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SWON — EST 1948 —

Client Newsletter

December 2023

OUR SERVICES

SWON provides a comprehensive range of business advice and accounting services, with specialists in the areas of taxation, business services, audit and assurance services and financial planning. Our long history of commitment to service excellence and client satisfaction has contributed to our current leadership status. We can optimise your company's profitability through:

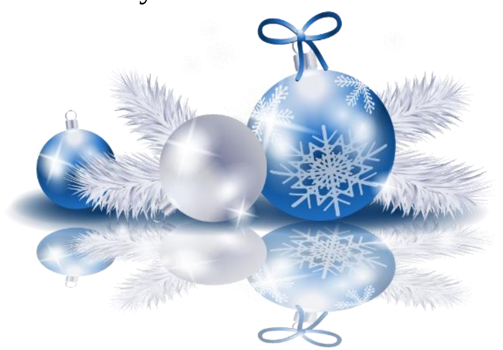
- budgeting and planning
- preparation of financial statements
- business and ownership structures
- trusts, asset protection and estate planning
- family business advice
- superannuation advice
- retirement planning

FEATURES

MERRY CHRISTMAS

On behalf of all the team we wish you a safe and happy Christmas and look forward to working with you again in 2024.

Our office will be closed from 11:00am Wednesday 20th December and will re-open Monday 8th January 2024.



CPA

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Introducing ATOmate & DocuSign

At Shepard Webster & O'Neill we are constantly looking at ways to use the power of automation to streamline our processes and improve our relationship with you, our valued client.

We are therefore pleased to introduce to you ATOmate, the latest cutting-edge software designed to process the myriad of correspondence issued by the ATO, ensuring the speedy delivery of ATO correspondence to you and allowing us to proactively keep on top of key notifications from the ATO on your behalf.

Some of the benefits of ATOmate to you, our valued are:

- ATO correspondence will be forwarded to you without delay.
- Correspondence received to your myGov account will now be emailed to you, alerting you of any obligations.
- Our service to you will be improved with more up-to-date information available to us.
- Your information is secure as ATOmate automatically obscures your Tax File Number.

You will have started receiving correspondence from us via ATOmate and we welcome your feedback.

For more information on ATOmate and how it may affect you, please contact Shepard Webster & O'Neill on 03 9781 2633 and one of our team members would be happy to answer your questions.

You may have noticed that we are now using DocuSign to help speed up the process of getting your documents signed and returned to us, and in turn lodging them with the ATO.

DocuSign has many benefits, including:

- Sign documents from any device including a smartphone or tablet.
- More secure than paper – documents are encrypted and a complete audit trail is maintained.
- Instant delivery and return of signed documents, eliminating the need for postage or dropping off to the office.
- Faster processing of your tax returns.

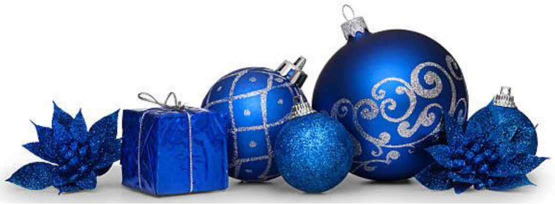
How DocuSign Works

- Once we create your document and mark who needs to sign and where, the document is securely uploaded to DocuSign.
- You will receive an email with the link to your document.
- DocuSign will display the document in its entirety so that you can review it before signing and will clearly indicate where you need to sign.
- If there are multiple signatures required, as each signatory completes their signing the next signatory will receive an email allowing them to complete their signing.
- On completion of all signatures, the signed document will be delivered directly to us with a copy delivered to your nominated email address.

DocuSign is a global leader for electronic signatures trusted by over 60 million users across the world.

Beware of DocuSign scams that attempt to exploit unsuspecting individuals through deceptive emails or messages. Fraudulent DocuSign communications often contain spelling errors, generic greetings, or urgent demands for immediate action. To ensure legitimacy please verify it has come from a Shepard email domain and cross-reference any unexpected documents or requests directly through us.

If you have any concerns about using electronic signing, we are more than happy to provide you with a hard copy of your documents for signature if you prefer.



PAYG Instalment System

You may have recently received correspondence from the ATO advising that you have entered the PAYG instalments system.

If you earn business and/or investment income outside of employment income, once this income reaches a certain amount you will pay your income tax in quarterly instalments, to help you avoid a large tax bill at the end of the financial year when you lodge your Income Tax Return.

All amounts paid in PAYG instalments throughout the financial year will become tax credits on your next Income Tax Return. If you haven’t paid enough tax via PAYG instalments, then you will have to pay the balance owed. If you have overpaid on your instalments, you may receive a refund.

If your business or investment income reduces or increases, you can vary your PAYG instalment amount if you think you may end up paying too much (or too little) tax for the year. However, you must be very careful when varying your instalments as you could be charged interest, as well as penalties, if your varied instalments are too low.

If you need assistance navigating the PAYG instalments system, please contact your SWON Accountant for professional guidance.

Tax Agent Linking

To improve the security of its online services the ATO has introduced additional steps that require taxpayers to authorise and nominate their agents through ‘Online services for business.’ While these steps previously only applied to certain taxpayers, they now apply from 13 November 2023 to all taxpayers with ABNs excluding individuals and sole traders.

Taxpayers that are maintaining their current arrangements with their existing agents should not be impacted. This is because these additional steps apply to taxpayers that are either:

- Appointing a new agent as their representative; or
- Providing an existing agent with an authority for a new tax obligation.

The ATO has released a series of guides to assist taxpayers and agents with this process and has also flagged several common issues.

The ATO is reminding agents that they should only add themselves to an account (for example, the activity statement account) that they are authorised to represent their client for. By adding themselves inadvertently to an incorrect account, this will remove any existing agents linked to that account which will then require the client to repeat the nomination process.

Agents should also consider asking clients to inform them when they have completed their nomination steps. This is because the agent is not automatically notified of this, but they only have 28 days to add the client to their client list before the nomination period normally expires (although this deadline can be extended for another 28 days).

ATO Rental Property Focus Areas

With ATO reviews indicating that 9 out of 10 rental property owners are making mistakes in their tax returns, rental property owners remain a key focus of the ATO.
In that context, the ATO has set out reminders on some of the key issues for rental property owners.

First, the ATO notes that all rental income should be included in the return. This includes income from short-term rental arrangements, renting part of a home and other rental related income like insurance payouts and rental bond money retained.

When reviewing rental property expenses, the ATO is reminding practitioners and taxpayers that not all expenses are necessarily treated in the same way for tax purposes. There will be cases where expenses are deductible up-front, while other types of expenditure might only be claimed as deductions over time.

In some cases, expenditure may not be deductible at all. A good example of this is when it comes to depreciation deductions for certain second-hand depreciating assets used in residential rental properties.

The ATO has issued warnings around correctly making the distinction between repairs and maintenance versus improvements. While genuine repairs and maintenance on a rental property can often be claimed as a deduction immediately, deductions for capital works are claimed over time.

To be considered a repair, the work must relate directly to the wear and tear resulting from the property being rented out. This means repairs and maintenance to fix issues that existed at the time of purchasing the property are not immediately deductible. Also, where an entire structure is being replaced or where the works are considered improvements, this should not normally be considered a repair.

With the ATO recently stepping up its focus by commencing a data matching program on residential investment property loans, interest expenses will be a particular focus area for the ATO. The ATO is concerned that some taxpayers are not correctly apportioning interest deductions for loans where part of the loan is used or the loan was re-financed for a private purpose.

The ATO has also provided a reminder that there will be other situations where rental expenses may not be available in full. For example, when a holiday home is used both by the owner personally and as a rental property, there is a need to apportion deductions for rental expenses. Also, if a rental property is being rented to relatives at less than market rate, then the ATO will generally only allow deductions for rental property expenses up to the amount of the assessable rental income.

2023 Changes to Deduction Rules

The ATO has published a reminder of key points to note when completing 2023 tax returns for clients, including:

- The cents per kilometre rate for individuals claiming car expenses increased from 72 to 78 cents per kilometre in the 2023 income year.
- The car limit for depreciation purposes increased to $64,741 for the 2023 income year. The car limit only applies to motor vehicles that are classified as cars and are designed mainly to carry passengers.
- The fixed rate method for home office expenses increased from 52 cents to 67 cents per hour worked from home and no longer requires the taxpayer to have a dedicated home office space. However, it is necessary to maintain more detailed records confirming the hours worked from home. The fixed rate method covers electricity, gas, stationery, computer consumables, internet, and phone usage. Separate deductions can be claimed for expenses not included in the fixed rate, such as depreciation on computers.

Single Touch Payroll Matched to Superfund Data

Single touch payroll (STP), the reporting mechanism employers must use to report payments to workers, provides a comprehensive, granular level of near-real time data to the regulators on income paid to employees. The ATO is now matching STP data to the information reported to them by superannuation funds to identify late payments, and under or incorrect reporting.

Late payment of quarterly superannuation guarantee is emerging as an area of concern with some employers missing payment deadlines, either because of cashflow difficulties (i.e., SG payments not put aside during the quarter), or technical issues where the timing of contributions is incorrect. Super guarantee needs to be received by the employee's fund before the due date. Unless you are using the ATO's superannuation clearing house, payments are unlikely to be received by the employee's fund if the quarterly payment is made on the due date. The super guarantee laws do not have a tolerance for a 'little bit' late. Contributions are either on time, or they are not.

When SG is Paid Late

If an employer fails to meet the quarterly SG contribution deadline, they need to pay the SG charge (SGC) and lodge a Superannuation Guarantee Statement within a month of the late payment. 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:

The employee’s superannuation guarantee shortfall amount – i.e., the SG owing.

10% interest p.a. on the SG owing for the quarter - calculated from the first day of the quarter until the 28th day after the SG was due, or the date the SG statement is lodged, whichever is later; and

An administration fee of $20 for each employee with a shortfall per quarter.

Unlike normal SG contributions, SGC amounts are not deductible, even if you pay the outstanding amount.

And, the calculation for SGC is different to how you calculate SG. The SGC is calculated using the employee’s salary or wages rather than their ordinary time earnings (OTE). An employee’s salary and wages may be higher than their OTE, particularly if you have workers who are paid overtime.

It's important that employers that have made late SG payments lodge a superannuation guarantee statement quickly as interest accrues until the statement is lodged. The ATO can also apply penalties for late lodgment of a statement, or failing to provide a statement during an audit, of up to 200% of the SG charge. And, where an SG charge amount remains outstanding, a company director may become personally liable for a penalty equal to the unpaid amount.

The Danger of Misclassifying Contractors

Many business owners assume that if they hire independent contractors, they will not be responsible for PAYG withholding, superannuation guarantee, payroll tax and workers compensation obligations. However, each set of rules operates slightly differently and, in some cases, genuine contractors can be treated as if they were employees. There are significant penalties faced by employers that get it wrong.

A genuine independent contractor who is providing personal services will typically be:

- Autonomous rather than subservient in their decision-making;
- Financially self-reliant rather than economically dependent on your business; and
- Chasing profit (that is, a return on risk) rather than simply accepting a payment for the time, skill and effort provided.

‘Payday’ Super from 1 July 2026

The Government intends to introduce laws that will require employers to pay SG at the same, or similar time, as they pay employee salary and wages. The logic is that by increasing the frequency of SG contributions, employees will be around 1.5% better off by retirement, and there will be less opportunity for an SG liability to build up where the employer misses a deadline.

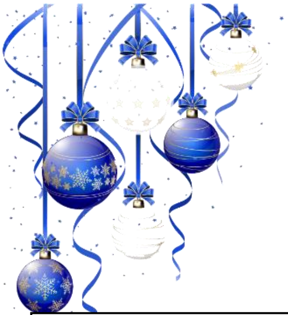
Originally announced in the 2023-24 Federal Budget, Treasury has released a consultation paper to start the process of making payday super a reality. Subject to the passage of the legislation, the reforms are scheduled to take effect from 1 July 2026.

What is proposed?

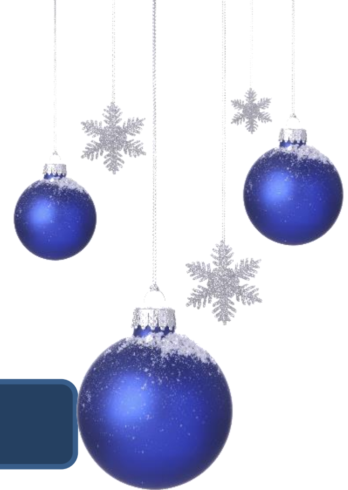
The consultation paper canvasses two options for the timing of SG payments: on the day salary and wages are paid; or a ‘due date’ model that requires contributions to be received by the employee’s superannuation fund within a certain number of days following ‘payday.’ A ‘payday’ captures every payment to an employee with an OTE component.

The SGC would also be updated with interest accruing on late payments from ‘payday’.

Currently, 62.6% of employers make SG payments quarterly, 32.7% monthly, and 3.8% fortnightly or weekly.



Christmas and Tax



Apart from all the stress of finding the right Christmas presents for everyone, the business owner must also deal with the tax issues of Christmas! This is particularly so for the annual work Christmas party and Christmas gifts.
So, what's the problem?

The issue is all about whether payments by the employer for the function are tax deductible and whether any Fringe Benefits Tax is involved.

Christmas functions held on premises that are not the employer's premises will usually not be tax deductible. This is because "entertainment" is being provided. "Entertainment" is defined to mean "entertainment by way of food, drink or recreation." "Recreation" is defined to include amusement, sport, or similar leisure-time pursuits.

An employer can choose to use the 50/50 rule or the 12-week register method for meal entertainment under the FBT law. This can make part of the expense tax deductible and part subject to FBT.

If the expense of the Christmas function is non-deductible because it is entertainment, no GST credits can be claimed in relation to the expense.

Fringe benefits

Perhaps the most difficult part of Christmas functions and gifts is working out whether Fringe Benefits Tax should be paid on any benefit provided to an employee or a person associated with the employee, such as the employee's spouse.

Under the FBT law, minor and infrequent benefits that have a value of $300 or less are not considered to be fringe benefits. The problem is that the provision that grants this exemption from FBT is complex and is full of vague terms. There is a taxation ruling – TR 2007/12 – which attempts to explain the Tax Office's view of this provision – but it is 41 pages long!

Here is one of the examples from the ruling:

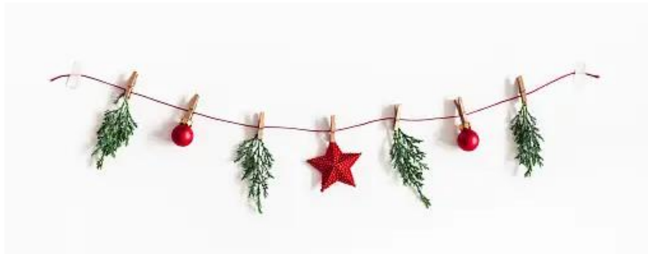
An employer provides each of its employees with a Christmas gift of less than $300 in value. The gifts are distributed at the annual staff Christmas party, which also has a value of less than $300 per employee. It is the employer's policy to only provide gifts to employees at Christmas time.

Even though the employee is provided with a gift and attends a Christmas party, the ATO concludes that both the gift and the Christmas party are "minor benefits" and not subject to FBT.

The Christmas Tax quick guide

Here's our quick guide to the tax impact of Christmas celebrations. The information is for GST registered businesses that are not using the 50-50 split method for meal entertainment.

	Exempt from FBT?	Tax deductible	GST credits
Christmas party on employer premises on a weekday			
Employees	Yes	No	No
Associates of employee (spouses etc.)	If <$300 per head	If $300 or more per head	If $300 or more per head
Customers	N/A	No	No
Christmas party (employer premises on a weekend or external venue)			
Employees	If <$300 per head	If $300 or more per head	If $300 or more per head
Associates (spouses etc.)	If <$300 per head	If $300 or more per head	If $300 or more per head
Customers	N/A	No	No
Christmas gifts (assuming the gift doesn't involve entertainment)			
Employees	If <$300 per head	Yes	Yes
Associates (spouses etc.)	If <$300 per head	Yes	Yes
Customers	N/A	Yes	Yes
Christmas lunch with customer at external venue			
Employees	If <$300 per head	If $300 or more per head	If $300 or more per head
Associates (spouses etc.)	If <$300 per head	If $300 or more per head	If $300 or more per head
Customers	N/A	No	No



The Key Influences Of 2024

Uncertainty has reigned over the last few years, but can we expect more consistency as we head into 2024? We explore some of the key issues and influences.

Inflation and labour supply

RBA Governor Michelle Bullock stated, “Inflation is past its peak and heading in the right direction, but it is likely to return to target a bit more slowly than we previously thought.” While there have been encouraging signs, uncertainty remains. Domestically, inflation is persistent, growth has slowed but the labour market remains tight. And, the Australian economy remains at risk with uncertainty over the Chinese economy and ongoing international conflicts. At this stage, the RBA have not ruled out further interest rate increases.

The unemployment rate remains at 3.7% and the labour market tight. Wages grew 1.3% for the September 2023 quarter and 4.0% over the year, pushing wages to a 14 year high. High-skilled workers are particularly difficult to source, and we appear to have reached a point now where employers are unwilling to pay inflated salaries to acquire those willing to move.

Income tax cuts and the end of some concessions

Commencing on July 1, 2024, transformative stage 3 tax cuts are expected to simplify personal income taxes by merging the 32.5% and 37% tax brackets into a single 30% rate for those earning between $45,001 and $200,000, contingent upon decisions made in the upcoming May Federal Budget. Simultaneously, the superannuation guarantee rate is set to rise to 11.5% on the same date. However, small, and medium businesses, with group turnovers below $50 million, will witness the conclusion or reduction of certain benefits.

For instance, the Skills and Training Boost, offering a 20% bonus deduction for eligible external training costs incurred between March 29, 2022, and June 30, 2024, will end on June 30, 2024. Similarly, the Small Business Energy Incentive, providing a 20% additional deduction on eligible assets supporting electrification and energy efficiency, is scheduled to conclude on June 30, 2024, pending parliamentary approval. Finally, the instant asset write-off for businesses with group turnovers below $10 million is expected to revert to $1,000 starting July 1, 2024. However, legislation related to maintaining a $20,000 cost threshold for the 2024 financial year is still awaiting approval in Parliament.

Worker rights and rewards

There have been a myriad of changes and enhancements to workplace laws across 2023 and employers can expect greater scrutiny in 2024:

A 5.75% increase in the minimum wage to $23.23 per hour from 1 July 2023.

New rules and a 2-year limit to some fixed term employment contracts (no renewing).

A landmark case that defined how to determine whether a worker is a contractor or employee. The ATO has followed through with new rulings to ensure employers are paying the correct entitlements. It’s essential that employers have assessed contractors to ensure that they are classified correctly.

Greater flexibility for unpaid parental leave.

Tax on super balances above $3m hits Parliament

Legislation enabling an extra 15% tax on earnings on super balances above $3m is before Parliament.

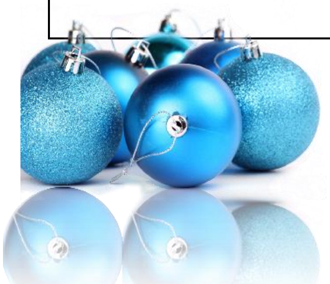
While not a concern for the average worker, if enacted, those with significant property or other illiquid assets in their superannuation fund are most at risk, for example farmers and business operators who own their business property in their self-managed superannuation fund (SMSF).

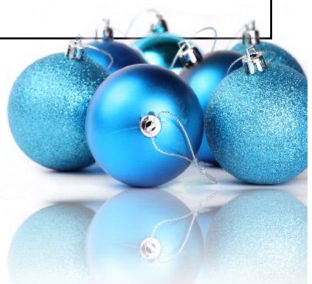
The issue is how the tax is calculated. The tax captures the growth in the balance of a member's superannuation over the financial year (allowing for contributions and withdrawals). It captures both:

Realised gains from the sale of assets, and unrealised gains triggered by an increase in the value of superannuation assets. For example, if the value of a property increases.
If the member's total super balance has decreased - the loss can be offset against future years.

The ATO will calculate the tax each year. Members with balances in excess of $3 million will be tested for the first time on 30 June 2026, with the first notice of assessment expected to be issued to those impacted in the 2026-27 financial year.

If you are likely to be impacted by the impending new tax, it is important to speak to your financial adviser. While keeping assets within superannuation will remain the best option for many from a tax and planning perspective, it's important to ensure that you're in the best possible position.





ATO Flags CGT Problem Areas

The ATO has provided a warning on key areas of concern when it comes to CGT issues for privately owned and wealthy groups. These are broadly separated into three areas, with the main issues attracting ATO attention summarised below:

Disposal of assets

- Capital gains reported are less than what their estimates are (based on external data sources).
- Companies claiming the CGT discount.
- Beneficiaries that fail to gross up the discounted share of capital gains distributed by a trust.
- Entities that disposed of high value assets, but report small capital gains or claim unsubstantiated capital losses.
- Taxpayers incorrectly applying CGT rollover provisions.

Capital Losses

- Losses that appear to be excessive, incorrect, or misclassified.
- Changes to the company in a year the loss occurred (e.g., potentially meaning the continuity of ownership test or business continuity test might have been failed).
- Capital losses from non-arm's length transactions, where the market value substitution rules are not considered or applied.
- Capital losses artificially generated to offset capital gains (e.g. wash sales).
- Reclassifying capital losses as revenue losses to offset taxable income.

Small business CGT concessions

- Entities that fail the small business entity tests ($2m turnover tests or $6m maximum net asset value test).
- Where the asset disposed of does not meet the definition of an active asset.
- Entities that do not meet the additional conditions where the CGT asset is a share or trust interest.
- Restructures for the primary purpose of enabling access to small business CGT concessions, which might not otherwise be available.
- Entities that claim the small business rollover, but do not report CGT event J5 at the end of the replacement asset period when they fail to acquire a replacement asset.

PFG Connect - Summer 2023

It's December – the month that always seems to race by as we approach the end of the year and all the festivities it brings.

We hope you all have a lovely, happy, and safe festive season.

On the economic news front, there was some good news. Consumer prices eased by more than expected in October. The news that inflation may have been tamed means interest rate rises may be behind us for now. The positive data also led to a jump in the Australian dollar, taking it to a new four-month high.

Whilst higher rates are boosting returns for fixed interest investments (bonds, cash) shares have come off in recent months. This is normal as returns are rarely linear, as the world slowly becomes more accustomed to 'normal' interest rate levels (less capacity to borrow money) more volatility and lower returns is likely.

Overseas, China's plan to bolster support for infrastructure drove iron ore prices 36% higher than the low in May, although prices slipped $4 in November from a one-year high of $138 per tonne.

While oil prices have steadied with cuts to production on the table to reduce stocks, brent crude ended the month at around $83.