ATO Updates 2018 TAX

See what the ATO is helping business owners with.

Proposed legislation would see the ATO pursue criminal charges against Directors who fail to meet their superannuation guarantee (SG) obligations.

An analysis by Industry Super Australia submitted to the Economics References Committee into *Wage Theft and Superannuation Guarantee Non-compliance*, indicates that employers failed to pay an aggregate amount of $5.6 billion in SG contributions in 2013-14. On average, that represents 2.76 million affected employees, with an average amount of over $2,000 lost per person in a single year.

The ATO's own risk assessments suggest that between 11% and 20% of employers could be non-compliant with their SG obligations and that non-compliance is "endemic, especially in small businesses and industries where a large number of cash transactions and contracting arrangements occur."

At present, under reporting or

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non-payment of SG is usually discovered when the Employer misses the quarterly payment schedule or from the ATO's hotline.

New legislation seeks to introduce a series of changes to how employers interact with the SG system and give some teeth to the ATO to pursue recalcitrant employers. The new rules, if passed by Parliament, generally come into effect from 1 July 2018.

The key changes include:

The ATO can force you to be educated about your SG obligations

At present, if an employer fails to meet their quarterly SG payment on time they need to pay the SG charge (SGC) and lodge a Superannuation Guarantee Statement. The SGC applies even if you pay the outstanding SG soon after the deadline. The SGC is particularly painful for employers because it is comprised of:

- The employee's superannuation guarantee shortfall amount – so, all of the SG owing
- Interest of 10% per annum, and
- An administration fee of $20 for each employee with a shortfall per quarter.

Unlike normal SG contributions, SGC amounts are not deductible, even if you pay the outstanding amount. That is, if you pay SG late, you can no longer deduct the SG amount even if you bring the payment up to date.

And, the calculation for SGC is different to how you calculate SG.

The SGC is calculated using the employee's salary or wages rather than their ordinary time earnings. An employee's salary and wages may be higher than their ordinary time earnings particularly if you have workers who are paid for overtime.

Under the quarterly superannuation guarantee, the interest component will be calculated on an employer's quarterly shortfall amount from the first day of the relevant quarter to the date when the SG charge would be payable.

Where attempts have failed to recover SG from the employer, the directors of a company automatically become personally liable for a penalty equal to the unpaid amount.

Under the proposed rules, the ATO will also have the ability to issue directions to an employer who fails to comply with their obligations. The Commissioner can direct an employer to undertake an approved course relating to their SG obligations where the Commissioner reasonably believes there has been a failure by the employer to comply with their SG obligations, and, of course, a direction to pay unpaid and overdue liabilities within a certain timeframe.

Criminal penalties for failure to comply with a direction to pay

Employers who fail to comply with a directive from the Commissioner to pay an outstanding SG liability face fines and up to 12 months in prison. Before hauling anyone off to prison the ATO has to consider the severity of the contravention including:

- The employer's history of compliance (superannuation and general tax obligations)
- The amount of unpaid super relative to the employer's size
- And steps taken by the employer to pay the liability, and
- Any matters the "Commissioner considers relevant".

The ATO will tell employees if an employer is under paying or not paying SG

The proposed new rules will allow the ATO to tell current and former employees about the failure (or suspected failure) of an employer to comply with their SG obligations. The ATO can also advise the employees what action has been taken by the ATO to recover their SG.

This disclosure cannot relate to the general financial affairs of the employer.

Extension of Single Touch Payroll to all employers Single Touch Payroll – the direct reporting of salary and wages, PAYG withholding and superannuation contribution information to the ATO – will be compulsory from 1 July 2018 for employers with 20 or more employees. Under the proposed rules, this system would be extended to all employers by 1 July 2019.

In addition, Single Touch Reporting will extend to the reporting of salary sacrificed amounts.

- End -

Personal Superannuation Contributions – 10% rule repealed

With the end of the financial year fast approaching, it is time to start thinking about income tax deductions.

Under the new Government changes to super, effective 1 July 2017, the 10% maximum earnings condition for personal superannuation contributions was removed for the 2017-18 and future financial years.

This rule provided that an individual must have earned less than 10% of their income from their employment related activities to be able to deduct a personal contribution.
This change ensures that individuals receiving employment income are not dependent on whether their employers offer salary sacrifice arrangements. Self-employed individuals and individuals in receipt of passive income can make deductible personal contributions regardless of the amount of salary or wages they earn.

This means most individuals under 75 years old can now claim a tax deduction for personal contributions to their SMSF (including those aged 65 to 74 who meet the work test).

Before the end of the financial year you need to:

Review if you have income available to contribute to your SMSF.

Review your total concessional contributions to ensure they are below the annual cap of $25,000.
Review any current salary sacrifice arrangement you may have for its necessity and benefits.

To be eligible for the deduction, you need to provide a valid notice of intention to deduct and have received acknowledgement of this notice from the fund.

Splitting amounts to your spouse

If you are planning to split all or part of your personal contributions with your spouse, you should give your trustee the notice of intent to claim a deduction first.
If your trustee has accepted your application to split your contributions, they cannot accept the notice to claim a deduction.
This change may require you to adjust your contribution strategies going forward.
This will most likely be the case if you are under 75 and the previous 10% rule prohibited you from making personal superannuation contributions.

- End -

Important Updates on Rental Property and Claims for 2018 Tax!

Who do the changes apply to?

The changes impact the majority of residential rental property owners including individuals, self-managed superannuation funds and most trusts and partnerships.

The restriction on deductions do not apply where the costs are incurred in carrying on a business or for corporate tax entities, superannuation funds other than self-managed funds, public unit trusts, managed investment trusts or partnerships or unit trusts including only these types of entities.

What deductions are no longer allowed?

<u>Travel deductions</u>

Travel expenses previously allowed in regard to inspecting, maintaining or collecting rent for a residential property cannot be claimed from the 2017/2018 income tax year.

<u>Depreciation deductions for plant and equipment in second hand properties</u>

For second hand residential rental properties purchased on or after 7:30pm on 9 May 2017, property investors can no longer claim depreciation for previously used plant and equipment. The changes mean that depreciation is not allowed on such assets as floor coverings, air-conditioning and appliances within the property at the time of purchase.

The rules do not change depreciation claims allowed for properties purchased prior to 9 May 2017 unless the property was held earlier but not rented until after 1 July 2017 (for example if the owner used the property as a primary place of residence and decides to rent property out after 1 July 2017).

Importantly the new rules do not apply to capital works so the deduction for structural and fixed items contained within an investment property are still allowed. Depending on the date of construction, capital works deductions of 2.5% or 4% per annum may apply for the construction cost of the property.

Therefore it is still important to obtain a quantity surveyor report on purchase of investment properties to determine allowable deductions.

Source:
https://vincents.com.au/rental-property-deductions/

- End -

Other 2018 Tax Updates

- **GST on low value imported goods -** GST will apply to retail sales of low value physical goods ($1,000 or less) that have been imported into Australia and sold to consumers.

- **Who pays the GST on residential property & subdivisions -** Property developers will no longer manage the GST on sales of newly constructed residential properties or new subdivisions. Instead, the Government will require purchasers to remit the GST directly to the ATO as part of the settlement process. *This change is not yet legislated.*

- **$20k immediate deductions ends** – The $20,000 immediate deduction threshold for assets purchased by businesses with an aggregated turnover of under $10 million ends 30 June 2018.

- **Taxable payments reporting system extended to couriers & cleaners** - Businesses in the courier and cleaning industries will need to collect information from 1 July 2018, with the first annual report required to be lodged in August 2019. **Single Touch Payroll** – Single Touch Payroll reporting starts for employers with 20 or more employees. Employers will report payments such as salaries and wages, PAYG withholding and super information directly to the ATO from their payroll system at the same time they pay their employees.

- **Closing salary sacrifice loopholes to reduce super guarantee –** Loopholes that enable employers to reduce the Superannuation Guarantee (SG) contributions owed to employees by using salary sacrifice contributions will be closed. *This change is not yet legislated.*

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