ATO Target Areas for Businesses in 2017

COMPLIANCE FOCUS IN 2016/2017

Employers
In 2015/2016 the ATO will continue to focus its compliance activities on the following emerging risks:
- Reporting of PAYG withholding
- Identifying and correctly reporting fringe benefits provided to employees.
- Cracking down on the cash and hidden economy.

Reporting of PAYG withholding
Employers must withhold amounts from payments of salary and wages made to employees and report and pay these amounts to the ATO. While most employers do the right thing, the ATO will pay particular attention to those who may not be meeting their obligations and work with them to ensure they are withholding and reporting the correct amount of PAYG withholding. The ATO uses intelligence gathering and information matching to detect employers who are potentially not meeting their obligations. The ATO conducts reviews and audits when they detect discrepancies indicating that employers are not withholding and reporting correctly.

Identifying and reporting fringe benefits
The ATO will continue to focus on employers that fail to recognise they have fringe benefits tax obligations, paying particular attention to those that do not lodge FBT returns. Recent compliance activity targeting car fringe benefits revealed that in many cases where there was an FBT adjustment, employers had simply failed to recognise and report their FBT obligations.

The ATO is increasing its effort to identify employers that may have an FBT obligation but are not in the FBT system. They will use third-party information to identify those operating outside the system, and take firm action where employers have deliberately sought to avoid their obligations.

Employee v Contractor
The ATO continues to see situations where employers are incorrectly treating workers as contractors rather than employees. The ATO have issued an online tool for employers to help determine whether a worker is an employee or a contractor.

BUSINESS
Running a business can be difficult, particularly when other businesses are gaining an unfair advantage by avoiding their tax and super obligations.

ATO analysis has identified industries with large numbers of businesses that appear not to be paying their fair share of tax and super.

The ATO is currently and will continue focusing on the following industries:
- Hair and Beauty
- Building and Construction
- Café, Restaurant, Catering and Takeaway

The ATO will continue to look at these industries because of the high rates of businesses that are
- Operating outside normal financial ratios for their industry
- Operating in the cash economy
- Under reporting income
- Failing to register and lodge returns
- Being reported to the ATO by the community for tax evasion

Pay as you Go Instalments On line

The ATO will be providing you with the ability to view, lodge, vary and pay activity statements on line.

Claiming Fuel Tax Credits (FTC)

Make sure you check the rates before you complete your BAS, if you are preparing your own BAS. These can be found on the ATO website.

Small Business Tax Regime

From 1 July 2016 a range of small business tax concessions became available to all businesses with a turnover of less that $10 million. Before that the turnover threshold was $2 million.
The $10 million threshold applies to most concessions except for:

- The small business income tax offset, which has a threshold of $5 million (available to individuals)
- Capital gains tax (CGT) concessions which continue to have a threshold of $2 million

Small businesses (sole traders, partnerships, companies and/ or trusts with a turnover of less than $10 million) may be eligible for a range of tax benefits including;

- Immediate write off of assets costing less than $20,000, extended to 30 June 2018.
- Company tax rate going down from 28.5% to 27.5% on 1/7/2017.
- Simplified depreciation
- Accounting on a cash basis.

Broadly, the small business must carry on a business and its annual turnover (excluding GST) cannot exceed $10 million. Turnover will also be aggregated to include the annual turnover of certain affiliates and entities connected with the taxpayer.

ONGOING COMPLIANCE ACTIVITIES

CGT non-disclosure and under-reporting

The ATO continue to see businesses engage in complex restructuring that attempts to disguise asset sales or manipulate asset valuations to artificially reduce their capital gains tax (CGT) liabilities. Some businesses attempt to reclassify revenue and capital items so they can inappropriately access concessional tax treatments. Others simply fail to disclose capital gains tax events or they claim the small business concessions when they are not eligible. The ATO will conduct a number of audits and reviews to identify incorrectly reported (or non-reported) capital gains and losses. They will continue to focus on ensuring that foreign residents disposing of Australian property disclose their transactions and pay capital gains tax where liable. The ATO will continue to check capital gains tax events that have occurred. They will data match information from the office of state revenue with information recorded in the tax returns.

Workers incorrectly treated as Contractors

Across a number of industries, the ATO continues to see purported contracting arrangements being misused by employers with the intention of avoiding employment overheads. The ATO will investigate employers that intentionally try to avoid their tax and superannuation obligations by improperly treating workers as contractors rather than employees. They will assist employers to understand and meet their obligations. Where non-compliance is detected they will apply penalties.

Payment of Superannuation Guarantee

Superannuation guarantee rates have recently increased. The ATO will monitor employers to ensure they are paying correct amounts of superannuation into their employees' funds. Where appropriate, they will use the director penalty regime to make directors personally liable for their company's outstanding superannuation guarantee charge liabilities.

Internet Trading

The ATO has found that the internet is being increasingly used by businesses as an avenue to advertise their goods and services. It will be paying particular attention to this area to ensure these businesses are reporting all their income.

Cash Economy

The ATO believes that some businesses participating in the cash economy are not paying their fair share of tax. Over 1.6 million small businesses in Australia have high volumes of cash transactions. Most pay correctly, but some under-report income tax or GST and unfairly compete with honest businesses. The ATO is using increasingly sophisticated risk models, industry comparisons, data-matching, community information and new approaches to audit, to identify businesses doing the wrong thing to create a more level playing field for those that are doing the right thing.

Small Business Benchmarks

The ATO has now benchmarked the key business ratios across over 100 industries covering 600,000 businesses. It will continue to publish benchmarks in further industries this year. The ATO uses these benchmarks as part of its risk assessment and audit selection.

The ATO will always take into account the individual circumstances of each business it reviews, based on records maintained by that business. Where a business does not have the records to show its income and expenses, the ATO will rely on its benchmarks and other information available to it to assess the profits of the business.

Data Matching

The ATO has increased information gathering and data matching capabilities.

The ATO receives data from many sources these include banks, financial institutions, and government departments such as the Office of State Revenue and Centrelink. This data is matched against the ATO's database to identify people and businesses that are not reporting all of their income.

GST

The ATO will continue to review property developers who claim activity statement refunds during the construction stage of a development but fail to fully report sales for both income tax and GST as they complete the developments.

Taxable Payments Reporting in the Building and Construction Industry

From 1 July 2012, businesses in the building and construction industry must report the total payments they make to each contractor for building and construction services each year. The new taxable payments reporting is aimed at improving compliance with tax obligations by contractors in the building and construction industry creating a level playing field for businesses and improving tax fairness within the industry.

Specifically, the system is aimed at addressing identified compliance problems in this industry that include:

- Non-lodgment of tax returns
- Omission of contract income by contractors in their tax returns
- Non-compliance with GST obligations.

The system is expected to promote voluntary compliance. Contractors who know their income is being reported are more likely to include this income in their tax returns.