

## June 2020

### **BUSINESS TAX RETURNS**

This includes sole Traders, Partnerships, companies and Trusts operating a business.

#### **CHANGES TO 2020 BUSINESS TAX RETURNS**

The ATO has, over recent years, and also this year, increased the requirements for business taxpayers to provide additional information in the tax returns. This not only facilitates ATO information gathering but also enables the ATO to increase its audit activity.

#### **Change in Company Tax Rates**

There are 2 different company tax rates:

- companies which earn passive investment income will be taxed at 30%
- companies operating a business and have an annual turnover of less than \$50 million pa and have less than 80% passive income.
  - Small Business Entity (SBE) will be taxed at 27.5%pa. These companies will now be called Base Rate Entity (BRE).

#### **Company Income Tax Rate**

Corporate tax rate applicable for companies (Base Rate Entities) with turnover of <\$50 million and have less than 80% passive income in 2019/20 will be 27.5%.

#### **Depreciation**

Small Business Entity (SBE) Turnover <\$10 million

Instant (100%) write off for assets up to \$30,000 (ex GST) acquired before 12 March 2020.

From 12 March assets acquired up to \$150,000 (ex GST) can be written off 100% at time of purchase.

- applies to new and used equipment.

#### **New Depreciation Rates**

-applies to equipment which cost more than \$30,000 (ex GST) purchased before 12 March 2020;

- 15% 1<sup>st</sup> year
- 30% subsequent years

-applies to equipment costing more than \$150,000 (ex GST) purchased after 12 March 2020

- 57.5% 1<sup>st</sup> year

#### **Passenger Motor Vehicles**

- car cost depreciation limit of \$57,581.00 applies.
- applies to vehicles load capacity <1 tonne and fewer than 9 passengers.
- other vehicles used - plant and equipment depreciation rates and rules apply.

## **Taxable Payments Reporting System (TPRS)**

- applies to contractors in designed industries.
- applies to sub-contractors, consultants and independent contractors who may be operating as sole traders, companies, partnerships or trusts.
- applies to the following industries.
  - Building and construction services                      Cleaning services
  - Road freight services    Courier services
  - Information technology (IT) services
  - Security, investigators or surveillance services.
- the TPRS report tells the ATO of monies paid to the above contractors.
- this information is furnished by businesses who make payments to the above contractors.

## **Single Touch Payroll**

Since 1 July 2017 (ie 2017/18) the ATO introduced a new payroll reporting system required by employers – Single Touch Payroll (STP).

The STP has been introduced so that the ATO can ensure that employers are paying and reporting the full and correct PAYG withholding taxes and the Superannuation Guarantee amounts for employees.

The STP applied to employers with more than 20 employees for the year ended 30 June 2018 – referred to as “large employers”..

The STP applies to employers with 5 – 19 employees from the year ended 30 June 2019 (19/20 year) – referred to as “small employers”.

The STP applies to employers with less than 5 employees from the year ended 30 June 2020 (20/21 year) – referred to as “micro employers”.

For this year (2019/20 year), no employers will be issuing any income statements (previously group certificates and payment summaries). Employees will obtain their earnings details from their “MyGov” account or from their tax agent at the time their income tax return is completed. Employers must lodge their STP Finalisation Statement with the ATO by 31 July 2020.

## **Trust Distributions – Minors unearned income**

In the 2019/2020 tax return (as applied from 1/7/2011 onwards) the amount that a family discretionary trust can pay to minors (children) as distribution of business profits remains at a maximum of \$416.00.

## **Tax Office Focus**

In 2020, the ATO will continue to focus particular attention to:

- Contractors and Personal Services Income. The ATO is concerned about “sham contracting” arrangements under which workers are deliberately engaged as contractors even though the legal relationship is clearly one of employment.
- Small Business Benchmarks and the cash economy. The ATO is paying particular attention to coffee shops, cleaning contractors, couriers and building contractors.
- Personal Services Income. The ATO is also paying particular attention to income splitting (between husband and spouse) of sham contractor income
- Contractor Payments. If your business is paying contractors or other “payments for services” you must ensure that the contractor has an Australian Business Number (ABN) and that you have a copy of this ABN. If you do not hold this ABN, you (as the head contractor) should withhold 46.5% tax from the gross payment.

## **Employee Payslips**

All contributions to employee’s superannuation funds (whether by SGC contributions or salary sacrifice contributions), must be disclosed on an employee’s payslips.

### **Benchmark Interest Rate – Private company loans**

For the year ended 30/06/2020, the benchmark interest rate for private loans provided by the company to associates is set at 5.37%.

### **Small Business Entity (SBE's)**

#### **Sole Trader, Partnership or Trust (turnover of < \$25 million pa)**

- entitled to 5% tax rate offset on the SBE income (capped at \$ 1000.00)
- available as a non-refundable tax offset (SBITO)
- turnover to be less than \$10 million.

#### **Company**

- company tax rate reduced to 27.5% for companies with turnover of less than \$25 million pa.
- company tax rate for companies with turnover of more than \$25 million pa. remains at 30%
- franking credits will be 27.5% for small companies and 30% for large companies.

### **Primary Producers**

There are:

- immediate income tax deduction for cost of water facilities, and
- fencing and other assets over 3 years.

### **Start-Up Costs**

- previously written off over 5 years but now can be written off immediately.

### **Small Business Restructure Roll Overs**

Small business can change structure without incurring CGT liability.

### **In House Software**

- expenditure can be deducted over a 5 year period,
- claims Nil in year 1, claim 30% in years 2, 3 and 4 and claims 10% in year 5.
- pre 2015/16 year claim 40% in Year 1, 20% in years 2,3 and 4.

### **Prepayment Strategies**

SBE taxpayers can prepay expenses for no more than 12 months and claim the full expense in the tax year in which the expense was actually paid. This included expenses like rent, lease payments, loan interest, business travel, courses and seminars, subscriptions, cleaning, stationery, computer items and other operating expenses.

### **ATO hit list for Business in 2020**

Every year the ATO releases a compliance program on significant tax risk areas. In 2020 the ATO will continue to target:

- **Superannuation Guarantee Obligations** – Employers must ensure that they have paid all the required superannuation contributions for their employees within 1 month from the end of the quarter.
- **outstanding super** – all outstanding employee super must be paid by 1 September 2020 to avoid hefty ATO penalties.
- **cash economy** – The ATO is now using industry turnover, gross profit and net profit benchmarks to ensure business taxpayers are paying the correct amount of tax.
- **Personal Services Income (PSI)** - taxpayers must ensure that if their business is one which relies mainly on your expertise and qualifications, then the ATO may class you as a Personal Services Business (PSB). This means that all the net profits will need to be paid to the principal and there will be no opportunity to split the business income with your spouse.
- **UBER drivers and AIRBNB operators**- the ATO is looking particularly at these industries to ensure that the taxpayers are declaring ALL their income.

## **BUSINESS INCOME TAX**

### **Service Charging Arrangements for Professional Practices.**

- recent court cases have highlighted the need for professional practices to ensure payments to service entities are made correctly,
- ensure that the dominant purpose for establishing the service entity is not to obtain a tax benefit,
- the main purpose must be asset protection and the purpose must be demonstrated.
- accumulation of regular service charges must be commercially realistic,
- such service arrangement will need to be fully demonstrated,
- all employer obligations (PAYG registration, Work Cover registration, Payroll Tax, Superannuation etc) must be met by the service entity.
- service entities are considered to be carrying on a business and must therefore register for GST, and
- CGT small business concessions to be considered.

### **Website Expenditure**

Website expenditure is now classed as revenue expense or as a capital item,

- In-house software expenditure to be as a capital item and can be depreciated,
- the cost to acquire or develop website will now be classed as capital,
- maintenance of website costs are classed as expenses, and
- the cost to modify a business website will be classed as capital.

## **COVID-19**

In response to the COVID-19 the Federal Government has attempted to stimulate the economy as well as provide funds for those who have lost their jobs or for employers to retain employees.

Some of the more common stimuli were:

- Boosting cash flow for employers
- Job Keeper Payment.
- Working from home accelerated tax deductions
- Enhanced depreciation and instant asset write off.
- Superannuation drawdown – term pensions
- Early release of superannuation.

### **Boosting Cash Flow for Employers**

- delivers credits to employers via their GST activity Statements.
- equal to amount withheld from employee wages each reporting period.
- minimum refund of \$10,000 per quarter.
- 1<sup>st</sup> period March to June 2020.
- 2<sup>nd</sup> period July to September 2020.
- amounts received are tax free.

### **Job Keeper Payment**

- temporary subsidy to employers to enable them to continue paying employees.
- employers turnover must have declined by at least 30% (2020 month to 2019 month)
- employer to pay employees minimum \$1500 per fortnight then get reimbursed by ATO at end of each month.
- payments to employees are treated as normal wages.
- federal government payment to the employer is taxable income but not subject to GST.

## COVID-19 (cont'd)

### "Working from Home" accelerated deductions.

- employees working from home as a result of the COVID-19 restrictions can claim various expenses:- Heating, cooling, lighting, cleaning of work area.
  - phone and internet
  - computer consumables and general stationery
  - depreciation of computer and office equipment.
- 3 methods to claim expenses
  1. actual cost method
  2. fixed rate method (existing)
  3. shortcut method (new)

#### Actual Cost Method

- record actual time spent working
- calculate percentage of business use
- allocate the above percentage against total house running costs (equipment depreciation, electricity, cleaning)
- claim costs of computer consumables and stationery

#### Fixed Rate Method

- claim 52 cents per hour
- covers electricity, cleaning, equipment depreciation
- applies from 1 July 2019 to 29 Feb 2020 (8 months)

#### Short Cut Method

- claim 80 cents per hour
- covers electricity, cleaning, equipment depreciation.
- applies from 1 March 2020 to 30 June 2020 (4 months)
- must be actually fulfilling work duties
- 2 taxpayers in the same house can claim

#### - Not claimable

- home loan, internet, rent, rates and taxes
- consumables and household items (ie coffee, milk etc)

### Depreciation – instant asset write off

- limit increased from \$30,000 to \$150,000.
- applies from 12 March 2020 to 31 December 2020.
- applies to new and used equipment.

### Superannuation Pension Drawdowns

- the prior annual income stream annual drawdown payment (ranging from 4% to 14% of your pension account balance (depending on your age) has been halved.

### Early release of Superannuation

- eligible applicants can access up to \$10,000 pre 30 June and a further \$10,000 from 1 July to 30 September.
- applicant must be unemployed, eligible for Job Seeker benefit, or redundant employee where working hours have reduced by 20%
- applicants to apply to ATO via "MyGov account".
- withdrawals are non-assessable non-exempt income.

## **Superannuation & Superannuation Death Benefits**

### **Transfer Balance Cap (TBC)**

A limit of \$1,600,000.00 has been imposed on transfers by members into the tax free pension phase of their superannuation,

- if a member transfer balance account exceeds the TBC of \$1.6million, then a new tax will apply to the excess transfer balance. An excess tax of 15% will apply.
- increased record keeping and reporting requirements are needed.

### **Transition to Retirement Income Streams (TRIS)**

In 2020 (as applied from to 1 July 2017), those super fund members who have reached preservation age are able to access a Super Pension (TRIS) without leaving their job or retiring. Such pension payments were subject to minimum annual drawdowns (4% - 10% of account balance). These payments were tax free.

All such pension income (including pension payments to taxpayers) are now subject to income tax of 15%

### **ATO Tax Avoidance Taskforce**

The Federal Government, in the last budget, has allocated some \$1 bn over 4 years to extend their Tax Avoidance Compliance activities; targeting multinationals, large public and private groups, trusts and high wealth individuals.



Paul Finlay  
Finlay Financial Strategies