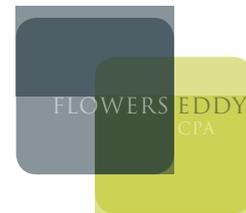


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## Practice Update

Please read this update  
and contact this office  
if you have any queries

SEPTEMBER 2012

### Small business audits on the way

The ATO advised that it is upping the ante in relation to its field audits of small to medium enterprises (i.e., businesses) – usually referred to as 'SMEs'.

For the first 12 months, only limited offices and teams would be involved, and after that SME field audits would become part of "business as usual".

The audits are scheduled to start in the first/second quarter of the 2012/13 financial year with the initial focus being in Melbourne and Brisbane.

#### Audit process

Phone contact would be made with a business and then a letter would be issued providing two weeks' notice.

The audits themselves would then be conducted at the business premises and would take from one to two weeks to complete.

The Tax Office said that they will start with deductions and then move to other areas of interest. However, every audit will start with a specific purpose.

*Editor: It is our strong recommendation that any contact by the ATO be referred to us. Let our experience be your shield. Also if you do not have Tax Audit Insurance you may wish to reconsider its value – **Please call if you would like to discuss this option.***

### ATO tackles 'employee or contractor' question

The Tax Commissioner has announced the release of the ATO's new 'Employee or Contractor' homepage, which has been developed to help address areas of confusion and "highlight common reasons businesses get the employee or contractor decision wrong".

The Commissioner stated that the "Employee or Contractor" homepage has all the information businesses need in one place to help them determine if their workers are employees or contractors, including:

- the basics – things every business needs to know;
- common reasons businesses get the decision wrong;

- industry specific information;
- an Employee/Contractor decision tool which will guide businesses in making their decisions; and
- a summary of the obligations businesses need to meet for their employee or contractor.

*Editor: We expect the ATO to expend more effort in this area, which may have consequences for both the Contractor and the Sub Contractor. You may wish to visit the ATO's website and if there are any queries please contact our office.*

### ATO discretion to retain refunds – recent changes

The tax law has recently been amended to provide the ATO with the discretion to retain refunds while they undertake integrity checks on claims.

The changes are designed to "support those doing the right thing and strengthen our ability to identify possible fraudulent activity", although certain threshold tests must be met before the discretion can be exercised.

The amendment applies to:

- refunds claimed on a Business activity statement (BAS); and
- refunds claimed by full self-assessment taxpayers for income tax purposes (primarily companies and super funds);

but does not apply to individuals for income tax purposes - normal processes for them still apply.

The amendments set out the steps the ATO needs to take, including notifying the taxpayer when a refund will be retained, and the relevant timeframes.

*Editor: The new legislation allows the ATO to retain refunds for an extended period of time. We suggest documents generating refunds are lodged early with the ATO and don't spend the money until it is received!*

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## New building industry taxable payments reporting system

Businesses in the building and construction industry now need to report to the ATO (from the 2012/13 income year) the total payments they make each year to each contractor for building and construction services.

The aim of the system is to improve voluntary compliance with tax obligations by those contractors who are currently not doing the right thing.

Businesses will only need to report if all of the following apply:

- they are primarily in the building and construction industry;
- they make payments to contractors for building and construction services; and
- they have an Australian business number (ABN).

Businesses are only required to report the total of the payments made (i.e., on a cash basis) to each contractor during the year, not the individual amounts.

Where the invoice from the contractor includes both labour and materials, whether itemised or combined, it is the total amount of the payment that needs to be reported.

The first annual report is due by 21 July 2013 for payments made in the 2012/13 financial year, although if businesses lodge their BASs quarterly, for this first year they may lodge by 28 July 2013.

*Editor: Please contact us if you think these new reporting rules may affect you.*

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## Occupations in the spotlight this tax time

The ATO has stated that, this year, they will be paying close attention to deductions claimed by people employed as:

- plumbers;
- information technology managers; and
- defence force non-commissioned officers.

They have found people in these groups are at higher risk of making mistakes with their work-related expenses due to the type of deductions they are entitled to claim.

They will write to around 90,000 people employed in these occupations about assistance that the ATO can provide (including new guides developed specifically for these occupations to help people maintain accurate records throughout the year).

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## eBay data-matching project

The Federal Department of Human Services has requested and collected from eBay Inc. the name, address and date of birth of sellers with sales greater than \$20,000 in the 2010/11 financial year.

This program has been named the eBay Project and enables Human Services (e.g., Centrelink) to identify social welfare recipients who may have not disclosed income and assets generated as a result of online trading.

Records exceeding 5,000 individuals will be electronically matched with specific Human Services data holdings, to identify non-compliance with income or other reporting obligations.

*Editor: Although this data matching project has been announced by the Department of Human Services, it's not hard to imagine the ATO also being interested in this type of information to establish whether sellers on eBay are meeting their tax obligations...*

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## New Changes affecting SMSFs

The Government has recently amended the SIS Regulations to impose further requirements on self-managed superannuation funds (SMSFs) from the 2012/13 income year.

The new regulations require that:

- trustees of SMSFs must consider insurance for their members as part of the fund's investment strategy;
  - money and other assets of a SMSF is to be kept separate from those held by a trustee personally (and by some employers); and
  - SMSF assets are to be valued at market value for reporting purposes.
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## ATO cash sales benchmarks permanently withdrawn

*Editor: Some of you will be aware of the ATO's benchmarking program, whereby they use information provided to them to work out what is 'normal' for a particular industry. They publish these benchmarks so that taxpayers can find out if they are outside the norms and, if so, get the right records together to explain why this is the case.*

It has been reported that the ATO has decided to discontinue its 'cash sales' benchmarks as it was unable to obtain consistent data that allows for correct calculation of cash sales benchmarks.

However the ATO said the withdrawal of the cash sales benchmarks did not impact its **performance benchmarks and input benchmarks**, their use is validity, so those benchmarks will still be used.

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 professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.