

# client alert

tax news | views | clues

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## ATO embarking on e-Audits

The ATO has recently published information about the “e-Audit” technology it uses as part of its tax compliance activities. These audits involve the ATO performing computer tests on a taxpayer’s own electronic records to verify that the data is accurate and complete and that the taxpayer has complied with relevant tax laws.

If a taxpayer is selected by the ATO for an audit or review, the ATO will take a copy of the relevant records (eg data held in the taxpayer’s accounting or payroll systems) in order to perform the tests. Although the ATO has broad powers to access taxpayers’ records, the ATO takes a cooperative approach and will work with the taxpayer and their advisers.

The ATO may also use an assessment tool to rate a taxpayer’s system risks in relation to correct reporting of tax and super obligations. This can have benefits for the taxpayer because the ATO will provide them with a final report that highlights any particular compliance risks for their business and includes recommendations for addressing these issues.

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## Court finds pay-as-you-go amounts “withheld” from salary payments

The Federal Court has ruled that pay-as-you-go (PAYG) amounts were “withheld” from a taxpayer’s salary payments so that she was entitled to a tax credit, despite the amounts never being remitted or notified to the ATO by her employers.

This case illustrates the importance of records and documentation in tax matters. The Court examined evidence such as the taxpayer’s offer of employment, payslips, bank statements and payment summaries, which suggested that the salary payments she received were “net pay” amounts (and not “gross”).

The Court noted that where an employer has not remitted PAYG withholding amounts to the ATO, this

will raise questions about whether amounts were really withheld. However, adequate documentation can – as in this case – be used to prove that PAYG has in fact been withheld by an employer, even if the employer has subsequently failed to remit this to the ATO.

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## “Transition to retirement” pensions to become simpler

In welcome news for superannuation members, the government has announced plans to simplify the payment of transition to retirement income streams (TRISs) so that they will always be permitted to automatically revert to a dependant upon the death of the original pensioner. This is designed to address a trap in the current legislation that is causing some administrative difficulties for funds when a TRIS recipient passes away.

**TIP:** With greater certainty about the payment of TRISs on death, now is a good time for superannuation members to review their estate plans.

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## ATO releases latest small business benchmarks

The ATO has released its latest small business benchmarks, providing over 100 different industries with average cost of sales and average total expenses.

These benchmarks can not only assist businesses with tax compliance (eg by prompting them to double-check their records if their expenses are outside the benchmark range for their industry), but also provide useful information to help businesses judge their performance against others in the industry.

**TIP:** You can access the benchmarks online or by using the ATO app. Contact our office if you wish to discuss how your business compares against industry benchmarks.

## Capital gains tax withholding: updated information for trustees

The foreign resident capital gains tax (CGT) withholding regime requires purchasers of Australian property to withhold an amount from the purchase price (for remission to the ATO) if the vendor is a foreign resident. This regime is designed to assist the ATO in collecting CGT payable by foreign residents.

If the vendor is an Australian resident, they must provide an ATO-issued clearance certificate to the purchaser on or before the day of settlement to ensure no withholding occurs. The ATO has released some guidance for trusts and superannuation funds about specific information they must provide when applying to the ATO for a clearance certificate. Contact our office for further assistance.

## Goods and services tax on low-value imported goods

From 1 July 2018, goods and services tax (GST) will apply to some offshore supplies of goods valued at \$1,000 or less that are purchased by consumers and brought into Australia. The new rules are designed to create a more “level playing field” for local retailers.

The ATO has released a ruling covering GST registration issues for suppliers and other technical aspects of the new legislation. Notably, the existing rules about GST on imports valued above \$1,000 are unchanged.

## Superannuation rates and thresholds for 2018–2019

We summarise some of the key superannuation rates and thresholds for the upcoming financial year:

### Contributions

|   |             |
|---|-------------|
| Concessional contributions cap          | \$25,000    |
| Non-concessional contributions cap      | \$100,000*  |
| CGT cap amount                          | \$1,480,000 |
| Super guarantee percentage              | 9.5%        |
| Maximum contribution base (per quarter) | \$54,030    |

\* 300,000 for a “bring forward” arrangement

### Government co-contributions

|                         |          |
|-------------------------|----------|
| Lower income threshold  | \$37,697 |
| Higher income threshold | \$52,697 |

### Superannuation payments

|                       |           |
|-----------------------|-----------|
| Lump sum low rate cap | \$205,000 |
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|  |             |
|--|-------------|
| Untaxed plan cap   | \$1,480,000 |
| ETP cap amount   | \$205,000   |
| Genuine redundancy and early retirement payments – tax-free amounts: |             |
| • base amount  | \$10,399    |
| • service amount   | \$5,200     |

### Pension cap

|  |             |
|--|-------------|
| General transfer balance cap             | \$1,600,000 |
| Defined benefit income cap               | \$100,000   |
| “Total superannuation balance” threshold | \$1,600,000 |

## Super guarantee: ATO compliance approach to non-payment

The ATO has released a fact sheet explaining its compliance approach to employers who fail to meet their superannuation guarantee (SG) obligations.

Broadly, employers are required to make SG contributions of 9.5% of an employee’s ordinary time earnings (provided they have paid the employee at least \$450 in a calendar month). Payments are due quarterly. Employers are also liable to make contributions for certain contractors.

The ATO confirms that its compliance approach towards a particular employer will depend on that employer’s compliance history and other circumstances. The ATO will take firm action against any employer who repeatedly fails to pay the correct amount of SG or who does not cooperate with the ATO (eg by failing to provide information or attempting to mislead or obstruct the ATO).

## Single Touch Payroll reporting: ATO urges employers to get ready

The ATO is urging employers with 20 or more employees to start preparing now for the Single Touch Payroll (STP) reporting regime, which will be mandatory from 1 July 2018.

This reporting change for employers means they will report payments such as salaries, wages, allowances, PAYG withholding and superannuation contributions information to the ATO directly from their payroll solution at the same time they pay their employees. STP reporting starts on 1 July 2018 for employers with 20 or more employees, and is slated to apply from 1 July 2019 for those with 19 or fewer employees.

**TIP:** Businesses should do a headcount of employees as at 1 April 2018 to check if they have 20 or more. There are rules about which employees to include in the headcount. Contact our office for assistance.

**Important:** Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.