

Client Newsletter

Year End Employer Obligations and Employment Update For the year ended 30 June 2021

This special edition of our newsletter is to remind you of your employer obligations for the year ended 30 June 2021, as well as to provide an update on key changes from 1 July 2021 onwards. Please contact your StewartBrown Manager or Partner should you need any assistance with any of the matters mentioned below.

STOP PRESS

- Single Touch Payroll (“STP”) now compulsory for all employers. Reporting concessions end for small employers with closely held (related) payees and micro employers. (See section 1)
- Super guarantee rate increases to 10%. With the unprecedented level of visibility of data available to the ATO it has never been more important to stay on top of your super obligations. (See section 2)
- Revenue NSW provide concessions for Payroll Tax. (See section 5)
- Fairwork Act amendments change the definition of ‘casual’ employees. Employers now required to provide the *Casual Employment Information Statement* to casual employees. (See section 11)

IMPORTANT CONSIDERATIONS

1. [SINGLE TOUCH PAYROLL \(“STP”\)](#)

STP is currently in place for most employers, and from 1 July 2021 the reporting obligations will increase for micro employers and small employers with closely held payees.

Micro employers

Up until 30 June 2021, micro employers (with 1-4 employees) were able to lodge STP on a quarterly basis. However, from 1 July 2021 they are required to move to real-time reporting.

Small employers with closely held (related) payees

Up until 30 June 2021, small employers (with 19 or fewer payees) were exempt from reporting amounts paid to closely held payees. From 1 July 2021, payments to closely held payees will need to be reported through STP either quarterly, or in real-time along with other (arms-length) employees.

Closely held payees are individuals directly related to the entity from which they receive payments, and include:

- Family members of a family business
- Directors or shareholders of a company
- Beneficiaries of a trust

Payments that are subject to STP reporting include salaries, wages, or directors’ fees. Payments such as dividends, trust distributions and loans are not subject to STP.

Quarterly reporting option for closely held (related) payees

It is common practice that salaries, wages, or directors’ fees are determined at the end of the financial year. Those in this situation will, at a minimum, be required to report a reasonable quarterly estimate of their total yearly amount. The estimate should factor in all your circumstances; however, a general guide is that a quarterly estimate is reasonable if it equals 25% of the previous year’s total. Penalties may apply where employers under-estimate their year-end total, including being liable for superannuation guarantee charge (SGC) if the employer underpaid super, and being liable to interest and penalties. It is also necessary to pay Super Guarantee (SG) contributions and PAYG Withholding on your quarterly estimates.

STP reports can only be lodged using STP-enabled software. The ATO provide a list of [no and low-cost software solutions](#). Alternatively, quarterly STP reports can be lodged through StewartBrown using our tax software.

2. [SUPERANNUATION OBLIGATIONS](#)

Superannuation Guarantee (SG) contributions

The minimum SG payments are due each quarter by the 28th of the month after the quarter ends. For the quarter ended 30 June 2021, SG should be remitted to a complying superannuation fund by **28 July 2021** for each employee and/or individual contractor.

Due to long processing times and potential backlogs with super funds and clearing houses, we recommend ensuring your contributions reach employees funds on or before Friday, 23 July 2021. Another method that is becoming more common is for employers to pay super at the same time as wages are paid using payroll software. This greatly reduces the risk of late payments.

SG Rate increase – Up until 30 June 2021 the rate is 9.5%. From 1 July 2021 this increases to 10% and will increase 0.5% annually to 12% from 1 July 2025 onwards, as shown in the following table:

Period	Super guarantee rate %	Period	Super guarantee rate %
1 July 2020 – 30 June 2021	9.5	1 July 2023 – 30 June 2024	11
1 July 2021 – 30 June 2022	10	1 July 2024 – 30 June 2025	11.5
1 July 2022 – 30 June 2023	10.5	1 July 2025 – 30 June 2026 and onwards	12

Employers should review all employment contracts to determine whether this additional superannuation cost is passed on to staff (out of their total package costs) or absorbed by the employer.

Which SG rate to apply? - The minimum contribution rate applies based on the date the wages are paid. For example, if wages are earned for the period up to 30 June 2021 and then paid on or after 1 July 2021, the SG rate to apply is 10%.

Maximum contribution base - From 1 July 2021 the maximum earnings that an employer is required to pay SG contributions on is \$58,920 per quarter (or \$235,680 per annum).

Missed, late or underpayments & the Super Guarantee Charge (SGC) – It is crucial that the minimum SG is paid in full and on time. Importantly, SG is considered 'paid' on that date it is received by the superfund, and not the date received by the clearing house (except if you are using the ATO Small Business Super Clearing House) or paid from your bank account. If SG is underpaid or received just one day late, you are required to lodge and pay the Super Guarantee Charge (SGC). The SGC is comprised of the SG shortfall amount, nominal interest (currently at 10%), and an administration fee of \$20 per employee per quarter, none of which is tax deductible. Additionally, the SGC is calculated using employees total 'Salary and Wages', which includes some overtime, allowances and termination payments that aren't included in the 'Ordinary Time Earnings' (OTE) definition used to calculate SG. There are additional penalties if an SGC statement is not lodged on time.

For more information regarding your super obligations, including what constitutes OTE, the ATO has a [checklist](#) you may find useful.

Reportable Employer Superannuation Contributions (RESC)

Generally, contributions exceeding the mandated Superannuation Guarantee (i.e. greater than 9.5% for the year ending 30 July 2021) will be Reportable Employer Super Contributions (RESC). If you make super contributions for an employee under a salary sacrifice arrangement (or make extra super contributions to a super fund for an employee where the extra super contributions have been influenced by the employee), you must report those contributions on your employee's Income Statement (or Payment Summary if not using STP).

RESC are not included in your employee's assessable income, however, they do affect a range of government entitlements and obligation for individuals. These amounts need to be reported to the ATO:

- by employers as part of your STP (or Payment Summary) reporting; and
- by your employees in their income tax returns.

3. [PAYROLL OBLIGATIONS - LODGEMENT DEADLINES](#)

For most employers, an STP finalisation declaration should be lodged with the ATO by **14 July 2021**. The ATO have extended this deadline to 31 July 2021 if additional time is needed due to COVID-19. If using the later time, this should be communicated with your employees.

For small employers (19 or fewer employees) who **only** have closely held employees, STP finalisation or the PAYG Payment summaries are due on the payee's income tax return due date. This can be as early as 31 October 2021 (or as late as 16 May 2022).

For employers not yet using the STP system, PAYG Payment Summaries are to be provided to each employee by **14 July 2021**. Further, the PAYG Payment Summaries and PAYG Payment Annual Statement are required to be lodged with the ATO by **14 August 2021**.

4. [TAXABLE PAYMENTS REPORTING \(TPAR\)](#)

Businesses in certain industries need to lodge a 'Taxable Payments Annual Report' (TPAR) to the ATO reporting the payments they make to contractors. TPAR now includes businesses providing the following services: government entities, building & construction, cleaning, courier, road freight, IT, security, investigation & surveillance, and mixed services (businesses providing one or more of these services).

The TPAR, which shows the total payments they make to each contractor, needs to be lodged with the ATO by **28 August 2021**.

5. [PAYROLL TAX](#)

The NSW 2021 Annual Payroll Tax reconciliation lodgement and final payment date has been extended to **30 August 2021** (usually 28 July 2021).

The NSW Government have also announced reductions to the payroll tax rate to 4.85% (of taxable wages exceeding the threshold) for the years ending June 2021 & 2022, and an increase of the threshold to \$1,200,000 for the year ending 30 June 2021 onwards.

NSW employers with an Australian payroll (including fringe benefits, superannuation contributions and some contractor payments) exceeding the threshold are liable for payroll tax. Remember that related and associated employers (including interstate wages) are grouped to determine whether the threshold has been exceeded. Please contact us immediately if your taxable wages (including all grouped entities) exceed \$1,200,000 and you have not previously registered.

6. [DIRECTOR'S PERSONAL LIABILITY](#)

Directors and former directors of a company will be personally liable for unpaid PAYG withholding, GST debts and the Superannuation Guarantee Charge if the company fails to pay the amounts due within 90 days of the due date and the debt was not reported to the ATO within three months of the lodgement date.

All Directors must ensure that companies for which they are acting as directors pay the liabilities mentioned above in a timely manner, but more importantly lodge the required documents no later than three months after the due date. There are very limited grounds for exemption from liability and in some circumstances the debts can become your personal non-tax-deductible liability.

7. [SALARY SACRIFICE ARRANGEMENTS](#)

Salary sacrifice arrangements (also called salary packaging) are agreements between employers and employees, where the employee agrees to forgo part of their future entitlements to salary or wages in return for the employer providing them with benefits in future. If the arrangements are put in place after the work has been performed, the salary sacrifice arrangement will be ineffective. It is essential that the terms of such arrangements are clearly stated in a written agreement before the benefits are received. Common examples of salary sacrificed benefits are the provision of motor vehicles and superannuation contributions made on behalf of employees. The start of a new financial year is the perfect time to review that all documentation is in place for such arrangements.

8. [WORKPLACE HEALTH & SAFETY \(WHS\)](#)

Since 1 January 2012, Workplace Health and Safety (WHS) laws require any person who conducts a business or undertaking (called a PCBU) to provide a safe working environment and to actively ensure that all employees, contractors, labour-hire workers etc. know how to work safely.

Directors and managers can be held criminally liable for not satisfying their duty of care under the WHS Act. It is essential that employers understand their obligations under WHS. Further information can be obtained from [Safe Work Australia](#).

9. [CONTRACTOR OR EMPLOYEE?](#)

One major issue that affects many businesses is whether a person is an “employee” or a “contractor”. Getting this right is important for an employer to ensure they withhold the correct tax amounts from payments and comply with other tax obligations such as payments of superannuation guarantee, fringe benefits tax, workers compensation, payroll tax, etc. The ATO provides a [list a factors](#) and a [decision tool](#) to help decide how to treat your worker.

10. [WORKERS COMPENSATION](#)

Workers compensation is a form insurance taken out by employers to cover workers who become injured or sick due to their work. The insurance payments cover the worker’s wages whilst not fit for work, as well as medical expenses and rehabilitation. Note that ‘workers’ it is not limited to employees; it can include contractors and other ‘deemed’ workers.

Each state and territory govern their own workers compensation scheme. In NSW, workers compensation is managed by [iCare](#) (formerly WorkCover). If an employer either has annual wages (including fringe benefits, superannuation contributions, etc.) greater than \$7,500, employs an apprentice or trainee, or is a member of a group for premium purposes, they are required to take out workers compensation insurance.

Please ensure you have a current policy in place, the premium rating is appropriate for your business and the calculation on your premium notice is correct.

11. [FAIR WORK SYSTEM](#)

The Fair Work system, launched on 1 July 2009, is Australia’s national workplace employment system. The system is created by the Fair Work Act 2009 and covers the majority of workplaces in Australia. Employers covered by the national system should be aware of the following obligations:

National Employment Standards (NES)

The NES are now 11 minimum entitlements which apply to employees in Australia. Employers must provide a Fair Work Information Statement to all new employees. Details of the NES and the information statement can be found [here](#).

Changes to casual employee entitlements - On 26 March 2021, sections in the Fair Work Act relating to casual employees were amended. A job is ‘casual’ if it is offered and accepted with the understanding that there is ‘no firm advance commitment’ to ongoing work with agreed pattern of work. The NES now includes an entitlement for casual employees to transition to permanent, called ‘casual conversion’, in some circumstances. Employers must provide casual employees a Casual Employment Information Statement, which outlines the changes. Details of the changes can be found [here](#).

Modern awards

From 1 January 2010, modern awards cover most workplaces. Modern awards establish one set of minimum conditions for employers and employees across Australia who work in the same industries and occupations. The commencement of modern awards means that there have been changes to minimum terms and conditions for many employees. The changes vary by state, industry, and employer.

Employee pay rates

To keep updated on minimum pay rates applicable for employee’s earnings and ensure your business is compliant we refer you to the following [Fairwork pay calculator](#).

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