StewartBrown

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Client Newsletter

Year End Employer Obligations and Employment Update

For the year ended 30 June 2022

This special edition of our newsletter is to remind you of your employer obligations for the year ended 30 June 2022, as well as to provide an update on key changes from 1 July 2022 onwards. We also cover some employment related matters that should be reviewed routinely. Please contact your StewartBrown Manager or Partner should you need any assistance with any of the matters mentioned below.

******STOP PRESS******

- Singe Touch Payroll ("STP") is compulsory for all employers, with limited exceptions. STP phase 2 is being rolled out across various software providers. (See section 1)
- Super guarantee rate increases to 10.5%. 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)
- Tax deductible super contributions may need to be made as early as 14 June this year, due to some superannuation clearing houses closing off their 2022 books earlier than usual. (See section 2)

IMPORTANT CONSIDERATIONS

1. SINGLE TOUCH PAYROLL ("STP")

Singe Touch Payroll ("STP") is the way in which employers report their employee's tax and super information to the ATO, and is compulsory for employers, with limited exceptions. Reporting can only be done using STP-enabled software and is typically done in real-time, with the option to report quarterly for employers with closely held payees (further details below).

STP Finalisation – Lodgement deadlines:

STP finalisation declaration is how you let the ATO know the STP reporting is complete and correct for the financial year. It is important the finalisation is completed accurately and within the timeframes below:

- For most employers, the STP finalisation should be lodged with the ATO by 14 July 2022. This includes micro employers (with 1-4 employees).
- For small employers (19 or fewer employees) who **only** have closely held employees, STP finalisation is due on the payee's income tax return due date. This can be as early as 31 October 2022 (or as late as 15 May 2023).

STP Phase 2

STP is being expanded to increase the amount of information provided to the ATO, called STP Phase 2. When prompted by your payroll provider, it is important to make the required changes and ensure the payments are categorised correctly. Whilst STP phase 2 has been compulsory since 1 January 2022, many software providers have been granted extensions to implement this.

Small employers with closely held (related) payees

Amounts paid to closely held (related) payees can either reported 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, directors' fees, terminations payments and PAYG withheld from same as well as any applicable superannuation guarantee. 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 2022, SG should be received by the employee's complying superannuation fund by 28 July 2022.

Due to long processing times and potential backlogs with super funds and clearing houses, we recommend making the payment at least 10 business days before the due date. 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.

We have been advised by some superannuation clearing houses that they intend closing off their 2022 financial year end receipting as early as the 14th of June and would therefore strongly encourage those employers wanting to claim a tax deduction in the 2022 financial year to pay their superannuation contributions as soon as possible.

Removal of $450 income threshold – from 1 July 2022, the monthly income threshold of $450 will be removed and employers will be required to make SG contributions from the first dollar of Ordinary Time Earnings (OTE).

SG Rate increase – The SG rate is now legislated to increase by 0.5% pa as per the table below. Up until 30 June 2022 the rate is 10%. From 1 July 2022 this increases to 10.5% and will increase 0.5% annually to 12% from 1 July 2025 onwards, as summarised in the following table:

Period	Super guarantee rate %
1 July 2020 - 30 June 2021	9.50
1 July 2021 - 30 June 2022	10.0
1 July 2022 - 30 June 2023	10.5

Period	Super guarantee rate %
1 July 2023 - 30 June 2024	11.0
1 July 2024 - 30 June 2025	11.5
1 July 2025 - 30 June 2026 and onwards	12.0

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 2022 and then paid on or after 1 July 2022, the SG rate to apply is 10.5%.

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. From 1 July 2022 that increases to $60,220 per quarter.

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 (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 10% for the year ending 30 June 2022) will be Reportable Employer Super Contributions. 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.

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 reporting; and
- by your employees in their income tax returns.

3. 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 2022.

4. PAYROLL TAX

The NSW 2022 Annual Payroll Tax reconciliation lodgement and final payment date is 28 July 2022.

The NSW payroll tax rate has remained at 4.85% (of taxable wages exceeding the threshold) for the years ending June 2021 & 2022, and the payroll threshold at $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 inter-state 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.

5. DIRECTOR'S PERSONAL LIABILITY & DIRECTOR IDENTIFICATION NUMBERS

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.

Director identification numbers (Director ID or DIN) are required for all directors. If you were a director on or before 31 October 2021, you have until 30 November 2022 to apply. If you became a director from 1 November 2021, you should already have one.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 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.

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.

StewartBrown
Chartered Accountants
Telephone: +61 2 9412 3033
Email: info@stewartbrown.com.au
www.stewartbrown.com.au