



## *Payment Summaries and Reportable Superannuation Payments*

As the 2010 tax preparation season begins, we note that some employers have been incorrectly including compulsory superannuation amounts as reportable employer super contributions on their employees' payment summaries for the 2009-10 income year. Reportable employer super contributions should only include additional super contributions made by an employer, for example, super contributions made on behalf of an employee under a salary sacrifice arrangement. However, some employers have incorrectly included other amounts such as super guarantee contributions and industrial agreement (award) super contributions.

Employees should review their payment summaries and ask for an amended one from their employers if they incorrectly show compulsory super amounts as reportable employer super contributions (RESC). This is important because the RESC affects eligibility for certain tax concessions and Centrelink benefits, and may give rise to a liability for the Medicare levy surcharge.

Employers who re-issue new payment summaries and have already lodged their annual payment summary reports with the Tax Office will need to lodge an amended annual report.

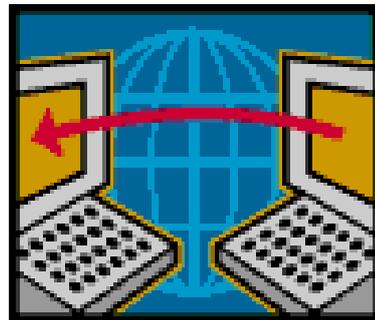
*We are happy to discuss the payment summary requirements and superannuation issues with you and assist with the amendment process. Please contact us today.*

## *Is your business up for an ATO Audit? Check the Benchmarks!*

The ATO has advised us that it will write to 110,000 small business taxpayers which it believes may be participating in the cash economy. It said the majority of the letters will be sent to businesses reporting outside the small business performance benchmarks.

The benchmarks are a set of financial ratios which are calculated for various business types based on financial data derived from tax returns and industry sources. The ATO benchmarks complement its recently expanded data-matching program. However, businesses that fall within the benchmarks should not assume that they are safe from an ATO audit or review.

*We can provide you with the benchmark ranges for your business type and test them against your business before the tax return is lodged. Contact us today for more information.*



## *The ATO Data Matching System just got bigger!*

The ATO has now extended its data matching to include goods and services greater than \$20,000 sold on eBay and Trading Post online in the past

three years.

The objective is to identify individuals and businesses that are operating some or all of their business sales “off the books” and thereby avoiding GST and income tax obligations.

Typically, an individual or business may wish to sell off old or discontinued stock over the internet to turn a quick sale. Taxpayers should seek our advice if they have any concerns about their online trading.

### **Travel Claim for transporting equipment denied.**

The Administrative Appeals Tribunal has denied a claimed deduction for motor vehicle travel expenses incurred by a soldier in the Australian Defence Forces in transporting his ‘deployment priority 1’ kit from home to barracks. The AAT found that the soldier was not required to take his kit home and that a secure storage facility was provided on his employer’s premises.

Taxpayers can claim motor vehicle expenses on the basis they are carrying bulky equipment, but only if they can justify that it is a necessary part of their job and that their employer does not provide an on-site storage facility.

*Clients intending to claim this type of deduction should check that they meet these basic tests. If you require further information, please contact us!*

### **Share investor not a trader.**

The AAT has affirmed that a taxpayer did not carry on a share trading business but rather he was an investor. During the 2007 and 2008 income years, the taxpayer engaged in the buying and selling of shares. The taxpayer lodged his tax returns on the basis that he was a share trader for the relevant income years

In reaching its decision, the Tribunal noted from the taxpayer's evidence that he did not ‘really intend’ to be a share trader. Rather, the evidence suggested that the taxpayer did not represent himself as a share trader until after he lodged his tax returns.

The Tribunal also noted the taxpayer held his shares for periods longer than a share trader generally would, participated in dividend reinvestment plans and received dividends. It also examined the number of transactions in the taxpayer's share portfolio, which it noted was ‘heavily weighted’ towards entities of his employer. Furthermore, the Tribunal noted the restrictions in trading imposed on the taxpayer by his employer, including having to seek permission from his employer to trade, and the timing of when he could buy and sell shares in those entities. Therefore, the Tribunal was satisfied the taxpayer's activities did not have the repetition and regularity of a business. The Tribunal was also satisfied the activities did not have a profit making motive.

Shareholders should be aware that the Tax Office has its sights set on share disposals as part of its Compliance Program for 2010-11. Clients wishing to claim “trader” status for share transactions should talk to us first!



## **SUPER NEWS**

### **Good News on Minimum Pension Drawdown**

The Government will extend for another year the 50% reduction in the required minimum payment amounts that must be made from account-based, allocated and market-linked pensions.



The minimum amounts had been reduced by 50% for the 2008/09 and 2009/10 financial years — that will now be extended for the 2010/11 financial year.

This means, for example, that the minimum annual drawdown for 2010/11 for someone aged 64 years or less will remain at 2%; and for those aged 65 – 74, will be 2.5%.

### **Instalment Warrant Rule Changes**

The superannuation law has recently been amended to reduce the risks for superannuation funds investing in limited recourse borrowing arrangements (eg instalment warrants). The legislative changes seek to ensure that the recourse of the lender (or any other person) against the superannuation fund trustee for default on the borrowing is limited to rights relating to the acquirable asset.

This will mean that lenders will be unable to have security over other assets in the fund or personal assets of the members (through personal guarantees). The new rules only apply to arrangements entered into after 7<sup>th</sup> July 2010.

*We remind clients who wish to undertake these types of arrangements, that they seek appropriate professional advice to ensure that they meet all the legal requirements under the SIS Act. Before proceeding, clients should also discuss with their financial planner the long term financial advantages being sought and take into account the costs of structuring and maintaining the arrangement. In fact, our experience has been that clients who have investigated such proposals have ultimately decided not to proceed with the transaction.*

*Clients who enter into a property instalment warrant transaction should also ensure that it has been incorporated into an updated investment strategy.*

### **Proposal for new SMSF Member Verification Process**

The Tax Office has announced that it expects to implement, later this year, a new self-managed super fund (SMSF) member verification process. It is designed to enable authorised APRA-regulated super funds and other authorised entities to confirm whether or not the member requesting a rollover is actually a member of the SMSF. Its aim is to deter schemes which seek to

obtain illegal early access to or release of superannuation. It is also expected to make processing member rollovers from superannuation funds to SMSFs more efficient and secure.

It is timely to remind trustees that the importance of notifying the ATO of any SMSF membership changes to avoid such processing problems in the future.

Trustees must advise of changes to:

1. Trustee or member names.
2. New or exiting trustees.
3. Trustee addresses.

*If a change has occurred, clients should contact us immediately so that we can prepare the necessary notification form for transmission to the ATO.*

### **ATO extends Small Business Payment Relief**

Small Business operators have been given another twelve months of assistance with managing their tax obligations with an extension to 30<sup>th</sup> June 2011.

Essentially, taxpayers who are experiencing difficulties in paying their tax debts can negotiate a 12 months interest free payment arrangement and also have their BAS payments deferred. However, clients must be prepared to allow the ATO to directly debit their bank account for regular repayments as determined under the deferral agreement.

*The ATO will be sympathetic to taxpayers who apply for assistance before their tax debt falls due. So, if you have just received your tax assessment and you are in this predicament, call us today to make application for this program as soon as possible.*





Therefore, we strongly recommend you talk to us about **when** you intend to have your returns prepared so that we can make the necessary staffing arrangements to get the job done quickly and have your returns lodged **on time!**

# Calendar

## *Tax Lodgement Reminder – Is your time up?*

Recently, a few of our clients received a surprise ATO letter advising them that their 2010 tax return needs to be lodged by the end of October.

How could this happen? Well, generally, this comes about because there may be one or more prior year returns outstanding and/or the 2009 tax return was lodged late.

This serves as a reminder of the importance of clients ensuring that they have their tax affairs up to date and that they *plan* the timing of their tax return preparation and lodgement. Whilst we try very hard to fit in with client's scheduling, it must be remembered that is not possible for us to prepare everyone's return in March and April.

If you are anticipating a large tax bill and cash flow is a problem, we can prepare returns now, but delay lodging until next year.

<b>21<sup>st</sup> October</b>	<b>Monthly Business Activity Statement – September 2010</b>
<b>28<sup>th</sup> October</b>	<b>Quarterly Business Activity Statement – September 2010</b>
<b>21<sup>st</sup> November</b>	<b>Monthly Business Activity Statement - October 2010</b>
<b>21<sup>st</sup> December</b>	<b>Monthly Business Activity Statement – November 2010</b>

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