

Practice Update

OCTOBER 2021

Extra super step when hiring new employees

Employers may soon need to do something extra when a new employee starts to work for them.

Currently, if a new employee does not choose their own fund, their employer can pay contributions for them to a default fund.

From 1 November 2021, if a new employee does not choose a specific fund, their employer may need to request the employee's 'stapled super fund' details from the ATO.

A stapled super fund is an existing account which is linked (or 'stapled') to an individual employee, so it follows them as they change jobs.

Businesses will be able to request stapled super fund details for new employees using 'Online services for business', or by asking their registered tax or BAS agent to do this for them.

ATO support for employers with expansion of STP

As part of the expansion of Single Touch Payroll (known as STP Phase 2), from 1 January 2022, employers will need to report additional payroll information in their STP reports including:

- ❑ **disaggregation of gross amounts** (including separate reporting of paid leave, allowances, overtime, directors' fees and salary sacrifice amounts);
- ❑ **employment and taxation conditions** (including information from the TFN declaration); and
- ❑ **income types** (for example, salary and wages, working holiday maker income, foreign employment income).

To support employers with the move to STP Phase 2 reporting, the ATO will take the following approach:

- ❑ Employers that can start Phase 2 reporting by their digital service provider's deferral date (if applicable), do not need to apply to the ATO for more time.
- ❑ If an employer's software will be ready for 1 January 2022 and they are able to start reporting before 1 March 2022, they do not need to apply to the ATO for more time (that is, an automatic extension applies).

The ATO has also advised that penalties will not be applied for genuine mistakes in the first year of Phase 2 reporting until 31 December 2022.

Reminder for first-time share investors to declare income

With the growth of micro-investment platforms helping new investors enter the market, the ATO has issued a reminder for first-time share and Exchange Traded Funds ('ETF') investors.

The ATO is concerned that first-time investors often do not understand their tax obligations in relation to reporting capital gains from the sale of shares and income in the form of dividends and distributions.

This could result in errors when they lodge their tax return and delay tax refunds.

While the ATO pre-fills data from third parties into individual tax returns, investors are urged to check that all relevant data has been included, or make sure their registered tax agent has all the necessary information before lodging.

Investors should also keep good records.

Documenting gifts or loans from related overseas entities

Editor: The ATO is currently reviewing certain arrangements where Australian taxpayers seek to disguise undeclared foreign income as a gift or loan.

Genuine gifts or loans received from related overseas entities (including family members and friends) are sometimes used to fund businesses or to acquire income producing assets.

In this context, a genuine gift or loan is one where:

- the characterisation of the transaction as a gift or loan is supported by appropriate documentation;
- the parties' behaviour is consistent with that characterisation; and
- the monies provided are sourced from funds genuinely independent of the taxpayer.

Having good contemporaneous record keeping practices is desirable in case the ATO seeks to verify whether an amount is a genuine gift or loan.

The ATO has published detailed information to help taxpayers properly document genuine gifts or loans received from related overseas entities that are used for income purposes.

The information can be accessed from the ATO website by searching for 'Gifts or loan from related overseas entities'.

Additional ATO support during COVID-19

The ATO is providing additional support to taxpayers having difficulty meeting their tax and superannuation guarantee charge obligations for employees because of COVID-19.

Available support includes the following:

- Lodgment or payment support options – for example, payment plans or remitting interest and penalties.
- Varying PAYG instalments – The ATO will not apply penalties or charge interest on varied instalments that relate to the 2022 income year where taxpayers have taken reasonable care to estimate their end of year tax liability.

- Moving from quarterly to monthly GST reporting for quicker access to refunds.

- Applying for administrative relief for Division 7A minimum yearly repayments.

Editor: If you are struggling with your tax or super obligations, we can assist with identifying your options and apply to the ATO on your behalf.

Paid Parental Leave changes support parents in lockdown

The Paid Parental Leave ('PPL') scheme has been amended to enable expectant parents whose work has been affected by COVID-19 lockdowns to access Parental Leave Pay or Dad and Partner Pay under the scheme.

Many people who would otherwise have qualified for PPL, may no longer meet the 'work test' condition to be eligible for payment because of continued lockdowns across much of Australia.

For example, this could apply to a person who has been stood down, had their hours of work reduced or ceased work entirely as a result of a lockdown.

The changes to the PPL ensure that the period a person receives an Australian Government COVID-19 payment or the COVID-19 Disaster Payment (that is, because their work has been impacted by lockdowns) counts towards the work test, so that they may still receive Parental Leave Pay or Dad and Partner Pay.

Reminder of SG obligations for September 2021 quarter

Under the Superannuation Guarantee ('SG') scheme, employers are required to make quarterly contributions on behalf of their employees.

From 1 July 2021, the minimum contribution required is 10% (up from 9.5%) of an employee's Ordinary Time Earnings base, up to a maximum quarterly contribution base of \$58,920 for 2021/22.

Employers are reminded that the due date for making SG contributions for the September 2021 quarter is 28 October 2021.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.