



# News Bulletin

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## TAX DEVELOPMENTS UPDATE



### ATO Focus On Tax Scheme Promoters

The ATO has released information in regard to the 2021 activities of the Tax Avoidance Taskforce.

The information release states that the Tax Avoidance Taskforce:

- generated over \$3 billion in tax during the 2021 year from listed and private groups, multinationals and wealthy individuals involved in tax schemes.
- will continue its work into the 30 June 2022 year, giving particular focus:
  - on advisors who promote tax avoidance schemes, and
  - on taxpayers who exploit the use of trust structures.

The ATO noted that the Taskforce's ability to detect tax risk and target engagement will be enhanced by continued improvements to technology.

### Extension of the Taxable Payments Reporting System

Acting on a recommendation of the Black Economy Taskforce report, the Government has introduced a Bill on 25 August to extend the Taxable Payments Reporting System (TPRS) to electronic platforms that facilitate supplies from an entity to another entity.

The Taxable Payments Reporting System is a well-established weapon in the ATO's armoury. It is a data matching framework that requires entities to report to the ATO information about transactions that they are a party to that may have tax consequences.

Currently, Entities in the following service industries are required to report to the ATO on transactions that involve engaging other entities to undertake their services for them:

- cleaning;
- courier and road freight;
- security, investigation or surveillance; and
- information technology

The information provided to the ATO under the TPRS helps identify entities that may not be meeting their tax obligations.

The new reporting regime will apply to an entity that is the operator of an electronic distribution platform and will cover platforms operating over the internet, including through applications, websites, or other software.

Transactions will need to be reported to the ATO if they involve the provision of consideration (within the GST Act) by a buyer to a seller for a supply made through the platform by the seller.

It appears that the immediate target of the ATO will be ride sharing services such as Uber, short-term accommodation such as AirBnB and other similar services.

Entities with an ABN that supply services in these industries are required to report details of transactions whereby they provide consideration to another entity to perform the same service.

### COVID-19 Government Support

As you would be aware, a number of additional Government funding support measures have been announced in most States & Territories for businesses and commercial tenants to help them through the COVID-19 pandemic.

If you require assistance or information in relation to the announced government support measures, please do not hesitate to contact our office.

## IMPORTANCE OF MANAGEMENT INFORMATION SYSTEMS

With Australia's two largest states and the ACT in lockdown, and as the Delta strain of COVID-19 takes its toll, most businesses are impacted, and many are struggling to survive.

Now more than ever, a business needs good management to survive. Good management relies in large part on the quality of information available to it to make the correct decisions. Quality in this context embraces timeliness, relevance and accuracy.

An accounting system generally only provides information from financial transactions. In essence, it summarises the financial consequences of the variety of processes that are involved in doing business.

It is an excellent system for monitoring how well or how poorly a business is performing on the whole; however, *because it focuses on the outcome rather than the process, it may not provide information in sufficient enough detail to monitor the performance of the activities critical to the success of the business.*

In order that critical financial and non-financial measures of activity outcomes can be effectively managed, a business needs to develop a set of Key Performance Indicators (KPI's).

Key Performance Indicators are critical financial and non-financial measures of activity outcomes that indicate, on their own, or in association with other KPIs how a business or process within a business is performing. KPI metrics take various forms such as time, volume, currency or percentages.

KPI's are not merely scorecards of performance, but should also identify existing or emerging problems.

In most businesses there are basically 4 Organizational levels, requiring specific types of KPI's:

**1. Enterprise Level-** here the focus is on owner returns. Economic profit is a KPI that tells management whether the business has created wealth for its owners. KPI's may include:

- Return on assets/equity
- Level of Profit
- Cash Flow

**2. Business Level** - The KPIs at the Business level will include:

- Unit sales volume
- Product line profitability analysis
- Customer related indices as measured by such things as
  - Product returns
  - Re-ordering frequency
  - Average transaction value
  - Items per transaction
  - New customer referrals
  - Customer complaints per transaction

**3. Operations Level** - KPIs at the Operations level focus on specific process performance. Examples include:

- Process cycle time
- Value-to-cost ratio
- Materials wastage
- Labour Efficiency
- Back orders
- Process downtime as a % of uptime
- Warranty servicing
- Time to market

In summary, it is important that management:

- identifies the key success factors that affect the success or otherwise of the business,
- develop a set of Key Performance Indicators (KPI's) that reveal the success or otherwise of the business key activities,
- develop a system to regularly monitor the KPI's.

## CAN AN EMPLOYER REQUIRE AN EMPLOYEE TO BE VACCINATED?

For most employers, probably not. The Fair Work Ombudsman, however, states that there are *"limited circumstances where an employer may require their employees to be vaccinated."* These include the following:

- The State or Territory Government enacts a public health order requiring the vaccination of workers (for example, in identified high-risk workplaces or industries).
- An agreement or contract requires it - some employment agreements already require employees to be vaccinated and where these clauses exist, they will need to be reviewed to determine if they also apply to the COVID-19 vaccine.

- A lawful and reasonable direction – employers are able to issue a direction for employees to be vaccinated but whether that direction is lawful and reasonable will be assessed on a case-by-case basis. It's more likely a direction will be "reasonable" where, for example, there is an elevated risk such as border control and quarantine facilities, or where employees have contact with vulnerable people.

If an employee refuses to be vaccinated on non-medical grounds in a workplace that requires it, standard protocols apply. That is, the employer will need to follow through with disciplinary action - there are no special provisions that enable suspensions or stand downs for employees who refuse to be vaccinated against COVID-19.

## **"WAGE THEFT" IS NOW A CRIMINAL OFFENCE IN VICTORIA**

As of 1 July 2021, it is now a criminal offence for Victorian employers to deliberately underpay employees or dishonestly withhold their entitlements. Victoria and Queensland are the only States to have such legislation, but it is expected that other states may also follow suit.

Employee entitlements include:

- Wages or Salary
- Allowances & gratuities, incl. Meal Breaks
- Annual Leave & Long Service Leave

Under the "Wage Theft" legislation, it is a criminal offence for an employer in Victoria to:

- Deliberately underpay employees
- Dishonestly withhold wages, Superannuation or other employee entitlements
- Falsify employee entitlement records to gain a financial advantage
- Avoid keeping employee entitlement records to gain a financial advantage.

There are serious penalties for breaches of the "Wage Theft" legislation, including fines of up to \$218,088 or up to 10 years' jail for individuals and a fine of up to \$1,090,440 for companies.

It is important to note that these new laws only apply if the employer actions are deliberate or dishonest. Honest mistakes made by employers who exercise due diligence in paying wages and entitlement would not be considered to be "wage theft".

There are no new record-keeping obligations on employers. It is only a crime to deliberately falsify these records or fail to keep them to gain a

financial advantage or prevent the exposure of a financial advantage.

The wage theft laws only apply to alleged wage theft offences that occurred on or after 1 July 2021. However, it should be noted that entitlements accrued before 1 July 2021 will be captured if it is found that the employer has dishonestly withheld those entitlements after 1 July 2021.

## **REMOVAL OF SPECIAL PURPOSE FINANCIAL STATEMENTS**

Currently, most companies prepare Special Purpose Financial Statements (SPFS) solely for their use, and the application of all Australian Accounting Standards is not required.

However, amendments to the Australian Accounting Standards will remove the ability for some entities to prepare SPFS for 30 June 2022 year ends (for June balancing entities). Instead, those entities will be required to prepare General Purpose Financial Reports which require the application of all Australian Accounting Standards, making the preparation of Financial Statements far more complicated and costly.

Examples of entities reporting under the Corporations Act 2001 that will no longer be able to prepare SPFS include:

- Large proprietary companies
- Unlisted Public Companies
- Small proprietary companies:
  - That are controlled by a foreign company or have crowd sourcing funding
  - Their constitution requires them to prepare financial statements that comply with "Australian Accounting Standards", but only where that document is created or amended on or after 1 July, 2021.

### **The takeaway:**

If you do not want your company to be required to prepare General Purpose Financial Reports,

- Do not amend your constituting documents or other non-legislative documents on or after 1 July 2021 without first seeking advice
- Ensure that the constituting documents or other non-legislative documents entered after 1 July 2021 do not refer to "Australian Accounting Standards".

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