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ML Partners Pty Ltd
is a CPA Practice

Practice Update

Please read this update
and contact this office
if you have any queries

JANUARY - MARCH 2025

How to master employer obligations in 2025

Taxpayers who employ staff should remember the following important dates and obligations:

Fringe benefits tax ('FBT')



31 March 2025 marks the end of the 2024/25 FBT year. Employers should remember the following regarding their FBT tax time obligations.

- They should identify if they have provided a fringe benefit. If they have, they should determine the taxable value to work out if they have an FBT liability.
- They should lodge an FBT return and pay any FBT owed by 21 May 2025. If their registered tax agent lodges electronically for them, they have until 25 June 2025.
- They should keep the right records to support their FBT position.

Please note that the ATO have identified FBT as an audit focus in 2025. We will be making direct contact with some of you this year regarding your FBT obligations, but please contact your client file manager if you wish to discuss.

Pay as you go ('PAYG') withholding

Taxpayers need to withhold the right amount of tax from payments they make to their employees and other payees and pay those amounts to the ATO.

Single touch payroll ('STP')

Employers should finalise their STP data by 14 July 2025 for the 2024/25 financial year (there may be a later due date for any closely held payees).

Super guarantee ('SG')

- ◆ 28 January, 28 April, 28 July and 28 October are the quarterly due dates for making SG payments;
- ◆ The SG rate is currently 11.5% of an employee's ordinary time earnings. From 1 July 2025, it will increase to 12%.
- ◆ Taxpayers should ensure SG for their eligible employees is paid in full, on time and to the right super fund, otherwise they will be liable for the SG charge.

Personal tax cuts

From 1 July 2026, personal income tax rates will change.

On the last sitting day of Parliament, the personal income tax rate reduction announced in the 2025-26 Federal Budget was confirmed. The modest reduction of 1% applies to the \$18,201-\$45,000 tax bracket, reducing from its current rate of 16% to 15% from 1 July 2026, then to 14% from 2027-28. The saving from the tax cut represents a maximum of \$268 in the 2026-27 year and \$536 from the 2027-28 year.

With a 1 July 2026 start date, the outcome of the Federal election on 3 May 2025 and subsequent budgets will determine whether this change comes to fruition.

Medicare levy threshold change for low-income earners

Low-income earners do not pay the compulsory 2% Medicare levy until their assessable income reaches the threshold. The threshold is different depending on whether you are a single taxpayer, pensioner, and the number of children you have that are dependent on you.

Parliament has confirmed the increase to the Medicare levy threshold announced in the Federal Budget. The threshold change is backdated to 1 July 2024, which means that taxpayers will benefit when they lodge their 2024-25 tax return.

ATO's tips to help taxpayers stay on top of their BAS

The ATO has the following tips to help taxpayers get their BAS right before they lodge:

- ☐ They should make sure they enter the figures for their obligations at the correct label, and only complete applicable fields.
- ☐ If lodging online, or through a registered tax or BAS agent, they may be able to get an extra 2 or 4 weeks to lodge and pay.
- ☐ If they have nothing to report for the period, they can lodge a 'nil' BAS online by selecting 'Prepare' and then 'Prepare as nil', or they can call the ATO's automated service "*any time of the day*".
- ☐ If they made a mistake on their last BAS, instead of lodging a revision, they may be able to use their current BAS to fix it. For example, they can use label 1A to adjust

GST on sales, or label 1B to adjust GST on purchases.

- ☐ They can also use their BAS to vary an instalment amount.
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Claiming fuel tax credits when rates change



Fuel tax credits changed on 3 February, and taxpayers could receive more savings for fuel they have acquired on and from

this date. Different rates apply based on the type of fuel, when it was acquired and what activity it is used for.

The ATO has the following tips for taxpayers to ensure they are claiming correctly.

- ☐ They can use the ATO's 'eligibility tool' on its website to find out if they can claim fuel tax credits for fuel they have acquired and used.
 - ☐ They can use the ATO's online fuel tax credit calculator (which should automatically apply the right rate) to work out their claim.
 - ☐ They can lodge their BAS via *Online services* or a registered tax or BAS agent (lodging via an agent can allow them extra time to lodge and pay).
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ATO "busts" NFP myths

As the Not-for-profit ('NFP') self-review return is due in March, the ATO has recently published a document 'busting' various NFP 'myths'.

Myth 1: All NFPs are income tax exempt.

ATO response: This is not true. Some NFPs are income tax exempt and some are taxable.

Myth 2: There is only one way to lodge the NFP self-review return.

ATO response: There are three ways, as follows:

- ◆ A 'principal authority' may be able to lodge using '*Online services for business*';
- ◆ It may be possible for the return to be lodged by phoning the ATO's automated self-help phone service on **13 72 26**; and
- ◆ A registered tax agent can lodge the return through *Online services for agents*.

Myth 3: Anyone can lodge the NFP self-review return online.

ATO response: If lodging via *Online services for business*, anyone authorised to access the return in *Online Services* can lodge. If a registered tax agent has been engaged, they can also prepare and lodge the return in *Online services for agents*.

Myth 4: If a person is unsure whether their NFP has charitable purposes, then they do not need to lodge.

ATO response: The self-review return still needs to be lodged, even if it is not certain whether the NFP is charitable.

Taxpayer's claim for input tax credits unsuccessful

In a recent decision, the Administrative Review Tribunal ('ART') rejected a taxpayer's claim for input tax credits on the basis that all the relevant GST returns (i.e., BASs) were lodged out of time.

For the GST periods from 1 October 2015 to 31 March 2017, the taxpayer filed each of her GST returns more than four years after they were due. The taxpayer still claimed input tax credits totalling over \$10,000 for this period.

The ATO disallowed this claim, on the basis that none of the input tax credits were claimed within the four-year period, as required by the GST Act.

The ART upheld the ATO's decision, noting that, as the taxpayer did not file the GST returns within the four-year period *"she did not have input tax credits taken into account . . . As a consequence, . . . (she) simply ceased to be entitled to those input tax credits."*

ATO's appeal against decision that UPEs are not "loans" fails

The Full Federal Court recently dismissed the ATO's appeal against an AAT decision that unpaid present entitlements ('UPEs') owing by a trust to a corporate beneficiary were not "loans" for Division 7A purposes.

A corporate beneficiary had become entitled to a share of the income of a trust for the 2013 to 2017 income years.

Parts of these entitlements remained outstanding, resulting in UPEs. The ATO treated these UPEs

as loans from the corporate beneficiary back to the trust (and, in consequence, as "deemed dividends" made to the trust).

The AAT held at first instance that a loan had **not** been made in this case.

The Full Federal Court upheld the AAT's decision, noting that a loan for Division 7A purposes requires an obligation to **repay** an amount, not merely the creation of an obligation to **pay** an amount (such as when a trust distributes income to a beneficiary).

ATO's new focus for small business

The ATO is currently focusing on the following 'specific risk areas', where it is concerned *"small businesses are getting it wrong"*:

- **Contractors omitting income** — with a focus on data matching to ensure all income is reported.
- **Quarterly to monthly BAS reporting for GST purposes** — The ATO will move around 3,500 small businesses with a history of non-compliance to monthly reporting from 1 April 2025.

The ATO will also continue its focus on non-commercial business losses, small business capital gains tax ('CGT') concessions, business income that is not personal income, incorrect claims for 'small business boosts', GST registration and income of taxi, limousine and ride-sourcing services.

Reminder of March 2025 Quarter Superannuation Guarantee ('SG')

Employers are reminded that employee super contributions for the quarter ending 31 March 2025 must be **received** by the relevant super funds by Monday, 28 April 2025.

If the correct amount of SG is not paid by an employer on time, they will be liable to pay the SG charge, which includes a penalty and interest component.

The SG rate is 11.5% for the 2025 income year.

Super guarantee rules catch up with venues and gyms



The superannuation guarantee rules are broad and, in some circumstances, extend beyond the definition of common law employees to some directors, contractors, entertainers, sports persons and other workers.

Employers need to pay compulsory superannuation guarantee (SG) to those considered employees under the definition in the SG rules. But, the SG definition of an employee is broad and just how far this definition extends has sparked debate of late about the rights of performers, gym instructors and others not typically considered employees.

For employers and business owners, it is crucially important that if there is any uncertainty about the rights of workers to SG, your position is confirmed. This might be an initial assessment of the position by us, confirmed by an employment lawyer, or clarified by applying for a ATO private ruling covering your specific workplace arrangements. One of the things that employers find most alarming is that there is no tangible time limit on the recovery of outstanding SG obligations. In theory, the ATO can go back as far as it determines necessary to recover unpaid superannuation contributions for workers who are classified as employees for SG purposes. One of the key features of the SG system is to ensure that appropriate contributions are being made for employees and deemed employees, to adequately support them in their retirement. The SG laws, and complimentary director penalty regime, ensure that every cent owing to an employee for SG is paid.

Who is not paid super guarantee?

Super guarantee does not need to be paid to:

- Under 18s who do not work more than 30 hours a week.
- Private and domestic workers who do not work more than 30 hours a week.
- Non-resident employees who perform work outside of Australia.
- Employees temporarily working in Australia covered by an agreement.
- Some foreign executives who hold certain visas or entry permits.

Generally, SG is not payable if you have entered into a contract with a company, trust or partnership.

If you have Australian employees temporarily working outside of Australia in a country with a bilateral social security agreement, for example, the United States, you should continue paying SG and apply for a certificate of coverage to avoid paying super (or the equivalent) in the country where the employee is temporarily located.

SG's broader definition of an employee

There is a section of the SG rules, section 12, that specifies who is deemed to be an employee for SG purposes. This section extends the definition of an employee beyond common law to cover:

- Company directors who are remunerated for performing duties;
- Contractors working under a contract wholly or principally for their labour;
- Certain state and Commonwealth government contracted workers; and
- Those paid to perform or present any music, play, dance, entertainment, sport or other similar promotional activity. This includes people who provide services in connection with these activities or people paid in relation to film, tape, disc or television.

Are contractors entitled to SG?

If your contractor holds an Australian Business Number (ABN), this of itself will not prevent SG from applying. Where the arrangement looks like it is a contract for the provision of an individual's labour and skills, it is likely they will meet the definition of an employee and SG will be payable. The SG rules state if, "a person works under a contract that is wholly or principally for the labour of the person, the person is an employee of the other party to the contract."

This definition is alarming to many employers as the rate paid to contractors, and often the terms of the agreement, factor in an uplift for super guarantee and other entitlements that would normally be paid if the person was an employee. But for SG purposes, it does not matter what the contract says, if the person is deemed to be an employee under the rules, they are entitled to SG and the employer is obligated to pay it.

The Australian Taxation Office (ATO) states that SG needs to be paid to contractors if you pay them:

- under a verbal or written contract that is mainly for their labour (more than half the dollar value of the contract is for their labour)
- for their personal labour and skills (payment isn't dependent on achieving a specified result)
- to perform the contract work (work cannot be delegated to someone else).

In a recent ruling, the ATO says that where the worker is required to use a substantial capital asset (such as a truck) this will help in arguing that the contract is not mainly for the labour of the worker, but this will always depend on the facts.

Are directors paid SG?

Yes. Directors (members of executive bodies of bodies corporate) should be paid SG if they are remunerated for performing duties for the company.

Entertainers, performers and sportspeople

Generally, if a performer operates through a company, trust, or partnership then there is not an employment relationship and SG is not payable. However, individual artists, performers and sportspeople are captured as employees under the SG rules ([section 12\(8\)](#)) where they are paid to:

- perform or present, or to participate in the performance or presentation of, any music, play, dance, entertainment, sport, display or promotional activity or any similar activity involving the exercise of intellectual, artistic, musical, physical or other personal skills;
- provide services in connection with an activity referred to above;
- perform services in, or in connection with, the making of any film, tape or disc or of any television or radio broadcast.

Whoever is paying the individual for their labour, is generally responsible for the payment of that individual's SG. For example, a music festival operator that contracts a sole trader to perform at a festival might be liable for SG for that performer. Likewise, if the sole trader contracts band members to perform with them at the festival, then the sole trader is responsible for the SG of the band members. If however, the music festival worked with an agency to supply the performers (the music festival pays the agency, the agency pays the performers), then the agency is likely to be responsible for the SG of the artists if there is a liability. If the agency only charges a booking fee and the festival pays the performers directly, then the festival is likely to be responsible for the performer's SG.

You can see from this how important it is to determine who meets the definition of an employee for SG purposes, and if so, to understand the parties to the deemed employment relationship.

What's a service "in connection to"

The definition of an employee for SG purposes captures workers who work with performers, for example individuals that are producers, videographers, editors, etc. If the person meets the definition of an employee under the SG rules, then it is likely SG is payable.

Is a gym instructor a sportsperson?

A gym instructor may be captured under the definition of a deemed employee under the SG

rules. Whether the gym is liable to pay the instructor SG really depends on the facts of the individual arrangement.

Let's look at the example of a gym instructor operating as a sole trader under an ABN.

- There is a contract between the instructor and the gym stating that the instructor is an independent contractor and is responsible for their own SG payments and other employment obligations.
- The instructor is paid per class, and per training session with clients, covering their time and labour.
- The instructor utilises the equipment of the gym and its scheduling system.
- The instructor wears the uniform of the gym.
- The instructor is trained by the gym in how to deliver the services of the gym.

Employee? Most likely because the ATO places a heavy significance on whether an individual is working to build their own business or someone else's. If the instructor "...works under a contract that is wholly or principally for the labour of the person" then this also brings them into the SG net. If the employer, the gym, had not been paying SG, is it exposed to SG payments for the instructor since the employment relationship began.

FBT record keeping and plug-in hybrid exemption changes



With the 2025 fringe benefits tax ('FBT') year having just ended (on 31 March), the ATO is reminding employers of some changes that might impact their FBT obligations.

Alternative record keeping changes

For the 2025 and succeeding FBT years, employers can use existing records instead of travel diaries and declarations for some fringe benefits.

If using existing corporate records, employers need to meet the minimum required information at the time of lodging the FBT return. Keeping the right records ensures employers can correctly calculate the taxable value of the benefit and support their FBT position.

Plug-in hybrid electric vehicle changes

The FBT exemption for plug-in hybrid electric vehicles ('PHEVs') broadly ended on 31 March 2025, so the 2025 FBT year may be the last year that employers can claim the exemption.

However, an employer can continue to apply the exemption if that PHEV was used, or available for use, **before** 1 April 2025 (and that use was exempt), **and** they have a financially binding commitment to continue providing private use of the vehicle on and after 1 April 2025.

Please contact our office if your business provided fringe benefits to staff between 1 April 2024 and 31 March 2025 and you need any assistance (including in relation to keeping appropriate records).

Taxable payments annual report lodgement reminder

Businesses that pay contractors for 'Taxable payments reporting system services' may need to lodge a 'Taxable payments annual report' (TPAR) by 28 August each year.

This includes businesses paying contractors in the building and construction, cleaning, courier and road freight, security, investigation or surveillance and IT industries.

From 22 March, the ATO will apply penalties to businesses that have not lodged their TPAR from 2024 or previous years, and/or have been issued three reminder letters about their overdue TPAR.

Businesses that do not need to lodge a TPAR can submit a '*non-lodgement advice* ('NLA') *form*'. Businesses that no longer pay contractors can also use this form to indicate that they will not need to lodge a TPAR in the future.

General transfer balance cap will be indexed on 1 July 2025



Indexation of the general transfer balance cap ('TBC') will occur on 1 July 2025. This cap will increase by \$100,000 from \$1.9 million to \$2 million.

The general TBC amount is used for a number of purposes, including to determine the total capital amount that can be transferred to the retirement (pension) phase, and to determine eligibility for making non-concessional contributions.

This increase has flow through impacts for individuals who have started a retirement phase pension, as they will be entitled to an increase to

their personal TBC if they have not previously been at, or exceeded, their cap.

Individuals starting a pension for the first time on or after 1 July 2025 will be entitled to a personal TBC of \$2 million.

The ATO will calculate an individual's personal TBC based on the information reported to and processed by the ATO. To help individuals have a clear understanding of their position, the ATO encourages funds to report all 'TBC events' when they occur and as early as possible before the 1 July 2025 indexation start date.

Indexation of the general TBC also has flow through consequences for the Total Super Balance ('TSB'). The TSB influences an individual's non-concessional contributions cap, non-concessional bring forward arrangement, and eligibility for spouse tax offset and co-contributions.

ART rejects taxpayer's claim for CGT small business relief

In a recent decision, the Administrative Review Tribunal ('ART') held that a taxpayer was not entitled to the CGT small business concessions on the disposal of his interests in some farmland.

The taxpayer ran a beef cattle business (in partnership with his wife) on properties adjacent to the dairy farm that his parents owned. Following his father's death in 2007, the taxpayer acquired legal interests in the two properties on which that dairy farm was operated.

The ATO rejected the taxpayer's contention that he was entitled to concessional CGT small business relief on disposal of those interests in 2016, on the basis that the interests disposed of did not meet the 'active asset' test.

The ART upheld the ATO's decision, finding that the taxpayer did not use his interests in the properties, nor were they held 'ready for use', in carrying on his cattle business. His claim that he intended to use the properties, but that he could not due to his strained relationship with his brother, was not sufficient.

Consequently, the interest in the properties was not an active asset and the taxpayer was not entitled to concessional CGT treatment.

Instant Asset Write off for Small Business

The bill containing legislation to extend the \$20000 instant asset write off for small business to 30th June 2025 finally passed both houses of parliament on the 26th of March 2025. This will provide some long-awaited certainty for small business when purchasing assets during the 2024-2025 financial year.

It is likely that the IAWO threshold for the 2025-2026 financial year will become an election issue, with the Coalition indicating it has plans to make the IAWO permanent with a threshold of \$30000 if it forms government. As the law stands currently the threshold will revert to \$1000 from 1st July 2025.

Disaster assistance grants



Just a reminder that there is government assistance available to those affected by recent flooding in Queensland.

Assistance is available to those affected by:

- Western Qld Rainfall & Flooding – March 2025
- Tropical Cyclone Alfred – March 2025
- North & Far North Tropical Low – January 2025

Below are some handy links to access this assistance.

<https://www.qld.gov.au/community/disasters-emergencies/disasters>

<https://www.qrida.qld.gov.au/news>

<https://www.servicesaustralia.gov.au/natural-disaster-support?context=60042>

Please contact our office if you need assistance.

Townsville office relocation

Our Townsville office has moved to bigger premises and is now located at **Suite 1 458 Flinders Street West, Townsville Q 4810** (directly across the hallway from our previous office). Please turn to your right instead of left as you enter the building.

Staff News

The ML team would like to extend a warm welcome to Derina Land who commenced work in the Ayr office on the 28th of January in an accounting support role. Derina has a Certificate in Business Administration & Bookkeeping and is currently studying for her Cert IV in Accounting & Bookkeeping at CQU. Welcome Derina!



We would also like to say farewell to Lisa Bandiera-DiGuglielmo who celebrated her last day with ML Partners at our International Women's Day morning tea on the 7th of March. Lisa leaves ML Partners after 16 years of service and we wish her well in her future endeavours.



Team Building Day



On Friday the 21st of March the ML team participated in a team building event with the goal of strengthening team relationships, enhancing opportunities for communication and problem solving, focussing on team goals and boosting morale and engagement. The scavenger hunt required us to purchase items to be donated to local charities – Burdekin Community Association and Meals on Wheels. Certainly, a fun day that allowed opportunities to focus on why we do what we do and give back to the community that we are a part of.

20 Years with ML Partners!!

Congratulations to David Catanzaro & Sarah Ziliotto who celebrated 20 years with ML Partners recently. We are lucky to have you both and look forward to the next 20!



Quote of the month

‘It always seems impossible until it’s done’

- *Nelson Mandela*

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.