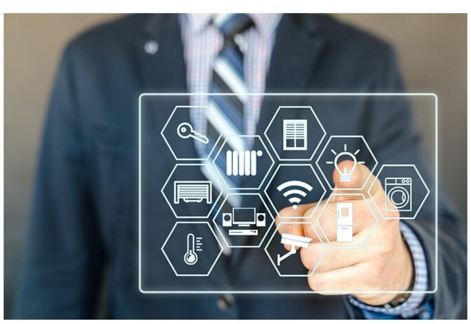
DEWINGS
ACCOUNTING + CONSULTING

Welcome to our latest e-newsletter.
This time around we highlight again the imminent arrival of Single Touch Payroll and urge any business that employs people to get their systems ready or make contact with us to find out more. We also highlight the increasing incidence of phone scams purporting to be from the Tax Office, and new personal liabilities for directors of employers who fail to meet their Superannuation Guarantee obligations.

In this edition...

Single Touch Payroll is almost here - is your business ready?



The introduction of Single Touch Payroll (STP) is being called the biggest compliance initiative since the GST. For many small-medium businesses however, it may well have gone under the radar, having only passed through Parliament in February of this year. Nevertheless, the start date for most businesses with 19 or fewer employees is 1st July 2019, and while there may be some transitional grace, there is one significant penalty that makes compliance essential.

Technically the STP regime commenced 1st July last year, but it only applied to employers with 20 or more employees. Smaller businesses could optionally begin using the system, however they were not required to until 1st July 2019, and the legislation applying to them had not been passed anyway. In keeping with the pattern of recent years, the applicable legislation had been delayed and only ended up receiving assent a few months before it was to come into force.

This left the ATO and software developers scrambling. Under the first phase for larger businesses, it was estimated that around 70,000 employers were reporting using STP. By 1st July 2019, that number will climb to well over 700,000. Clearly this will be a headache for businesses who have to comply in such a short space of time, but will be a compliance nightmare for the ATO to implement, having to on-board so many employers so quickly. It is perhaps this short and intense timeline that has led the ATO to take a softer, less punitive approach to initial compliance.

What is Single Touch Payroll?

Single Touch Payroll (STP) is effectively a direct reporting connection between the payroll records of a business and the Government. Previously there were a number of different and incomplete reporting avenues throughout the financial year for payroll information. For example, an employer may submit a monthly Instalment Activity Statement (IAS) showing how much was paid in total salaries and wages, and how much tax was withheld. At the end of the year, payment summaries would be issued to employees and a reconciliation with more data lodged. Superannuation compliance was monitored and managed through an entirely different system.

STP brings all of this together. It submits all of this information, including amounts paid to employees, the tax withheld and superannuation due, for each individual employee at the time a pay run is completed. In most cases this will occur directly from the payroll software of the business. The ATO likes this because information is more complete and current, and it helps ensure better compliance. The benefit for employers is less paperwork, since end of year payment summaries and payroll reconciliations will no longer need to be submitted (although an annual return lodged through the STP system is still required). Employees will benefit in cases where, for example, superannuation is going unpaid, because the ATO will be alerted sooner and can take steps to ensure an employee receives what they are owed. Employees can request a paper PAYG Summary, but the use of MyGov accounts is being encouraged, since the information will be available there, having been compiled from employer STP reporting.

At the end of the day though, while there are some nominal benefits for employers and employees, this is all about data collection and compliance, and with it the ATO will now have more timely and accurate information than ever before.

What happens if I'm not ready?

One way or another, all employers will eventually have to report STP data. For most, this will be through their payroll software.

Certain exemptions and deferrals may be available. For the 2018-19 year, for example, businesses that employ seasonal workers have been exempted from STP.

For the coming year, closely-held employees of smaller organisations will also be exempted from reporting. This may sound technical but in practice usually refers to employees of businesses who are also owners. Many such 'employees' are not actually paid as part of a regular payroll cycle. They may take money out of the business from time to time, but this may be allocated to salary, a loan account, or some other entry. Their annual 'salary' amount isn't determined until the end of the financial year, often as a part of their tax planning. This makes periodic payroll reporting very difficult, and was highlighted during the ATO's consultation process.

The exemption from STP reporting for closely-held employees is only for the 2019-20 financial year though. After that time, payroll data for such employees will need to be reported quarterly, even if based only on an estimate. The employer will then be required to submit a final declaration, with completed STP data, by the income tax return lodgement date.

The ATO has also indicated that its goal is compliance rather than penalisation, particularly during the transitional phase. In addition, because of the delayed passage of the relevant legislation, **the date for compliance for smaller employers has been extended to 1st October 2019**. Individual extensions and exemptions may also be provided, upon application.

That all sounds great, but it comes with one significant caveat. Legislation was passed last year that provided that where an employer fails to report PAYG withholding amounts through STP for any employee, a deduction will be denied for the relevant payroll amount for that quarter. You read that right - **amounts paid to an employee for a quarter will be non-deductible where the payroll information for that employee has not been submitted via STP.** That's a pretty big stick!

What should you do?

Firstly, if you employ anyone, even if it's only yourself and/or your partner, you need to get ready. Please speak to us if you need any help.

If you already pay your employees using payroll software, check with your vendor as to how and when their application will be compliant. At some point, all payroll software will need to be STP capable, otherwise a change will be necessary. Once you are sure that your software is ready, you will need to set it up for STP.

For those who don't currently use payroll software, your best option is probably going to be to start doing so. There are a number of possible options, and it's likely that if you're already using a software suite for your accounting, a payroll option is available.

So-called 'micro' businesses - those with four or fewer employees - can access one of many no-cost or low-cost payroll solutions (a list of which has been compiled by the ATO). These applications have been developed at the request of the ATO, specifically for the purpose of enabling STP compliance for small employers. In some cases they are standalone products, while for others (as is the case with Xero's alternative) they provide access to only the payroll component of a broader application. The going rate to use one of these options seems to be around $10 per month, which could be a no-brainer if it also saves time on paperwork and compliance. This would be a great option too for those businesses where salaries are only paid to one or two partners. Just bear in mind that these options are only available to those businesses with four employees or less. In some circumstances, businesses with 1-4 employees may also qualify for quarterly reporting until 30th June 2021.

Importantly, you should start getting ready sooner rather than later, despite the extended start date. With an estimated 1,600 businesses a day coming online with STP at the moment, the ATO has estimated that around 10% of first time STP submissions are failing due to setup errors, so it may take some time to get things up and running smoothly.

The ATO is aware that even with so many different options available, up to 10 per cent of employers in Australia remain (what it terms) 'digitally disengaged', which means that their record-keeping is largely not computerised. This may be for generational reasons, but also may be driven by a lack of access to reliable internet. These businesses, if they cannot implement a software solution, will have to report in other ways. The door is also open to having the reporting obligation out-sourced, which may include an accountant. This option requires an ‘STP engagement authority’, and will be available only to eligible businesses. Eligibility is contingent on having no overdue activity statement lodgements, no outstanding debts, and being free from ATO compliance activity for Pay-As-You-Go withholding. The agreement must be in writing.

If this all sounds like a pretty big deal, that's because it is. If you are currently reporting PAYG and/or super for anyone, even if only yourself, you will have to work out how you are going to comply with the STP regime. Please speak to us if you have any questions or need some assistance.

Beware of phone scams claiming to be from the ATO

By now you may be familiar with certain phone scams, claiming to be from the Australian Taxation Office (ATO), demanding payment of a tax debt. The ATO has recently warned however that aside from the prevalence of such calls increasing, they are often now spoofing the caller ID to show genuine ATO phone numbers.

By way of background, these calls are (though not always) automated, threaten immediate arrest, jail or deportation for an unpaid tax debt, and require payment of that debt by way of vouchers, such as iTunes gift cards or prepaid Visa cards. Where there is an actual person on the other end, they will try to keep the recipient on the line and refuse to allow them to speak with an adviser.

The ATO has again warned people to be on their guard against such calls, and noted that it will never:

- Use pre-recorded messages or 'robocall' type technology;
- Present a caller ID when calling;

Directors may be personally liable for unpaid employee super

We've recently noticed an increase in the number of Superannuation Guarantee audits, and with the imminent introduction of the Single Touch Payroll regime (above), it's worth noting one of the more severe penalties that comes with a failure to pay superannuation for employees.

Failure to pay compulsory superannuation for employees has always carried fairly onerous penalties, including interest on the outstanding amounts, an administration fee, and possible penalties. In addition, the full amount of the shortfall is payable as a Superannuation Guarantee Charge, which is not deductible to the business for tax purposes.

Effective from 1st April 2019 however, the ATO can now also issue a Directors Penalty Notice (DPN) to a director of an employer company for Superannuation Guarantee (SG) payments that are not remitted by their due date – this is generally within 28 days of the end of each quarter. This creates an automatic personal liability for directors for the

- Threaten immediate arrest, jail or deportation;
- Require payment of debts using gift cards;
- Refuse to allow someone to speak with an adviser; and
- Attempt to keep someone on the line until a payment is made.

In addition, you should never disclose any personal information to such callers. At the very least, when you call a Government agency, they may ask you some identifying questions to verify that you are who you say you are. When they call you however, they already know who you are, and as such it is they who should adequately ID themselves.

But such calls should rarely get this far. The ATO advice is to hang up immediately if any of these red flags are present. In particular, no agency of any kind requires payment of a debt by way of gift cards, and this should serve as an immediate alert that something is suspicious. Some retailers are starting to help as well. We've heard of more than one instance where a crisis was averted thanks to a retailer who prevented a person from buying a bundle of iTunes cards.

There's one additional layer of protection for our clients too. If we act as your Tax Agent, and you get a call directly from someone claiming to be from the ATO that seems suspicious, you should feel secure in referring them directly to us and ending the call, as we are authorised to act in all matters for your account on your behalf.

amount of unpaid Superannuation Guarantee Contributions (SGC).

Previously the ATO allowed a 3 month grace period before the issuance of a DPN, however new legislation has been given Royal Assent to effect a change to reduce this to 28 days.

The introduction of Single Touch Payroll for all employers next financial year has allowed this urgency to be added to the obligation. Most employers will next year begin submitting payroll information to the ATO as pay runs are processed. This gives the ATO near real-time capacity to assess any amounts that go unpaid, and is in fact a key driver for implementing the regime. In turn, this will allow the ATO to issue penalties faster.

There is a sense in which this is not completely unreasonable too. Superannuation Guarantee is effectively additional remuneration - it differs only in that it is put away and preserved until retirement. As such, failure to meet SG obligations is effectively the same withholding earnings from an employee.

In order to avoid personal liability, it's more important than ever that directors ensure that their company has met its SG obligations by the due date.