High risk industries targeted for super obligations

The ATO has identified that employers in the following industries have a higher risk of not meeting their super obligations:

- hairdressing and beauty;
- clothing retailing; and
- management advice and consulting.

The ATO is currently running an education campaign for business owners in these industries to help them better understand their super obligations.

Further, from July 2014, it will be undertaking audits of employers who continue to not meet super obligations for their employees – including:

- paying their minimum super contributions quarterly (or lodging an SGC statement);
- offering employees (and some contractors) a choice of fund;
- keeping accurate records; and
- passing on an employee's TFN to their super fund as required.

Did you know !

If you have a foreign currency denominated bank account with a balance greater than $250,000, you may be subject to Australian tax on any realised foreign currency gains or losses, even if you are merely depositing money and making withdrawals.

If you think you don't need to declare your overseas income then think again. The ATO has tax treaties with 44 countries that allow them to exchange information about offshore income and transactions. Any data received is matching against Australian tax returns information from the Australian Transaction Reports and Analysis Centre (AUSTRAC), which monitors domestic and international transactions over $10,000.

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

In this month...

This month from the ATO we are seeing a mixed bag of advice, instruction and update. The ATO have reminded everybody that from 1 July 2014, their new powers for introducing penalties comes into effect. This simply means if you are behind in your compliance then it will be time to get your wallet out! Every penalty will increase from 1 July 2014 well and truly above CPI.

They have pushed out there usual reminder about income matching, targeted individuals and businesses with regards to superannuation, and is there usual reminder that SMSF's and their members are way behind in their legislative compliance. I know this affects many of our clients so is important to ensure you have your head around any compliance issues.

We are also getting closer to year-end tax time lodgement dates so please contact us asap if this has 'accidentally' fallen off your to do list.

At a Glance

- SMSF's are under the spotlight once again and this is definitely a recurring hotspot for the ATO. Please contact us if you feel that your fund is not complying or you are unsure whether any problems exist.
- The ATO have put some employers on notice regarding their superannuation obligations including potential audits and compliance issues.
- Big Brother is back! The ATO now has the authority to contact councils and local authorities to electronically match data for capital gains tax, stamp duty and registration purposes just to name a few.
- The ATO have begun implementing their new penalty regime including increases that will be effective from 1 July 2014.
- An advertising campaign from the ATO is directed towards women and their potential shortfall in superannuation when they retire.

Vineyard scheme promoters penalised

The Federal Court has fined a company running a managed investment scheme, and its directors, more than $1 million for breaching the promoter penalty provisions of the *Taxation Administration Act*.

The Court awarded civil penalties to the ATO against Barossa Vines Limited (and its four directors) because they failed to carry out their wine grape growing activities in accordance with the agreed terms of their product ruling.

ATO Deputy Commissioner Tim Dyce said, "We issue product rulings to give investors certainty about the tax consequences of their investment. However, the scheme must be implemented as it was described.

"As we discovered, this was not the case and the promoters' actions had unfortunate consequences for investors, whose deductions were disallowed."

In delivering the judgment, Justice Besanko said, "these are significant contraventions… The failure to heed the warnings of the viticultural experts and others and to check on the progress of the [grape vine] rootlings mean, to my mind, that the respondents were prepared to put their own commercial interests ahead of their important obligations to investors."

The ATO, TFNs and Australia Post

The ATO has announced that red tape affecting Tax File Number (TFN) applications has been removed thanks to a partnership between the ATO and Australia Post.

TFN applications are now simpler and easier, as they can now be applied for online at *www.ato.gov.au/TFNapply* and a printout of the application summary can then be verified at one of the 460-odd Australia Post retail outlets throughout the country.

Additional services also now available at Australia Post include updating a date of birth on a taxpayer's ATO record and providing notification of a deceased person.

Parents and guardians can also apply for a TFN on behalf of their children.

ATO encouraging women to put more into super

The ATO is encouraging women to take an active interest in their superannuation to help overcome the retirement savings shortfall many are currently experiencing, saying "It's never too late".

Assistant Commissioner Megan Yong said, "On average, Australian women currently retire with super account balances of just $112,600.

"That's much less than the amount a single woman needs for a $40,000 a year retirement income, which is at the lower end of the 'what's adequate' scale.

"It surprises a lot of people that putting the equivalent cost of one cup of coffee a day into your super can add up to an extra $128,000 when you retire*."

(*) This is based on a 30 year old woman investing $3.80 per day into a moderate fund and assuming 5% growth over a 35 year period.

Ms Yong encourages women to go online to *ato.gov.au/5stepsuper* and complete the ATO's 5-step super check.

Contractor/Council data matching program

The ATO has advised that it will acquire details of approximately 20,500 individuals providing contractor services to local government authorities in the 2010/11 and 2011/12 financial years from various local government Council and Shire authorities throughout:

- Queensland;
- Tasmania;
- New South Wales; and
- Victoria.

These will be electronically matched with certain sections of ATO data holdings to identify non-compliance with lodgment and payment obligations under taxation law.

Super update from the ATO

Some SMSF statistics

As at 30 September 2013, there were over 516,000 SMSFs holding around $531 billion in assets.

Although SMSFs are nearing one million SMSF members (980,000), or 8% of the 11.6 million members of Australian super funds, they account for 31% of the $1.6 trillion total super assets as at 30 June 2013.

Common problems and ATO audit action

The top contraventions reported to the ATO on auditor contravention reports relate to:

- loans;
- borrowings;
- a lack of separation of assets;
- in-house assets;
- not investing at arm's length;
- making acquisitions from related parties; and
- sole purpose breaches.

This year the ATO will review every fund reported to it by approved SMSF auditors.

In 2012/13, the ATO's audits:

- made 150 funds non-complying; and
- disqualified 440 people from being a trustee.

Medicare Levy Surcharge

From 1 July 2014 the government will raise the Medicare levy by half a percentage point to 2 per cent to provide a funding stream for DisabilityCare Australia.

Food for thought.

In the past few years, the ATO has requested personal information from eBay and the Trading Post Australia on users who have sold goods and services greater than $20,000 in any of the last three financial years. Turning the computer off won't help…contact us if you think this is an issue.

New ATO powers and penalties

The government has announced that, from 1 July 2014, administrative penalties will apply to breaches of the super laws (note that this is still just proposed law at this stage).

If the proposed legislation is adopted, SMSF trustees will be personally liable for penalties between $850 and $10,200, depending on the provision contravened.

As trustees will become **personally** liable for these new penalties, they cannot use the resources of the fund to pay the penalty.

While the start date is 1 July 2014, it should be appreciated that contraventions, such as loans to members or relatives, still existing on that date will come under the new penalty regime.

The ATO says the message for SMSF trustees is clear: "Rectify any contraventions as soon as possible or be liable for a penalty."

Tax Fact: There is no CGT if you transfer a property to your former spouse under a court order following the breakdown of your marriage.

This rollover ensures the spouse who gives the assets disregards a capital gain or capital loss that would otherwise arise, and the one who receives the asset (the transfer spouse) will make the capital gain or capital loss when they subsequently dispose of the asset.