



ML|Partners Pty Ltd

COMBINING ACCOUNTING & WEALTH MANAGEMENT

AYR:
(07) 4783 3944

54/62 Queen Street
AYR 4807

HOME HILL:
(07) 4782 2733

96/98 Eighth Avenue
HOME HILL 4806

Practice Update

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

March - April 2016

SuperStream deadline for small business – 30th June 2016

SuperStream is a package of government reforms aimed at improving the efficiency of the superannuation system. Under SuperStream, **employers must make super contributions on behalf of their employees by submitting data and payments electronically** in accordance with the SuperStream standard. All superannuation funds, including SMSFs, must receive contributions electronically in accordance with this standard.

From 1 July 2015, **small business employers (with 19 or fewer employees)** should start using SuperStream. The ATO is providing flexibility on compliance dates for small business which means you must complete your implementation by no later than **30 June 2016**. Large & medium employers (with 20 or more employees) APRA & Self Managed Super Funds (SMSFs) were required to be SuperStream compliant by 30th June 2015.

A number of options are available to small business to comply with the SuperStream Standard. For employers with 19 or fewer employees (or turnover under \$2m), the Small Business Clearing House is a free service administered by the ATO that allows employers to make super guarantee (SG) contributions as a single electronic payment to the clearing house, which then distributes the payments to employees' funds. For more information go to: [Small Business Superannuation Clearing House](#)

Compliance action

From 1 November 2015, the ATO will increase their focus on employers and SMSFs that have

been identified as not complying with their SuperStream obligations.

The ATO may contact employers and SMSF trustees to discuss their SuperStream readiness, to understand if there are any difficulties and to remind them of their legal responsibilities.

The ATO have a range of compliance enforcement options. For example, issue of a direction notice that requires an employer or an SMSF to take certain actions to become compliant with the law. If the employer does not comply with the direction notice within 21 days, an administrative penalty of up to \$1800 may be imposed. The ATO can consider prosecution action if an entity persistently and consistently disregards their obligations under the standard.

If you need any assistance with SuperStream compliance, please contact this office.

Simplified Fuel Tax Credits

If you claim **less than \$10000 in Fuel Tax Credits** each year then from the March 16 BAS onwards:

- You can work out your number of litres by dividing the total cost of fuel by the average cost of fuel per litre over the quarter. Average fuel costs can be found at: [Australian Institute of Petroleum](#)
- You can calculate your fuel tax credit claim by using the rate that applies at the end of the period when there is a change of rate during the BAS period (for instance in February and August).
- You no longer need to apportion on and off-

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road travel when calculating your fuel tax credit claim if you use certain heavy vehicles mainly off public roads. Your vehicle may be on the ATO list of heavy vehicles considered are used off public roads – for example, a harvester or backhoe. Starting from your March BAS period onwards, you can claim all fuel used at the 'all other business uses' rate, even if you sometimes drive the vehicle on a public road.

For further information go to:

[Simplified Fuel Tax Credits](#)

Supporting community events – ML Partners Home Hill Golf Day



L-R Jayson Farry, Lenny Heron, Megan Barbagello, Bevan Macelroy, Giovanni Licciardello

The annual ML Partners Home Hill Golf day was held on Sunday 10th April 2016. The day is always very well supported by the members and guests of Home Hill Golf Club. ML Partners always have pleasure in supporting the many local sporting clubs in the district.

Reminder – What's new for small business?

With the end of financial year nearly upon us, here is a timely reminder of changes announced in last year's Budget:

Instant asset write-off – simpler depreciation rules

Small businesses can immediately deduct the business portion of most (new or second hand) assets if they cost less than \$20,000 and were purchased between 7:30pm on 12 May 2015 and 30 June 2017.

From 1 July 2017, the threshold will return to \$1,000.

Accelerated depreciation for primary producers

From 12 May 2015, primary producers can immediately deduct the costs of:

- fencing – previously deducted over a period up to 30 years; and

- water facilities – previously deducted over three years.

They can also deduct the cost of fodder storage assets over three years, instead of 50 years.

Deductions for professional expenses for start-ups

From 1 July 2015, small businesses are entitled to certain deductions when starting up a small business.

The range of deductible start-up costs includes professional, legal and accounting advice, and government fees and charges.

Small business restructure roll-over

From 1 July 2016, small businesses will be able to change the legal structure of their business without incurring any income tax liability when assets are transferred by one entity to another.

This roll-over basically applies to:

- CGT assets;
- trading stock; and
- depreciating assets used, or held ready for use, in the course of carrying on a business.

FBT changes for work-related devices

From 1 April 2016, small businesses will not incur an FBT liability if they provide their employees with multiple work-related portable electronic devices that have similar functions.

These include devices that are primarily used for work, such as laptops, tablets, calculators, GPS navigation receivers and mobile phones.

Small business income tax offset

From the 2015/16 income year, an individual is entitled to a tax offset on the tax payable on the portion of their income that is from:

- net small business income from sole trading activities; and/or
- their share of net small business income from a partnership or trust.

The income tax offset can reduce the tax payable that relates to the individual's small business income by 5% (up to \$1,000) each year.

The ATO will work out the offset based on the total net small business income reported in a client's income tax return.

Company tax cut for small businesses

For income years commencing on or after 1 July 2015, the small business company tax rate has been reduced from 30% to 28.5%.

The maximum franking credit that can be allocated to a frankable distribution is unchanged

at 30%, even if a small business is eligible for the 28.5% tax rate.

If you need to discuss any of the above please contact our office – preferably before 30 June.

Buyers to withhold tax for ATO when buying certain properties

Parliament recently passed legislation amending the taxation law to **impose withholding obligations** on the purchasers of certain Australian assets – generally property purchased from a non-resident. However, the changes will affect most purchases of property in Australia!

The amendments impose a **10% withholding obligation** on purchasers of 'Taxable Australian Real Property' (generally, this means an interest in **Australian land**) from certain foreign residents, as well as certain 'indirect Australian real property interests' (such as shares in companies that own a lot of land) and options to acquire such assets.

The amendments will generally apply where the contract to purchase an applicable asset is signed on or after 1 July 2016.

Tax Warning!

Where the land, or the interest in the land, is worth \$2 million or more, the new law requires the purchaser to withhold 10% of the purchase price and send it to the ATO **unless** the vendor has obtained a **'clearance certificate'** from the ATO and provided it to the purchaser prior to settlement.

This obligation arises regardless of whether the vendor is a foreign resident or not.

Example

On 1 August 2016, Harvey enters into a contract to purchase a residential property in an affluent Sydney suburb for \$2.5 million, with settlement proposed to occur on 1 October 2016. He does not know whether the vendor is a foreign resident.

Despite many requests from Harvey's lawyer, the vendor refuses to obtain a clearance certificate from the ATO to give to Harvey.

As Harvey is acquiring Australian land with a market value greater than \$2 million and he has not received a clearance certificate from the vendor by the time settlement occurs, Harvey will be required to withhold and pay to the ATO \$250,000, *whether or not the vendor is an Australian resident.*

GST implications when employer pays for a super fund's expense

An employer **cannot** claim an input tax credit where it pays an expense on behalf of a superannuation fund, as the supply is not made to the employer; but to the super fund.

However, if the fund is registered for GST, then *it* may be entitled to claim an input tax credit (or a reduced input tax credit if the requirements in Division 70 of the GST Act are otherwise satisfied).

For example, assume a super fund engages a legal firm to provide advice about its activities, but the employer connected with the super fund pays the legal fees associated with this advice.

Because the supply of the advice was made by the legal firm to the super fund, the employer is not entitled to an input tax credit (i.e., the employer has not 'acquired anything', even though it made the payment).

However, depending on the circumstances and whether the super fund is registered for GST, it may be entitled to a full or reduced input tax credit.

The rules relating to GST are more complicated for super funds than for other entities, so please phone our office if you would like discuss this important issue.

Taxpayer not a 'share trader' despite substantial share trades

In a recent case, a taxpayer undertook significant trades on the stock exchange and made losses, but was still found to be a 'share investor', rather than a share trader, meaning she could not deduct her losses against her other income (i.e., her losses were 'capital losses' that can only be offset against capital gains).

The Facts

The taxpayer (who otherwise worked as a child care educator and earned approximately \$40,000 in wages) started trading shares in July 2010, utilising her (and her husband's) savings of approximately \$60,000 and a margin loan of initially \$40,000.

During the 2011 income year, she made:

- 71 purchases to a value of \$379,630; and
- 37 sales to a value of \$215,019.

She made a loss on her share transactions during the 2011 income year to the order of \$20,000, and she was seeking to claim that as a deduction.

The Decision

The Senior Member of the AAT considered the following factors in deciding that the taxpayer was *not* a share trader.

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Factors in favour:

- ◆ the turnover was substantial, particularly having regard to her wages; and
- ◆ the taxpayer maintained a home office for the purpose of undertaking the share transactions.

Factors against:

- the share transactions were not regularly and systematically carried out throughout the 2011 income year – the bulk of the transactions took place in the first 6 months of the 2011 income year, with only 10 transactions of approximately \$70,000 in the second half of the financial year.
- the activities were very basic and lacked sophistication to constitute a share trading business;
- there was no demonstrated pattern of trading, although it was accepted there was a business plan even before she later produced written evidence of this; and
- she had no skills or experience or prior interest in shares.

Inactive Trusts – ABNs to be cancelled

The ATO has advised that they will begin cancelling the ABNs of approximately 220,000 trusts, where there is evidence those trusts are no longer carrying on an enterprise.

Trust ABNs will be cancelled from February, where information available indicates that, for the last two years, the trust has not lodged BASs and/or trust income tax returns.

The ATO will send a letter if an ABN has been cancelled, including the reason for the cancellation, and a phone number to ring to get the ABN reinstated immediately if the recipient does not agree with the decision.

If you receive such a letter and think the trust should still be entitled to an ABN, let us know and we'll try and sort it out for you. Please also let us know if there are any outstanding BASs or returns you need us to lodge!

ATO sounds warning to super funds with 'collectables'

The ATO is warning trustees of SMSFs who hold investments in collectables* or personal-use assets*, acquired before 1 July 2011, that time is running out for those items to be transferred out of the fund under the old rules.

Basically, collectables and personal use assets are things like artworks, jewellery, vehicles, boats and wine. Investments in such items must be

made for genuine retirement purposes, not to provide any present-day benefit.

From 1 July 2011, investments in collectables and personal-use assets must have a qualified independent valuation if they are transferred to a related party.

*However, items acquired before 1 July 2011 can be transferred to a related party, without a qualified independent valuation, **provided the transfer takes place before 1 July 2016**, and the transaction is made on an arm's length basis.*

Again, if any client wishes to take advantage of this window, they should contact us very soon.

Government set to re-think the backpacker tax

Basically, the 'backpacker tax', as announced, would see backpackers who work in the agricultural industry during harvest time being taxed at 32.5% from their first dollar of income.

Last month, the National Farmers Federation issued a media release slamming the tax and its negative effect on the agricultural industry, which relies heavily on backpackers.

It pleaded for a more reasonable tax of about 19%.

The Deputy Prime Minister and the Assistant Agriculture and Water Resources Minister have announced a review into taxation arrangements for the Working Holiday Maker visa program.

The review's scope will cover taxation and superannuation arrangements under the program.

The review is intended to ensure the right measures are in place to support the two key growth sectors of agriculture and tourism.

"We know about 40,000 backpackers work in agriculture for a few months each year, the majority in horticulture at seasonal peaks," Deputy Prime Minister Barnaby Joyce said.

"The clear aim is to make sure we have a balanced and equitable approach to the tax status for workers here on visas – we do not want to risk a slide into black market employment in agriculture and tourism," Assistant Minister Anne Ruston said.

ATO releases latest business benchmarks

The ATO says that the 2013/14 data is now available for the 'Small business benchmarks'.

The ATO uses these benchmarks as a guide on industry trends to identify businesses that may be avoiding their tax obligations by not reporting some or all of their income.

The ATO says that using the Small business benchmarks can assist with building taxpayers' businesses.

They say that taxpayers should compare their details against similar businesses in their industry and see how competitive they are or where improvements can be made.

To find your industry benchmarks go to: [Small Business Benchmarks](#)

GIC and SIC rates for June quarter

The ATO has published the 2016 June quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC):

GIC annual rate	9.28%
GIC daily rate	0.02535519%
SIC annual rate	5.28%
SIC daily rate	0.01442623%

Managing Farm Risk Program

Deputy Prime Minister and Minister for Agriculture and Water Resources Barnaby Joyce recently announced the introduction of the Managing Farm Risk Programme (MFRP).

MFRP will **provide rebates up to \$2,500 in dollar-for-dollar matched funding** against the costs incurred by an eligible farm business in securing, or attempting to secure, agricultural insurance. The rebates are not for insurance policy premiums.

In a statement to the media Minister Joyce said by encouraging farmers to prepare their business for adverse conditions through the use of insurance, the Government is helping to build the resilience of the agricultural sector against drought.

So what does this mean for you?

Eligible farm businesses can now apply for a \$2,500 rebate of the costs of engaging suitably qualified service providers to carry out one or more of these activities:

Undertaking an assessment required by an insurance provider

- Undertaking an assessment required by an insurance provider
- Compiling historical farm financial performance and production data
- Analysing insurance options based on a long-term, whole-of-farm risk assessment

The types of service providers who could assist with insurance advice and assessments include, but are not limited to, insurance brokers, farm advisors and accountants.

Eligibility criteria, rebate application forms and further information can be found at:

[Managing Farm Risk Program](#)

Time Running out to start a log book

From 1st July 2015 individuals are only able to use the cents per kilometre method or the log book method for claiming their car expense deductions. Taxpayers wanting to use the log book method need to ensure that their car usage is recorded for a minimum of 12 weeks. If a taxpayer does not have a valid log book then they would be forced to use the cents per kilometre method with may provide a worse tax result if the taxpayer uses their car extensively for business purposes.

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.