

YEAR-END BREAK

Can you believe here we are at the close of another busy year? We thank you for your custom and look forward to continuing to be of service in the New Year ahead and beyond.

Once again, it is time to take a break, reset and refresh for 2022. On that note, our office will be closed during the following dates:

From 11am Wednesday 22nd December 2021

To 8.00am Monday 10th January 2022

We wish you and your loved-ones a happy, safe and joyous Christmas and a healthy and prosperous New Year.

Best wishes, Anh, Annette, Blaire, Dan, Gareth, Gavin, Jess, Julie, Karis, Kathryn, Marg, Michael B, Michael L, Pippa, Prateeksha, Rhys, Shirley, Tahlia and Tania.

SUPER IS NOW FOLLOWING NEW EMPLOYEES

The ATO is reminding employers that, as of 1 November 2021, there is an extra step they may need to take to comply with the choice of super fund rules.

If a new employee does not choose a super fund, most employers will need to request the employee's 'stapled super fund' details from the ATO to avoid penalties.

A stapled super fund is an existing super account which is linked, or 'stapled', to an individual employee so that it follows them as they change jobs.

When a new employee starts, employers need to:

- offer eligible employees a choice of super fund;
- if the new employee does not choose a super fund, the employer will need to request stapled super fund details using *Online services for business*; and
- pay super contributions into one of the following:
 - the super fund they choose;
 - the stapled super fund the ATO provides if they have not chosen a fund; or
 - the employer's default fund (or another fund that meets the choice of fund rules) if the employer cannot pay into the two above.

ATO SUPPORT FOR EMPLOYERS WITH EXPANSION OF STP

As part of the expansion of Single Touch Payroll (known as STP Phase 2), from 1 January 2022, employers will need to report additional payroll information in their STP reports including:

- **disaggregation of gross amounts** (including separate reporting of paid leave, allowances, overtime, directors' fees and salary sacrifice amounts);
- **employment and taxation conditions** (including information from the TFN declaration); and

- **income types** (for example, salary and wages, working holiday maker income, foreign employment income).

To support employers with the move to STP Phase 2 reporting, the ATO will take the following approach:

- Employers that can start Phase 2 reporting by their digital service provider's deferral date (if applicable), do not need to apply to the ATO for more time.
- If an employer's software will be ready for 1 January 2022 and they are able to start reporting before 1 March 2022, they do not need to apply to the ATO for more time (that is, an automatic extension applies).

The ATO has also advised that penalties will not be applied for genuine mistakes in the first year of Phase 2 reporting until 31 December 2022.

PREPARING FOR THE NEW DIRECTOR ID

As part of its Digital Business Plan, the Government announced the full implementation of the 'Modernising Business Registers' program.

This included recently enacted legislation introducing the new **director identification number** ('director ID') regime.

The director ID is a unique identifier that a director will need to apply for once and will keep forever.

The introduction of director IDs is intended to create a fairer business environment by helping prevent the use of false and fraudulent director identities, which *"will go a long way to better identifying and eliminating director involvement in unlawful activity"*.

*Editor: Note that **all** directors will need to apply for a director ID, including directors of corporate trustees of self-managed super funds ('SMSFs') and of family trusts.*

Individuals will be able to apply for a director ID **from 1 November 2021** on the new Australian Business Registry Services ('ABRS') website (at abrs.gov.au) and will need to log in using the myGovID app (set to a 'Standard' or 'Strong' identity strength).

When an individual must apply for a director ID depends on the date they became a director. For directors under the *Corporations Act*:

- who became a director **on or before 31 October 2021**, they must apply for a director ID by 30 November 2022;
- who become a director **between 1 November 2021 and 4 April 2022**, they must apply for a director ID within 28 days of appointment; and
- who become a director **from 5 April 2022**, they must apply for a director ID **before** their appointment.

Individuals will need to apply for their director ID themselves to verify their identity (i.e., no one can apply for it on their behalf, including agents).

PERMANENT CHANGES TO AGM'S AND ELECTRONIC COMMUNICATIONS

The Government has introduced into Parliament a Bill to **permanently** allow companies to use technology to meet their regulatory requirements, and ensure that companies can continue to meet their obligations amid the uncertainty of the COVID-19 pandemic.

Editor: These reforms build on the recently renewed temporary relief which will remain in place until 31 March 2022.

Specifically, the new permanent reforms will:

- ensure that **meetings** can be held physically, as a hybrid, or (if expressly permitted by the entity's constitution) virtually, provided that members, as a whole, are given reasonable opportunity to participate in the meeting;
- ensure that companies (and registered schemes) can meet their obligations to **send documents** in hardcopy or softcopy, and give members the flexibility to receive documents in their preferred format; and
- allow documents, **including deeds**, to be validly executed in technology neutral and flexible manners, including by company agents.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek further advice to independently verify their interpretation and the information's applicability to their particular circumstance.