

# **P r a c t i c e U p d a t e**

## **December 2021**

### **Super is now following new employees**

The ATO is reminding employers that, as of 1 November 2021, there is an extra step they may need to take to comply with the choice of super fund rules.

If a new employee does not choose a super fund, most employers will need to request the employee's 'stapled super fund' details from the ATO to avoid penalties.

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

When a new employee starts, employers need to:

- offer eligible employees a choice of super fund;
- if the new employee does not choose a super fund, the employer will need to request stapled super fund details using *Online services for business*; and
- pay super contributions into one of the following:
  - the super fund they choose;
  - the stapled super fund the ATO provides if they have not chosen a fund; or
  - the employer's default fund (or another fund that meets the choice of fund rules) if the employer cannot pay into the two above.

### **ABN 'intent to cancel' program**

The ATO is reviewing Australian business numbers ('ABNs') to identify potentially inactive ABNs for cancellation, and it has introduced a new automated process to allow taxpayers (or their tax agents) to confirm if their ABN is still required via a secure voice response system.

An ABN may be selected if the taxpayer has not reported business activity in their tax return, or there are no signs of business activity in other lodgments or third-party information.

The ATO reminds taxpayers that any income earned under an ABN needs to be reported in their tax return, regardless of the amount. By keeping their tax obligations up to date, the ATO can see they are actively undertaking a business (so, therefore, their ABN should not be cancelled).

## 'Backpacker tax' may not apply to some backpackers

The **High Court** has held that the 'working holiday maker tax' (also known as the 'backpackers tax') did not apply to a taxpayer on a working holiday visa from the United Kingdom who was *also* an Australian tax resident, due to the application of the Double Tax Agreement between Australia and the United Kingdom.

The ATO has responded to this High Court decision, noting that it is only relevant where a working holiday maker is **both** an Australian resident for tax purposes **and** from Chile, Finland, Japan, Norway, Turkey, the United Kingdom, Germany or Israel.

**Working holiday makers** who may potentially be affected by this decision are encouraged to check the ATO website for updated guidance prior to lodging or amending a return or lodging an objection.

**Employers** should continue to follow rates in the published withholding tables for working holiday makers until the ATO updates its website with further guidance.

The ATO notes that a working holiday maker's residency status for tax purposes is determined by the taxpayer's individual circumstances, but most working holiday makers will be **non-residents** (consistent with their purpose of being in Australia to have a holiday and working to support that holiday).

## Beware of scams

Scamwatch is warning that scams cost Australian consumers, businesses and the economy hundreds of millions of dollars each year and cause serious emotional harm to victims and their families.

Cryptocurrency scams are the most 'popular' type of investment scams, representing over 50% of losses. Often the initial investment amount is low (between \$250 and \$500), but the scammers pressure the person to invest more over time before claiming the money is gone or ceasing communication and blocking access to the funds.

All age groups are losing money to investment scams, but the over-65s have lost the most, with \$24 million lost this year.

Some simple steps individuals can take to protect themselves (and their businesses) are:

- Never give any personal information to someone who has contacted you.
- Hang up and verify the identity of the person contacting you by calling the relevant organisation directly — find them through an independent source such as a phone book, past bill or online search.
- Do not click on hyperlinks in text/social media messages or emails, even if it appears to come from a trusted source.
- Go directly to a website through a browser (e.g., to reach the MyGov website, type '*my.gov.au*' into the browser).
- Search for reviews before purchasing from unfamiliar online traders.
- Be wary of sellers requesting unusual payment methods.
- Verify any request to change bank details by contacting the supplier directly.
- Consider a multi-factor approval process for transactions over a certain dollar amount.
- Never provide a stranger remote access to your computer, even if they claim to be from a telco company such as Telstra.

## Managing business cash flow

The ATO has issued a reminder to businesses that paying regular attention to their record-keeping and reporting tasks will help them better manage their cash flow and allow them to plan for the future.

The best way to make sure a business has enough cash available to meet its tax and other obligations is to do a **cash flow budget or projection**. This information will help the business to:

- ◆ see its likely cash position at any time;
- ◆ identify any fluctuations that may lead to potential cash shortages;
- ◆ plan for tax payments;
- ◆ plan for any major expenses; and
- ◆ provide lenders with information.

Accounting for income and expenses can help keep a business running smoothly — by giving it an overview of when it can expect money to come in and when it may go out, and highlighting where the business may need to direct its money.

The ATO provides resources about record keeping for business, and there is also information on *business.gov.au* regarding how to create a budget, and how to improve a business's financial position.

## Data-matching program: Services Australia benefits and entitlements

The ATO has advised it will acquire Medicare Exemption Statement ('MES') data relating to approximately 100,000 individuals from Services Australia for the 2021 financial year through to the 2023 financial year inclusively, and compare it with claims made by taxpayers on their tax returns.