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**SPRING 2017**

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# Super Guarantee – The cost of getting it wrong

The ATO receives around 20,000 reports each year from people who believe their employer has either not paid or underpaid compulsory superannuation guarantee (SG). In 2015-16 the ATO investigated 21,000 cases, raising a sizeable $670 million in SG and penalties.

The ATO's own risk assessments suggest that between 11% and 20% of employers could be non-compliant with their SG obligations and that non-compliance is "endemic, especially in small businesses and industries where a large number of cash transactions and contracting arrangements occur."

Celebrity chefs are the latest in a line of employers to publicly fall foul of the rules - one for allegedly inventing details on employee payslips and another for miscalculating wages. But what happens if your business gets SG compliance wrong?

Under the superannuation guarantee legislation, every Australian employer has an obligation to pay 9.5% Superannuation Guarantee Levy for their employees unless the employee falls within a specific exemption. SG is calculated on Ordinary Times Earnings – which is salary and wages including things like commissions, shift loadings and allowances, but not overtime payments.

Employers who fail to make their superannuation guarantee payments on time need to pay the SG charge (SGC) and lodge a Superannuation Guarantee Statement. It is important to note that the SGC applies even if you pay the outstanding SG soon after the deadline.

The SGC is particularly painful for employers because it is comprised of more than just the employee's superannuation guarantee shortfall amount. The SGC also includes interest of 10% per annum, and an administration fee of $20 for each employee with a shortfall per quarter.

Unlike normal superannuation guarantee contributions, SGC amounts are not tax deductible, and the calculation is based on the employee's actual salary or wages, rather than their "ordinary time earnings", which could well mean a higher cost to the employer, particularly if there are workers who are paid for overtime. Basically, the system is designed to discourage employers from paying super late.

Where attempts have failed to recover superannuation guarantee from the employer, the directors of a company automatically become personally liable for a penalty equal to the unpaid amount. Directors who receive penalty notices need to take action to deal with this – speaking with a legal adviser or your RDL accountant is a good starting point.

# ACNC issues guidance on crowdfunding

Crowdfunding has gained popularity as a means for individuals, businesses, not-for-profits and charities to raise support for a cause.

In recognition that crowdfunding provides access to a world-wide online donor base, the ACNC has highlighted a number of points for charities to consider before launching a campaign, as follows:

- Do your homework – Is the crowdfunding website reputable, well-run and able to meet the charity's needs? Does it reflect the values of the charity? Donors are likely to associate the website with the Charity, so dealing with a reputable provider is important. Check them out before engaging with them.
- Consider the terms, conditions, and fees – The terms of engagement can vary widely between crowdfunding websites. There can be differences in the type of campaigns that can be run, the target amounts and project deadlines, as well as the fees involved. Often the fee charged is a percentage of the money raised, and some websites only charge a fee if the fundraising goal is reached. Charities should consider what to do if a campaign does not reach its intended goal – do you refund the money or apply it to another cause? Regardless of the decision taken, the ACNC recommends that there is up-front transparency for donors.
- Be aware of the law – Australian state and territory governments have (often differing) regulations governing fundraising. It is important for charities to observe these, and to be aware of the need to be registered in locations from which donations arise. Not an easy thing to monitor in the case of crowdfunding, where gifts can come from virtually anywhere.
- Charities cannot outsource their responsibilities – Whilst a charity will be able to outsource the mechanics of crowdfunding, its Board ("Responsible Persons") remains accountable for ensuring that the crowdfunding provider is reputable, is understood to operate fairly and ethically, and in accordance with the values of the charity. Charities need to be particularly alert to circumstances where an individual is appointed to raise money for the charity via crowdfunding. In such a case a policy setting out the ground rules, and expectations in relation to accountability and how the charity will be represented is vital. Protecting the charity's reputation needs to be uppermost in the mind of its Board.

Further tips and advice are available on the ACNC website.

# CGT to hit the family home for non-residents

In the 2017 Federal Budget the government announced that non-residents would no longer be able to access the main residence exemption for Capital Gains Tax (CGT) purposes from 9 May 2017 (Budget night). Now that the draft legislation has been released, more details are available about how this exclusion will work, and the potential implications are significant.

Under the new rules, the main residence exemption – the exemption that prevents the family home being subject to CGT when you dispose of it – will not be available to non-residents. The draft legislation is very 'black and white.' If you are not an Australian resident for tax purposes at the time you dispose of the property, CGT will apply to any gain you made – this is in addition to the 12.5% withholding tax that applies to taxable Australian property sold by non-residents with a value of $750,000 or more (from 1 July 2017).

Transitional rules apply for non-residents affected by the changes if they owned the property on or before 9 May 2017, and dispose of it by **30 June 2019**. This gives non-residents time to sell their main residence (or former main residence) and obtain tax relief under the main residence rules, if they choose. Keep the date in mind; it will be here before we know it.

At this stage it is anticipated that most Aussies living abroad, who are classified as non-residents for tax purposes, will be well advised to again become Australian residents for tax purposes prior to selling the family home, unless such a sale will be covered by the pre 30th June 2019 transitional rules.

Special amendments are also being introduced to apply the new rules consistently to deceased estates and special disability trusts to ensure that property held by non-residents is excluded from the main residence exemption. The rules have also been tightened for property held through companies or trusts to prevent complex structuring to get around the rules.

The residency tests to determine who is a resident for tax purposes can be complex and are often subjective. Please contact us if you would like to better understand your position and the tax implications of your residency status. Simply living in Australia does not make you a resident for tax purposes, particularly if you continue to have interests overseas.

# ATO warning on claims for expenses

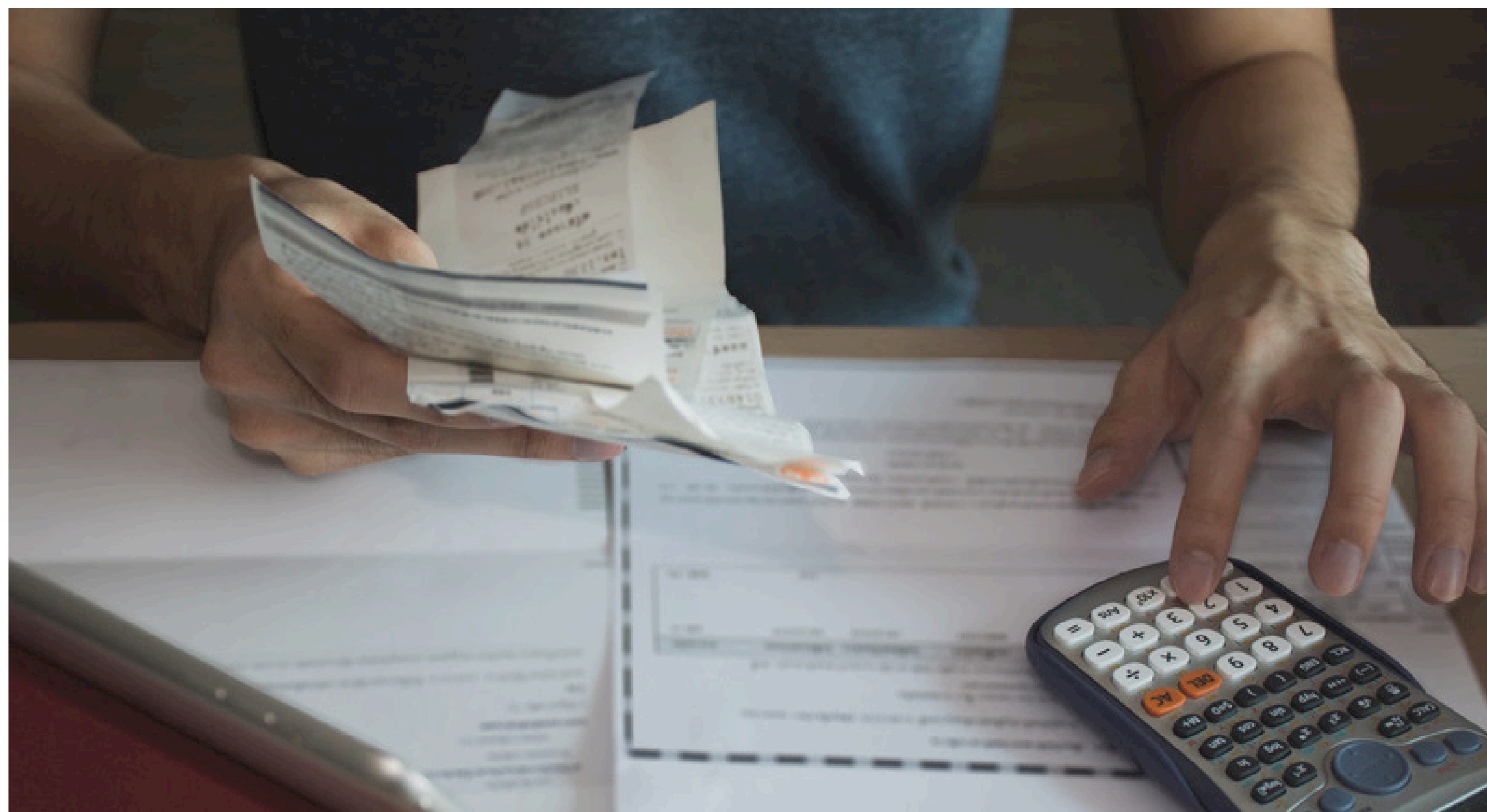
Following on from the general warning provided by the Commissioner in a recent speech to the National Press Club, the ATO has issued another warning that it will be focusing on work related expenses being claimed as a tax deduction. The ATO seems particularly concerned with situations where taxpayers claim, say $150 for laundry expenses but have no evidence to show that they are required to wear a uniform or how the laundry costs have been calculated. Similarly, claims for car travel are to come under the microscope, with the ATO concerned at the number of claims for 5,000 kilometres, where such claims have little substance.

Just because there are substantiation exceptions for expenses up to a certain amount does not mean that taxpayers can automatically claim that amount as a deduction, or that no evidence or records need to be kept. Taxpayers will need to be prepared to defend the reason for a claim, even where the substantiation rules provide relief from keeping receipts.

# Landlords beware when replacing property chattels

So the heater in the rental property has broken down again, and now it needs to be replaced. You get a quote for a new one, but then spot a second-hand near-new model on Gumtree, and you think it seems like the perfect solution. Well, think again.

The new rules announced in the 2017 Federal Budget, limiting the depreciation claim on property chattels are going to preclude you claiming the cost of the heater because it is not new. These rules, intended to limit the depreciation claim on properties bought after budget night (9th May 2017), are also going to deny landlords a tax deduction for the purchase of plant and equipment which is not new. It's likely to be a hidden trap for the unwary.



# Simplified GST reporting is here

Clients with a turnover under $10m will soon be completing a simpler quarterly Business Activity Statement (BAS). The new regime, which commenced from 1st July 2017 will reduce the items to be reported on each quarterly BAS to only the following:

G1 - Total Sales

1A – GST on Sales

1B - GST on Purchases

The new changes will not alter the frequency with which businesses need to report, the record-keeping requirements, or the need to report other taxes (eg Pay As You Go Withholding) on each BAS. The ATO will automatically transition eligible businesses to the new system.

# Superannuation guarantee system review

Following the release of a report issued by the Superannuation Guarantee Cross-Agency Working Group the Government has announced that it will introduce legislation this year to ensure that salary sacrificed superannuation contributions do not reduce the employer's superannuation guarantee obligations.

Currently, salary sacrificed superannuation contributions are taken into account in determining whether an employer has met their SG obligations in relation to that employee for the relevant period. This can have the effect of releasing the employer from the legal obligation to contribute to superannuation under Superannuation Guarantee legislation.

## *to think upon*

Assumption is the mother of screw up.

Angelo Donghia

The dictionary is the only place where success comes before work.

Arthur Brisbane

# Struck by a smooth criminal

**You wouldn't hand over your money to just anyone. Of course not! The truth is though, sometimes scammers can seem legit and know just what to say and show you to break down your barriers.**

Better technology means they're getting better at it and the Australians who lost a combined $23.6 million to investment scams in 2016 would testify to it[1].

**So how can you protect yourself from a slick scammer?**

To start with, it helps to understand how you could be scammed and what type of scams there are. According to the Australian Securities and Investments Commission (ASIC), there are three main types[2].

**1. Fictional investment offer**

Much like it sounds, the scammer will try to get you to invest in something that doesn't exist and just take your money. They try to get you in the door by making the investment sound amazing.

**2. Real investment offer – but your money doesn't go there**

The scammer will contact you about a genuine investment – for example, an IPO, and offer you their own way to access it. Or offer you a limited time discount to access the investment. While it will appear like your money is going towards that investment, it's just headed straight into the scammer's bank account.

**3. Fake claims to represent a well-known company**

The scammer may just lie – or they may have a company that uses a name close to or identical to a reputable business to trick you into thinking they are one and the same. They might have slick websites and brochures too. For example, it has become fairly common to see emails claiming to be from your bank these days.

**Here are some tips to ensure you don't fall for these types of scams –**

**1. If it sounds too good to be true, it probably is.**

If someone is promising you large returns that you couldn't easily earn elsewhere, think carefully – how are they actually able to generate those returns?

**2. Do your research**

Get on google and look up the products. Ask for their ABN and Australian Financial Services Licence (AFSL) – and be concerned if they don't have this. Check the ASIC website for lists of scam companies, and also check in with scamwatch.gov.au.

**3. Reputation might be worth the price**

If the investment is genuine – but you're not sure the person offering it to you is – it is worth looking at investing through companies that you know are reputable and have the correct licensing to offer you the investments.

**4. Diversify and start small**

Even genuine investments have risks and it's worth spreading your money across a variety. Think the old adage about eggs in one basket – if you are going to lose money, you don't want it to be everything.

**5. Financial advice**

If you aren't sure about an investment, it might be worth speaking to your adviser and asking them for their opinion.

**Think you are getting called by a scammer?**

Make sure to report it so you can help prevent someone else being scammed – you should also follow this step if a scammer has taken your money. You can report scams to Scamwatch at https://www.scamwatch.gov.au/report-a-scam

1. ACCC Report – Targeting Scams: Report of the ACCC on scams activity 2016, May 2017 https://www.accc.gov.au/system/files/1162%20Targeting%20Scams%202017_FA1.pdf
2. ASIC Moneysmart https://www.moneysmart.gov.au/scams/investment scams

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# Can you afford for your adult kids to live at home?

**Parents with adult children still living at home have the best of intentions to help their kids get ahead, but they might be putting their own financial futures at risk.**

At the time of the 2016 census, almost 400,000 non-dependent children aged 25 to 34 were living at home[1], an increase of 20 percent from five years earlier.[2]

### Why the increase?

Record high levels of house prices and rents[3] and a challenging job market[4] are two factors keeping kids in the parental home longer. Also contributing are the trends for young people to participate more in higher education, marry and have children later.[5]

### Kids paying their way

Gold Coast solicitor, Ashley Bennett and his retail merchandiser wife, Julie have two daughters, Hayley, 24 and Lauren, 22. Both daughters have paid around $100 per week board since they left school and started in their first jobs. In the past, when Hayley's boyfriend lived in the Bennett home, he paid board as well. Though $100 is more than some of their friends pay for rent and board, the money doesn't come close to covering expenses. Dave Taylor has noticed the impact on his water, gas and electricity bills with his son Joel back in the home:

"Even the shopping – it's incremental, it's so many little things that you don't really notice creeping up on you, but then when you sit back and look at the accumulation of cost, you do go 'wow'."

### The burden for parents

Though they get along well as a family, Julie Dowling says her girls have never really pulled their weight around the house. Often Julie says it's easier to "not sweat the small stuff" and do household chores herself instead of nagging.

On top of the increased burden of home duties, there can also be an impact on parents' accumulation of retirement wealth.[6]

"You're subsidising them, there's no two ways about it," Ashley Bennett says. "I don't think about it much, but I have no doubt it will affect the money we have to retire on."

### Nibbling away at your retirement

While Dave Taylor loves having his son at home, he's occasionally tempted to ask Joel for the rent he'd actually be paying for the kind of property they live in. "And then that money could go towards superannuation or paying the mortgage off sooner," Dave says.

"But then this other bit kicks in which is the paternal instinct and you go, he's my kid and I want the best for him," says Dave.

### How to keep your retirement dreams intact

There's no reason why parents can't help their kids by letting them stay at home into their 20s and even their 30s, and at the same time, prepare for their retirement. It's just a matter of having a plan in place that ensures you're not overstretching yourself. A good first step is to speak to us so we can together figure out how you can support your kids while still protecting your retirement nest egg.


1. Australian Bureau of Statistics, 2016 Census Community Profiles. A 'non-dependent child'refers to a natural, adopted, step or foster child of a couple or lone parent usually resident in the household, who is aged 15 years and over and is not a full-time student aged 15-24 years, and who has no identified partner or child of his/her own usually resident in the household.
2. Australian Bureau of Statistics, 2011 Census Community Profiles.
3. Parliamentary Briefing, Housing Affordability.
4. Parliamentary Briefing, Employment – Measuring and improving outcomes for young Australians.
5. Australian Bureau of Statistics, Australian Social Trends, Young adults: then and now – April 2013.
6. Australian Bureau of Statistics, Home and Away: The Living Arrangements of Young People – June 2009.


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# Use your SMSF to teach your kids about finance

**With self-managed super funds (SMSFs) permitted to have up to four members, it may be a surprise for some to learn that approximately 70% of SMSFs have only two members and about a further 23% only have one. Which means that only 7% of funds have three or four members.**[1]

If you consider that most of the two member SMSFs are likely to be 'mum and dad' funds, and single member funds often arrive when one of the original two members has passed away, it begs the question – where have all the children gone?

While it's always an important personal decision to set up and start your own SMSF, and an important decision as to who else you want to be in the same SMSF with, there are a couple of important elements you could consider in deciding whether to have your kids join your fund or not. Most of these would apply to your children who are at least 18 years old, but there can be some aspects that are important for younger kids as well.

The first is the opportunity to teach your children more about finances and the importance of managing your money. One of the reasons you're likely to be in a SMSF is because you want control, and with control comes responsibility. In fact one of the most important facets of being in an SMSF and being a trustee of your own fund is that you are ultimately responsible for the operation of the fund. As much as you can, and probably should, outsource certain aspects to professional SMSF advisers, but ultimately the decisions rest with you.

Having your children involved in managing their finances and being responsible for the decisions they may make (both legally as well as personally) is a great way to make them more accountable for their saving and investment decisions. And if they can do that in the safety of an SMSF environment where they have you as co-trustees, hopefully the disciplines can also spread to their other financial decisions outside of the SMSF environment.

While having children under the age of 18 as members of the SMSF is allowed, they can't be a trustee and usually the parents will assume this responsibility for them until they are of legal age. However, it doesn't mean you can't start to include them as part of the process so they learn.

The second aspect to consider is around cost. For many younger people, superannuation isn't a huge consideration as they don't have much of it. Generally their employer sends the compulsory super guarantee off somewhere, often to a default fund, and in most cases the member hasn't really chosen how to invest their super or understand what costs are involved. It's an issue for later in life. The issue is, in a low return environment, the costs of their current super environment could actually work against them as it means they could have less super working for them. And over the long term, that could make a difference.

But if they join your SMSF, is there the possibility that their costs will fall? Whilst studies have said you may need somewhere between $200,000 and $500,000 in an SMSF to make it economically viable compared to a non-SMSF environment[2], don't forget this is for the total amount across all members, rather than per member. If you are already paying a set fee for the administration of your SMSF, will there be much of a change by adding a new member?

Third comes the opportunity for diversification. Members with low balances are often forced to use a default investment arrangement and share risk and return with thousands of other members, simply because they don't have enough to be able to build their own personalised investment portfolio. In an SMSF, while they may not have enough for their own portfolio to begin with, there may be a greater level of control and understanding by pooling their super with yours to create a bespoke investment portfolio.

The last aspect to consider is around estate planning. If your children are of an age where you have appointed them as executor to your will, when you pass away your children will have the ability to step in (as your legal representative) to administer the distribution of you super savings held through the SMSF.

To help reduce the burden this can place on your loved ones at that time, introducing your children earlier to your SMSF can make a significant difference as they will have a better understanding of where your super is, how you want it dealt to, how the fund operates and decisions that need to be made. Running an SMSF is not easy, but neither is gaining an understanding of finance and the decisions that need to be made at different stages in life. If using your SMSF and the guidance of your professional adviser is an option to get your kids' financial future on track, isn't it something worth considering?

1. ATO SMSF statistical report June 2016

2. ASIC SMSF report 442 (information sheets 204 & 205)

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# Market update

## Australian economy still focused on global politics

The trend in global equities has been largely positive all year with some hiccups along the way. The latest pullback from record highs occurred in August in response to an escalation of tensions between North Korea and the US, although markets recovered some losses when a more diplomatic approach was seen to replace the brinkmanship being pursued by the countries' leaders. Australian equities have been less robust and have largely trended sideways since May when a new bank levy was announced in the Commonwealth Budget. Broader concerns about the composition and rate of economic growth have also weighed on Australian equities.

Global growth data has been mixed recently with some indicators improving while others have retraced from recent highs. For example, Purchasing Manager Indices (PMI) which measure conditions in the manufacturing sector have eased back slightly from elevated levels in most regions. In the US, the PMI had been at its highest level since 2014 in June at 57.8 but fell slightly to 56.3 in July. This still suggests the US manufacturing sector is in a strong expansion mode. Other regions saw a similar pattern but the UK PMI has had a different profile, dipping lower in May and June in response to election uncertainty, but rebounding somewhat in July. Moderately improving economic activity, the falling unemployment rate and signs that inflation pressures were building saw the US Federal Reserve increase the target range of the fed funds rate by 25 basis points to 1-1.25% at its June Committee meeting. However, recent data suggests inflation is more subdued than expected. The US consumer price index increased by 1.7% in the year to July, calling into question the pace of further US interest rate rises while European inflation has stalled at about 1.3% suggesting the European Central Bank is likely to leave official rates unchanged at zero for the foreseeable future.

In Australia, there are signs labour market conditions are improving. In particular, whereas previously employment growth was largely concentrated in part-time work, recent data suggests full-time employment is improving. This is an encouraging sign that business confidence has reached a level where employers are happy to again employ full-time workers, rather than taking a cautious approach with part-time employees. On the downside, wages growth remains anaemic. In the 12 months to June, wages increased by only 1.9% compared to average wages growth of 3.3% for the previous five years. This lack of income growth, coupled with other uncertainties, has seen consumer confidence deteriorate in recent months.

Commentary from the Reserve Bank of Australia (RBA) that the neutral official cash rate was likely to be around 3.5% prompted some to expect a rate hike from the bank in the near future and saw the Australian dollar spike higher. The RBA tried to correct any misinterpretation of its comments as implying higher interest rates in the near future and there is little in recent economic data to suggest an impending rate hike. We believe the RBA will leave the official cash rate unchanged at 1.5% for at least the remainder of 2017.

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# Insights

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