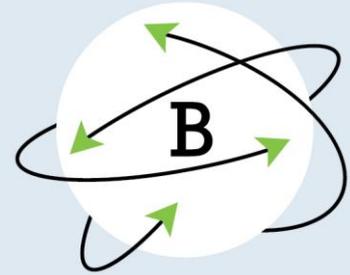


TAXWISE BUSINESS NEWS



February 2014

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Announced un-enacted Measures

In December 2013, the Assistant Treasurer, Senator Arthur Sinodinos, announced the outcome of consultations over the backlog of 92 announced but unlegislated tax and superannuation measures.

The Government previously announced that 18 measures would proceed, three would be amended and seven would not go ahead including the former government's proposal that would have impacted on car fringe benefits and the cap on self-education expenses.

Of the 64 measures that were considered further, 16 will proceed and 48 measures will not proceed. Details are set out in the table attached to the Assistant Treasurer's [media release](#).

Those that are proceeding that may be relevant to your business include:

- Capital gains tax treatment of earn out arrangements (these arrangements are usually used when selling a business);
- Capital gains tax treatment of certain compensation payments and insurance policies; and
- Applying a reverse charge for the supply of going concerns and farmland for GST.

Those that are not proceeding that may be of interest to you include:

- Capital gains tax relief for taxpayers affected by natural disasters;
- Symmetric treatment of bad debts;
- Capital gains tax: minor amendments ensuring the proper functioning of the capital gains tax provisions for deceased estates; and
- Capital gains tax: refinements to the law for deceased estates (this would have allowed testamentary trusts to distribute the assets of a deceased without CGT implications).

It is intended that most of the measures that are to proceed will pass into law during 2014.

MRRT and Carbon Tax repeals and associated changes

In the previous edition of *TaxWise*, we mentioned that, as part of its pre-election promises, the Coalition would abolish the carbon and mining taxes. The abolition of these taxes also involved the wind-back of certain other measures including:

- The instant asset write-off amount of \$6,500 for small businesses – from 1 January 2014, the instant asset write-off will be reduced back to \$1,000;
- The accelerated depreciation for motor vehicles that is available to small businesses from 1 January 2014, this will no longer be available;

- The loss carry-back measure – this measure will only apply for the 2013 income year;
- The Schoolkids' Bonus will no longer be available;
- The increase to the superannuation guarantee charge percentage will be deferred by 2 years so that it remains at 9.25% for the 2014, 2015 and 2016 income years. See the table below for the proposed rate increases over the coming year:

Year	Superannuation guarantee charge rate
From 1 July 2013	9.25%
From 1 July 2014	9.25%
From 1 July 2015	9.25%
From 1 July 2016	9.5%
From 1 July 2017	10%
From 1 July 2018	10.5%
From 1 July 2019	11%
From 1 July 2020	11.5%
From 1 July 2021	12%

The Government will also not proceed with the following personal income tax cuts which were to commence on 1 July 2015:

- Further increase in the tax-free threshold from \$18,200 to \$19,400;
- Increase the income tax rate to 33% (from 32.5%) for the income bracket \$37,001 - \$80,000;
- Change to the low income superannuation contribution as it will no longer be available.

The Bills containing the repeal of the carbon and minerals rent resource tax and the measures listed above were sitting before the Senate at the time of writing. It is anticipated that these changes will pass through Parliament shortly.

Getting the company loss carry-back tax offset right

As the company loss carry-back tax offset does apply in the 2013 income year, it is important for taxpayers who are able to carry back losses that they get their claims right. The ATO has advised that it has received a number of 2013 Company tax returns where the loss carry-back tax offset has been claimed incorrectly. This has caused delays in processing of these returns.

To prevent further delays, the ATO has made changes to the electronic lodgment service (ELS). This means a company return cannot be lodged if a claim for a loss carry-back tax offset is made at item 13 label Z, and:

- item 8 label M is less than the tax offset, or
- item 8 label M is not completed.

The loss carry-back tax offset, for the financial year in which carry-back tax losses are claimed, must be the lowest of:

- the loss carry-back tax offset component for the 2011-12 financial year
- the maximum \$1,000,000 losses multiplied by the corporate tax rate for the year you make a claim (that is, \$300,000 in the 2012-13 financial year as the corporate tax rate is 30%), or
- the franking account balance at the end of the financial year in which the claim is made.

To do!

If you think you are able to claim this offset, see your registered tax agent who will be able to assist you and help you get your claim right.

ATO contacting businesses about taxable payments annual reports

Recently, the ATO has been telephoning some businesses in the building and construction industry directly to:

- test the levels of understanding of the requirements of the new system; and
- help businesses to comply with their taxable payments annual reporting obligations.

It has also been contacting them to:

- ensure lodged reports are correct and complete;
- follow up with businesses that have not yet lodged a report (where ATO records indicate they should have); and
- follow up with businesses who have advised the ATO that they are not required to report (where ATO records indicate they have a reporting requirement).

The businesses are being contacted directly even if they are clients of tax agents.

Note!

If you have received one of these calls from the ATO and are not sure whether you have an obligation to lodge a "Taxable Payment Annual Report", you should speak to your registered tax agent. If you have not received one of these calls but are concerned whether you have an obligation to lodge one of these reports, you should also speak with your registered tax agent.

Working on an upcoming property transaction? Check the vendor's GST details

Are you about to purchase some property? If so, you should know whether the vendor is registered for GST as this may affect your transaction.

The ATO has advised that it has recently disallowed claims for input tax credits related to the purchase of commercial real property. In these cases, the ATO has noticed that the taxpayers and their agents failed to check that the vendor was registered for GST at the time of settlement.

For the ATO's advice and information about what to check for, visit their website.

However, the best source of advice will be your tax adviser who can help ensure you obtain necessary information about the vendor's GST status prior to your property transaction.

Getting ready for the Superannuation Data and Payment Standard

The ATO has published a document entitled "[Employer FAQs - Getting ready for the standard](#)".

The standard is a part of SuperStream, a package of measures designed to enhance the superannuation system.

Under the standard, employers will make superannuation contributions on behalf of their employees by submitting data and payments electronically in a consistent and simplified process.

Starting dates are as follows:

- If an employer has 20 or more employees (large or medium employer) – they must start using the standard from 1 July 2014.
- If an employer has 19 or fewer employees (small employer) – they must start using the standard from 1 July 2015.
- For a new employer (starting their business after 1 July 2014) or for an employer that grows to have 20 or more employees after 1 July 2014 – they must start using the standard from the first contribution date where they exceed the threshold of 19 employees.

In November 2013, the ATO sent information directly to medium and large employers to encourage them to investigate their options and start preparing for the data and payment standard.

All employers affected by this change should start preparing for the changes.

Note!

It is important that employers affected by these changes understand their obligations and are able to meet the requirements. Your tax agent will be able to assist you to understand and meet your obligations.

MySuper

From 1 January 2014, employers need to make superannuation contributions to a fund that offers a MySuper product for any employee who does not select a preferred fund.

If an employer has not heard from their super fund about their MySuper arrangements, they should contact the fund now.

The ATO has posted a short [video presentation](#) containing more information about this change.

SMSF "Return Not Necessary" and cancellations

The ATO has advised that the Tax Agent Portal has two new mail subjects to assist practitioners with their self-managed super fund (SMSF) clients. They should use the Portal to request:

- cancellation of SMSF registration where a fund was never legally established;
- return not necessary (RNN) for a newly registered SMSF that satisfies the following eligibility criteria and can confirm all three:
 1. that although registered, it had no assets and did not receive contributions or rollovers in the first financial year;
 2. the date the SMSF first held assets and commenced operating; and
 3. that they will be lodging future returns.

If you have an SMSF in its first year of registration and are not sure if a return needs to be lodged or not, you should speak with your tax agent to ensure any lodgment obligations of your SMSF are met.

Note that a "return not necessary" (RNN) for an SMSF is only available for the first year of registration.

Requesting copies of tax documents from the ATO

The ATO advises that a taxpayer or their authorised representative can use "Copies of tax documents request – individuals and authorised representatives" form to request copies of tax returns, payment summaries and notices of assessment. There is a separate form for businesses.

Business Communicator - December 2013

The ATO has published its Business Communicator for December 2013. Business Communicator contains news and updates for businesses with an annual turnover between \$2 million and \$250 million.

It deals with the following topics:

- Getting ahead with good records;
- MySuper changes – what employers need to know;
- Helping high-risk industries with super obligations;
- New data and payment standard for employers;
- Increase to excise and customs duty on tobacco;
- AUSkey improvements;
- Check vendors details for upcoming property transactions;
- Interim Decision Impact Statement – *MBI Properties Pty Ltd v. FCT*.

For a copy of this publication, visit the ATO website.

Tip!

This document has useful general information for businesses. However, for specific information about certain issues that may be referred to in the document, you should speak with your tax adviser.

Ensure the IT5 and IT6 income tests labels are completed correctly

Taxpayers and their agents need to ensure that the IT5 and IT6 income tests labels are completed correctly.

The ATO has recently said that it has reviewed a small sample of 2012-13 individual returns lodged since 1 July 2013 and found some possible errors:

- Other deduction (D15) expenses such as income protection insurance incorrectly attributed to the “Financial investments” sub-label rather than “Other”;
- General business losses incorrectly attributed to the “Financial investments” sub-label rather than “Other”.
- Low value pool deductions incorrectly attributed to the “Financial investments” sub-label rather than “Other”.

Getting these labels wrong could impact how your “adjusted taxable income” is calculated for the purpose of working out whether you might be entitled to certain tax offsets or government support payments. It is best to check with your registered tax agent to confirm you are putting the right information in the right part of your return.

Small business benchmarks

The ATO advises that the small business benchmarks have been updated with data from the 2010–11 financial year.

Note!

If you are unsure how the small business benchmarks apply to your business, see your tax agent for further information.

Activity statement delay

The ATO has advised that the generation of December 2013 activity statements may be delayed for some taxpayers who varied their September PAYG instalment or chose a different PAYG reporting option. The ATO says that it has delayed the issue of these statements to ensure these variations and elections are accurately reflected on the December activity statement.

All activity statements will be issued before the end of January 2014, so if your statement goes to your tax agent, they should receive them well before the February 2014 lodgment and payment due date.

Note!

If you have not yet received your December 2013 activity statement, contact your tax agent to see if they have received it already.

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