

Newsletter Spring 2007

Welcome to our fourth and final newsletter edition for 2007. Happy reading and enjoy the coming festive season.

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- ◆ Superannuation guarantee update
- ◆ Loans by private companies to their shareholders - ATO amnesty
- ◆ Changes to financial reporting
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Superannuation

SUPERANNUATION GUARANTEE UPDATE

With the significant changes to superannuation that have been covered in previous editions of our newsletter and in the media, we thought it would be useful to revisit an employer's obligations when it comes to superannuation.

When to pay contributions...

An employee is entitled to superannuation contributions from the first day you employ them, regardless of any award or contract. Some awards or employment contracts prescribe a qualifying period before you have to start paying superannuation for a new employee. However, there is no qualifying period in the superannuation guarantee legislation and contributions should start from the employee's first day.

You have to pay superannuation contributions for each eligible employee at least four times a year, within 28 days after the end of each quarter, as shown in the table below:

Quarter	Quarterly cut-off date
Quarter 1 1 July – 30 September	28 October
Quarter 2 1 October – 31 December	28 January
Quarter 3 1 January – 31 March	28 April
Quarter 4 1 April – 30 June	28 July

If the quarterly cut-off date for paying contributions falls on a weekend or public holiday, the cut-off date is the next working day.

You can pay contributions on a more regular basis than the quarterly requirement. For example, you can pay fortnightly or monthly if you choose, as long as the total amount you owe for the quarter is paid by the quarterly cut-off dates above. As award or other contractual superannuation may also apply, you should check that you meet the requirements set out in any relevant award or contract.

What happens if you pay late?

If you don't pay enough or your payment is late, you will be liable for the Superannuation Guarantee Charge (SGC). This is made up of 3 parts:

- ◆ **Superannuation Guarantee shortfall amount** – this is the amount of superannuation underpaid or paid late, and may also include a "choice" liability if the superannuation is not paid to the correct superannuation fund.
- ◆ **Nominal interest component** – 10% pa – this makes up for the earnings lost due to the short-payment or late payment.
- ◆ **Administration fee** – \$20 per employee – this is used to offset the ATO's administrative costs.

An SGC Statement must be prepared and sent to the ATO providing details of the SGC amounts you have calculated for each employee. As an additional penalty, all 3 parts of the SGC are not tax deductible.

Other options...

Where you have paid superannuation within 1 month after the quarterly cut-off date, you can make an election to offset the late contribution against the SGC. You must still send your SGC Statement to the ATO along with the balance of SGC remaining after the offset. The entire SGC amount (including the late contribution) remains non tax-deductible.

Proposed Changes to Legislation...

The government has announced changes to ensure that employers who make late superannuation guarantee payments do not have to pay the same contribution twice. Until the changes become law, employers who are in these circumstances should contact the Tax Office to discuss their situation.

Need more information?

For more information, please contact our office or visit the ATO website at: www.ato.gov.au/super



Life and Taxes

Loans from Companies to their Shareholders (Division 7A)

Companies enjoy a relatively low income tax rate of 30%, whereas individuals can be subject to tax at higher rates (40% if their income exceeds \$75,000 and 45% if their income exceeds \$150,000, plus the 1.5% Medicare levy).

Division 7A is an integrity measure aimed at preventing private companies from making tax-free distributions of profits to shareholders (or their associates). The rules are quite complex so we won't attempt to cover them all here, but the concept is fairly simple.

If a private company makes a loan/payment to one of its shareholders that is not fully repaid by the end of the income year, the payment is deemed to be a dividend paid by the company to that shareholder, unless the loan is put on a 'qualifying commercial footing'. This means that a formal loan agreement must be drawn up, interest paid at the benchmark rate (currently **8.05%**) and the loan is repaid over a maximum term with a minimum yearly repayment that covers **principal and interest**. The maximum term is **7 years**, unless the loan is secured by a mortgage over real property, in which case it is **25 years**.

Companies are required to self-assess the operation of these provisions, i.e. they are not dependant on a determination by the ATO. However, there are some exceptions, including genuine hardship, and ATO discretion applies in that case. Loans to other companies (not in the capacity of trustee) are also exempt, as are payments made to shareholders in the course of liquidating a company.

As a shareholder, it is easy to fall foul of the provisions, particularly if you use the company's bank account to pay your personal expenses, or if you take a large lump sum for a business-related purpose, such as lending money to an associated trust for the purpose of buying real estate for the company's use. Even accountants don't always get it right. For that reason, the previously punitive nature of the provisions has been relaxed slightly, and the ATO has been given discretion to provide relief in the case of an honest mistake or inadvertent omission.

The ATO has announced an amnesty on the operation of Division 7A for the 2001-02 to 2006-07 income years. *Law Administration Practice Statement PS LA 2007/20* outlines the approach for the exercise of discretion by the ATO where **specific corrective action is taken on or before 30 June 2008**. The amnesty is not incredibly generous, as it requires a non-complying loan to be adjusted to the position it would have been in had the rules been complied with (which could mean some big dividends are required to be paid in the 2008 income year), but it does give companies an opportunity to come clean without all the penalties and interest charges that would otherwise apply.

What this does tell us is that ATO audit activity on the application of Division 7A is likely to take a step up and we should make every effort to ensure the rules are complied with.

Changes to GST thresholds (from 1 July 2007)

- ◆ The GST registration turnover threshold has increased from \$50,000 to **\$75,000** (non-profit entities from \$100,000 to **\$150,000**)
- ◆ Businesses can claim GST input credits for purchases up to **\$75 (GST-exclusive)** without an approved tax invoice (previously \$50)

Tax Office Warns of Scam Email

The Tax Office is warning people about a fraudulent email being circulated that claims to offer a refund from the Tax Office.

The email fraudulently uses the Tax Office logo and the words 'Australian Taxation Office - Notification' or 'Australian Taxation Office - Please Read This' in the subject line.

It asks people to click on a link which redirects them to a phony website that looks similar to the Tax Office website and asks for credit card and personal details in order to receive a refund.



Structure of Financial Statements to Change

Australian entities will have to change the structure of their financial statements to comply with revised accounting standard AASB 101 *Presentation of Financial Statements* and amending standard AASB 2007-08 *Amendments to Australian Accounting Standards arising from AASB 101*, announced on 3 October 2007 by the Australian Accounting Standards Board (AASB).

The changes are being implemented as a result of the International Accounting Standards Board (IASB) issuing a revised IAS 1 *Presentation of Financial Statements* on 6 September 2007.

Both standards apply to annual reporting periods beginning on or after **1 January 2009**, with early adoption permitted.

Professor David Boymal, Chairman of the AASB, said that AASB 101 requires that owner changes in equity are presented separately from non-owner changes in equity.

"Income and expenses must be presented in one

statement (a Statement of Comprehensive Income) or in two statements (a separate Income Statement and a Statement of Comprehensive Income), separately from owner changes in equity (presented in a Statement of Changes in Equity)," said Professor Boymal.

AASB 2007-08 *Amendments to Australian Accounting Standards arising from AASB 101* contains the consequential amendments to other Australian Accounting Standards (including interpretations) as a result of the publication of the revised AASB 101.

The amendments also include changes in terminology to better align with international standards. The term 'Financial Report' will be changed to 'Financial Statements' and the 'Balance Sheet' will become a 'Statement of Financial Position'.

For more information about the two accounting standards, visit www.aasb.com.au.



FBT, Remuneration Packaging & Payroll Matters

New Tax Withheld Calculator...

The Tax Office provides a calculator to determine the amount of PAYG tax that should be withheld from an employee's pay. The latest version has now been released and incorporates the tax schedules that apply from 1 July 2007. Payroll administrators may find this calculator useful in confirming their payroll system is functioning correctly or as a method of showing employees that the correct tax is being withheld. The most recent version of the **Tax Withheld Calculator** is available at <http://www.ato.gov.au/businesses/content.asp?doc=/content/16275.htm>.

Fringe Benefits Tax & Christmas Parties...

There is no separate FBT category for Christmas parties; the relevant treatment depends on your unique circumstances. The ATO has released two fact sheets and these can be found at www.ato.gov.au/businesses/content.asp?doc=/content/51481.htm.

Can employees salary-sacrifice their leave entitlements?

Leave entitlements can only be sacrificed before an employee has fulfilled the conditions to be eligible to take leave. This means that leave entitlements already owed to an employee cannot be sacrificed, but leave entitlements they will be entitled to in the future can be sacrificed.

Industrial Relations - New Employer Declaration Forms...

On 17 October 2007 new Employer Declaration Forms were introduced for employers to use when lodging workplace agreements. All lodged workplace agreements must now be accompanied by the correct Employer Declaration Form, which differs depending on the type and nature of the workplace agreement. The new forms provide the necessary information to conduct the Fairness Test. They are available at www.workplaceauthority.gov.au/graphics.asp?showdoc=/employers/publications_AWA.asp#ed.

NSW WorkCover—Worker or Contractor?

NSW WorkCover has introduced an online self-assessment tool to assist in determining whether a person is a worker or a contractor for WorkCover purposes. The online tool will also assist in determining whether a ruling should be sought from the NSW WorkCover Authority on a particular arrangement. The self-assessment tool can be accessed at the following link:

http://www.workcover.nsw.gov.au/WorkersCompensation/PrivateRulings/Self_Assessment_Tool/default.htm#tool.



Our Staff

New Addition to the Family...

Michele Nevill gave birth to a little boy, Benjamin Andrew, weighing 3.55kg on 10 September. He is growing well and his big brother Christopher is very proud.

Holidays...

Mary Lim will be travelling to Malaysia on 12 December and will return to work after the Christmas shut-down period.



Our office will be closed from 12pm on Friday 21 December and will re-open on Wednesday 2 January.



The Tail End

Origin of our Numbers...

Many of us might have taken a moment to appreciate the brilliance of the decimal-based number system, but not so many would be aware of its origins, or the history of the numbers 0 to 9 themselves.

The numbers we use today are known as 'Hindu-Arabic', which gives us an idea of where they originated. The history of our numerals is only vaguely known because few examples of their early use have survived. It is believed that our numbers evolved from the Indian *Brahmi Script*, developed in India between the 2nd century BC and the 6th century AD. During that period Indian mathematicians realised that by making use of a system that included zero, they could perform calculations by simply writing down numbers rather than using an abacus. The numerals were also used in several sites around the Mediterranean but only as a simple way of writing down numbers, not for performing calculations.

Methods of calculation that used the numbers were not understood outside India until the Arabic mathematician *Al-Khwarizmi* developed and published a study on them in the early 9th century. This was not published in Latin until the early 12th century and our current word 'algorithm' (previously 'algorism'), a method of calculation performed by writing down numbers, derives from his name.

In the late 12th century, a young Italian Leonardo Fibonacci accompanied his father on a diplomatic trade posting to northern Africa (now Algeria). His father was taught the Hindu-Arabic system from the local Arabs and he in turn passed the knowledge on to his son, considering it rather useful. Of that experience, Fibonacci later recounts:

There, following my introduction, as a consequence of marvelous instruction in the art, to the nine digits of the Hindus, the knowledge of the art very much appealed to me before all others.

And so began Fibonacci's lifelong love of mathematics. Recognising that arithmetic with Hindu-Arabic numerals was simpler and more efficient than with Roman numerals, Fibonacci travelled throughout the Mediterranean world to study under the leading Arab mathematicians of the time. Leonardo returned from his travels around 1200. In 1202, at age 32, he published what he had learned in *Liber Abaci* (*Book of Abacus* or *Book of Calculation*), and thereby introduced Hindu-Arabic numerals to Europe.

The book was well received by educated Europeans; however, for the next 300 years, many argued that the abacus was still a faster way of performing calculations. The use of Arabic numbers and the decimal system did not become widespread until the invention of the printing press in 1585.

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