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XPRESS

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Changes to GST at settlement forms

The Australian Taxation Office (ATO) has announced changes to the way GST is collected at settlement.

According to the ATO, those purchasing new residential premises or potential residential land who are required to withhold part of the purchase price for payment (to the ATO) must submit a number of online forms. These forms include:

GST property settlement withholding notification:
This form covers various areas including contact details, property details, purchaser details, supplier details and an overall summary. The form can be submitted any time after you have entered into the contract and before the date that the withholding obligation is due. Generally, the due date of the withholding obligation is due on the settlement day; unless you are using an instalment contract. In this instance, the due date will be the date the first instalment is paid.

GST property settlement date confirmation:
This form is quite straightforward and requires you to check a yes or no box to the following questions:

- Have you completed the GST property settlement withholding notification form?
- Are you submitting the form as a purchaser or as a representative for the purchaser?
- Have the purchaser and/or supplier details changed since the GST withholding notification form was lodged?

The form can be submitted at the due date of the withholding obligation. This will be at the time of settlement or when the first instalment is paid.

In addition to understanding when the forms are due, you must consider the following:

- Those who hire a representative need to complete a signed declaration and send it to their conveyancer or solicitor. This will allow for the two forms to be submitted on the purchaser's behalf.
- In regards to a standard land contract, it is required that the withholding amount is paid on the day of settlement unless an instalment contract is used. In this case, it is due when the first instalment (other than a deposit) is paid.
- Payment reference number should be included on all payments made.

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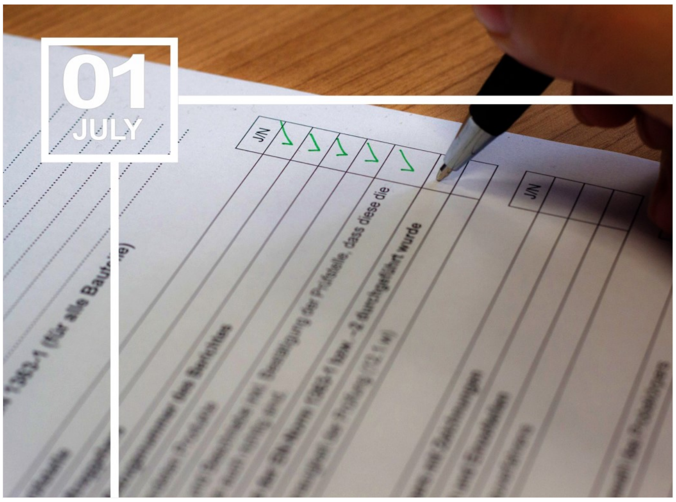
Targeted amendments to Division 7A

The Government is widening the scope of Division 7A to include unpaid present entitlements from 1 July 2019.



This will apply where a related private company is entitled to a share of trust income as a beneficiary but has not been paid that amount (unpaid present entitlement).

Division 7A is an integrity rule that requires benefits provided by private companies to taxpayers to be taxed as dividends unless they are structured as Division 7A complying loans or where another exception applies.

The Government aims to clarify the operation of the Division 7A integrity rule to ensure the unpaid present entitlement is either required to be repaid to the private company over time as a complying loan or subject to tax as a dividend.

Additionally, the targeted amendments announced in the 2016-17 Budget, aimed at improving the operation and administration of Division 7A, have now been delayed to commence from 1 July 2019. This will enable all the Division 7A amendments to be progressed as part of a consolidated package.

From 1 July 2019, the following measures will be introduced:

- A self-correction mechanism to assist taxpayers to rectify inadvertent breaches of Division 7A promptly.
- Appropriate safe harbour rules to provide certainty and simplify compliance for taxpayers.
- Simplified rules regarding complying Division 7A loans, including loan duration and the minimum interest rate.
- A number of technical amendments to improve the integrity and operation of Division 7A and provide increased certainty for taxpayers.

How are super death benefits taxed?

When it comes to how the super death benefit is paid out, there are specific tax implications involved which affect the amount a nominated beneficiary will receive.

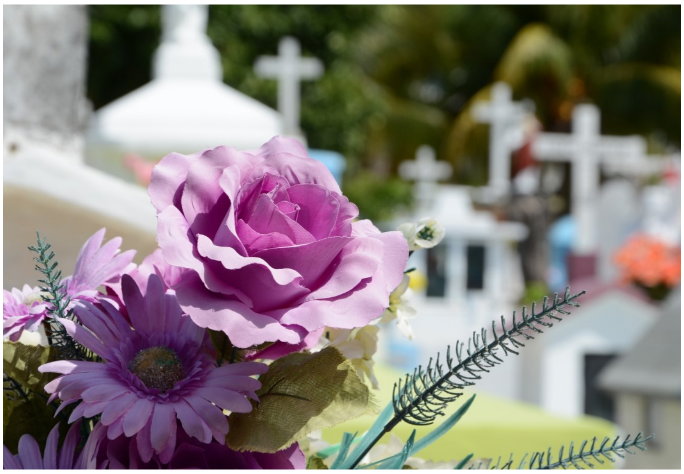
In a situation where super is paid out after an individual has passed, it is generally split up into two components; taxable and tax-free. The tax-free portion of a super death benefit is tax exempt and can include payments of after-tax contributions and government co-contributions. While the taxed component is primarily made of employer contributions, personal contributions (when a tax deduction is claimed) and salary sacrificed contributions.

Upon receiving a super death benefit, the amount of tax you as the beneficiary will be required to pay will depend upon your age and a number of considerations.

These include:

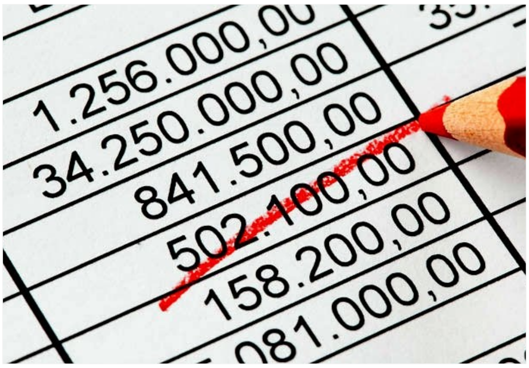
- The deceased individual's age at the time of their passing.
- If the superfund has already paid all tax owing on the taxable component.
- Whether the income stream is account-based or a capped defined benefit income stream.
- Whether you are the dependant of the deceased individual (i.e., you rely on their financial support).
- If it is paid out in one payment or as an income stream.

The Australian Tax Office (ATO) does not require you to pay any tax on the taxable component of a super death benefit you receive when you are a dependant of the deceased individual and receive the payment as a lump sum. However, varying rates may apply (depending upon the above considerations) if you accept the balance of the benefit as an income stream.



In cases, where you are not a dependant of the deceased individual, you will receive the balance of the benefit in one payment. The taxable component of the amount will be taxed at your marginal tax rate. However, you may have this rate reduced providing you are eligible for tax offsets.

Claiming the $20,000 instant asset write-off



Businesses with an annual turnover less than $10 million (from 1 July 2016) can claim the $20,000 Instant asset write-off.

Eligible businesses can take advantage of the instant asset write-off for the business portion of their assets, providing they bought and installed the assets for less than $20,000 each.

Avoid underclaiming by applying the simplified depreciation rules. Always ensure to write-off eligible assets costing less than $20,000 each and were bought, used and installed ready to use, from 7.30pm (AEST) on 12 May 2015 - 30 June 2019. Pool the majority of other depreciating assets that cost $20,000 or higher and claim a 15 per cent deduction in the first year and a 30 per cent deduction every following year.

Write-off the small business pool balance providing it is less than $20,000 before applying any other depreciation deduction at the end of the income year and make sure to only claim a deduction for the portion of the asset that is used for business or other taxable purposes.

The current instant asset write-off was meant to apply till 30 June 2018, however this has now passed through the senate.

190,000 taxpayers 'examined' in ATO online rental blitz

The Australian Taxation Office (ATO) has announced a new data-matching program targeting taxpayers earning income from the exploding popularity of short-term rentals available on platforms like AirBNB and Stayz.

Utilising information from online platform sharing sites matched to information from financial institutions, the ATO is targeting 190,000 individuals to make sure they have not failed to declare or under declared rental income or have overclaimed deductions. In effect, whatever data your sharing platform holds on you will need to match what you have declared in your tax return. And yes, the ATO can potentially check what is coming in and out of your bank account.

The ATO states that there is no such thing as a "rental hobby" so even a one-off rental needs to be declared.

But it's not just the income the ATO are concerned about; deductions claimed are also in the spotlight. The ATO is concerned that some landlords are not only overclaiming - for example, claiming deductions for the whole house when only one room is rented out - but claiming deductions when the accommodation is not genuinely available for rent.

The records utilised by the ATO will be used to identify taxpayers not meeting their registration, reporting, lodgement, or payment obligations when renting out property on a short-term basis, complementing existing long-term rental information the ATO receives from State and Territory Bond Boards.

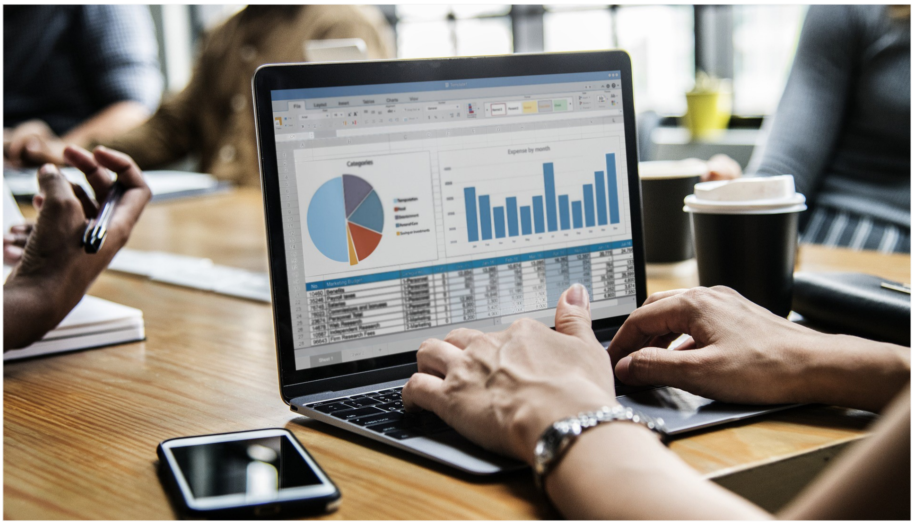
If you do offer short term rental accommodation, there are a few tax 'ground rules':

- Keep records (particularly if you are claiming deductions).
- Any income from rentals need to be declared – even if it is a one-off rental.
- If you rent the property for income producing purposes, you can claim a deduction for the costs of earning that income.
- Any deduction claimed needs to be in proportion to the length of time the accommodation was rented, and in proportion to what was rented. That is, if you rent one room, you can only claim deductions for the expenses incurred relating to that portion of the accommodation for the time it was available.
- Deductions are limited to the income earned where the accommodation was provided below market rates, for example to family and friends.
- This activity might impact on your ability to access the main residence CGT exemption on the sale of the property.

Around 2.1 million individuals reported rental income of $42 billion in 2016 with the figure rising each year. If you are targeted by the ATO, contact us immediately. You have 28 days to respond to an ATO enquiry seeking clarification before any compliance action is taken. If you are concerned you might be a target, consider Tax Audit Insurance to cover the costs of responding to an ATO investigation and make sure your paperwork is in place. The ATO penalty can be as high as 75% of the tax shortfall.

Last minute changes to company tax and franking rate passed by Parliament

Legislation passed by Parliament late last month introduces a new test that will restrict some companies from accessing the lower company tax rate from the 2017-18 financial year.



Across a 3 year period, the company tax and franking rate changed, then the definition of what is a small business entity changed (from a $2 million to $10 million turnover) along with how the franking rates apply, and now we have a whole new set of definitions and rates that have come into play. Complicating the change is the issue of timing; the legislation was passed by Parliament after the end of the 2018 financial year and could impact on not only the tax rate that applies for the year ended 30 June 2018 but also the franking rate on dividends paid since 1 July 2017.

For the 2017-18 income year, the lower company tax rate of 27.5% is available to 'base rate entities'. This means a company that had an aggregated turnover of less than $25 million and no more than 80% of its assessable income for the year was classified as "base rate passive income" (which includes things like rental income, interest and some dividends). While the new $25 million turnover threshold is good news for many companies, the new passive income test will create a problem for others and potentially move them from the reduced rate to the higher general 30% company tax rate. This also has an impact on the maximum franking rate that applies to dividends paid by companies in the 2018 income year onwards.

For the 2018-19 financial year onwards, the turnover threshold has been increased to $50 million.

The problem with the new passive income test is that it is not just a gross turnover test but a test that requires an analysis of the components of that turnover. The new test adds another layer of complexity going forward.

What exactly is 'passive income'?

As noted above, for the 2018 income year, a company will qualify for the 27.5% tax rate if it is classified as a base rate entity. A company will be a base rate entity for the 2018 financial year if:

- Its aggregated annual turnover in the 2018 income year was less than $25m.
- No more than 80% of its assessable income for the year was "base rate passive income".

Base rate passive income includes the following types of income:

- Dividends, except non-portfolio dividends.
- Franking credits on the dividends referred to above.
- Non-share dividends.
- Interest (although there are some exceptions for some companies).
- Royalties.
- Rent.
- Gains on qualifying securities.
- Net capital gains.
- Income received from a partnership or trust to the extent that it is referable to base rate entity passive income derived by the partnership or trust.

Where a company receives income from trusts or partnerships, you need to trace through to determine the nature of the income derived by that trust or partnership, and this might need to be done on multiple levels. For example, Trust 1 might distribute income to Trust 2, which then distributes income to a company.

Whether dividends are treated as passive income will depend on the shareholding percentage involved. At a very high level, if the company holds less than 10% of the shares in the company paying the dividends then the dividend should be treated as passive income.

Maximum franking rate

The new rules also make changes to the maximum franking percentage rules. To determine a company's maximum franking rate for a particular income year from the 2018 income year onwards, you need to look at the tax rate that would apply in the current year if the following assumptions are made:

- The company's aggregated turnover in the current year is the same as in the previous year.
- The company's assessable income in the current year is the same as in the previous year.
- The company's passive income in the current year is the same as in the previous year.

For example, if a company paid a franked dividend in the 2018 income year, its maximum franking percentage will be based on a 27.5% rate if:

- The company's aggregated annual turnover in the 2017 year was less than $25m.
- 80% or less of the company's assessable income in the 2017 year was passive income.

If the company did not exist in the previous income year, then the maximum franking rate will be based on a 27.5% rate.

If a company paid a dividend in the 2018 income year and this was initially franked to 30% but the new rules mean that the maximum franking rate should have been 27.5%, then it will be necessary to inform the shareholders of the correct franking rate and ensure that the company's franking account balance is adjusted accordingly.

All clear now? The company tax rate changes can be complex. If you are concerned about the impact of the new rules or would like our assistance to manage any dividend issues, please call us on **03 9680 1000** or email **partner@collinsco.com.au**.

Quotes of the month

"People should pursue what they're passionate about.

That will make them happier than pretty much anything else."

Elon Musk, Co-founder and CEO, Tesla

Tax 'safe harbor' for inherited property

When someone inherits a dwelling there are some special rules contained within the main residence exemption provisions that can provide a full exemption if certain conditions are met. If the conditions are not met, the beneficiary might face a nasty capital gains tax (CGT) bill for their good fortune.

In some cases, these conditions require the inherited property to be sold within two years of the date of death to qualify for the exemption, although the Commissioner has the discretion to extend this period in some situations. To simplify the tax requirements for beneficiaries (and executors) and ensure that they don't have the threat of a large tax bill hanging over their head, the ATO has outlined a safe harbour for inherited property.

The safe harbour allows beneficiaries and executors to apply the exemption if the property is sold more than 2 years after the date of death without having to seek approval from the ATO, as long as the property is sold within 3 years of the date of death and certain other conditions are satisfied. This could be relevant where there was a delay in selling the property because of factors beyond the control of the beneficiary or executor such as a challenge to the will or where the complexity of the estate delays the completion of the administration process.

ATO takes its share of car sharing

The extra income earned by people taking part in car sharing services such as Car Next Door or DriveMyCar has come to the attention of the ATO. The car sharing services work by making private cars publicly available in a similar way to other car hire services – it's like AirBNB for cars. Combined, DriveMyCar and Car Next Door state that over $13 million has been paid out to car owners renting through the service. The community or peer to peer rental can be confusing as many people taking part see it as private.

The ATO has taken an interest as some people utilising these services are counting the extra income as a hobby – income from a hobby is not assessable and does not need to be included on your income tax return. But, the ATO is keen to point out that income from sharing services is not a hobby and needs to be declared. The upside is that if you earn income from these activities you might be entitled to claim deductions for things like platform membership fees, availability fees, cleaning fees and car running expenses.

We can help you get your tax position right. Just give us a call on **03 9680 1000**.

Got a HELP debt? The impending changes to speed up your repayments

The Government has moved to put an end to 'eternal students' who constantly study and never earn an income and speed up the payment cycle for those with outstanding debt.

New lifetime caps on Higher Education Loan Program (HELP) debt will prevent people from constantly going to University without converting that study into a viable career.

From 1 January 2019, new loan limits come into force:

- $150,000 – for students undertaking medicine, dentistry and veterinary science courses (as defined in HESA). The new limit is more than the intended FEE-HELP limit for 2019 of $130,552.
- $104,440 – for other students.

The new lifetime limits only apply to new loans. Existing debt is not taken into account.

New CPI indexed repayment thresholds also come into force. From 1 July 2019, the level of income at which HELP debt is repaid reduces from the current threshold of $51,957 to $45,000. Plus, the maximum repayment rate that applies will increase to force higher income earners to pay back the debt sooner. Those on incomes of $131,989 plus, will need to pay back the debt at a rate of 10% per annum (the current limit is capped at 8% once income reaches $107,214).

And, if you think negatively geared rental properties or other investments can offset the repayment rate you face, think again. 'Repayment income' is taxable income plus any net investment losses, reportable fringe benefits, reportable super contributions and exempt foreign employment income (that is, repayment income is global. Any employment income you earn overseas is included in the repayment income definition).

MINIMUM 'REPAYMENT INCOME	REPAYMENT
Up to and including $44,999	0%
$45,000 - $51,956	1%
$51,957 - $55,073	2%
$55,074 - $58,378	2.5%
$58,379 - $61,881	3%
$61,882 - $65,594	3.5%
$65,595 - $69,529	4%
$69,530 - $73,701	4.5%
$73,702 - $78,123	5%
$78,124- $82,811	5.5%
$82,812 - $87,779	6%
$87,780 - $93,046	6.5%
$93,047 - $98,629	7%
$98,630 - $104,547	7.5%
$104,548 - $110,820	8%
$110,821 - $117,469	8.5%
$117,470 - $124,517	9%
$124,518 - $131,988	9.5%
$131,989 +	10%

New domestic violence leave entitlements come into force

A Fair Work Commission decision created a new entitlement for most Australian employees; unpaid family and domestic violence leave.

The Fair Work decision provides five days' unpaid leave per annum to all employees (including casuals) experiencing family and domestic violence. The leave will also be available in the event that an employee needs to do something to deal with the impact of the family and domestic violence such as attend court or access police services.

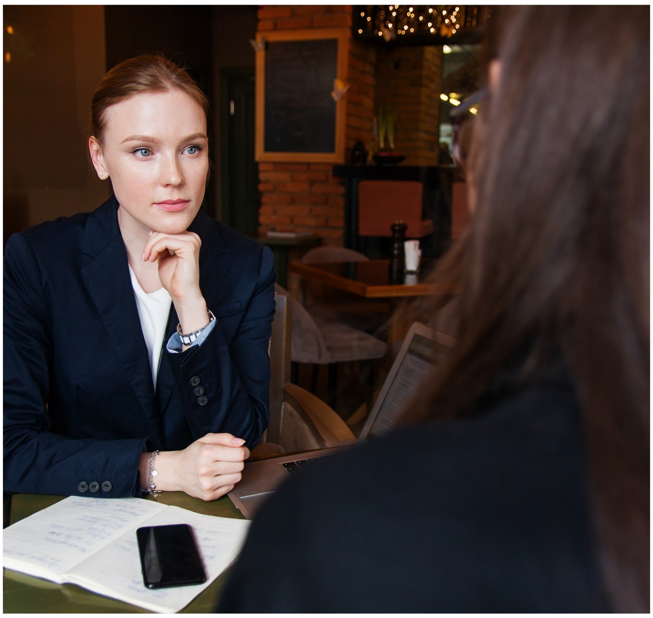
Applying from the first pay period from 1 August 2018, the entitlement covers all employees except some enterprise and State public sector award employees, and Award free employees. The leave does not accumulate from year to year and does not have to be taken all at once.

Employees taking the leave will need to let their employers know as soon as practicable and advise how long they intend to be off work. It's important that employers that have an employee facing domestic violence manage the issue sensitively and confidentially.

Employers can request evidence of the need for family and domestic violence leave such as documents issued by the police service, documents issued by a court, family violence support service documents, or a statutory declaration.

See the **Fair Work Ombudsman's website**, **Family & domestic violence leave** for more information.

Geraldton woman sentenced to 12 months for failing to lodge 91 tax returns



A 65-year-old Geraldton woman has been ordered to lodge her outstanding 91 returns and sentenced to a 12 month suspended sentence in prison for repeatedly failing to lodge Business Activity Statements (BAS) and income tax returns.

Mrs Ahearn's failure to lodge her BAS dates back to October 2008, with her unlodged income tax returns falling in the 2009, 2010 and 2011 financial years.

Today's sentencing follows years of warnings and notices from the Australian Taxation Office (ATO), as well as two previous court-imposed fines of $30,000 and $20,000 for non-lodgement.

Assistant Commissioner Peter Vujanic said the court's decision is a reminder of the seriousness of refusing to engage with the ATO.

"When business owners continually refuse to meet their tax obligations, they are gaining an unfair advantage over the majority of businesses who are honest and pay their fair share," Mr Vujanic said.

"The ATO works hard to maintain a level playing field for all taxpayers and today's court decision shows that no one is above the law. "Despite our repeated attempts to engage with Mrs Ahearn to resolve her outstanding tax returns, she has shown a complete disregard for her basic obligations as a member of the Australian community.

"While we're disappointed that we have not been able to resolve this matter outside of the court system, we hope that the sentence handed down today sends a message to the community that lodging your tax returns is not optional."
The ATO is committed to making it as easy as possible for all businesses to understand and meet their tax obligations and to assisting viable small businesses to thrive.

Small business people who are struggling to meet their tax obligations should contact the ATO as early as possible about any concerns they may be experiencing.

"Our key message to anyone who's having issues is to work with us to sort things out. Burying your head in the sand isn't helpful for anyone."

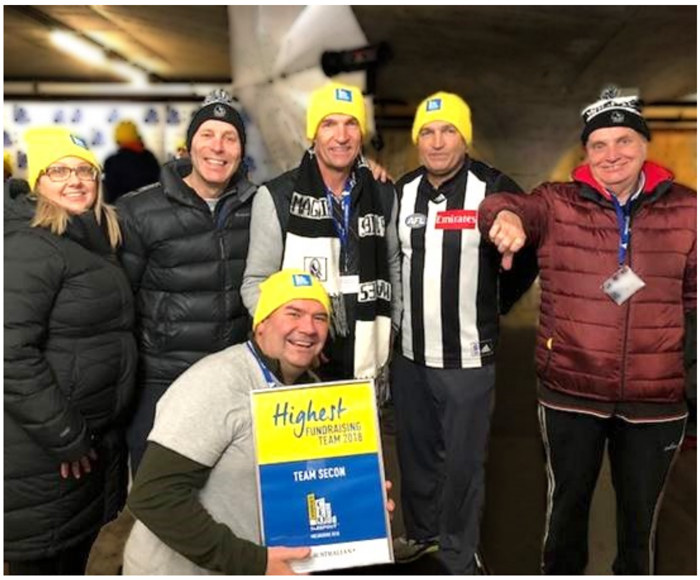
If a taxpayer is concerned that someone they know is deliberately avoiding tax, they can report it confidentially at **ato.gov.au/reportaconcern** or by calling **1800 060 062.**

2018 Vinnies CEO Sleepout

We were proud to support our client, Secon Freight Logistics in the recent 2018 St Vinnies CEO sleepout.

The Vinnies 2018 CEO Sleepout took place on the 28th of June 2018. Team Secon joined over 185 businesses and community leaders to see, up close, the home truths of poverty.

Experiencing Mother Nature's wrath, with temperatures around 4°C overnight, gave us, as promised, a no-frills experience. It was just a sample of what the homeless have to endure every night of the year. So far, Melbourne Vinnies CEO Sleepout participants have raised an incredible $811,000, achieving their target. Every dollar raised boosts the volunteer-run home visitation service, which provides essential basics and face-to-face support in times of crisis.



Western Region Business Club

At last month's Western Region Business Club we were delighted to have one of Australia's funniest comedians, Lawrence Mooney, as our guest speaker.

In Melbourne briefly, Lawrence took time out from his busy schedule to attend our networking event at Barkers Café at the Whitten Oval, home of the Bulldogs.

Lawrence proved again why his peers consider him to be the "funniest of the funniest", keeping everyone in stitches with his entertaining comments & insights.

The Western Region Business Club is designed to give businesses and professionals an opportunity to hear leaders from within the business, sport and the wider communities, and to also provide a forum for networking.

Register to receive future invites at **https://www.collinsco.com.au/western-region-business-club**.

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