST	G1
Childcare	Childcare fees and supplies directly related to the provision of childcare (e.g. food, electricity, nappy washing services, bed linen, toy libraries, handouts/newsletters/ updates, some excursions, some swimming activities) are GST-free for all of the following three types of Childcare: 1. Childcare supplied by a registered carer under Commonwealth family assistance laws under Section 38-140 of the GST Act. This may include Childcare Centres but and may extend to Nannies etc. 2. Childcare supplied by a Childcare Service approved under the Commonwealth family assistance law under Section 38-145 of the GST Act. This may typically apply to long day care centres, family day care centres, and outside-school-hours care services. 3. Childcare where the supplier is eligible for Commonwealth funding under guidelines made by the Child Care Minister under Section 38-150 of the GST Act. Typically this may apply to family day care, occasional care, outside-school-hours care, in-home care, vacation care, long day care, and other types of approved care.	No GST	G1
Sale of Business	If sold as a Going Concern whereby the following conditions are met: **(a)** the sale is for consideration **(b)** the purchaser is registered for GST **(c)** the seller and purchaser have agreed in writing that the sale is of a Going Concern **(d)** the seller carries on the enterprise until the day of settlement **(e)** the seller supplies the purchaser with all things necessary for an enterprise's continued operation.	No GST	G1

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Exports	Goods if exported from Australia either before receiving payment for them, or within 60 days of the earlier of receiving **(a)** any of the payment for them, or **(b)** rendering an invoice. In respect of services, the most common examples are: services directly connected with goods or property outside of Australia; services provided to a non-resident who is not in Australia at the time...provided that the services are not performed on goods or real property physically located in Australia at the time; and lastly services provided to a recipient where the "effective use or enjoyment" takes place outside of Australia.	No GST	G1
Education	Most education courses, course materials and related excursions or field trips when provided by a suitably recognised provider.	No GST	G1
Medical and Health	The general rule is that if the medical service can be claimed under the Medicare Scheme, then it will be GST-free. It is also GST-free if the medical service is generally accepted treatment for the ailment in the medical profession and supplied on or on behalf of a medical practitioner. Schedule 3 of the GST Act sets out a list of medical aids and appliances that are GST-free. The schedule is a list of items that are specifically designed for people with illnesses or disabilities and are not otherwise widely used. Drugs and other medicinal preparations are GST-free where they are supplied on prescription, qualify as pharmaceutical benefits, or can only be prescribed by a medical practitioner, dental practitioner or pharmacist.	No GST	G1

INPUT TAXED SALES

Input-taxed sales are sales where GST is not payable.

Use the following table to code in your software, and record on your BAS, input taxed sales:

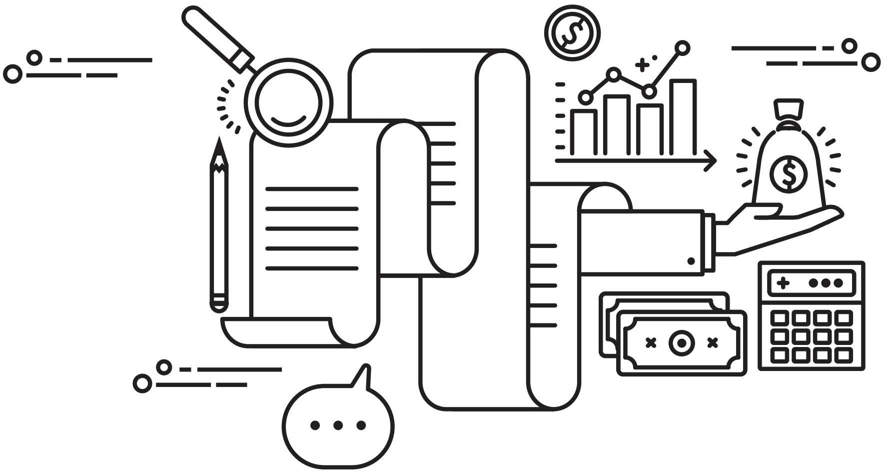
TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Financial Sales	Financial sales which include most transactions relating to money such as lending money, selling shares or other securities.	No GST	G1
Property	Supplies of existing residential premises – by lease or sale. Residential premises must exhibit residential characteristics (e.g. shower, toilet, kitchen etc.). New residential premises are not included.	No GST	G1
Fund Raising	An eligible entity – such as a deductible gift recipient (DGR), endorsed charity, or Government school – may choose to treat all sales it makes in connection with certain fundraising events as input taxed.	No GST	G1

PURCHASES WITH NO GST IN THE PRICE OR WHERE NO GST CREDITS CAN BE CLAIMED

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
GST-Free Goods and Services	See earlier list	No GST	Not reported on the BAS for GST
Purchases from a Business Not Registered for GST	Generally, registration is required where a person/business is carrying on an enterprise and the turnover is over $75 000 (or $150 000 for non-profits). However, a business can voluntarily register for GST if their turnover is less. If you are unsure whether a business is GST-registered, you can check on the ABR website **www.abr.gov.au** by using their ABN.	No GST	Not reported on the BAS for GST
Life and Health Insurance	Insurance premiums paid to the insurer	No GST	Not reported on the BAS for GST
Imported Goods	Where the customs value was $1 000 or less, or no GST was paid		Not reported on the BAS for GST
FBT Exempt Employee Benefits	Some employee benefits are exempt from FBT and, even though the price of related business expenses may include GST, GST credits cannot be claimed. Exempt benefits include: • Minor benefits (less than $300 and provided on an infrequent basis) • Food or drink provided to current employees on a working day on business premises (including Friday night Christmas parties) • Taxi travel to and from the workplace to an external venue (e.g. home or restaurant).	No GST	Not reported on the BAS for GST
International Travel	Including a domestic leg (flight) of an overseas trip	No GST	Not reported on the BAS for GST
Purchases relating to input taxed sales	See earlier for input taxed sale examples. For instance, a residential property owner who is renting out the property (and therefore making an input taxed sale) could not claim GST credits for repairs made on the property or furniture bought for the property, or for electricity charges etc.	No GST	Not reported on the BAS for GST
Property	Examples include: • An existing residential premises • New residential property to rent out • GST-free farmland or land purchased using the Margin Scheme.	No GST	Not reported on the BAS for GST

PURCHASES WITH GST IN THE PRICE WHERE GST CREDITS CAN BE CLAIMED

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Goods and services	Goods and services where there is a GST component on the tax invoice, you are registered for GST, the purchase is made for use in your business, and the purchase is not for the purpose of making input taxed sales.	GST	1B
Imported goods	That have a Customs value of more than $1 000, and GST was paid	GST	1B
Second-hand goods	Where GST is charged from a seller or where you purchase from a private seller and no GST is charged but the second-hand item costs $300 or less	GST	1B
Entertainment Subject to FBT	Entertainment expenses that are subject to FBT, for example social functions for employees held off the premises that do not qualify for the Minor Benefit exemption from FBT. Note that if the employer uses the 50/50 split method to value meal entertainment, only 50% GST credits are available.	GST	1B
Hire Purchases	For hire purchase agreements entered into on or after 1 July 2012, all components of the transaction are now subject to GST including: the upfront purchase price of the asset financed under the agreement, interest charges, and any other associated fees. Irrespective of whether you account on a cash or accruals basis, you can claim the full amount of any available GST credit at the time the first payment under the hire purchase is invoiced or paid.	GST	1B
Domestic Business-Related Travel	Airfares, taxi fares, ride-sourcing charges Note that apportionment must be made if the travel is partly for private purposes	GST	1B



ITEMS NOT REPORTED ON THE BAS

TRANSACTION	TRANSACTION DESCRIPTION	TAX CODE	BAS LABEL
Transactions not within the GST system	• Non-business related expenses • Depreciation • Salary and wages • Allowances • Bonuses • Capital contributed • Directors fees • Distributions received from Partnership/Trust • Drawings • Reimbursement of expenses paid by employees • Bad debts • Superannuation • Dividends received • Interest paid • Fines • Most Australian Government taxes • Bank fees and charges • Principal payments on finance and loan interest • Stamp duty • Sale of your main residence or other personal assets • Non-deductible entertainment expenses (e.g. business lunches with clients) See ATO Taxation Ruling TR 97/17 on the ATO website for the deductibility of entertainment expenses. • Donations • Provision for holiday pay/long service leave/sick leave	Out of Scope / Non Reportable	Not reported on the BAS for GST