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JULY/AUG 2018

NEW YEAR
NEW RULES!

MONEY SAVING TIPS

FULL FEDERAL BUDGET COVERAGE

Index

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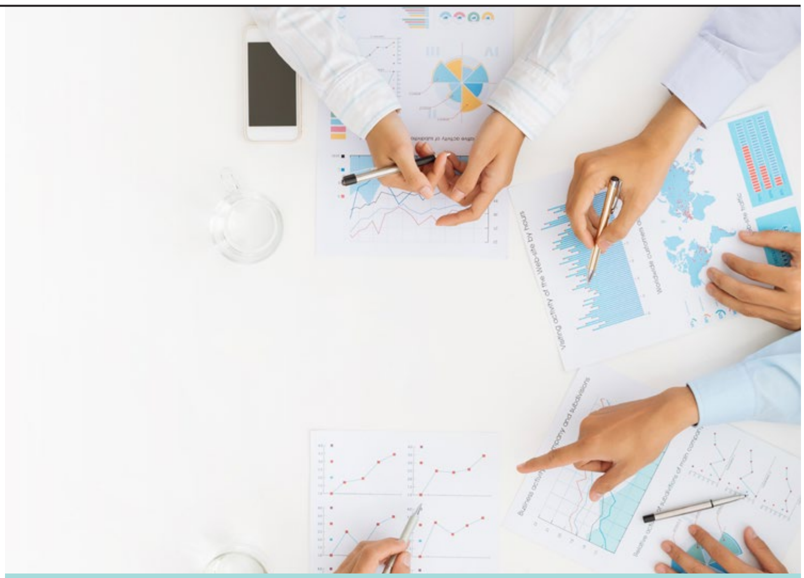

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2018 Federal Budget What's in it for Superannuation?

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KEY DATES

Many lodgement and payment deadlines are looming for business including those relating to Activity Statements, superannuation, and more.

JULY 2018

1 JULY
First day of the 2018/2019 financial year

14 JULY
2017/2018 Payment Summaries – due date to issue to employees

21 JULY
Monthly Activity Statements (June 2018) due for lodgement and payment

28 JULY
Quarterly Activity Statements (April-June) due for lodgement and payment (if lodging by paper)

28 JULY
Superannuation Guarantee Contributions (April-June) due for payment to superannuation funds or Clearing Houses

AUGUST 2018

11 AUGUST
Quarterly Activity Statements (April-June) due for lodgement and payment (if lodging electronically)

14 AUGUST
PAYG Withholding Payment Summary Annual Reports – due for lodgement

21 AUGUST
Monthly Activity Statements (July 2018) due for lodgement and payment

21 AUGUST
Final day for eligible monthly GST reporters to elect to report annually

28 AUGUST
2017/2018 Contractor Taxable Payments Annual Report – due for lodgement

Where one of these dates falls on a weekend or a public holiday, the due date is extended to the next business day

2018 FEDERAL BUDGET

WHAT'S IN IT FOR BUSINESS?

The 2018 Federal Budget was handed down on 9 May 2018. In this first of a three-part article series, we examine the effect of the Budget on business.

INSTANT ASSET WRITE-OFF EXTENDED

The $20,000 Small Business Instant Asset Write-Off has been extended for another 12 months. Businesses with an aggregated turnover of less than $10 million will be able to take advantage of the write-off until 30 June 2019 provided that the depreciating asset was acquired and installed ready for use in your business by this date. Before the Budget, this threshold amount was due to revert down to $1, 000 from 1 July 2018. The $20,000 write-off was originally introduced on 12 May 2015 and originally applied to small businesses with an annual aggregated turnover of less than $2 million. Since then, the write-off was extended to businesses with an aggregated turnover of less than $10 million..

To recap, the Instant Asset Write-Off allows small businesses to fully deduct virtually all depreciating assets under $20,000 (except horticultural plants, in-house software, and buildings), in the year that the asset is acquired and installed ready for use in your business – rather than having the deduction spread out over a number of years. If you miss the deadline (i.e. if the asset is not being used in your business or installed ready for use on or before 30 June 2019), then the write-off threshold reverts to $1,000. Missing the deadline will result in a worse cash flow outcome for your business than if the deadline is met.

Assets costing $20,000 or over continue to be allocated to a general small business pool and are depreciable at a rate of 15% in the first year, and then 30% in subsequent years. Where the balance of a small business pool falls beneath this $20,000 threshold, the pool can also be written off. This extends to existing pool balances, so be sure to consider this in both the 2017/2018 and 2018/2019 financial years as part of any tax planning initiatives you are undertaking.

The real benefit from the $20,000 write-off is an improvement to your cash-flow. The write-off improves small business cash-flow by bringing forward deductions rather than having them spread out over more than one year via a depreciation claim. Cash flow can be a significant issue for small business, particularly startups. That said, it is important to have perspective. The amount you recover through the tax system for such a purchase isn't the full value of the asset, it is the marginal rate of tax you are paying multiplied by the asset value. So for example if you acquire an asset worth $18,000 GST-exclusive in a company with a tax rate of 27.5% then the tax system relieves you of $4,950 in tax that you might have otherwise paid had you not made that purchase. You have however outlaid $18,000 to recover $4,950 in tax. Consequently, you should not let tax distort or blur your commercial instincts – you should continue to only buy assets that fit within your business plan.

NO DEDUCTION FOR NON-COMPLIANT PAYMENTS TO EMPLOYEES AND CONTRACTORS

Under this measure, from 1 July 2019 businesses will no longer be able to claim tax deductions for payments to their employees where they have not withheld any amount of PAYG (where PAYG withholding is required). This is currently occurring as a result of two main reasons:

1. Employers who are experiencing cash-flow difficulties are simply not remitting the withheld amounts to the ATO. This is not only in breach of the law, but directors of companies can be held personally liable for these amounts under the Director Penalty Notice provisions.

2. Employers misclassifying workers as contractors instead of employees. While in many cases it will be clear-cut, if you are uncertain as to the status of a worker (employee or contractor?) we recommend using the *ATO's Employee/Contractor Decision Tool.* The ATO itself uses this Tool as the initial step in its employer 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.

The Government will also remove deductions for payments made by businesses to contractors where the contractor does not provide an ABN and the business does not withhold under the "No ABN Withholding" regime. To recap, under this regime, if the supplier does not provide an ABN and the total payment for goods and services is more than $75 (excluding GST) you generally are required to withhold the top rate of tax from the payment (45%) and remit that to the ATO.

The take out for employers is to ensure that your payroll processes are operating correctly, and that you are correctly withholding and remitting the required amounts from the payments that you make to employees, and also contractors who do not provide an ABN.

DEDUCTIONS DISALLOWED FOR HOLDING VACANT LAND

From 1 July 2019, deductions will be disallowed for expenses associated with holding vacant land in circumstances where that land is not genuinely held for the purpose of earning assessable income. An example of a denied deduction is interest on money borrowed to acquire that land. This measure will apply to land held for residential or commercial purposes. However, the "carrying on a business" test will generally exclude land held for commercial development. Any denied expenses under this measure may, if eligible, be included in the cost base of the property for CGT purposes (such as borrowing expenses and council rates). This measure however will not apply to expenses associated with holding land that are incurred either **(a)** after a property has been constructed on the land and is available for rent, or **(b)** where the land is being used to carry on a business (for example, primary production).

RESOURCING THE ATO

A strong theme to emerge from the Budget is the additional funding that is being allocated to the ATO to help enhance their compliance activities. The Government seems intent on properly resourcing the ATO. This is apparent from a number of measures in the Budget Papers including:

- Personal income tax measures to ensure individuals meet their tax obligations ($130.8 million).
- Delivering on debt collections and improvement in timeliness of debt collections ($133.7 million).
- Enhancing ATO enforcement against the Black Economy ($318.5 million).
- Research and Development (R&D) measure providing additional funding to the ATO and the Department of Industry, Innovation and Science (amount not specified) to more rigorously assess R&D applications.
- Other measures relating to Superannuation Guarantee compliance and payroll and superannuation fund reporting.

On these figures alone, the ATO is going to be well resourced to enable it to pursue its enforcement strategies. This is almost certain to lead to better targeted audit work. $318 million is also being allocated to the ATO to implement new strategies targeting the Cash Economy and Phoenixing activities (whereby companies are closed down and then started up again under a new name, in order to avoid paying worker entitlements such as Superannuation Guarantee). Again, these numbers suggest some robust enforcement measures are on the way from the ATO – so ensure that you are fully compliant with the law.

TAX TIP

In light of this unprecedented funding for the ATO, if you are a business owner, you may wish to strongly consider tax audit insurance. This style of insurance is becoming an increasingly popular means of protecting oneself against the costs arising from a tax audit. Insurance is available to cover professional fees (charged by your Accountant) incurred as a result of an audit from the ATO. These fees can run into the thousands if the audit is protracted as is often the case in relation to complex transactions and business affairs. Audit insurance is also tax deductible. The period covered by the audit insurance is typically from the time an audit commences until the time it is complete. Examples of the audits that are typically covered under a policy include income tax, FBT, Payroll tax, BAS, GST, and record keeping.

DIVISION 7A CLARIFIED

For those who operate discretionary trusts, the Government will clarify the law to ensure that Division 7A applies to unpaid present entitlements (UPE). To recap, a UPE arises where a related private company becomes entitled to a share of trust income as a beneficiary but has not been paid that amount (it has been retained by the trust). Division 7A requires benefits provided by private companies to related taxpayers (such as trusts) to be taxed as dividends unless they are put under complying Division 7A loan arrangements or another exception applies. This measure will ensure the UPE is either repaid to the private company over time as a complying Division 7A loan (including interest) or subject to tax as a dividend.

This area of law can be difficult for taxpayers to understand, and therefore clarification will be welcome.

CRACKDOWN ON CIRCULAR DISTRIBUTIONS FROM DISCRETIONARY TRUSTS

From 1 July 2019, the anti-avoidance rules that currently apply to other closely-held trusts that engage in circular trust distributions will be extended to family trusts. This will prevent the currently available strategy where family trusts act as beneficiaries of each other in a “round-robin” style arrangement whereby a distribution can be returned to the original trustee in a way that avoids any tax being paid on that amount. The crackdown will enable the ATO to impose 47% penalty tax on such distributions.

STRONG STANCE ON TAX AND SUPER DEBTS

More than $133 million will be provided to the ATO over four years for it to continue a raft of measures that will sustain and increase debt collections and the timeliness of those collections. This is forecast to reap an extra $1.6 billion in unpaid Superannuation and tax over the coming four years. With this renewed focus on revenue collection, it is recommended that businesses with tax and superannuation debts owing, pay these debts if they are able to do so. At the very least, you should strongly consider entering into formal payment arrangements with the ATO.

REIGNING IN THE R&D TAX INCENTIVE

The calculation for companies claiming the R&D Tax Incentive will change commencing for financial years beginning on or after 1 July 2018. Also, a maximum cash refund for “smaller” R&D claimants will be capped at $4 million per financial year (a “smaller” R&D claimant is an entity with aggregated annual turnover below $20 million). By way of background, the R&D Tax Incentive is the Australian Government’s principal measure to encourage industry investment in R&D. The program provides offsets for eligible entities (essentially Australian companies and foreign companies with an Australian permanent establishment), that spend $20,000 or more per annum on experimental R&D activities subject to strict conditions.

The changes for calculating the R&D Tax Incentive are based around an “R&D intensity percentage” for each entity. This percentage is based on the amount of R&D related expenditure as a percentage of total company expenditure. The lower the R&D intensity percentage for the entity, the lower the maximum available tax offset.

COMPANIES WITH AN ANNUAL TURNOVER ABOVE $20 MILLION

Currently, a 38.5% non- refundable tax offset is available with a minimum eligible R &D expenditure of $20,000 per year. Under the changes to apply from 2018/2019, there will be four our levels of non- refundable tax offset based on an R&D intensity percentage and the entity's corporate tax rate as follows:

- 40% or 42.5% offset if more than 10% of total expenditure relates to R&D
- 36.5% or 39% offset if R&D intensity percentage is between 5% and 10%
- 34% or 36.5% offset if R&D intensity percentage is between 2% and 5%
- 31.5% or 34% offset if R&D intensity percentage is between 0% and 2%.

COMPANIES WITH A TURNOVER OF LESS THAN $20 MILLION

Currently a 43.5% refundable tax offset is available with a minimum eligible R&D expenditure of $20,000 per year. Under the changes to commence from 2018/2019, the refundable tax offset will be 13.5% percentage points above the entity's corporate tax rate. This will mean no change for companies with a 30% tax rate as the refundable tax offset will remain 43.5%. However, “base rate entities” which have a lower corporate tax rate of 27.5% will under the changes have their maximum refundable tax offset reduced to 41%.

Despite these curtailments, the Incentive remains attractive financially if your company is engaging in cutting-edge R&D activity.

> *"Under current law, offshore sellers of Australian hotel accommodation are exempt from including sales of hotel accommodation in their GST turnover."*

LIMITING PARTNERSHIP ACCESS TO SMALL BUSINESS CGT CONCESSIONS

Partners in Partnership structures that alienate their income by creating, assigning or otherwise dealing in rights to the future income of a Partnership will from Budget Night no longer have access the Small Business CGT Concessions in relation to these rights. The Budget Papers state that this will prevent taxpayers inappropriately accessing the concessions in respect to their assignment to an entity of a right to future income of the Partnership without that entity having any role in the Partnership.

The CGT Concessions themselves are unaltered however and will continue to be available only to entities with an aggregated turnover of less than $2 million, or with net assets of less than $6 million.

CASH PAYMENTS LIMIT

In a measure recommended by the Government's Black Economy (Cash Economy) Taskforce, the Government will introduce a limit of $10,000 for cash payments made to businesses for goods and services that they provide. This measure will require transactions over this threshold to be made through an electronic payment system or by cheque. The rules, set to apply from 1 July 2019, will not apply to transactions with:

- Financial Institutions; or
- Consumer-to-consumer, non-business transactions.

GST BLOW FOR ONLINE HOTEL ROOM RESELLERS

Effective 1 July 2019, GST will be extended to offshore sellers of hotel accommodation in Australia. This measure will ensure they calculate the GST in the same way as local providers.

Under current law, offshore sellers of Australian hotel accommodation are exempt from including sales of hotel accommodation in their GST turnover. This means they are often not required to register for and charge GST on their mark-up over the wholesale price of the accommodation. This was a deliberate move when the GST was introduced back in 2000 as it sought to encourage foreigners to book accommodation in Australia. However, the market has since dramatically shifted, with many domestic and foreign consumers now booking through online sites.

This measure will apply to sales made on or after 1 July 2019. Sales that occur before this date will be exempted even if the stay at the hotel occurs after this date.

LUXURY CAR TAX REMOVED FOR RE-IMPORTED, REFURBISHED CARS

The Luxury Car Tax will from 1 January 2019 be removed for situations where cars are re-imported into Australia following a refurbishment overseas. Currently, cars that are refurbished in Australia are not subject to Luxury Car Tax. However, cars exported from Australia to be refurbished overseas and then re-imported are subject to the tax where the value of the car exceeds the Luxury Car Tax threshold.

BROADER BUSINESS CONDITIONS

In good news for the business community, the Budget papers forecast that the economy will grow at 2.75% in 2017/2018 (current financial year); jumping to 3% in 2018/2019 and 2019/2020. Other key economic indicators:

- **Unemployment** – forecast to slightly fall to 5.25% in 2018/2019 (currently 5.5%)
- **Inflation** – forecast to rise slightly to 2.25 (currently 2%). This is good news for borrowers however as this is still well within the Government's 2% - 3% target range. Once inflation gets beyond this point, interest rates will generally rise.

MORE INFORMATION

Although we've covered the headline measures for business, the Budget runs into hundreds of pages. To view the full Budget papers visit **www.budget.gov.au**

SUPER ACCESS

Illegal early access to superannuation (i.e. where you have not met a Condition of Release), carries with it significant penalties. If you access your superannuation illegally, it will be taxed at the top marginal tax rate (45%) even if you return it to your superannuation fund. This article provides a refresher for readers on exactly when they can access their superannuation.

CONDITION 1 - RETIREMENT

You can access your superannuation upon retirement. Under the superannuation rules, “retirement” is taken to occur:

- ***A] Where you have attained Preservation Age* but are less than 60*** – and an agreement under which you were “gainfully employed” has ended, and the Trustee of your superannuation fund is reasonably satisfied that you never again intend to become gainfully employed, either full-time (i.e. at least 30 hours per week), or part-time (i.e. at least 10 hours per week), or

- ***B] Where you have attained the age of 60*** – and an arrangement under which you were gainfully employed has ended and either of the following apply:
  - o You attained that age on or before the ending of the employment, or
  - o The Trustee of your fund is reasonably satisfied that you never again intend to become gainfully employed, either on a full-time or part-time basis.

This means that your retirement cannot happen before reaching 55 but, after turning 60, retirement can be taken to have occurred upon ceasing employment even where you re-enter the workforce at a later date. Also, where you leave employment before turning 60, but choose not to access your benefits after turning 60, you will be covered by the retirement Condition of Release.

TIP

Both Condition 1A and the second limb to Condition 1B, require the Trustee of your superannuation fund to be reasonably satisfied that you never intend to become gainfully employed on a full-time or part-time basis. Where you later change your mind and return to the workforce, the Condition of Release is still deemed to be met – provided that at the time you originally applied for your superannuation benefits, the Trustee of your fund was reasonably satisfied that at that time you had no intention of returning to the workforce.

This ability to return to work and not breach the Condition of Release rules provides retirees with flexibility should your circumstances change.

*Regarding Condition 1A, Preservation Age depends upon your birth date, and increases the younger you are:

DATE OF BIRTH	PRESERVATION AGE
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
After 30 June 1964	60

In summary, the Retirement Condition of Release enables you retire much earlier than if you were to rely solely on the Age Pension, which now has a qualification age of 67. Under the Retirement Condition of Release, you can retire as early as 55 and perhaps live solely on your superannuation benefits (maybe while your spouse remains in the workforce) until you qualify for the Age Pension or part Age Pension a decade or so down the track. Of course, your strategy will ultimately depend on your circumstances such as the amount of your superannuation savings, whether you will qualify for the Age Pension (by meeting the income and asset tests), and the standard of living you aspire to once you cease work. Speak with your Advisor about how you can use the flexibility provided by the Retirement Condition of Release to chart your retirement pathway.

CONDITION 2 – TRANSITION TO RETIREMENT

Under this Condition of Release, you can ease into retirement by accessing your superannuation while you are still working.

If you have reached your Preservation Age **(currently 56)** you can withdraw some of your superannuation savings each financial year (up to 10% of your account balance) and place it into an account that gives you regular payments (an "income stream) and supplements your income while you are still working. Armed with this extra income stream, you may wish to reduce your working hours and ease your way into retirement. Upon retirement, you may be able to access the full amount of your benefits by meeting Condition of Release 1.

TRANSITION TO RETIREMENT PENSION ADVANTAGES

- **Supplement** - You can supplement your workforce income by accessing your super benefits early.
- **Taxation** - Less tax is paid on the pension income, as compared to your employment income,
- **Lifestyle** - You can reduce your working hours without sacrificing your way of life,
- **Flexibility** – The pension can be rolled back into accumulation mode at any time. This provides flexibility for those who wish to return to full-time work and therefore no longer have the need for their pension income.

DISADVANTAGE

On the downside, by drawing on your superannuation earlier than normal, you are depleting your retirement savings which can be detrimental long-term.

CONDITION 3 – TURNING 65

You can access your superannuation unconditionally as soon as you reach 65 – even where you are still working full-time. There are no cashing restrictions; which means you can take your benefits as a lump sum or as an income stream.

CONDITION 4 – TERMINATION OF EMPLOYMENT -BENEFITS LESS THAN $200

Subject to the governing rules of your superannuation fund, where your employment has ceased and your employer contributed to your fund on your behalf, on termination you may be able to access your preserved benefits if the preserved amount paid by that employer is less than $200.

CONDITION 5 - PERMANENT INCAPACITY

You may access your superannuation if you cease gainful employment and the Trustee of your fund is satisfied that you have a permanent incapacity due to a permanent physical or mental medical condition and are unlikely, because of this condition, to engage in gainful employment that you are qualified for (by education, training or experience). In this circumstance, there are no cashing restrictions on the payment of benefits. At least 2 medical practitioners must certify this for you to receive concessional tax treatment.

CONDITION 6 - TEMPORARY INCAPACITY

You may access your superannuation if the Trustee of your superannuation fund satisfied that you have temporarily ceased work due to physical or mental ill-health that does not constitute permanent incapacity. Generally, temporary incapacity payments may only be paid from your insured benefits (i.e. any income protection insurance held within your fund) or voluntary employer funded benefits. It's not necessary that your employment fully cease however, generally speaking, you would not meet this Condition of Release if you are on sick leave. If eligible, the benefits must be paid as a non-commutable income stream for the period you are incapacitated (they can't be commuted to a lump sum).

CONDITION 7 – SEVERE FINANCIAL HARDSHIP

Under this condition of release, your fund trustee must be satisfied either that:

1. You have been receiving Commonwealth income support payments for at least 26 continuous weeks and were in receipt of this when you applied to have your benefits released), and you are unable to meet reasonable and immediate family living expenses. If this is met, the payment must be a single lump sum of no more than $10,000 and no less than $1,000 (or, if your balance is less than this, the lesser amount). Only one payment is allowed each 12 months.

2. You have reached Preservation Age (see earlier) and have received Commonwealth income support payments for a cumulative period of 39 weeks after reaching Preservation Age, and you were not gainfully employed either full-time or part-time when you applied to have your benefits released. There are no cashing restrictions.

CONDITION 8 – COMPASSIONATE GROUNDS

Your benefits may be released if all of the following conditions are met:

- You do not have the financial capacity to meet an expense
- The release is allowable under the rules of your fund, and
- The Department of Human Services (DHS) approves in writing the release.

Once DHS approval is obtained, the final decision to release rests with the Trustees of your fund. If they approve, they can only release an amount limited to what is reasonably needed. This must be paid in a lump sum.

DHS GROUNDS

DHS will only approve your application if you do not have the financial capacity to:

(a) Pay for medical treatment for a life-threatening illness, or to alleviate acute or chronic pain or mental disturbance, or for medical transport for you or a dependant.

(b) Enable payments to prevent foreclosure by a mortgagee or the exercise of an express or statutory power of sale over the family home.

(c) Pay for home and vehicle modifications to accommodate the special needs of a severely disabled person or dependant.

(d) Pay for expenses associated with palliative care for you or a dependant, in the case of impending death.

(e) Pay for expenses associated with funeral or burial, or

(f) To meet expenses in other cases where the release is consistent with (a) to (e).

CONDITION 9 – TERMINAL MEDICAL CONDITION

If you have a terminal medical condition and two medical professionals certify that the condition is likely to result in your death in the next 24 months, the balance of your super account may be paid as a tax-free lump sum benefit. There are no cashing restrictions. **You will need to contact your superfund trustee to ensure the fund is able to release the benefit. Alternatively, if your fund does not allow access under this condition of release consider rolling over your account to another super fund.**

CONDITION 10 – TEMPORARY RESIDENTS

If you are a temporary resident working in Australia, your employer must make SG contributions if you are eligible. You can claim your superannuation benefits accumulated while working in Australia if all of the following conditions apply:

- You visited on a temporary Visa (excluding Visa subclasses 405 and 410)
- Your Visa has ceased to be in effect
- You have left Australia.

Australian citizens and permanent Australian residents who relocate overseas are treated in the same way as Australians living in Australia: they cannot access preserved super benefits until they reach preservation age and retire, or satisfy another Condition of Release. This is even where you never intend to return to Australia.

OBSERVATIONS

- Conditions 1, 2 and 3 provide people with ample flexibility to plan their retirement and ease into it if you so choose. These Conditions mean that, despite the recent increase to the Age Pension Age you do

- **not necessarily need to keep working (or keep working full-time) until that Age Pension age. You can conceivably retire up to more than 10 years earlier.**

- Where you have funeral expenses that need to be met, many people are unaware of Condition 8. Indeed this limb of Condition 8 can be used as an alternative to taking out funeral insurance.

- If you are in danger of losing the family home to your bank, consider a Condition 8 application.

READY SET GO!

There are a number of important tax changes that commence from 1 July. These include GST changes, superannuation, Single Touch Payroll, and more.

SINGLE TOUCH PAYROLL

Single Touch Payroll (STP) is finally here!

From 1 July 2018, all employers with 20 or more employees (as at 1 April 2018), must report their payroll information to the ATO via ***Single Touch Payroll.*** STP is a reporting change for employers. Essentially, STP requires that each time an employer pays their employees, they will have to instantly report to the ATO information such as the salaries and wages, pay as you go (PAYG) withholding and superannuation. The information will need to be reported from software, which is STP-enabled. Eventually this will mean:

- Employers will not need to provide Payment Summaries to their employees for the payments reported through STP.
- Employees will be able to view their payment information in ATO online services, which they will access through their **myGov** account.
- Some labels on Activity Statements will be pre-filled with the information already reported.

Initially the 1 July date was being targeted quite doggedly, but of recent date that approach appears to be softening a little as we approach the deadline. We are hearing that the ATO will now take a more pragmatic approach to employers joining the STP system with an emphasis on a smooth transition to STP rather than fiercely pursuing compliance by a specified date.

The ATO has already flagged that exemptions or deferrals may be applied for in extenuating circumstances if you can provide evidence and meet a number of requirements. Exemptions can be applied for at a number of levels as follows:

- **Software Company:** We know that if your software company has advised the ATO they will not be ready and get ATO approval for a deferral, then you as the user of that software brand will also get an extension to their deferral date.
- **Individual Employers:** Where an individual employer's circumstances mean that they will not be ready and those circumstances meet ATO extenuating circumstance conditions, that employer can request a deferral. Circumstances where a deferral will be considered include if you:
  - o Are unable to get ready by your software provider's deferred start date,
  - o Are transitioning to a new STP-enabled solution,
  - o Are using a customised payroll solution and you need time to configure and test your updated product,
  - o Have complex payroll arrangements and need additional time to transition to STP,
  - o Have entered into administration or liquidation,
  - o Have been impacted by a natural disaster, or
  - o You are affected by other circumstances beyond your control.

To secure a deferral, it is strongly recommended that you apply to the ATO before the 1 July STP start date. Note that total exemptions may be granted where you operate in regions where there is no reliable internet connection.

- **Tax Practitioners:** Tax Practitioners and payroll outsource firms are charged with being STP-ready for many employers. With just weeks to go and still so much still to fall into place, it stands to reason that Tax Agents and BAS Agents (registered bookkeepers), will also be squeezed and we are hearing from the ATO that is not a desired outcome. It is our expectation that extensions may well be granted at an Agent level. You will no doubt hear more on this possible deferral option in the very near term if it in fact becomes reality.

Deferrals are not really a big deal insofar as the efficient working of the STP system when you really think about it. Under STP, employers will report for the pay period and year-to-date with each pay run so there is retrospective current financial year reporting even if an employer's STP start date is months after 1 July 2018.

LAST MINUTE STEPS

With just weeks to go before the commencement of STP:

1. Determine your start date if you have not already done so. Conduct a retrospective head-count of the number of employees your business had on 1 April 2018. If there was 20 or more, your STP start date will be 1 July 2018. If less than this, it will be 1 July 2019. "Employee" for STP headcount purposes is the common law definition of employee (which is narrower than the definition for Superannuation Guarantee purposes). Thus, workers for whom an employer does not withhold PAYG from will generally not count towards the 20 employee threshold. Also not included in the count are staff provided by third-party labour-hire, office-holders and directors of companies, casual employees who did not work in March 2018, independent contractors and religious practitioners. On the other hand, employees based overseas, employees absent on leave, and seasonal employees are included.

It appears that connected or related businesses are not required to include employees from those other businesses in their head count. Only wholly-owned groups are required to do so. Where a company owns 100% of any other company they would generally form a wholly-owned group and if the employee headcount across all entities of the wholly owned group was 20 or more, then all entities in the wholly owned group would be larger employers and thus required to be STP-compliant by 1 July 2018.

2. Adopt an STP solution urgently. For most employers this will involve using STP-compliant software. The main players in the Small-to-Medium (SME) business space (Xero, MYOB, Reckon, Intuit), will generally all meet the 1 July 2018 deadline. Alternatively, you may wish to outsource your payroll to a Tax Agent or BAS Agent, or to a specialist payroll bureau.

3. If you will not be ready, urgently apply for an extension via the form on the ATO website **www.ato.gov.au.**

TAXABLE PAYMENTS REPORTING EXTENDED

Taxable Payments Reporting (TPR) from 1 July 2018 applies taxpayers in the courier and cleaning industries.

By way of background, way back in 2012 the Australian Bureau of Statistics estimated that the "Black Economy" (also known as the "Cash Economy"), in Australia could be as large as $25 billion. This economy poses a risk to revenue if these cash payment are not declared and are not subject to GST. It also disadvantages businesses who are doing the right thing by making them less competitive.

In response to this, the Government established the Black Economy Taskforce, which made a number of recommendations. One of those recommendations was to establish the TPR regime to apply to the building and construction industry initially, and then be extended to the cleaning and courier industries (all industries where it has been identified that regular cash payments are made). That extension to the courier and cleaning industries commences 1 July 2018. The idea behind the TPR regime is to match payments on the Reports completed by recipients of TPR-related services to the Tax Returns and Activity Statements of the suppliers of those services to ensure that all income and GST (some of which may have been paid in cash) is being declared.

From this date, an entity that has an ABN and makes a supply of cleaning or courier services (basically businesses operating in the courier or cleaning industries) may need to report information to the ATO under the new rules. This may mean you will soon be required to be setting up the software to capture the information required so that accurate reporting is achieved. The implementation however will not be as difficult as when TPR was introduced back in 2012 as it simply is an extension of the existing regime. Although the first report will not be due until 28 August 2019, payments need to be captured from 1 July 2018.

COURIERS

The ATO advises that if you are a business that provides courier services, you need to report payments you make to contractors that are wholly or partly for courier services.

Courier services include activities where items or goods are collected from, and/or delivered to, any place in Australia using a variety of methods including by car, truck, station wagon, van, ute, motorcycle, motorised scooter, drones, bicycle or other non-powered means of transport, or on foot.

Courier services are typically door-to-door services that are often used for specialty deliveries or for small parcels or packages. Goods commonly transported using courier services include parcels, packages, letters, and food. However, courier services do not include:

- Passenger transport services e.g. buses and taxis, and
- Freight transport. (i.e. the transportation of bulk or large quantities of items, goods or commodities via rail, sea, air, or road (usually heavy vehicle trucks or larger vehicles) from one location to another).

EXAMPLE

Jason's Shoe Repairs is a business with an ABN that provides shoe repair and alteration services. They also have a separate arm of their business that delivers the shoes back to long-distance customers when the repairs/alterations are completed. In busy periods, they engage contractors to make these deliveries. Jason wonders about his reporting obligations?

Jason is required to report all payments made to these contractors (but not payments to the employee's who courier the shoes).

CLEANERS

If you are a business that provides cleaning services, you need to report payments you make wholly or partly to contractors for cleaning services. Cleaning services include, but are not limited to, any of the following activities undertaken on a building, residence, structure, place, surface, transport/vehicle, industrial machinery or equipment, and for events:

- Interior cleaning
- Exterior cleaning (except sand blasting)
- Carpet cleaning
- Chimney cleaning
- Gutter cleaning
- Road sweeping and street cleaning
- Swimming pool cleaning
- Park and park facilities cleaning

'Events' include staging of sporting, cultural, scientific, technological, agricultural or entertainment events and exhibitions.

'Transport/vehicles' includes trains, trams, buses, ferries, airplanes, ships, trucks, cars and other motor vehicles.

REPORTABLE DETAILS

Where you are required to report, the details you need to report for each contractor include:

- ABN (where known)
- Name
- Address
- Gross amount you paid for the financial year (this is the total amount paid including GST)
- Total GST included in the gross amount you paid.

Note that if an invoice you receive from a contractor includes both labour and materials, then you are required to report the total payment, irrespective of whether it is itemised. If the invoice is for materials only it is not reported. You only report invoices that have been paid by the 30 June i.e. any outstanding invoices in your creditor's balance at 30 June are not reported.

CAPTURING THE PAYMENTS

If you operate in these industries and are required to report, you can capture the reportable payments that the contractor makes in either of two ways – manually or electronically.

1. Manual

If you keep manual records, the ATO has developed a Worksheet to help you record the details of reportable payments made. You can use the details you record in the Worksheet to help you complete the Report itself at year-end. Do not send the Worksheet to the ATO. Reporting manually means assessing all payments made on a payment-by-payment basis. The Worksheet is available at **www.ato.gov.au**

2. Electronic

The easiest way to capture the payments and to generate the report is to have up-to-date software. The major software brands (Xero, MYOB, Reckon, Intuit), all accommodate TPR.

If you determine that the payments you make to a particular supplier need to be reported, generally in the software you must select/nominate that supplier as reportable (ask your software provider for the software Support Notes on how to do this). The software will, for the purposes of the Report, capture as reportable all payments made to that supplier as and when they are entered into the normal accounting file during the year – even though some of these individual payments may not be reportable (e.g. payments just for materials). At year-end when you generate the Report via the software, generally all the payments made to that supplier will count towards the final amount reported for that supplier. It is at this point after you have run the Report that you can then filter out individual payments that are not reportable (e.g. payments just for materials). The Support Notes will inform you on how this is done.

Consequently, during the year when the payments are entered into the software file, a detailed description of what the payment relates to is important (is it for materials only? Is it for materials and services? Is the service component merely incidental?). Without a detailed description, it may be difficult to determine which payments (if any) need to be excluded after having generated the Report from the software.

NEW GST LAW – BUYERS TO WITHHOLD TAX FROM PURCHASE OF NEW RESIDENTIAL PREMISES AND LAND

Commencing 1 July 2018, purchasers of newly-constructed residential premises or new subdivisions will be required to remit GST on the supply direct to the ATO (rather than pay GST to the seller), as part of the settlement process. The purpose of this change to the law is that the Government has identified a high-level of non-compliance by developers with their GST obligations whereby some developers are selling properties, collecting GST, and then dissolving the entity through which they operate without having remitted the GST to the ATO. By requiring the purchaser to remit the GST directly to the ATO, the new system prevents this leak in Government revenue.

For their part, business sellers of residential premises will be required as of this date to notify the purchaser of certain matters prior to making the supply.

Essentially the new regime has three major features:

1. Purchasers of new residential premises or potential residential land must make a payment to the ATO on or before the day of the supply (usually settlement)
2. The amount to be paid directly to the ATO depends on whether the Margin Scheme is being applied to the sale as follows:
   - o Where the Margin Scheme applies – 7% of the purchase price must be remitted by the purchaser to the ATO.
   - o Where the Margin Scheme does not apply – 11% of the unadjusted purchase price must be remitted by the purchaser to the ATO.
3. From 1 July 2018, all business sellers of all residential property (not only new residential property), must give notice to purchasers that the purchaser may be required to make a payment to the ATO to take account of the GST in the transaction. This at least gives fair warning to purchases (and hopefully their lawyer/conveyancers) of a possible GST remittance.

The following table identifies the types of property that the new law applies to:

TYPE OF PROPERTY	WITHHOLDING REQUIRED BY BUYER?	
	YES	NO
Commercial property		✓
Commercial residential property (e.g. hotel, boarding house)		✓
Second-hand property		✓
New residential property created by substantial renovation		✓
House and land packages	✓	
Off-the-plan residential units and townhouses	✓	
Potential residential premises (land where residential property is permitted but does not currently contain residential structures)	✓	

Purchasers must make the payment on or before the day on which:

- Any of the consideration for the supply (***other than a deposit***) is first provided, or
- If the supplier is an associate, and the supply is without consideration... the day the supply is made.

Therefore, the payment in the vast majority of cases will be required to be made to the ATO on the day of settlement. Note that where a purchaser is required to provide any consideration before settlement, all or part of that consideration must be used to make the entire GST withholding payment to the ATO.

EXAMPLE

On 5 January 2019, Jack enters into a contract for the purchase of a new townhouse from Construction Co for $750,000. The Margin Scheme does not apply, and settlement will occur on 10 March 2019. Under the terms of the purchase contract Jack:

- Must pay a $1,000 deposit upon signing the contract, and
- Must pay 50% of the remaining purchase price of $749, 000 when the townhouse is at lock-up stage.
- Must pay the balance at settlement.

Jack will be required to make a withholding payment to the ATO as he is purchasing new residential property. As the Margin Scheme is not being used, the amount required to be withheld is $68,181 (1/11th of $750,000).

Though in most cases the payment to the ATO will be required on the date of settlement, in this case the payment will be required on the day that Jack pays the $374, 500 at lock-up stage. Although at this point Jack has only paid 50% of the purchase price, the full withholding amount of $68, 181 is required to be paid to the ATO.

HOW?

Suppliers of property must provide a notice in writing to purchasers before selling any residential premise or potential residential land stating whether the purchaser needs to withhold or not. This notice may be contained in the sale contract or be provided in a separate document. Even where the supplier fails to provide the required notice to the purchaser, this does not relieve the purchaser of their obligation to withhold if indeed the property is a taxable sale of new residential premises or potential residential land.

Penalties may be imposed on a supplier if they fail to provide the required notification and/or required details. If the purchaser is required to withhold, the supplier must provide:

- Their name and ABN
- The amount that must be withheld, and
- The date that it is due to be paid to the ATO.

For their part, the purchaser (or in most cases their lawyer/conveyancer) must lodge *Form 1: GST property settlement withholding notification* using the details provided by the supplier. This form must be lodged with the ATO online prior to settlement. It enables the purchaser to obtain a unique Payment Reference Number (PRN) and Lodgement Reference Number (LRN).

The PRN and the LRN will enable the purchaser to complete and lodge *Form 2: GST Property Settlement Date Confirmation* on or before settlement and make the payment to the ATO. A forms and instructions page is available on the ATO website www.ato.gov.au

TRANSITIONAL RULES

The new rules apply to supplies for which any consideration (other than a deposit), on or after 1 July 2018. This will generally mean that the new rules will only apply where a settlement occurs after this date. However, this is subject to a two-year transitional rule, which excludes the new regime from applying where:

- A contract was entered into before 1 July 2018, and
- Consideration (other than a deposit), for the supply is first provided before 1 July 2020.

Therefore, unless there was an unusually long settlement, sales made before 1 July 2018 will not be subject to the new regime.

PENALTIES

Purchasers, who fail to make a GST withholding payment to the ATO, are liable for an administrative penalty equal to the amount that should have been withheld. Given the price of property, this penalty is significant and of itself is a major incentive to comply with your withholding obligations. However, you can avoid this penalty where you can demonstrate:

- That the amount relates to a taxable supply of new residential premises (that are not commercial),
- You as purchaser were given written notice stating that either the premises are not new residential premises, or indicating that you were not required to pay GST withholding to the ATO, and
- At the time the first consideration (other than the deposit), was provided, there was nothing in the sale contract or any other circumstances relating to the supply that made it reasonable for you to believe that the statement was incorrect.

Purchasers can also be liable to an administrative penalty where they fail to lodge the approved form (Form 2 – see earlier), by the due date. This penalty is $210 for every 28 day period that the form is late; up to a maximum of $1,050).

The penalties for non-complying vendors/sellers are also harsh. Where they fail to provide written notice to the purchaser (setting out the earlier details), or fail to provide all the details required in that written notice, the seller commits a strict liability offence for which the penalty is 100 units ($21,000). However, sellers can avoid liability where:

- They provided a written notice, which states that the purchaser was not required to make a GST withholding payment and therefore did not provide the additional information required where the premises are not subject to GST withholding (ABN etc. see earlier).
- They reasonably believed when they gave the notice that the purchaser was not required to make a GST withholding payment and hence the additional details were not, it was believed, required.

GST CREDITS

The seller will be entitled to a GST credit on their Business Activity Statement where:

(a) They made a taxable supply to which the new regime applies (new residential premises or potential residential land), and

(b) The purchaser made a payment to the ATO in respect of that supply.

The credit is equal to the amount paid by the purchaser, and arises when an assessment has been made of the vendor's net amount for the tax period of the vendor in which the GST withholding payment was made.

EXAMPLE

In February 2019, Tim signs a contract to purchase a new residential unit from Erect Co., which accounts on a cash basis.

Settlement occurs in May 2019 where the GST withholding amount of $90,000 is paid by Tim direct to the ATO.

In this case, Erect Co. claims the GST credit when it lodges its June 2019 quarterly BAS. It is understood that this credit will not be pre-filled on the BAS. This credit may however be offset by the ATO against other outstanding tax debts.

This new regime this will likely make settlements more expensive as the lawyer/conveyancer will now have additional compliance work to perform for the purchaser.

GST AND LOW VALUE GOODS

From 1 July 2018, GST will apply to taxable goods imported into Australia with a value of less than $1,000. Prior to this date overseas retailers were generally able to sell goods to Australian consumers without applying GST where the value of those goods was less than $1 000. Under the changes, the compliance burden will largely fall on overseas retailers selling goods to Australian consumers. However, freight forwarders and operators of electronic distribution platforms may also be impacted. Consumers will also feel an impact as it is reasonable to expect that overseas suppliers may increase their prices (by 10%), to take account of this new tax impost.

DETAILS

Under the changes, a supply will be taken to be connected with Australia and therefore subject to GST where the following conditions are met:

- The supply involves the goods being brought to Australia with the assistance of the supplier,
- The goods are low value goods, and
- The purchaser of the goods is a consumer.

Turning to the above conditions, suppliers will have “assisted bringing goods into Australia” where they have actually delivered the goods into Australia or procured, arranged or facilitated in the delivery of the goods. This includes making transport arrangements with third-parties or assisting the purchaser in relation to transportation.

“Low value goods” are those whose value for Customs Duty purposes is less than $1 000 at the time when the price was first agreed.

“Consumer” is a recipient who is not GST registered or, if they are, the purchase is unconnected to any enterprise they carry on in Australia. There is no Australian residency requirement. If you are registered for GST and buy low value imported goods for your business from overseas, you will need to supply your ABN at the time of purchase so you won't be charged GST.

If you or your business is not registered for GST, you will be treated as a consumer and unable to recover the GST charged by the overseas business.

IMPACT

The new law will impact the following three groups:

1. Freight Forwarders

Freight forwarders will be treated as having made the supply where they deliver the goods to Australia as part of an arrangement with the purchaser. Where they meet the $75 000 turnover threshold, they will be required to register for GST. To discharge their GST obligations, they will need to glean from the supplier information about the supply such as the total price. They will need to recover the GST component directly from the recipient or indirectly from the supplier.

2. Electronic Distribution Platforms

Operators of these platforms (such as websites, internet portals etc.), will be liable for GST on supplies of low value goods even though they may not have been the supplier of these goods. For example, a clothes shop in London may have signed up to a website such as eBay advertising a dress for $85. In this case, the GST obligations would fall to eBay not the supplier of the clothes.

Where a supply is made through an electronic distribution service and a freight forwarder is involved, the GST obligations will fall on the distribution service.

3. Consumers

Consumers (particularly online shoppers), will also be impacted and can expect to pay more for overseas goods. However, with the abolished threshold only $1,000, GST price increases will be capped at $100 – so it is important not to overstate the impact.

2018 FEDERAL BUDGET

WHAT'S IN IT FOR INDIVIDUALS?

Continuing our examination of Federal Budget 2018, this article examines the effect of the Budget at an individual level.

INCOME TAX REDUCED

The centerpiece of this year's Budget was the reduction to personal income tax rates. The reduction is a three-step process as follows:

STEP 1

This involves the introduction of a new non-refundable Low and Middle Income Tax Offset from 2018/2019 to 2021/2022. The offset will provide tax relief of up to $530 for each of those years. The offset will be delivered after you lodge your tax return each year, and is in addition to the existing Low Income Tax Offset. To be clear, the offset reduces the amount of tax you are liable for each year. The offset is not refunded to you as such.

Furthermore, from 1 July 2018, the Government intends to increase the top income threshold of the 32.5% tax bracket from $87,000 to $90,000. This first stage, to apply from 2018/2019, has the support of the Opposition and is therefore very likely to be passed into law. The cumulative dollar benefit of these combined two measures over the next few years is as follows:

TAXABLE INCOME	$30,000	$50,000	$80,000	$90,000
	Tax Relief	Tax Relief	Tax Relief	Tax Relief
2018/19	$200	$530	$530	$665
2019/20	$400	$1,060	$1,060	$1,330
2020/21	$600	$1,590	$1,590	$1,995

TAXABLE INCOME	$120,000	$160,000	$200,000
	Tax Relief	Tax Relief	Tax Relief
2018/19	$215	$135	$135
2019/20	$430	$270	$270
2020/21	$645	$405	$405

STEP 2 AND STEP 3

The next two steps are however opposed by the Opposition and in any case will only apply from 2022/2023 assuming they are first enacted, and then not repealed by subsequent Governments. Essentially, these later steps provide for a staged increase in the 32.5% tax bracket from $90,000 to $200,000, which will ultimately see the 37% tax bracket abolished altogether with the tax rates being as follows for each stage:

RATE%	CURRENT THRESHOLDS ($)	FROM 1 JULY 2018 $
Tax-Free	0 – 18,201	0-18,200
19	18,201 – 37,000	18,201 – 37,000
32.5	37,001 – 87,000	37,001 – 90,000
37	87,001 – 180,000	90,001 – 180,000
45	180,001+	180,001
Low Income Tax Offsets		
Low and Middle	-	Up to $530
Low	Up to $445	Up to $445

RATE%	FROM 1 JULY 2022 ($)	FROM 1 JULY 2024 $
Tax-Free	0 – 18,200	0-18,200
19	18,201-41,000	18,201-41,000
32.5	41,001-120,000	41,001-200,000
37	120,001-180,000	-
45	180,001	200,001
Low Income Tax Offsets		
Low and Middle	-	-
Low	Up to $645	Up to $645

MEDICARE LEVY

The Government will not proceed with its plans to increase the Medicare levy from 2% to 2.5% from 1 July 2019. The rate will remain at 2%.

For the 2017/2018 income year, the Medicare levy low-income threshold for singles will be increased to $21,980 (up from $21,655 for 2016/2017). For couples with no children, the family income threshold will be increased to $37,089 (up from $36,541 for 2016/2017). The additional amount of threshold for each dependent child or student will be increased to $3,406 (up from $3,356).

For single seniors and pensioners eligible for the Senior Australian Pensioner Tax Offset (SAPTO) the Medicare levy low-income threshold will be increased to $34,758 (up from $34,244 for 2016/2017). The family threshold for seniors and pensioners will be increased to $48,385 (up from $47,670), plus $3,406 for each dependent child or student.

MINORS AND TESTAMENTARY TRUSTS CRACKDOWN

Effective 1 July 2019, the concessional tax rates available for minors (those under 18) receiving income from testamentary trusts will be limited to income derived from assets that are transferred from deceased estates or the proceeds of the disposal or investment of those assets.

EXTRA FUNDING FOR WORK-RELATED EXPENSE SCRUTINY

The ATO will receive an extra $130 million in funding to assist in audit activity aimed at ensuring individuals meet their personal income tax obligations. The extra funding will focus on work-related expenses, and will also continue four income-matching programs that would have been otherwise terminated from 1 July 2018 to allow the ATO to detect incorrect reporting of income such as foreign sourced income of high wealth individuals. The ATO is aiming to raise more than $1.1billion over four years from this funding. Therefore, individuals should continue to exercise care in declaring all income and ensuring their deductions are substantiated with documentation and are permitted under the law.

NEW DEDUCTIBLE GIFT RECIPIENTS

The following organisations have been approved as specifically listed Deductible Gift Recipients (DGRs) for the following dates:

- Paul Ramsay Foundation Limited from 1 July 2018 to 30 June 2020;
- Australian Women Donors Network from 9 March 2018 to 8 March 2023;
- Victorian Pride Centre Limited from 9 March 2018 to 8 March 2023;
- Smile Like Drake Foundation Limited from 9 March 2018 to 8 March 2023;
- Australian Sports Foundation Charitable Fund from 1 July 2018 to 30 June 2023; and
- Q Foundation Trust from 1 January 2018 to 31 December 2022.

To recap, you can only claim a tax deduction for donations of money or property of $2 or more if the recipient is a Deductible Gift Recipient. You should ensure you obtain a receipt for any donations you make above this amount. A full list of Deductible Gift Recipients can be found on the ATO website www.ato.gov.au

TAX TIPS

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

SUPER CONTRIBUTIONS

For the many more individuals claiming a superannuation deduction in their upcoming 2017/2018 tax returns, don't forget to provide notice to your superannuation fund!

To be eligible to claim a deduction in 2017/2018 for contributions made to superannuation, the contribution must be made between 1 July 2017 and 30 June 2018. In terms of timing:

- A contribution in cash is made when received by the fund
- A contribution by electronic funds transfer is made when the amount is credited to the superannuation fund's bank account – this may occur some time after you have done what is necessary to effect the payment, and
- A contribution by cheque is made when the cheque is received by the fund unless it is dis-honored.

Since 1 July 2017, most individuals up to age 75 can claim an income tax deduction for personal after-tax superannuation contributions. Before this date, you could only claim a deduction for your personal contributions where less than 10% of your assessable income, your reportable fringe benefits and your reportable employer superannuation contributions (e.g. salary sacrifice contributions) for the year were from being an employee – this was known as the '10% Rule'. This rule prevented most employees from claiming a tax deduction for this type of contribution. This rule no longer exists.

With the scrapping of the 10% Rule, to claim a deduction only the following conditions now need to be satisfied:

- **Age** – All individuals under the age of 65 are eligible. Those aged 65 to 74 who meet the superannuation 'work test' (work for at least 40 hours in a period of not more than 30 consecutive days in the financial year in which you plan to make the contribution). For those aged 75, the contribution must be made no later than 28 days after the end of the month in which you turn 75. Older taxpayers are ineligible.
- **Minors** – If the individual is under 18 at the end of the income year in which the contribution is made, they must derive income in that year from being an employee or carrying on a business.
- **Complying Fund** – The contribution must be made to a complying superannuation fund.
- **Notice Requirements** – To claim the deduction you must provide your superannuation fund with a *Notice of intention to claim a deduction* form (NOI) before you lodge your tax return in respect of that financial year. This can be obtained from the ATO website **www.ato.gov.au**

Having met these conditions, you can claim the full amount of the contribution (up to the concessional contribution caps – see later) in your personal tax return at Label *D12*.

BUDGET ANNOUNCEMENT

In the recent Federal Budget, the Government announced measures aimed at improving the integrity of the notice process for claiming deductions for personal superannuation contribution. An additional $3.1 million of funding will be provided to the ATO to develop a new compliance model for deducting personal superannuation contributions. Currently, according to the Government, some individuals currently receive deductions on their personal superannuation contributions but do not submit a NOI, despite being required to do so under section 290-170 of the Income Tax Act. This results in their superannuation funds not applying the appropriate 15% tax to their contribution.

UPGRADE SOFTWARE

With the advent of *Single Touch Payroll* (see earlier), many businesses will be upgrading their payroll software in order to be STP compliant – by either 1 July 2018 or 1 July 2019. Businesses may wish to use STP as a catalyst for moving on from substandard accounting systems onto products that are not only STP compliant but more efficient than your current accounting systems. Talk to your Accountant or Bookkeeper about which accounting software systems are best for your business, and whether they can assist with implementation.

TAX TIP – ADD ONS

While on the subject of upgrading your systems, have you considered how Add-On software may help your business?

An Add-On is a cloud software solution that has been built for a specific purpose and connects to another cloud software solution to create a more functionally complete system. Commonly add-ons are connected to cloud accounting software, such as Xero, QuickBooks Online or MYOB, through an API connection. An API is a technology solution that connects two systems together - it stands for Application Programming Interface. This API allows data to flow from one system to another without manual data entry. It saves a business both time and money.

Add-ons generally fall into two different categories: vertical add-ons and horizontal add-ons. Vertical add-ons are usually apps that have been designed for a specific industry, whilst horizontal add-ons are usually apps that have been designed to fit a specific business need.

Vertical Add-Ons

Vertical add-ons include solutions such as a point of sale software solutions for a retail business, inventory management software for a wholesale or import business or a mobile job management app for a service based business with staff out in the field. Vertical add-ons generally fit a specific industry type.

Horizontal Add-Ons

Horizontal add-ons include solutions such as software that helps with data entry automation, reporting or payroll and employee management. These add-ons generally aren't industry-specific. Rather, they solve a need that can exist in many types of businesses, no matter what they do. For example, a receipt and expense management app that can automatically extract the data from a photo of a receipt and put it into the cloud accounting software, is going to help any business who currently manually types in receipts and expenses into their accounting system.

Talk to your Accountant or Bookkeeper about sourcing the right Add-Ons for your business. Alternatively, you may want to engage the help of a cloud integrator that specialises in finding the best cloud solution for your business. There are a number of cloud integrators throughout Australia who focus on different industries that you can engage.

CGT-FREE HOLIDAY

Have you or your business this year sold a CGT asset or even the business itself and made a capital gain? If you are eligible for the Small Business CGT Concessions but cannot eliminate the gain using those concessions, consider deferring it for two-years under the CGT Rollover.

The CGT rollover (or replacement asset rollover as it is sometimes referred to) allows you to disregard a capital gain if you acquire a replacement asset or incur expenditure on making capital improvements to an existing CGT asset, within the three-year period commencing 12 months prior to a capital gain on the sale of a business asset. The gain can be deferred indefinitely (subject to conditions). Even where you do not acquire a replacement asset, by using the rollover you can defer the remaining amount of your capital gain (the amount that remains after you have applied the active asset reduction and the 50% CGT discount, if applicable) for at least two years. The concession can therefore be very beneficial from a cash-flow standpoint, in that you can delay the payment of CGT that would otherwise apply in the year the asset was sold.

EXAMPLE

Brandon sells a CGT business asset in the 2018/2019 income year which satisfies the rollover conditions. After applying the 50% discount, and the 50% active asset reduction, Brandon reduces his capital gain to $30,000. He then decides to apply the replacement asset rollover. To do this, Brandon lodges his 2018/2019 return and does not include the $30,000 capital gain.

At the time of lodging his return, Brandon had not acquired the replacement asset nor had he incurred any improvement expenditure on an existing CGT asset (i.e. he had not satisfied the rollover conditions). Indeed, because of the prospective nature of the concession, it is not strictly necessary for Brandon to even have any intention of satisfying the rollover conditions (i.e. acquiring a replacement asset or incurring expenditure on improvements) at the time he elects to use the concession. Brandon has therefore been able to delay the payment of his CGT liability without incurring any replacement asset expenditure.

After electing to use the rollover and defer the capital gain, a later capital gain will arise where:

- If, by the end of the two years from the CGT event in the year giving rise to the capital gain, you do not incur expenditure on acquiring a new CGT asset or improving an existing asset.
- If by the end of the two year period, the cost of the replacement asset or the amount of improvement expenditure is less than the amount of the capital gain that was disregarded, or
- If the replacement CGT asset becomes passive during the two-year period (i.e. it stops being an active asset such as when it is sold or it becomes trading stock).

The replacement asset period ends two-years after the CGT event for which the rollover is sought. Therefore, within this timeframe you can avoid a capital gain arising by:

- Acquiring a replacement asset or incurring expenditure on improvements equal to the value of or more than the amount of the capital gain that was disregarded;
- Ensuring that the asset does not subsequently cease to be an active asset (such as becoming trading stock).

CLAIMING TRAVEL EXPENSES FOR RENTAL PROPERTIES

Although claiming deductions for travel expenses to residential rental properties may be banned, all is not lost for property owners in this regard!

To recap, from 1 July 2017, travel expenses relating to inspecting, maintaining, or collecting rent for a residential property cannot be claimed by individuals as a deduction. Nor can these travel expenses form part of the cost base of the property for CGT purposes when it comes time to sell. However, there are a couple of exceptions to this new restriction.

Firstly, you can claim travel expenses if you are preparing a property for new tenants.

Second, you can still claim a tax deduction where you travel to your Tax Agent for the purpose of preparing and lodging an income tax return that includes rental income and deductions. This is because these expenses relate to managing your tax affairs (a separate section of the Income Tax Act) rather than producing assessable income from rental property accommodation.

SALARY SACRIFICE MULTIPLE PORTABLE ELECTRONIC DEVICES

In recent years, the Government changed the law to extend the FBT exemption for portable electronic devices to permit small business employers to provide more than one of these devices to employees during a single FBT year; even where they have a substantially identical function, and are not a replacement item. The item also has to be predominantly for work purposes. This change applied from 1 April 2016. Portable Electronic Devices are defined as items which are ***(a)*** small and light ***(b)*** easily portable and designed for use away from the office ***(c)*** can operate without an external power supply and ***(d)*** is designed as a complete unit. Accordingly, they include:

- Personal digital assistants
- Portable printers
- Notebook computers
- Blackberries
- Smartphones
- Electronic diaries
- Laptops
- Phablets
- Tablets
- Mobile phones
- Palm pilots
- iPads
- Pocket PCs
- GPS navigation receiver.

Prior to this date, the FBT exemption was limited. The exemption did not apply where an employer provided an employee with an eligible work-related item (any of the items listed) and the employer then provided them with another work-related item (an additional item(s)) with substantially identical functions in the same FBT year….unless the subsequent item was a replacement (e.g. the first item was faulty). In other words the FBT exemption was limited to one item, per FBT year unless those items did not have substantially identical functions. The new law therefore allows an employer to provide a laptop, iPad, and tablet (all with substantially identical functions) to an employee in the same FBT year without incurring FBT (provided the items are work-related).

An aspect of the law change that has been overlooked by many is that the exemption applies even where the employee has been provided with the device under a salary sacrifice arrangement. Therefore, employees can salary sacrifice an unlimited number of devices, and the employer can enjoy an FBT exemption. In salary sacrificing the devices, the employee can reduce their income tax liability.

LEAVE – MAKING PROVISION IN YOUR ACCOUNTS

To better understand your business's net equity, your business should report employee entitlements (the amount of leave owing) in dollar value on your Balance Sheet. Typically, the annual and long service leave provisions are reported on the Balance Sheet, but personal leave is generally excluded from the financial statements altogether unless in the unlikely event that an Award or other employment agreement requires accrued personal leave to be paid on termination. Superannuation Guarantee liabilities (the compulsory 9.5% payable to employees and some contractors) should also be included on top of the annual leave and long service leave expense. While Superannuation Guarantee is not payable on unused leave entitlements in the event of a termination, it is payable when an employee takes leave whilst employed. However providing for the leave in the financial statements is not an income tax deduction until it is physically paid to the employee. This provision gives a better financial snapshot of the business's financial position by recognising the potential financial exposure.

PAYGW TAX VARIATION

We have all heard about businesses varying their PAYG instalments on their Activity Statement if their business and investment income for the current year is expected to be less than anticipated. However, the opportunity also exists for salary and wages earners to vary downwards the amount of PAYG tax deducted by their employer each pay cycle. The main purpose of varying the rate or amount of PAYG withholding is to ensure that the amounts withheld during the income year better align with your year-end tax liability. Amounts withheld may not align with your year-end liability if you are a taxpayer who has significant deductible expenses throughout the year which may be the case for:

- Property owners who are highly negatively geared; and
- Taxpayers, such as salespeople, who have large travel expenses and other costs.

By having less PAYG deducted, you are improving your cash flow. Rather than having to wait until year end to receive a sizeable tax refund, the refund is effectively flowing through to you in each pay cycle. You then have control over this money earlier than you otherwise would and can use it to invest or discharge your everyday expenses etc. If you think you may fall into this category of having large deductible expenses, then you should complete a PAYG withholding variation form which is available on the ATO website **www.ato.gov.au** or consult your tax advisor.

WARNING

Before employing this strategy, be aware if the deductions you anticipated having during the year do not materialise, or indeed your untaxed income (such as rent, interest, dividends etc.) is higher than you anticipated for the year, you may end up with a tax bill when you lodge your return.

ANNUAL GENERAL MEETINGS

The new financial year brings with it the inevitable round of Annual General Meetings (AGMs).

The cost of attending an AGM may be deductible against your investment income (that is, if you hold shares in a company that pays dividends). Note that the costs associated with your claim must be incidental to the management of an existing investment as distinct from a future investment – that is, you must currently hold shares. Your travel expenses claimed must also be reasonable compared to the amount you have invested in the respective company.

If the travel relates solely for the purpose of attending the AGM, you will be entitled to a deduction for the full amount of the travel costs. However, if the purpose of the travel is predominantly of a private nature (attendance at the AGM being incidental), only the expenses that relate directly to the income producing purpose will be an allowable deduction.

2018
FEDERAL BUDGET
SUPERANNUATION

Continuing our analysis of the Federal Budget, this article examines the superannuation-related measures that were announced. In a welcome change, the Government has opted for stability in the sector, however there were a few important changes in respect of SMSFs, retirees, and more.

THREE-YEAR CYCLE FOR SMSF AUDITS

The annual audit requirement for Self-Managed Superannuation Funds (SMSFs) will be extended to a 3-year cycle for funds with a history of good record-keeping and compliance. The Government will undertake public consultation on this measure before its introduction on 1 July 2019. Although the cost of an annual SMSF audit is contingent on a range of factors, the latest ATO statistics indicate that the total average audit fee is $694 for the 2016 year, while the median fee is $550.

It's uncertain whether the single audit is an audit for one year in three, or three years once. If it's for the latter, then it's unlikely to reduce red-tape or costs for SMSF members as auditors will presumably just charge for undertaking three years' worth of work at once. If it's the former (one year in three) then there is a risk of non-compliant SMSFs slipping through the system in the prior (non-audited) two years. Furthermore, it may be difficult for an auditor to sign-off on the third year, without examining what has transpired in prior years.

PREVENTING INADVERTENT BREACHES OF CONCESSIONAL CAPS

Employees with an income above $263,157 who have multiple employers will be able to nominate that their wages from certain employers are not subject to the Superannuation Guarantee (SG). This measure will therefore ensure that eligible individuals avoid unintentionally breaching the $25,000 annual Concessional Contributions Cap (and incurring Excess Contributions Charge) as a result of multiple compulsory SG contributions from various employers. It is anticipated that employees who use this measure will negotiate additional income in lieu of the forfeited 9.5% SG. Effective 1 July 2018.

EXIT FEES SCRAPPED, FEES CAPPED

Passive fees charged by superannuation funds will be capped at 3% for small accounts with balances below $6,000, while exit fees will be banned for all superannuation accounts from 1 July 2019. There were more than 9.5

million super accounts with a balance of less than $6,000 in 2015/2016 (latest available statistics). To ensure these accounts are not eroded,, the Government will cap the administration and investment fees at 3% annually.

Exit fees of approximately $37 million were charged to members in 2015/2016 to simply close an account with a super fund. The proposed ban on exit fees will also benefit members looking to roll-over their super accounts to a different fund, or who hold multiple accounts and see exit fees as a barrier to consolidating accounts.

SMSF MEMBERSHIP NUMBERS INCREASED

The maximum number of allowable individuals in new and existing SMSFs and small APRA funds will be expanded from 4 to 6 members from 1 July 2019. The proposed increase aims to provide greater flexibility for large families to jointly manage their retirement savings. Given the growth in the SMSF sector, the Government on Budget Night said the measure will ensure SMSFs remain compelling retirement savings vehicles.

In contemplating this opportunity to invite more members, be aware that as each SMSF member must be a trustee of the fund, a decision to add extra members can add complexity to the fund's management and investment strategy.

TAX TIP

ENGAGE A FUND MANAGER

If the investment and compliance tasks involved in operating your SMSF prove to be overwhelming, you can outsource these tasks to a licensed SMSF financial advisor (for investment and compliance advice) and/or an SMSF administration service. Of course, this will involve extra costs which should be considered before you make this decision.

WORK TEST EXEMPTION FOR RETIREES

From 1 July 2019, an exemption to the Superannuation Contribution "Work Test" will be introduced for people aged 65 to 74 with superannuation balances below $300,000, who make voluntary contributions to superannuation. Under current law, the Work Test restricts the ability of those between this age bracket to make voluntary superannuation contributions by requiring them to have worked for a minimum of 40 hours in any 30-day period in the financial year in which they seek to make a contribution.

Under the law change, the exemption from the Work Test applies in the first year that an individual does not meet the requirements. This change is a welcome reprieve for individuals transitioning into retirement and looking to get their superannuation affairs in order. It allows them to contribute extra money to the concessionally taxed superannuation environment where – under current rules – they otherwise could not.

EXAMPLE

FROM THE SUPERANNUATION WORK TEST EXEMPTION FOR RETIREES FACT SHEET

At the age of 68, Gus retires from full-time work on 1 June 2020. As he would not meet the work test in the 2020/2021 financial year, Gus would currently be prevented from making any voluntary super contributions after 30 June 2020.

As his total superannuation balance is $150,000 at the end of the 2019/2020 financial year, Gus is eligible to make contributions under the work test exemption from 1 July 2020 to 30 June 2021.

As Gus had not reached his concessional contribution cap over the past 2 years, having contributed only $18,000 in 2018/2019 and $12,000 in 2019/2020, under the existing carry forward arrangements and new work test exemption Gus can contribute up to $45,000 at concessional tax rates in the 2020/2021 financial year.

As a result of the work test exemption, Gus is also able to contribute up to $100,000 in non-concessional contributions in 2020/2021.

OPT-IN INSURANCE

Life insurance coverage within superannuation will be changed so it is offered on an "opt-in" basis for individuals under the age of 25. Currently, it is offered on an "opt-out" or default basis. From 1 July 2019, the "opt-in" framework will apply to:

- Members with balances of less than $6, 000
- Members under the age of 25 years, and
- Members with inactive accounts that have not received a contribution in 13 months.

The changes are aimed at reducing the incidence of duplicated cover whereby individuals are paying for multiple insurance policies in different superannuation funds. To be clear, the changes will not prevent anyone from obtaining life insurance coverage if they so choose. Those individuals in the above categories will still be able to obtain coverage, but from 1 July 2019 they will need to 'opt-in' to do so.