

DECEMBER 2014 QTR NEWS LETTER

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SL	CONTENTS	PAGE
A	Mining tax repeal & other notable tax changes	2
B	ATO launches voice authentication	2
C	Lost super climbs to \$14 billion	2
D	GIC and SIC rates for the 2014 December quarter	3
E	Can you access your super fund for medical procedures?	3
F	ATO's data matching program on specialised payment systems	4
G	ATO says beware of 'boiler room' sales tactics	5
H	Director liable for company's PAYG withholding	6

1

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Important: This is not an advice. Clients should not act solely on the basis of the material contained in this newsletter. Contents mentioned in 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. This newsletter has been issued as a helpful guide to clients and for their private information only. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.

## Mining tax repeal & other notable tax changes

With the abolition of the mining tax from 1 October 2014, a number of other tax measures have come into force:

- ◆ Abolition of the company loss carry-back concessions from 1 July 2013.
- ◆ Reduction of the instant asset write-off for small business entities from \$6,500 to \$1,000 – that applies from 1 January 2014\*.
- ◆ Abolition of accelerated depreciation (of up to \$5,000) for motor vehicles from 1 January 2014\*.

*Note(\*): It is important to note that the changes to the depreciation rules for small business entities (e.g., the immediate write-off threshold reducing to \$1,000) applies to assets first 'used' or 'installed ready for use' from 1 January 2014.*

## ATO launches voice authentication

The ATO says that they need to ask the caller to verify their identity in about 75% of the 8 million calls it receives each year.

Australians contacting the ATO by phone will now be given the choice to record a short “voiceprint” that can be used to verify their identity for future calls.

A voiceprint is a digital representation of the sound, rhythm, physical characteristics and patterns in a voice.

The ATO believes that this will provide a more secure, more convenient call experience and will speed up the authentication process, therefore reducing the time taxpayers need to spend on the phone to the ATO.

## Lost super climbs to \$14 billion

New statistics released by the ATO reveal that more than \$14 billion in lost super is waiting to be claimed.

“There’s over \$6 billion of super, sitting in accounts where funds have not been kept up-to-date with changes to personal details,” said Mr Shepherd.

“It’s easy for this to happen because when people get married or move house, the last thing on their mind is updating their name and address details with a super fund.”

An additional \$8 billion in super is sitting in accounts that have not received a contribution in

five years or more.

Visit [www.ato.gov.au/superseeker](http://www.ato.gov.au/superseeker) for more advice on how to track down lost and unclaimed super

### GIC and SIC rates for the 2014 December quarter

The ATO has published the 2014 December quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC) as follows:

GIC annual rate	9.63%
GIC daily rate	0.02638356%
SIC annual rate	5.63%
SIC daily rate	0.01542466%

3

### Can you access your super fund for medical procedures?

*Editor: The following relates to a newspaper article that appeared recently in a national newspaper and was then subsequently picked up by national TV and radio.*

*As it concerns a taxpayer withdrawing all of her \$30,000 balance from her superannuation fund for weight loss, a tummy tuck and breast implants, clients who heard about it or saw it on TV may be incorrectly contemplating accessing their super.*

#### Compassionate grounds to withdraw superannuation

The taxpayer involved suffered from obesity. On this basis, she obtained a written statement from her medical practitioner in which it was argued that without this stomach reduction procedure, it was likely that she would experience severe ill health that could possibly be a life threatening condition.

However, applications for early release of superannuation on medical grounds:

1. must be approved by the Department of Human Services (DHS); and
2. applicants need to supply letters from their GP and a specialist certifying that their condition is **life threatening**, and provide proof that expenses cannot be met by other means, including savings.

The taxpayer said that given her family history of diabetes, cancer and hypertension, her case met the criteria.

### **Breast implants and tummy tuck?**

However, the taxpayer apparently made a second withdrawal (of approximately \$20,000) from her superannuation fund to pay for breast implants and a tummy tuck.

*Editor: Clients need to understand that there are only very limited circumstances under which superannuation monies can be withdrawn to pay for a medical procedure, under the umbrella of 'compassionate grounds'.*

### **When can super monies be released on 'compassionate grounds'**

Where an SMSF member is suffering a severe medical condition and **cannot** afford to pay for such medical expenses, they can apply to the DHS (not the ATO) to have some of their super funds released on 'compassionate grounds'.

Basically, a member will be entitled to claim 'compassionate grounds' where:

- the medical treatment (which is not readily accessible through the public health system) is necessary to treat a life threatening condition, to alleviate acute or chronic pain, or to alleviate an acute or chronic mental disturbance/illness; and
- two registered medical practitioners (one of whom is a specialist) have certified that the above requirements have been satisfied.

4

*Editor: However, there are many other issues involved, including significant penalties where funds are withdrawn incorrectly, so clients should contact our office before trying to withdraw any funds from their superannuation fund.*

### **ATO's data matching program on specialised payment systems**

The ATO has announced a data matching program in relation to electronic payments made to businesses through specialised payment systems.

For the period 1 July 2013 to 30 June 2014, it will request and collect data from the following businesses:

- Ausfit
- Debit Success
- Ezidebit
- Integrapay
- Paymate
- PaySmart
- Quickpay
- BillBuddy
- eDebit
- EzyPay
- IP Payments
- PayPal Australia
- POLi Payments

and the following banks BPAY data:

- ANZ Bank
- Commonwealth Bank
- National Australia Bank
- St George Bank
- Westpac

The ATO will collect details of merchant and biller business names, contact details, settlement amounts, and transaction records. Records relating to approximately 25,000 individuals will be matched.

### **ATO says beware of 'boiler room' sales tactics**

The ATO has warned that some operators are using telemarketers to apply high-pressure sales tactics to lure superannuation trustee investors into high risk or suspect investments. This practice is known as 'boiler room' type operations.

Such tactics are being used to coerce investors to invest in artwork at inflated prices while promising inflated rental returns on these investments.

5

The value of complex asset classes such as artwork and collectables can be very subjective in nature.

There have been concerns raised with the ATO about how some of these assets are being valued in the marketplace.

To avoid any pitfalls in relation to such investments, trustees are encouraged to:

- seek a second, independent opinion when purchasing assets such as artwork;
- undertake a separate valuation of the asset (to confirm the SMSF has complied with relevant super laws); and
- ensure that the asset type is the right investment for their SMSF and complies with the sole purpose test.

*Editor: If clients are contacted by telephone by anyone suggesting, that as trustees of their super fund, that they undertake new investments they should contact our office.*

## Director liable for company's PAYG withholding

A recent case before the Administrative Appeals Tribunal (AAT) involved a company that had withheld nearly \$850,000 in pay as you go (PAYG) withholding that it had deducted from its employees' salaries and wages.

It was obviously in some financial trouble, and failed to remit any of the monies to the ATO before being wound up.

*Editor: Company directors have a legal responsibility to ensure that their company meets its PAYG withholding and superannuation guarantee charge (SGC) obligations.*

*This doesn't only apply to companies that are wound up, as a director of any company that fails to meet a PAYG withholding or SGC liability by the due date can become personally liable for a penalty equal to the unpaid amount.*

The ATO issued director penalty notices (DPNs) to the director (the DPN is the first step in the process for the ATO to start legal proceedings to recover the unpaid PAYG).

The director tried to fight the case, but the DPNs were valid in the opinion of the AAT.