Collins XPRESS

ISSUE 21 2017 | FAST TRACKING YOUR BUSINESS SUCCESS

Is your business exposed by the Personal Properties Securities Act?

The brave new world of Personal Property Securities Register (PPSR)

If you:
1. Sell goods on credit under a Retention of Title clause (ROT).
2. Provide a long-term hire service (more than 12 months).
3. Have a traditional 2 company asset protection structure.

Then we strongly recommend that you become compliant with the PPSR. The benefits far out outweigh the cost. However, the catch is to register correctly. Ordinarily, that should be the least of your difficulties, however the PPSR is so complex that we strongly recommend that you seek expert advice. That way if you register once—then you register correctly.

Numerous horror stories have been circulating about assets have been lost to an Insolvency Practitioner, such as:
1. The owner of $24 million is assets whose only mistake was to register their customer by its ABN rather than by its ACN.
2. The owner of $1.5 million in motor vehicles and plant who lost their assets because they used the wrong type of asset category and registered late—by just 3 hours.
3. The owner of a $250,000 excavator who had to buy back his own hire asset not once, but twice, from different Insolvency Practitioners. Now they register.
4. The company that sold $100,000 worth of stock on a ROT clause but decided not to register as it was a 'once off' transaction, to be repaid in 14 days time. The company went into liquidation 13 days later. As a consequence, the unpaid stock could not be collected. This was particularly frustrating as the unpaid stock could be clearly seen from the shop window.

Spending just $6.80 would have provided 7 years of unlimited protection for all of the above.

The benefits of registering include;
a. Ability to collect unpaid stock and hire equipment.
b. Ability to be paid from the trade debtors of your insolvent customer.
c. Possible immunity from an Unfair Preference claim.
d. Improved likelihood of being paid in full when a customer sells their business.

Please contact us to discuss this further.

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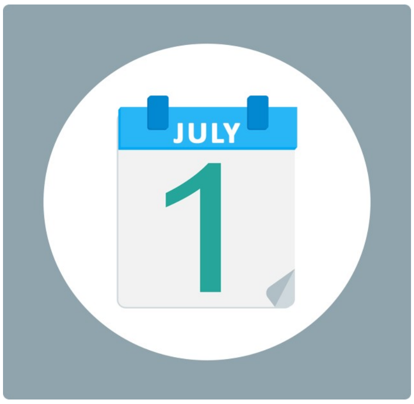
From 1 July 2017, businesses with outstanding debt to the ATO may risk 5 years of bad credit.

The federal Government's Mid-Year Economic and Fiscal Outlook (MYEFO) for 2016-2017 states from 1 July 2017 the government will allow the ATO to disclose to Credit Reporting Bureaus the tax debt information of businesses that have not effectively put a plan in place to repay their debt. The ATO does not currently provide this information.



Who will this affect?

- Business with an ABN with
- Tax debt greater than $10,000 which is…
- At least 90 days overdue

How will this impact me?

- A negative mark on your credit file
- Can hinder normal operation of your business
- Can prevent you from obtaining funding for business or personal use
- Risk paying higher interest rates on loans, if approved at all

This measure is part of the Government's strategy to reign in overdue tax and improve transparency of taxation debts, and will initially only apply to businesses with an Australian Business Number and tax debt of more than $10,000 that is at least 90 days overdue.

The policy should not come as a surprise given it has been on the Government's agenda for several years, having been touted at least as far back as 2014.

The MYEFO confirms the ATO is owed &19b in overdue tax, approximately two thirds of which is owed by small businesses with a turnover under $2m. The rising level of debt, particularly in small business, presents a growling challenge for the ATO as they are faced with managing the delicate balance of collecting tax arrears without (where possible) suffocating the cash flow of the business.

Compounding this challenge, the current consequences for failing to pay the ATO have no real tangible impact on the day-to-day operations of a business. Failure to lodge and general interest charge penalties, and in some instances imposing personal liability on directors, do not typically influence a business continuing to trade. This means that ATO debt is often pushed to the back of the queue, and will be allowed to accumulate—often until the ATO pursue legal proceedings.

That landscape is about to change, as defaults being recorded on a taxpayer's commercial credit file will have immediate and lasting consequences for a defaulting taxpayer. A credit default is a black mark that lasts for five years, and creates an environment where support form financiers may be withdrawn and supplier credit stopped.

Given the potential ramifications for small businesses in particular, it is evident that policy implementation must be carefully considered and managed to avoid potentially imposing irreversible damage on thousands of small businesses form 1July 2017. It also remains to be seen how the ATO will wield this new proper when it comes to debt that is dispute.

Clearly, there has never been a more important time to engage with the ATO to manage unpaid tax, and the strategy of buying more time by 'burying your head in the sand' is a thing of the past.

New safe harbour for car fringe benefits

Late last year saw the Australian Tax Office (ATO) develop a safe harbour for car fringe benefits.

A safe harbour is guideline that allows Australian businesses to make use of an efficient way to calculate tax where certain conditions are met.

After collaborating with other industry representatives, the ATO developed a particular safe harbour that simplifies the approach for working out business use percentage of car fringe benefits for fleets of 20 cars or more.

The new approach reduces recordkeeping burden for business and allows them to use percentage' when using the operating cost method.

Businesses can access the safe harbour and use this new simplified approach if they have:

- a fleet of 20 or more 'tool of trade' cars, which are not part of salary packaging arrangements and cost less than the luxury car tax limit in the year acquired
- a mandatory logbook policy and hold valid logbooks for at least 75 per cent of the cars in the logbook year

Businesses can use logbooks to calculate the fleet's average business use percentage to all tool of trade cars held in the fleet in the logbook year and can use that percentage for the following four years.

Reviewing your trust deed before 1 July

With changes to Australia's superannuation rules coming into play on 1 July 2017, self-managed super fund (SMSF) trustees would do well to review their fund's trust deed.

Despite the fact that maintaining an up-to-date trust deed is a vital aspect of managing a SMSF, many trustees fail to do so, usually due to the time and cost restraints associated.

However, a SMSF trust deed can only ensure compliance and protect the trustee's interests if it is regularly updated and reflects current superannuation rules.

As part of the super reforms announced in last year's Federal Budget, tighter superannuation rules will apply form 1 July 2017, including a $1.6 million super balance cap for after-tax contributions; a maximum of up to $25, 000 for concessional contributions; and the removal of the current "bring-forward" rule allowing $540,000 of contributions in one year.

According to some industry analysts, these changes are likely to result in many out-of-date trust deeds. But often changes to superannuation legislation provide the perfect opportunity for trustees to review and upgrade their deed.

One of the major changes to super which will affect traditional SMSF trust deeds is the $1.6 million limit on retirement balances, which the Government also wants to make retrospective. This means those who already have more than $1.6 million saved in their superannuation will need to adjust their strategy and trust deed accordingly to meet the new limit.

Updating a SMSF deed will particularly benefit those SMSF members with money locked in the old term-allocated pension and with a pension balance greater than $1.6 million in a mix of term-allocated pension and account-based pension balances. This is because the term-allocated pension can be converted back (in full or in part) to accumulation phase to remove any excess over the $1.6 million cap.

Another major change to consider is the deed 's death benefit control mechanisms. The new super rules will allow certain death benefits to be rolled over, so it may be worthwhile reviewing whether the SMSF trust deed has sufficient options in the death benefit payment provisions.

SMSF trustees will also need to consider whether their current trust deed will allow for the terms of the trustee's pension to change without needing to stop and restart the pension.

Many of the upcoming super changes will dramatically affect the strategic landscape of SMSFs in Australia, and some of these changes will challenge old deeds, so, as with any other financial decision, seek professional advice if you are considering updating your trust deed.

Common GST mistakes

Despite the Australian Tax Office's education campaign on GST reporting many small business owners continue to make errors when claiming GST credits in their GST returns or Business Activity Statements.

The vast majority of errors are easily avoidable and relate to the over-claiming of GST credits. Here are the top ten common GST mistakes:

- **Residential rental property:** Incorrectly claiming GST credits on expenses relating to residential rental properties where the entity is registered for GST.
- **Bank fees:** Generally, annual fees, monthly fees and loan establishment fees are input-taxed, and therefore, there is no GST to claim. However, GST is charged on credit card merchants' fees and can be claimed.
- **Private expenses:** GST is not claimable on private expenses such as personal loans, director fees and drawing etc.
- **Interest:** Interest paid on loan or chattel mortgage repayments or credit card payments does not incur GST, and cannot be claimed.
- **The total cost of a business insurance policy:** Insurance policies usually include stamp duty (which is GST-free), however, the rest of the policy is subject to GST. A GST credit cannot be claimed on the stamp duty portion of the policy as no GST is paid.
- **Government fees:** GST is not charged on government fees i.e. council rates, land tax, ASIC fees, motor vehicle registration and water rates, and therefore, GST credits cannot be claimed.
- **GST-free purchases:** Incorrectly claiming GST credits on purchases without GST, such as basic food items, exports and certain health services is a common mistake. Remember not all suppliers are registered for GST, so check the tax invoice before claiming a credit.
- **Entertainment expenses:** Claiming the entire GST credits on entertainment expenses where the business has elected to use the 50/50 split method for fringe benefits tax is incorrect. Only 50 per cent of the GST credits can be claimed.
- **Wages and superannuation payments:** Both wages and super do not attract GST and cannot be claimed. Wages are not an expense to be included in G11; they are to be reported in W1 in your BAS. Superannuation is not included in BAS.
- **Sole traders and partnership:** When claiming expenses that are used for both private and business use, you must apportion the expenditure to exclude private usage.

Preparing for contribution cap changes

From 1 July 2017, many of the 2016 Federal Budget super reforms will take place, including the reduction to both the annual concessional and non-concessional contribution caps.

Concessional Contribution

Concessional contributions include employer contributions and salary sacrifice amounts. Personal contributions claimed as a personal super contribution deduction also count as concessional contribution.

The concessional (pre-tax) contributions cap will be lowered to $25, 000 for everyone. Previously, those aged 50 years and older could contribute up to $35,000 and $30,000 for everyone else.

Individuals who wish to make extra concessional contributions s before 1 July will need to check what concessional contributions have been made to all their super funds form 1 July 2016 and arrange for the additional concessional contributions (up to their age cap) to be paid super before 30 June 2017.

A new super rule will be introduced effective from 1 July 2018 which will allow individuals with a total super balance of less than $500,000 at the end of 30 June of the previous year to 'carry-forward' their unused concessional contributions cap. This allows individuals to access their unused cap space on a rolling basis for five years.

For example, in concessional contributions, leaving an unused amount of concessional contribution cap of $15,000. Tom can carry forward for up to five years to increase his concessional contribution cap. In 2019-20, in addition to his normal $25,000 concessional cap, Tom can use the $15,000 of unused cap from the previous year. This means tom's total concessional cap for 2019-20 is $40,000.

Non-concessional Contribution

Concessional Non-concessional contributions include personal contributions for which you do not claim as a tax deduction. All non-concessional contributions made to all your super funds are added together and count towards the cap.

The annual non-concessional (after-tax) contribution cap will be reduced from $180,000 to $100,000. Those aged between 65 and 74 years old can still access this cap, provided they satisfy the work test.

If any individual has a super balance cap for the year ($1.6 million for the 2017/18 financial year) as at 30 June for the previous financial year (e.g. 30 June 2016) they are ineligible to make non-concessional contributions made in the following year will be treated as excessive contributions.

For those under 65 years, you can still bring forward three years worth of non-concessional contributions. However, as the non-concessional cap has lowered to $100,000, you will only be able to bring forward $300,000 in a single year form 1 July 2017 onwards.

To access the non-concessional bring forward arrangement for 2017-18, you must be under 65 years for one day during the first years and you must have a total super balance less than $1.5 million.

The remaining cap amount for years two or three of a bring-forward arrangement is reduced to nil for a financial year if your total super balance is greater than or equal to the general transfer cap at the end of 30 June of the previous financial year.

Transitional arrangements will apply for those individuals who have triggered the bring-forward period in the 2015-16 or 2016-17 financial years but have not fully used their bring-forward before 1 July 2017.

Tips for improving cash flow

Maintaining appropriate cash flow is a critical component of running a successful business.

Despite this, running out of liquid capital is one of the most common reasons that small businesses fail. Monitoring cash flow and planning accordingly is important at every stage of the business lifecycle; however, it is especially critical that businesses experiencing rapid growth remain acutely aware of their cash availability.

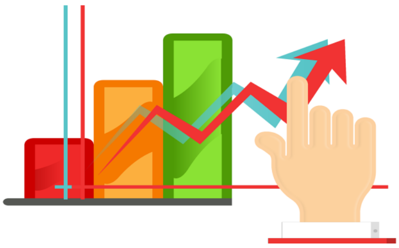
Maintaining positive cash flow can be a struggle for many businesses, but setting realistic goals for cash flow management can help make a business profitable and generate enough cash to offset monthly expenses.

Make it easy

Making it easy for customers to pay you on time is one of the best ways to ensure they do. Whether that involves investing in some new technology, taking your invoicing online or implementing some new payment methods, making sure it is easy for customers to pay you on time will definitely pay off in the long term.

Use an automated follow-up system

An automated follow-up system will send recurring reminders to your accounts receivable at pre-set dates. This helps to



keep track of the status of your accounts and can be reduce both time and human error.

Invoice quickly

You need to invoice your clients quickly, as there will already be a delay between them receiving the invoice and making the payment. Many businesses inadvertently shoot themselves in the foot by failing to invoice in a timely manner.

CGT exemptions for depreciating assets

The disposal of a depreciating asset may incur capital gains tax (CGT) if the asset has been used for a non-taxable purpose (i.e. private purposes).

However, there a number of CGT exemptions that may apply to a capital gain or capital loss made from the disposal of a depreciating asset.

Pre-CGT assets: you disregard a capital gain or capital loss from a depreciating asset if the asset was acquired before 20 September 1985.

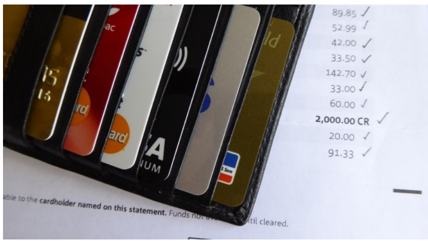
Small business entity assets: if you are a small business entity you disregard a capital gain or capital loss from a depreciating asset and you can deduct an amount for the depreciating assets' decline in value under the small business entity capital allowance provisions for the income year in which the balancing adjustment event occurred.

Personal use asset: if a depreciating asset is a personal use asset (one used or kept mainly for personal use and enjoyment), you disregard any capital loss from CGT event K7. You also disregard a capital gain under the CGT event K7 from a personal use asset costing $10,000 or less.

Collectables: you disregard a capital gain or a capital loss from a depreciating asset that is a collectable costing $500 or less.

Balancing adjustment event and CGT event: you only include a balancing adjustment event that gives rise to a capital gain or loss under CGT event K7. However, capital proceeds received under other CGT events, for example, CGT event D1, may still be relevant for a depreciating asset as CGT events are not the equivalent of balancing adjustment events.

ATO issues ruling on bad debts



The Australian Taxation Office (ATO) has issued a ruling that clarifies the circumstances in which a deduction for bad debts is allowance.

Under section 63 of the Act, to obtain a bad debt deduction a debt must exist before it can be written off as bad. A debt exists where a taxpayer is entitled to receive a sum of money from another, either at law or in equity i.e. a customer becomes bankrupt after you have already provided services to them.

The question of whether a debt is 'bad' is a matter of judgement having regard to all the relevant facts. Generally, provided a bona fide commercial decision is taken by taxpayer as to the likelihood of non-recovery of a debt, it will be accepted that the debt is bad for section 63 purposes. The debt, however, must not to merely doubtful.

A bad debt has to be written off in the year of income before a bad debt deduction is allowable under section 63. The writing-off of a bad debt does not necessarily require highly technical accounting entries. It is sufficient that some form of written record is kept to evidence the decision of the taxpayer to write off the debt from the accounts.

The debt must have be brought to account as assessable income in any year or, in the case of a money lender, the debt must be in respect of money lent in the ordinary course of the business of lending of money by a taxpayer who carries on that business.

Individuals may be able to claim a bad debt as a tax deduction if the amount owed has been included in an individual's assessable income in the year of income in which the debt is written off.

For those who pay GST on an accrual basis, you may also be able to claim back a GST credit. If you have paid GST on a sale but did not end up receiving any payment for that sale then you are able to adjust your BAS accordingly. You make the adjustment to your BAS in the period when the debt was written off, or twelve months after the debt became due (whichever is relevant to your situation).

Individuals are also entitled to claim a tax deduction for a partial bad debt that has been written off on that portion of the debt. The same concept applies for GST adjustment.

Collins & Co Workplace Giving

Collins & Co supports a number of charities, Not for Profits and other worthy causes, and part of this is through the Staff Workplace Giving Program

Last quarter's staff donations were donated to the Lost Dogs Home in North Melbourne.

Previous recipients have included

- The Tomorrow Foundation for their Common Social Café program, which provides hands-on hospitality training, work experience, guidance and employment opportunities for refugees, asylum seekers and migrant youths.
- The I Give a Buck Foundation, which supports children affected by domestic violence.
- And Second Chance Animal Rescue.

Staff not only donate to the program but are able to nominate a cause that is close to their heart and worthy support.

Collins & Co Not for Profit Conference

Our third annual NFP Conference, held at the MCG on March 22nd 2017, featured practical presentations by our expert speakers on both technical and soft.

Skills tailored for the Not for Profit sector. The attendees had an enjoyable day, learning from our presenters, networking and enjoying the views across the iconic MCG oval!

We would also like to thank all of the speakers for their time and our Sponsors for their support.

The conference was a resounding success and the feedback given by attendees on the day included:

- Keeps getting better each day!
- Solid informative speakers on relevant topics
- Interesting range of speakers and learnt form the Conference
- Exceeded my expectations. Lovely lunch too! Thank you

So save the date for next year—**Thursday 15 March 2018** featuring **Susan Alberti** as guest speaker.

Have you checked the Collins & Co Blog and social media recently?

Our blog is one of the quickest ways to communicate the latest news and updates to you.
http://blog.collinsco.com.au

Our blog content is categorized and searchable, and you can leave comments which will be replied to as required. The blog's Business Calendar also provides useful information such as ATO due dates and there' are links to our website and our social media platforms.

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