

Practice Update

Please read this update
and contact this office
if you have any queries

DECEMBER 2015

Reminder of small business tax cuts

The ATO has reminded taxpayers that, from 1 July 2015, a new two-tier company tax system took effect and applies to all companies.

This system sees the whole of a company's taxable income subject to the following rates:

- ◆ 28.5% if the company's aggregated turnover is below a \$2 million threshold (i.e., a small business entity or 'SBE'); or
- ◆ 30% if the company's aggregated turnover is equal to or above a \$2 million threshold.

Importantly, companies don't need to do anything now – if identified as a small business, the new rate will be automatically applied to their PAYG instalments rate or on their next activity statement.

Editor: Note that a capped 5% tax discount, designed to broadly mirror the small business company tax cut, was also introduced for unincorporated small businesses from the 2016 income year. It will be delivered to individual taxpayers in receipt of small business entity income via the 'small business income tax offset'.

ATO supporting small business to implement SuperStream

As the SuperStream rollout for small businesses continues, the ATO claims that it is helping employers in select industries who need support implementing SuperStream.

Editor: Employers with 20 or more employees were expected to be using SuperStream no later than 31 October 2015. Employers with 19 or fewer employees need to be using SuperStream no later than 30 June 2016.

The ATO has also stated: "With only two quarters left until SuperStream becomes mandatory, now is a good time for employers to adopt SuperStream and familiarise themselves with it before the deadline.

"For some businesses, December and January are quieter periods, so now is a great opportunity to check that your SuperStream option is ready, whether that be your payroll software, your super fund's online payment system, or a clearing house, such as the ATO's Small Business Superannuation Clearing House. You can also ask your accountant or bookkeeper for help."

Now is also the ideal time for employers to make sure they have all the information they need to use SuperStream correctly: "Importantly, you should collect the necessary employee identification data – being your employees' TFNs and their funds' unique super identifiers (USIs) – and enter it into your system ahead of the next quarterly due date on 28 January. That way, you have time to check that things are running smoothly before the deadline.

"Your employees can find their fund's USI on their super statement or by calling their fund. You can also find these details using the Super Fund Lookup website – our online SuperStream checklist has the link."

The ATO step-by-step checklist to help employers prepare can be found at www.ato.gov.au/SuperStreamChecklist.

ATO reviewing taxable payments annual reports

The ATO has advised that it is contacting businesses in the building and construction industry about information provided on their *Taxable payments annual report*, where the businesses have:

- ❑ provided a report with missing or invalid ABNs;
- ❑ included amounts paid for GST when the contractor isn't registered for GST;
- ❑ not lodged a report; or advised the ATO they are not required to report, when the ATO's records indicate they should.

The ATO will explain what their review has found and suggest ways to make it easier to complete accurate reports in the future, such as using the ABN Lookup tool or ATO app to check a contractor's ABN or if they are registered for GST.

Guidance regarding the payment of death benefits

The Superannuation Complaints Tribunal, which can resolve disputes between large superannuation funds and their members, recently provided some guidance regarding the payment of death benefits from superannuation funds, possibly because the largest category of complaints the Tribunal determined at review last year (44.8%) was death complaints.

This guidance is reproduced below.

"There are some common misconceptions about superannuation death benefits that can result in unexpected outcomes for the beneficiaries of a death benefit, and may result in a complaint being made to the Tribunal.

The most common misconception, arguably, relates to the purpose of superannuation.

Broadly speaking, the purpose of superannuation is to provide income in retirement to members and their dependants; it does not form part of a person's estate.

Accordingly, a superannuation death benefit should be paid to dependants and those who had a legal or moral right to look to the deceased member for financial support had they not died.

The ability of a superannuation fund to pay a death benefit directly to a dependant rather than to the estate has a number of advantages.

Firstly, it ensures that the benefit is paid directly for the benefit of the dependants and is not available to creditors who would be paid first from the assets of the estate.

Secondly, it can usually reach the beneficiaries quicker than if a grant of probate or letters of administration has to be obtained and the estate called in and distributed.

Thirdly, as a general rule, superannuation death benefits are protected from bankruptcy.

Therefore, even if the deceased member was bankrupt, or if the estate is insolvent, funds can be paid direct to the dependants to replace the income stream that may be lost as a consequence of the death.

However, if you would like to ensure that your superannuation is distributed a certain way then it is important to find out if your superannuation fund has the option for a binding nomination and if so, ensure you meet the requirements, including renewing your binding nomination every three years."

Note: The requirements for making a binding death benefit nomination for an SMSF are normally found in the trust deed of the fund, and may allow the nomination to be 'non-lapsing'.

ATO's Visa Data Matching Program

The Department of Immigration and Border Protection will provide the ATO with the following details of visa holders, their sponsors and migration agents for the 2013/14 to 2016/17 financial years:

- Address and contact history for visa applicants and sponsors;
- All visa grants, and visa grant status by point in time;
- All migration agents, and their address and contact history;
- Sponsor details (subclass 457 visa);
- Education providers (educational institution where the student visa holder intends to undertake their study);
- Visa subclass code and descriptor; and
- All international travel movements undertaken by visa holders (arrivals and departures).

It is estimated that records relating to approximately 1,000,000 individuals will be provided.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.