Byfields Newsletter

February 2020 / March 2020

Boranup Karee Forest

The devastating bushfires experienced across Australia in recent months has highlighted just how fragile our unique country and wildlife are. The generosity shown by Australians as well as organisations, public figures and celebrities around the world has been amazing with an estimated $500 million donated. The Morrison government has recently announced a royal commission into this deadly bushfire season which will focus on which levels of government are responsible for preparedness, response, resilience and recovery from fires, and how this can be better coordinated. Let's hope the states can work together with the federal government over the coming months so we are better prepared for the future.

Congratulations

Years of Service with Byfields

Byfields would like to recognise and congratulate Cassie Gibson and Christopher Tan (both from the Perth office) who have achieved 10 years of continued service with the firm.

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Director Penalty Notices for GST Start 1 April 2020

In July 2019, the Federal Government introduced the Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019 to seek to introduce GST Director Penalty Notices (DPN). The legislation was passed by both houses of Parliament on 5 February 2020.

The legislation increases the responsibility of directors' taxation obligations by extending the director penalty regime to other taxes. If your business fails to pay its GST promptly, from 1 April 2020 directors could be personally liable.

The provisions are **not retrospective**, meaning that directors can only be liable for unpaid GST incurred from 1 April 2020 onwards.

As the name suggests, the bill aims to reduce phoenix activity. Phoenix activity involves the creation of a new company to carry out the activities of one which has been intentionally liquidated in order to avoid settling debts.

The bill enables the Commissioner of Taxation to collect estimates of predicted GST liabilities where there are reasonable grounds to believe that the taxpayer, or related entities, are holding off lodging returns, or are stripping assets with the intention to defeat creditors.

The legislation extends this ability not only to GST but also:

- Luxury car tax
- Wine equalisation tax
- Existing PAYG Withholding and Superannuation Guarantee Charge liabilities

DPNs for GST will apply in the same way as they do for PAYG Tax, that is there will be:

<u>21 Day GST DPN</u>

21 Day GST DPN will apply if a company fails to pay GST but it lodges activity statements within three months of the due dates. If this applies then the ATO can issue a DPN, but the directors can avoid liability by:

- Causing the GST to be paid;
- Placing the company in liquidation; or
- Placing the company in voluntary administration.

<u>Lockdown GST PDN</u>

Lockdown GST DPN will apply if a company fails to pay GST and also fails to lodge activity statements within three months of being due. In these circumstances the ATO can estimate a company's GST liability (if necessary) and issue a DPN making the director(s) automatically liable for the company's unpaid GST.

<u>So What Should You Do?</u>

The general rule is make sure you report PAYG, Super and now GST on time, even if the company can't pay it.

If your company has a tax debt or unpaid GST, even if it is not a debt you can be personally liable for under the current Director Penalty provisions, contact our office as soon as possible.

Luxury Car Tax – Increased Refunds for Eligible Primary Producers

From 1 January 2020, primary producers can claim a refund of luxury car tax (LCT) they have paid on <u>one eligible vehicle</u> per financial year, up to a maximum of $10,000 (previously $3,000), for vehicles delivered to them on or after 1 July 2019.

If an eligible vehicle was delivered to a primary producer on or before 30 June 2019, they can only claim a refund of 8/33 of the LCT they have paid, up to a maximum of $3,000.

For LCT purposes, a primary producer is an individual, partnership, trust or company carrying on a primary production business, including:

- plant or animal cultivation
- fishing or pearling
- tree farming or felling.

<u>What is the luxury car tax & how does it work?</u>

LCT is a tax collected by the Australian Taxation Office (ATO) on luxury cars. The tax is typically payable by businesses that purchase or import luxury cars, as well as non-business entities which import luxury cars.

LCT is charged in addition to the GST on a vehicle, though you do not have to pay LCT on the full price of a vehicle. Instead, it's only payable at a 33% rate on the value of the vehicle which exceeds the LCT threshold. For the 2019-20 financial year, this threshold stands at $67,525, while fuel-efficient cars have a higher threshold of $75,526. The threshold is reviewed every year and there are other conditions that will determine whether or not a car qualifies for LCT.

When calculating the value of a car for LCT purposes, the value of parts, accessories or attachments supplied with the car will be taken into account.

<u>Claiming the refund</u>

You can claim a refund on the *Application for luxury car tax refund – for primary producers and tourism operators* form (https://www.ato.gov.au/Forms/Luxury-car-tax-refund---for-primary-producers---tourism-operators/).

This refund must be claimed within four years of becoming entitled to it.

If you've lodged a claim for an eligible vehicle delivered on or after 1 July 2019, you won't need to make another claim to receive the increased refund amount.

From 1 January 2020, the ATO will adjust your refund based on the amount you have already received.

You can't claim these refunds on your BAS or from the Department of Home Affairs.

ATO Proposes Single Touch Payroll (STP) Phase 2

This information is designed to alert employers to what may be changing in their payroll systems over the next two years This has not yet been introduced to Parliament.

STP Phase 2 is primarily designed to provide government departments such as Human Services and the Child Support Agency with real-time information on client income to avoid the downfalls of clients declaring income that is incorrect.

STP Phase 2 will also introduce some components that will result in employers having to report less data to the ATO by way of the Tax File Number Declaration and to Human Services by way of the Separation Certificate.

<u>Reporting income by type</u>

It is proposed that STP 2 will see a move away from reporting income in line with the payment summary categorisation of income, to reporting items by income type, including:

- ✓ SAW - Salary and Wages
- ✓ WHM - Working Holiday Makers
- ✓ FEI - Foreign Income
- ✓ JPDA - Joint Petroleum Development Area
- ✓ VOL - Voluntary Agreement
- ✓ LAB - Labour Hire
- ✓ PSI - Other Specified Payments
- ✓ SHD - Inpats (Shadow Payroll)
- ✓ SWP - Seasonal Worker Program
- ✓ LHW - Labour Hire Working Holiday Maker
- ✓ LHS - Labour Hire Seasonal Worker Program

Apart from salary and wages, income types will generally be assigned to one of three categories:

- ✓ Income that is taxed differently
- ✓ Income that is itemized differently on the tax return
- ✓ Income where concessional reporting applies e.g. a labour-hire agreement, voluntary agreement.

<u>Disaggregation of gross</u>

For the Department of Human Services to more accurately determine their clients' income positions it is proposed that amounts that are currently allocated as "gross" will be broken down further into the following categories:

- ✓ Gross
- ✓ Allowances (including non-expendable allowances e.g. first aid allowance)
- ✓ Overtime
- ✓ Paid Leave
- ✓ Directors fees
- ✓ Salary sacrifice
- ✓ Bonuses & Commissions

Back payments – The proposed addition of a financial year field for lump sum E amount allocation in STP stating the financial year to which the payment relates will remove the need to provide a breakdown to employees (employers won't be required to provide a letter to employees in relation to lump sum E).

Allowances – Expendable allowances for Individual Non-Business – Salary and Wages are currently categorised. However non-expendable allowances that don't have concessional tax treatment under gross are not listed separately. It is proposed that under STP phase 2 that these non-expendable allowances be included under a separate category or categories.

<u>Employment conditions</u>

It is proposed that the following be reported through STP:

- ✓ Commencement date
- ✓ Cessation date
- ✓ Employment basis
- ✓ Cessation type code
- ✓ Tax treatment
- ✓ Other amounts (e.g. tax offsets)

Where all the above information is reported through STP, it is proposed that Tax File Number Declaration data will no longer need to be reported to the ATO.

<u>Adding cessation type</u>

It is proposed that the reason for the employee ceasing employment be reported through STP by way of the "Cessation Type Code". The reason for cessation will not only be used for taxation purposes but will also be used for industrial relations purposes by Fair Work and Long Service Leave bodies, and by Human services to determine the employee's entitlement to government benefits on cessation. Some cessation types will be:

- ✓ Voluntary cessation
- ✓ Cessation by redundancy
- ✓ Cessation due to ill health
- ✓ Other cessation

It is proposed that the inclusion of these fields in STP may negate the need for the employer to complete an Employment Separation Certificate in most circumstances.

<u>CSA deduction and garnishee</u>

By proposing to include Child Support Agency (CSA) payments and garnishee deductions as two additional fields in STP the employer may no longer need to report such deductions to the CSA.

It is important to note that these fields are not reported at an income type level but instead only provide additional employee information. Such fields will have no impact on the data the employee receives on their income statement.

Note: Legislation has not been introduced for phase 2 of STP. It is likely that legislation won't be introduced until early 2020. Whilst phase 2 will be rolled out slowly it is proposed that there will be a mandatory requirement for all of these components to be included in payroll software by 1 July 2021. This requirement will most likely not apply to low cost software designed for micro employers and other effected groups that are yet to be determined.

SG Opt-Out for High Income Earners with Multiple Employers

From 1 January 2020, eligible individuals with multiple employers can apply to opt-out of receiving super guarantee (SG) from some of their employers. This will help employees avoid unintentionally going over the concessional contributions cap. Employees will be eligible to opt-out if they:

* have more than one employer, and
* expect their employers' mandated concessional super contributions to exceed their concessional contributions cap for a financial year.

The exemption certificate means the employer will not be liable for the super guarantee charge (SGC) if they don't make SG contributions on the employee's behalf for the quarters covered by the certificate. It is important for the employee to inform the employer about the exemption certificate so the employer ceases to make SG contributions.

This measure may not benefit everyone who's eligible. An employee should consider their employment arrangements, such as how their pay and other entitlements may change and the effect of any relevant award or workplace agreement applicable to them.

Applying for an exemption certificate – Employees submit the SG opt-out for high income earners with multiple employer's form (NAT 75067) to apply for an SG employer shortfall exemption certificate. The certificate releases one or more of the employee's employers from their SG obligations for up to four quarters in one financial year. The employee will still need to receive SG contributions from at least one employer for each of those quarters. An application for an SG employer shortfall exemption certificate:

* must be made by the employee to be covered by the certificate – an employer cannot apply for an exemption certificate
* can only be made in respect of current employers
* must be lodged in the approved form at least 60 days before the first day of the first quarter that the application relates to.

When does the employee need to apply – To give eligible employees time to make an application following the commencement of this measure, the ATO will accept applications for the fourth quarter of the 2019/20 financial year on or before 31 January 2020.

An exemption certificate can be for a period of up to four quarters in one financial year. A separate application is required for each financial year.

Application approved – Where an application by an employee to opt-out of receiving SG contributions from one or more of their employers is successful, the ATO will issue an SG shortfall exemption certificate to the covered employers. If the ATO issue an exemption certificate, written notice will be given to:

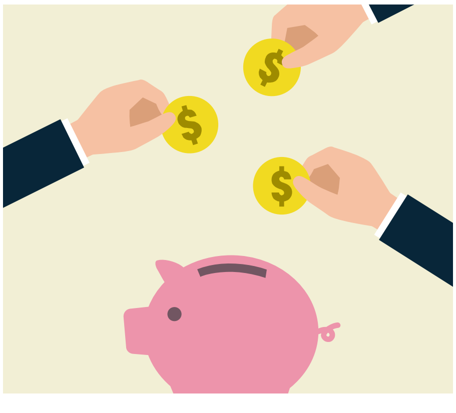
* the employee that made the application
* each employer that is covered by the certificate.

An employer that's covered by an exemption certificate for a particular employee for a specified quarter has a maximum contribution base of $0 for that employee for that quarter. This means the employer will not be liable for the SGC if they do not make contributions on behalf of the employee for the exempted period. The exemption certificate:

* does not prevent the employer from making super contributions on behalf of the employee
* does not change the employer's obligations under a workplace award or agreement, or an employer's agreement with their super fund
* cannot be varied or revoked once it's issued.

The employer may agree to an alternative remuneration package with their employee. They will have certainty that the exemption cannot later be withdrawn to the employer's disadvantage.

Application declined – If the ATO declines the application, only the employee will be notified of the decision.



Five Rules for Staying Safe with Email

In 2018, according to the ACCC, Australians lost almost half a BILLION dollars to scammers - up $149 million from 2017. Whilst figures for 2019 are unknown, we could extrapolate and be close to $750million and by the end of this year a billion dollars.

Below are some tips to help you stay safe when dealing with email:

1. *Do you know the sender?*

   An email from an unknown sender is the first warning. Treat any unknown sender as a potential security threat. Rule number 1.

2. *If you know the sender is the email address one you are familiar with or has it changed?*

   Have a quick check of the address. If it has changed then this is another warning sign. Rule number 2.

3. *Are you being asked to click a link or open an attachment or invoice?*

   This is the most common method scammers use to trap the unwary. National power grids have been turned off because someone clicked a link in an email. Never click a link unless you are absolutely sure it's legitimate. See Rules 1 and 2 above.

4. *Is the email from a government agency expected?*

   An email from the ATO or ASIC must be legitimate, right? WRONG! This is an easy way to fall victim to email compromise. Even if you are expecting an email from a government agency always apply Rules 1 to 3 above.

5. *Don't mix business and pleasure.*

   To minimise risk have a second or third email account for any non-work related subscriptions, such as travel sites, ebay or any other sites that ask you to register. It will help keep your primary inbox clean. Leave the junk to another mailbox. Always apply Rules 1 to 4 above.

Unfortunately there is misconception that email is a trusted mechanism for communication. Sadly it is not. Treat all emails with some degree of scepticism, never click a link or open an attachment unless you are sure, and separate business and personal emails.

Aged Care – What You Need to Know

Whether considering options for yourself or deciding how best to help someone close to you, aged care is a complex area requiring careful thought. The uncertainty surrounding where to move, how much it will cost and where the money will come from can be overwhelming and stressful.

There are typically three steps you need to take before moving into an aged care facility.

<u>Step 1 – Approval</u>

Before entering an aged care facility your health must be assessed to determine your eligibility for care. The assessment can be performed by any doctor, nurse or social worker who is a member of an Aged Care Assessment Team (ACAT). You can visit myagedcare.gov.au to request an assessment.

<u>Step 2 – Find a home</u>

To make sure you find a home that you are comfortable in and that will suit your needs, you may like to visit a few different places. You can apply to as many homes as you like. The accommodation costs for all aged care facilities are published on the Government's aged care website www.myagedcare.gov.au. This website also describes the rooms and services available at the facility.

<u>Step 3 – Organise your finances</u>

On entry to a facility, you will be required to pay an accommodation contribution or accommodation payment. Some people will have their accommodation costs met in full or part by the Government, while others will need to pay the accommodation price agreed with the aged care home. The Department of Human Services (DHS) will advise which applies to you based on an assessment of your assets and income.

There will also be a basic daily fee to pay and there may be a means-tested care fee which is determined by your level of income and assets. Some facilities offer you a higher level of service or a higher standard of accommodation or food for an additional daily fee.

To find out more about your aged care options, contact Greg O'Connell, senior financial adviser at Byfields Wealth Management, on 08 9416 2222 or grego@byfieldswealth.com.au. Greg is more than happy to travel to our country offices or your home to meet with you.

(This is a re-run of the article from our August 2019 newsletter)