

Client Information Bulletin



Summer 2011

Contents

- 1 > Christmas fringe benefits
> FBT motor vehicle log book reminder
- 2 > Superannuation contributions
> Contractor or employee?
> Business benchmarks
- 3 > New super clearing house
> Possible superannuation increase
> New system offers business greater security
- 4 > Standard Business Reporting
> Small errors can equal big money



Chartered Accountants

Christmas fringe benefits

Christmas is fast approaching and it is time to consider the tax implications of all the Christmas cheer you provide your staff and clients.

Below is a table showing the tax implications of having the party on your premises or having it off-site.

For parties held on the premises:	
• And only current employees attend, then:	<ul style="list-style-type: none">○ No FBT implications – exempt property benefit.
• And current employees and their associates attend at \$150 per head, then:	<ul style="list-style-type: none">○ No FBT implications – exempt property benefit and minor benefit exemption.
• And current employees and associates plus some clients at a cost of \$385 per head, then:	<ul style="list-style-type: none">○ Employees – No FBT implications○ Associates – Taxable Benefit○ Clients – No FBT but no tax deduction.
For parties held off-site:	
• And only current employees attend at \$150 per head, then:	<ul style="list-style-type: none">○ No FBT – minor benefit.
• And current employees and their associates attend at \$150 per head, then:	<ul style="list-style-type: none">○ No FBT – minor benefit.
• And current employees and their associates and clients attend at cost \$385 per head, then:	<ul style="list-style-type: none">○ Employees – Taxable Benefit○ Associates – Taxable Benefit○ Clients – No FBT but no tax deduction.

Furthermore, if you give a gift at the Christmas party the outcome of the above table may be affected. If the combined total of the gifts and the party exceeds \$300 per employee consider giving the gifts at a separate occasion.

The above applies if you are not a tax-exempt organisation and do not use the 50-50 method for meal entertainment.

FBT motor vehicle log book reminder

If you use the operating cost method for calculating your motor vehicle fringe benefits tax (FBT) and you have not completed a log book, now is the time to start.

If you complete a logbook within 12 weeks from the end of the FBT year it can be used for the preceding year. You also need to complete a new logbook every five years.

A logbook must be maintained for a continuous period of 12 weeks and contain the following information:

- The date your journey began and ended (multiple journeys are treated as a single entry)
- The odometer reading of the car at the start and end of your journey
- The number of kilometres travelled by the car
- The purpose of the travel.

The odometer readings of the car must be maintained at the start and end of the FBT year.

Superannuation contributions

There are clearly defined limits of superannuation contributions to a superannuation fund.

It is important to be aware of what the Australian Taxation Office (ATO) regards as a 'contribution'.

The ATO states the following:

- Anything that increases the capital value of the fund can be a contribution
- Contributions are more than just a deposit of money into the fund.

Set out below is the ATO table *Taxation Ruling: TR 2010/1* regarding contribution types that can be made to a fund:

Money	In-Specie Asset Transfers	Paying Fund Expenses
Increasing value of fund asset	Forgiving a fund debt	Meeting a fund liability
Providing services above market rate	Meeting an obligation as guarantor	Some discretionary trust distribution

Furthermore, the ATO has released the following table which sets out the timing of contributions (TR 2010/1):

Funds transferred by...	Contribution is made ...
Cash payment	When received by the fund
Electronic transfer	When credited to the fund's account
Money order/bank cheque	When received by the fund unless dishonoured
Personal cheque	When received by the fund so long as it is promptly presented (within a few business days) and honoured
Post dated cheque	No earlier than the date on the cheque

It is important to be aware that if you make excess contributions,

you may be subject to an excess contribution tax of 46.5 per cent, or 93 per cent of the contribution.

Please consult with us before you consider making significant contributions to your superannuation fund.

Contractor or employee?

With more businesses now using contract labour the Australian Taxation Office has begun focusing on contractors and their obligation to pay the 9 per cent Superannuation Guarantee Levy.

Section 12(3) of the *Superannuation Guarantee (Administration) Act 1992* (Cwth) provides that if the contract is 'wholly or principally for labour' then that person is deemed an employee and therefore has a Superannuation Guarantee (SG) levy obligation.

The common law principal to determine whether a tax payer is an employee (an individual) is tested against the following:

- The control the employer has
- The basis of the contract
- The ability to sub contract
- Who bears the risk of the project.

Recently there have been significant cases regarding the superannuation guarantee. In general, the courts have taken a more expansive view when testing whether an individual is employed 'wholly or principally for labour'.

While the impact on individuals is clear, there is now a more a significant focus on interposed entities (e.g. companies); more specifically, between the contractor and the ultimate entity paying the contractor.

According to the ATO, if you make a contract with someone

other than the person who will actually be providing the labour, there is no employer/employee relationship.

The following situations are examples of when the contract is not for the labour of the individual:

- If you make a contract with a company, trust or partnership; or
- If the person you have the contract with is free to hire other people to perform the work even if the person ends up performing the work themselves.

A Roy Morgan Case (subject to appeal) highlighted that where a contract is in all practicality for the services of the individual, the payment of contract fees to an interposed entity may not be sufficient to overcome the SG liability.

The key issue here was the freedom of the contract entered to delegate the work.

We strongly recommend that you consult with us if you feel this is relevant to your situation.

Business benchmarks

The ATO has developed small business benchmarks to enable businesses to compare their performance against similar businesses. It also provides the ATO with information to help them identify businesses reporting outside the benchmarks.

The benchmarks provide key business ratios for more than 100 industries reporting with high, medium and low turnover ranges.

The ATO have developed benchmarks in the following areas:

- Performance benchmarks
- Cash Sales benchmarks

- Input benchmarks.

Performance benchmarks

Performance benchmarks provide key business ratios for your industry to help you compare your own business performance including:

- Cost of goods sold to turnover
- Cost of Materials to Turnover
- Labour to turnover
- Rent to turnover
- Motor vehicle expenses to turnover.

Cash sales benchmarks

Cash sales benchmarks show the ratio of cash sales to total sales.

The ATO calculated these benchmarks by using card sales from bank data and deducting these figures from the total sales reported in activity statements.

These benchmarks show an expected range for your industry and your average sales value.

Input benchmarks

Input benchmarks show an expected range of income for tradespeople based on the labour and materials they use. These benchmarks apply mainly to tradespeople who undertake domestic projects and are responsible for purchasing their own materials.

The ATO use these benchmarks to identify businesses that may be avoiding their tax obligations. If your business is outside the benchmarks for your industry it will attract the ATO's attention.

The benchmarks can be found on the ATO website at www.ato.gov.au Tax Topics – Business Benchmarks.

New super clearing house

The Australian Government is offering a free superannuation clearing house service to small businesses with less than 20 employees.

You make a single payment to the clearing house and they will distribute the money to your employee's superfunds, saving you time and money.

To access the service you can register online at www.medicareaustralia.gov.au/super

Possible superannuation increase

The Federal Labour Government has hinted at increasing the Employee Superannuation Guarantee from 9 per cent to 12 per cent.

Employers should factor in such an increase because, if it gets through, it will add further cost to your business and add to your wages bill.

To minimise the impact of an increase in the Employee Superannuation Guarantee consider increasing your prices and reducing your salary increases.

New system offers business greater security

Consolidation of the various state and federal property security registers into a single registry of security interests will be welcomed by any business that retains an interest in an asset after it has become the property of a customer, for example before a final invoice is paid.

The initiative, effective from May 2011, will not just provide a much-needed simplification of the *Personal Property Securities Act 2009* (Cwlth) but will also expand the assets that can be included on the register, providing a greater level of security for businesses.

Under the new system, arrangements such as hire purchase agreements and leases, and retention of title claims, will now be included on the register.

Security interests are defined as 'an interest in property provided for by a transaction that secures payment or performance of an obligation.'

According to the Act, this may include intellectual property (such as patents), intangible property (such as contractual rights or licences) and financial property (such as investment instruments, bonds, etc). Both 'consumer' property (such as items used for personal purposes including a care under lease) and 'commercial' property (such as trading stock, plant and equipment) are covered.

Another change under the new system is that 'fixed' and 'floating' charges will no longer exist. They will instead be known as:

- Security interests which attach to a circulating asset (floating charge)
- Security interests which attach to a non-circulating asset (fixed charge).

The changes will ultimately provide a much simpler system for registering securities, as businesses that deal with customers throughout Australia will no longer need to record each customer on the relevant state-based registry. It will also make it much easier for liquidators to assess the rights of suppliers and debtors to companies that they are administering, and speed up the

process of returning money to those businesses.

However, in the short term, the changes will create some paperwork for businesses, as they will need to redraft their terms of trade to take into account the single register.

It's important for businesses to familiarise themselves with the changes and the new terminology, and ensure they follow procedures correctly to retain title over their property.

Standard Business Reporting

The Federal Government has introduced a business reporting initiative known as Standard Business Reporting (SBR). SBR allows simplified completion and lodgement of various forms, returns and reports that businesses may be required to lodge with a range of government agencies.

Specific SBR-enabled software, in conjunction with secure AUSkey credentials, allows businesses to report online, directly from its management software such as payroll, accounting and financial reporting packages.

The system offers standardised reporting, pre-filled forms where possible, and eliminates much of the duplication found in regular reporting to the government.

Adoption of SBR is voluntary and will not be a required protocol for business reporting in the foreseeable future.

One government agency that has adopted SBR is the Australian Taxation Office. The ATO currently accepts a range of SBR prepared forms including:

- Activity statements (BAS & IAS)
- Fringe benefits tax (FBT) returns

- PAYG payment summaries including:
 - Employment termination payment summary data records
 - Superannuation income stream payment summary data records
 - Superannuation lump sum payment summary data records
 - Individual non-businesses
 - Business and personal services income.
- Tax file number (TFN) declarations.

It is anticipated that in 2011, the SBR system will be expanded to include annual income tax returns and related lodgements while the list of enabling software providers is also expected to grow.

Other government agencies to adopt the system include the Australian Securities and Investments Commission (ASIC), Australian Prudential Regulation Authority (APRA) (from July 2011), the Australian Bureau of Statistics (ABS) and all state and territory revenue offices.

For more information on SBR go to www.sbr.gov.au

Small errors can equal big money

Did you know that errors in goods and services tax (GST) reporting can cost your business money? Small or even simple errors on transactions can add up over time, particularly if you are not getting all the GST credits that you are entitled to.

Incorrect GST reporting is common when the systems you use to capture and record GST information are inadequate, or are out of date because they have not received attention for some time.

Small-to-medium enterprise (SME) clients with outdated systems or inadequate control points are more likely to:

- Report incorrectly, resulting in the need to review and amend activity statements
- Have debt and lodgement difficulties
- Have an increased chance of review.

It is also important that you keep your systems up-to-date with changes to GST, so that you can avoid common mistakes.

To minimise the risk of making repetitive errors, we recommend that you check that your systems:

- Are accurate
- Correctly interpret GST legislation
- Correctly classify all your sales and purchases
- Correctly classify mixed supplies
- Do not record incomplete information on your activity statements.

Whether you are a new or established business, we encourage you to review your business systems, processes and controls – they could be costing you time and money. Blaze Acumen can help with such a review.



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