

Byfields Newsletter

April / May 2020



Kalbarri National Park

The coronavirus (COVID-19) has dominated news headlines for several months and resulted in a worldwide pandemic. The quarantine and lock down measures instituted within Australia is helping to keep our infection rate down compared to other countries. In this type of situation, our isolation from the rest of the world is a huge advantage. The impact of the virus on the health system, education, business, finance, travel, etc is massive and will be felt for a long time to come.

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Australian Taxation Office Whopping \$139,626 Remission on Interest

In February 2020, the team at Byfields successfully requested for the remission of general interest charges (GIC) totalling \$139,626 on XYZ Pty Ltd's (client's name has been changed) integrated client account with the Australian Taxation Office (ATO) on a balance owing of over \$1.05m.

We understood the cash flow impact on a small business like XYZ Pty Ltd and compiled the reasons to negotiate with the ATO for the large debt accrued which started back in December 2017 (i.e. the timeline of events including dates and amounts when XYZ Pty Ltd was meant to be paid for works done, when they became aware of likelihood of not being paid for their contracts and dates/periods or amounts of the remission request).

The GIC adds to the financial woes of a business and we know that getting interest remitted before the debt was paid in full was crucial. It has now given XYZ Pty Ltd some breathing space. Whilst it is all in a day's job for us at Byfields, the cash flow battle for XYZ Pty Ltd is not over. Interest continues to accrue from the last remission request and it is our aim to assist XYZ Pty Ltd to request for a further remission of interest in 6 - 12 months' time to keep the business afloat.

Here are some tips for a successful remission of interest or penalty request:

- ✓ Have a good lodgement history and ensure future lodgement of tax returns, BAS & IAS are lodged on time and, where possible, paid in full.
- ✓ Renegotiate payment plans before the due date if likely to default.
- ✓ Be specific with reasons for not being able to make payment in full.

Small Business & Dealing with Coronavirus

The Small Business Development Corporation has set up a site to help you manage business disruption associated with coronavirus. They have put together a range of support information for small business owners including:

- ◆ How to prepare your business
- ◆ Free online webinars
- ◆ Employer obligations
- ◆ Government support packages
- ◆ Support and advisory services

Visit [Small Business Development Corporation](https://www.sbdcorp.gov.au) for all the details.



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Disclosure of Business Tax Debts

On 22 October 2019, the Government passed law which allows the Australian Taxation Office (ATO) to disclose tax debt information of businesses to registered credit reporting bureaus (CRBs). The law received royal assent on 28 October 2019.

Under the law, the ATO can only disclose tax debt information of a business where certain criteria are met. The criteria are set out in the legislative instrument which was registered on 23 December 2019 with a commencement date of 21 February 2020. The Commissioner is not obligated to disclose tax debt information and will apply administrative safeguards above and beyond the legislative safeguards in the bill and legislative instrument, before reporting the tax debt information of a business.

Businesses which are engaging with the ATO to manage their tax debts will not have their tax debt information reported to CRBs.

The purpose of allowing the ATO to report the tax debt information of a business to CRBs is to:

- ◆ encourage businesses to engage with the ATO to manage their tax debts and, where a business is unable to pay a tax debt in full by the due date, enter a sustainable payment plan that is agreed between the ATO and the business,
- ◆ support more informed decision making within the business community by making large overdue tax debts more visible, and
- ◆ reduce the unfair advantage obtained by businesses that do not pay their tax on time and do not engage with the ATO in managing their tax debts.

The ATO will only disclose tax debt information of a business to a CRB if the business meets all of the following criteria:

- ◆ it has an Australian business number (ABN), and is not an excluded entity,
- ◆ it has one or more tax debts, of which at least \$100,000 is overdue by more than 90 days,
- ◆ it is not effectively engaging with the ATO to manage its tax debt, and
- ◆ the Inspector-General of Taxation is not considering an ongoing complaint about the proposed reporting of the entity's tax debt information.

The ATO will notify a business in writing if they meet the reporting criteria and give them 28 days to engage with the ATO and take action to avoid having its tax debt information reported.

The ATO will only provide information to CRBs if they are registered with the ATO and have entered into an agreement detailing the terms of the reporting.



Superannuation Guarantee Amnesty Bill Finally Passes into Law

The Super Guarantee Amnesty provides a once-off opportunity for employers to self-correct historical SG non-compliance dating from 1 July 1992 to 31 March 2018. Quarters post-March 2018 are not eligible for the amnesty.

The amnesty allows employers to claim tax deductions for payments of SG charge or contributions made during the amnesty period to offset SG charge, as well as remove the administrative component and the Part 7 penalty that may otherwise apply in relation to SG non-compliance.

The amnesty period will start from 24 May 2018 and end on 6 September 2020.

One of the amendments to this bill also limit the Commissioner's ability to remit penalties for historical SG non-compliance, where an employer fails to disclose information relevant to their historical SG shortfall. This is intended to strengthen the operation of the amnesty through legislated minimum penalties on employers who fail to come forward.

It is therefore important that all employers who believe they may have historically either paid superannuation late or missed payments for employees during the periods covered by the amnesty to revisit their records and lodge the appropriate SG charge statements during the amnesty period which depending on when the bill receives royal assent could be anywhere from September 2020 to November 2020.

Failure to do so will see full penalties applied, which in many cases when combined with interest charges end up being more than the outstanding Superannuation Guarantee liability. Employers who have made payments late without lodging the appropriate SGC Charge statements should also lodge statements those during the Amnesty period as late payment without completing the statements are effectively treated as unpaid until the statements have been lodged.

Key Changes to Modern Award Annualised Salaries

Following a year of many businesses coming under the Fair Work Commission's (FWC) radar for underpayment of their employees, the FWC has made significant changes to several of the Modern Awards under the National Employment System.

Do these changes affect me?

If your business structure comes under the National (Federal) Employment System, then yes, they do.

What you need to know

As of 1 March 2020, some of the Modern Awards were updated to allow employers the ability to pay their employees an annualised salary without being in breach of the award.

However, these changes haven't come without legislated regulations to ensure employers meet their compliance obligations regarding the changes.

What are the changes?

Changes have been introduced to ensure that employees receiving an annualised salary do not receive less than what they would have received under the terms of their relevant award.

What does this mean?

This means that employers now have to prove that their employee's annual salary includes payment for the following:

- ❖ Minimum weekly wage,
- ❖ Allowances: (such as meals, overnight stays, uniform, tools etc.),
- ❖ Overtime rates,
- ❖ Weekend and other penalty rates, and
- ❖ Annual leave loading.

What you need to do:

The new obligations which are similar across the three new standard 'annualised wage arrangement' clauses are the requirements for employers to:

- ❖ Record in an annualised employment agreement/arrangement, the provisions of the award that are satisfied by the annualised wage, and in the case of the awards in Categories 1 and 2 (below), record the method by which the annualised wage has been calculated.
- ❖ Record in the annualised employment agreement/arrangement, the 'outer limits' on the number of overtime hours or other penalty-rate hours which are to be taken as paid for by the annualised wage arrangement;
- ❖ Pay an employee (in addition to the annualised wage) for any hours worked which exceed those 'outer limits' in accordance with the applicable provisions of the modern award (i.e., overtime and penalty rates). These additional payments must be paid in the relevant pay cycle for hours worked



- ❖ Keep records of the start/finish times and unpaid breaks for each employee and have employees sign, or acknowledge as accurate, that record in each pay cycle or roster cycle.
- ❖ Every 12 months from the commencement of the annualised wage arrangement or on termination of employment, calculate the amount which would have been payable to the employee under the modern award and compare this against the annualised wage arrangement. If a shortfall is identified, employers must rectify any shortfall within 14 days.

The updated awards are separated into three categories.

Category 1

Modern awards which cover employees who work relatively stable hours and includes:

- ✓ Banking, Finance and Insurance Award 2010
- ✓ Clerks - Private Sector Award 2010
- ✓ Contract Call Centres Award 2010
- ✓ Hydrocarbons Industry (Upstream) Award 2010
- ✓ Legal Services Award 2010
- ✓ Mining Industry Award 2010
- ✓ Oil Refining and Manufacturing Award 2010 (clerical employees only)
- ✓ Salt Industry Award 2010
- ✓ Telecommunications Services Award 2010
- ✓ Water Industry Award 2010
- ✓ Wool Storage, Sampling and Testing Award 2010

Category 2

Modern awards which cover employees who work highly variable hours and/or significant ordinary hours of work which attract a penalty rate and includes:

- ✓ Broadcasting and Recorded Entertainment Award 2010
- ✓ Local Government Industry Award 2010
- ✓ Manufacturing and Associated Industries and Occupations Award 2010
- ✓ Oil Refining and Manufacturing Award 2010 (non-clerical employees)
- ✓ Pharmacy Industry Award 2010
- ✓ Rail Industry Award 2010
- ✓ Horticulture Award
- ✓ Pastoral Award 2010
- ✓ Health Professionals Award 2010

Category 3

Modern awards that currently provide that the annualised salary be an amount not less than a specified percentage above the minimum weekly wage set out in the modern award. The clause will only apply with respect to the non-managerial staff. This category includes:

- ✓ Marine Towage Award 2010
- ✓ Restaurant Industry Award 2010
- ✓ Hospitality Industry (General) Award 2010

Clients are advised to review their employee's annual salaries; this involves identifying each employee's applicable classification and level (Schedule B of the Award) and the minimum salary required for that classification and level.

Calculate any overtime, penalty rates, and allowances they may be entitled to. Ensure their current annual salary covers the minimum wage as per their classification and level in the award, any overtime regularly worked as well as any applicable allowances and ensure accurate records are maintained.

In consultation with the employee, agree to the 'outer limits' of overtime hours, penalty rates, etc. for each employee and ensure the annual salary compensates for the 'outer limits.' If the employee works more than the agreed 'outer limits,' ensure payment is made in that same pay period in-line with award requirements.

In a nutshell, the employer, if audited by the FWC needs to be able to identify what component of the employee's annual salary is compensating them for the overtime, penalty rates, and allowances required by the award.

We advise you to review and update employment contracts accordingly for new employees and generate a contract amendment regarding annualised salaries for existing employees.

Penalties for non-compliance

Non-compliance will expose employers to the risk of underpayment claims and potential penalties for breaches of the modern award. All underpayments would have to be rectified, and other penalties could apply.

If you need assistance with any of the above, your Byfields Accountant may be able to assist.



About Hubdoc

Hubdoc is a data capture and document management solution for small businesses. You can use it to convert financial documents you receive into usable data.

Automatically send bank statements, invoices, bills, and receipts from over 700 financial institutions, utilities, telecommunication providers, and suppliers into your Hubdoc organisation. You can also manually upload your documents via mobile, email, ScanSnap scanner, or desktop browser.

Once you've uploaded documents into Hubdoc, key data is extracted, such as supplier name, date, total amount and other details. The documents are then organised into folders using rules you set up.

You can invite your accountant, bookkeeper, or team members into your Hubdoc organisation and assign them a suitable user permission. You can also sync your documents and extracted data to third party systems such as Xero and Dropbox.

Xero Users

When using Hubdoc with Xero, you can:

- ❖ Extract key information into data to use within Xero when uploading receipts, invoices and bills into Hubdoc.
- ❖ Upload your documents via an automated account connection, as a photo from your device, or forward them via email.
- ❖ Connect your Hubdoc and Xero organisations, then set up rules in Hubdoc to code and publish documents and extract data to create draft

transactions in Xero.

- ❖ Connect Hubdoc with Xero HQ if you're an accountant or bookkeeper. Hubdoc sends notifications to the activity feed when new documents are uploaded, and are ready to publish to Xero.
- ❖ Use Hubdoc anywhere in the world, but currently they only support automated connections in Canada, Australia, New Zealand, United States and the United Kingdom.

If you are currently using Xero, Hubdoc is charged separately from your Xero subscription. But from 18 March 2020, this will be free for subscribers on Xero Business Edition plans!

You will no longer receive an invoice from Hubdoc if your organisation is connected to a Xero starter, standard, or premium subscription.

About the Hubdoc mobile app

The Hubdoc mobile app is available on iOS and Android and can be used to:

- ❖ Switch between Hubdoc organisations you have access to
- ❖ Upload pictures of documents that are stored on your phone
- ❖ Take pictures of documents to appear automatically in Hubdoc
- ❖ Add tags to documents
- ❖ View, delete or rename documents and folders
- ❖ Move documents to different folders
- ❖ Add automated account connections

What's next?

Sign up for a free trial either via the Hubdoc or Xero websites or look out for the 'Hubdoc' link on your Xero organisation name dropdown from 18 March 2020.



The ATO's FBT Hit List

Fringe Benefits Tax (FBT) is a tax imposed on employers if they provide non-cash/fringe benefits to their employees. Commonly provided fringe benefits that may attract FBT include work cars made available to employees for private use, the provision of entertainment, such as, meals at restaurants, tickets to sporting events, corporate boxes, office Christmas parties and regular Friday afternoon drinks.

The FBT period runs from 1 April to 31 March each year. Employers must self-assess and lodge an FBT return if required.

For this FBT year, the Australian Taxation Office (ATO) has outlined the following list of FBT issues that attracts their attention:

- ★ not lodging FBT returns (or lodging them late) to delay or avoid payment of tax;
- ★ not reporting fringe benefits on business assets that are provided for the personal enjoyment of employees or associates;
- ★ failing to report motor vehicle fringe benefits, incorrectly applying exemptions for vehicles or incorrectly claiming reductions for these benefits;
- ★ claiming entertainment expenses as a deduction but not correctly reporting them as a fringe benefit, or incorrectly classifying entertainment expenses as sponsorship or advertising;
- ★ mismatches between the amount reported as an employee contribution on an FBT return compared to the income amounts on an employer's tax return; and
- ★ incorrectly calculating car parking fringe benefits due to either significantly discounting adequate evidence.

If an employer has an obligation to lodge an FBT return but has not done so, the ATO has the power to issue FBT assessments to the employer going as far back as possible. This is because the three-year amendment period that is generally available to employers that lodge their FBT returns is not triggered for employers that have never lodged FBT returns before. Some employers may lodge nil FBT returns every year to get around this issue and get 'the clock ticking'. However, lodging a nil FBT return may attract an ATO audit and an administrative penalty and interest may be imposed where the employer is found to have an FBT liability.

The better solution is for an employer to have a system in place to identify fringe benefits provided to employees and seek advice from its tax adviser or accountant. In particular, employers should pay attention to the list of FBT issues on the ATO's radar as outlined above. If it is concluded that there is no FBT liability, a non-registered employer is not required to do anything. If the employer is registered for FBT but has no FBT liability, an FBT non-lodgement advice form should be prepared and submitted to the ATO.

Finally, it is a common mistake to assume that FBT does not apply to the private use of business assets (such as, company cars) by business owners that operate their businesses out of companies or trusts. The definition of an 'employee' for FBT purposes is wide enough and could include the business owners even if they are not paid wages/salaries from their businesses.

Key ATO Dates for April & May 2020

APRIL

March monthly activity statements (payment and lodgement)	21 April
March quarter activity statements (payment and lodgement)	28 April
March quarter PAYG instalment (payment and lodgement (if varying the instalment amount))	28 April
March quarter GST instalment (payment and lodgement (if varying the instalment amount))	28 April
March quarter super guarantee contributions	28 April

MAY

April monthly activity statements due (payment and lodgement)	21 May
FBT return (payment and lodgement)	21 May

For a full list of ATO due dates, go to www.ato.gov.au/Business/Reports-and-returns/Due-dates-for-lodging-and-paying/Due-dates-by-month/.