

# GIBSON & PARTNERS

## CHARTERED ACCOUNTANTS

### Welcome to Gibson & Partners' Newsletter July 2025

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#### Get it right this tax time: don't lodge your return too early

It might seem like a good idea to lodge your tax return as soon as the financial year ends – with costs of living rising you might be hoping for a refund, or you might just want to tick it off your to-do list for another 12 months. But the ATO has warned that early July lodgers are twice as likely to make mistakes on their returns, and recommends that tax returns be submitted later in July.

In 2024, over 140,000 people who lodged in the first two weeks of July had to lodge amendments, or had the ATO investigate and amend their returns to fix inaccuracies like income that hadn't been declared properly.

Lodging towards the end of July allows time for information from employers, banks, health funds and government agencies to be automatically pre-filled in your tax return if you lodge your own return via myTax or use a registered tax agent. While some pre-filled data's available from 1 July, most usually finalised by the end of the month. The ATO notes that early lodgers often make mistakes like not including interest from banks, dividend income, government agency income and health insurance details.

Take your time to properly prepare for lodging your returns while you wait for the relevant information to pre-fill, by:

- checking contact and bank details are correct, as updating these after lodging a return can cause delays;
- gathering all necessary records, including receipts, diaries and private health insurance details; and
- reviewing the ATO's occupation guides to make sure you claim what you're entitled to.

You should also check that your income statement from your employer/s (covering your year-to-date salary and wages, PAYG withholding tax and employer super contributions) has been marked "tax ready".

Once it's available, check that all the pre-filled information is complete and correct. Note that you can't delete or remove pre-filled government benefit data for Allowance or Pension payments (eg Jobseeker, Age Pension, Disability Support Pension). If you find errors in that information, contact the information provider so they can send corrections to the ATO.

Whether you lodge early in July or wait until later to ensure that you have all of your pre-filled data, the ATO understands that mistakes can sometimes happen. If you realise you've made a mistake after lodging your tax return, you can fix errors or omissions once the initial lodgement has been processed by going through the ATO online amendment process (accessible through myGov) or by speaking with your registered tax agent.

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#### Regulations have changed for buy now pay later services

If you're one of the millions of Australians who use buy now pay later (BNPL) services, important changes are now in effect that will give you stronger consumer protections. Here's what you need to know about the new law and regulations that apply from 10 June 2025.

BNPL services are now being regulated more like traditional credit products such as credit cards. Previously, BNPL services weren't regulated under the National Consumer Credit Act, leaving a gap in consumer protection. But now, all BNPL providers need to hold an Australian credit licence and comply with consumer protection requirements.

This means your BNPL provider needs to:

- hold a credit licence (or have applied for one by 10 June 2025);
- be a member of the Australian Financial Complaints Authority (AFCA);
- follow responsible lending practices; and
- meet other consumer protection requirements.

These changes are designed to protect you while maintaining the benefits of BNPL services.

The new framework recognises that BNPL services are generally lower-risk than traditional credit products. Most BNPL arrangements will be regulated as “low cost credit contracts”, with modified requirements that balance consumer protection with the unique features of BNPL services.

Providers must meet responsible lending obligations when agreeing to a BNPL contract or credit limit increase for you, which generally includes seeking and verifying certain information about your financial situation and assessing whether their offering's unsuitable based on that information. You can ask to see the assessment your provider makes about your credit contract or limit increase; they must provide you with a free, written copy on request.

You can verify if your BNPL provider is properly licensed using the Australian Securities and Investments Commission's (ASIC's) Professional Registers Search.

While BNPL services offer convenient payment options and support thousands of local jobs, these new regulations are designed to help prevent debt spirals and ensure you have proper protections when using these popular payment methods.

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## **When someone dies: the tax to-do list**

If someone close to you dies and you're the one responsible for taking over their tax affairs, there are a number of steps you need to take to advise the ATO of their passing.

This starts with establishing your identity with the ATO as the deceased's representative, and formally notifying the ATO of the death, with a death certificate of the deceased or a grant of probate or letters of administration.

To have full authority to manage the tax issues of someone who has died, you'll need to be their authorised legal personal representative (LPR). A person's LPR is usually the executor named in their will, or if no executor has been named, a court-appointed administrator (this can be the person's next of kin).

To be recognised as an LPR for tax purposes, you'll need a supreme court (in your state) to recognise that the deceased's will is legal, allowing you as the executor to represent the deceased's estate and distribute their assets according to the will.

Where there's no will, a grant of letters of administration are issued to the person (this is often the next of kin) to manage the estate, and they are appointed as the administrator of the estate.

You will need to be aware of whether the deceased person carried on a business and, if they did, you'll need to seek specialised legal or tax advice.

You also may need to lodge the deceased's final tax return, known as the “date of death” tax return, and check if any other years' tax returns are outstanding and arrange payment for those, with help from the ATO to access the deceased's person's tax information.

If the estate of the deceased receives any income from assets such as rental property or shares, and/or is due to claim any tax refund or franking credits that are owed, the estate is treated as a trust for tax purposes, and you will need to lodge a trust tax return.

You need to ensure that all tax liabilities have been paid, that credits owing to the deceased person and their estate have been received, and that all tax registrations (such as ABNs and registration for GST) have been cancelled.

After all of these requirements are met, you will then be able to distribute the assets of the estate to the beneficiaries following probate.

It's important to be aware that finalising the administration of an estate can take six to 12 months, or sometimes longer.

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## **Accrued leave: take a holiday or take the payment?**

If retirement is on the horizon and you have a large amount of accrued leave, you may well be contemplating whether to take a big holiday now, or just take the lump sum payment when you retire. There are some tax, super and possibly social security implications you should consider.

### **Superannuation**

You receive superannuation guarantee contributions from your employer on the pay you receive while you're on holidays. However, no super guarantee is payable on payments of lump sum leave entitlements upon your retirement. You could increase your retirement savings by a nice little bonus by taking those holidays before you retire!

Taking a holiday now could also extend the time you can contribute to super.

If you're aged 67 to 75 and are looking to contribute one last chunk of money to super after you retire, be aware of the "work test" that applies to claim a tax deduction for those super contributions. If you haven't worked for 40 hours in a 30-day consecutive period in the financial year when you make the contribution, you don't meet the work test that is required to claim a tax deduction for your personal super contributions.

However, there's a once-off exception for people with less than \$300,000 in super, which allows them to use the "work test exemption". You can still claim tax deductions for your personal super contributions if you worked for 40 hours in a 30-day consecutive period in the financial year before the financial year of your contribution. This is designed for newly retired people to extend their eligibility for one more year.

By taking your holidays now (instead of taking your accrued leave as a lump sum payment), and clocking up 40 work hours in a month in the next financial year, you may be able to extend the time you have to contribute to super.

A lump sum payment of accrued leave is taxed in the year you receive it. When deferring retirement into a new financial year by taking leave, you may increase the cap for concessional tax treatment of employment termination payments like golden handshakes.

Additionally, you may have a lower marginal tax bracket in the new financial year, if you don't have other taxable income after retiring.

If you're looking to claim the Age Pension when you retire, a lump sum received on retirement won't count towards the Centrelink income test, but it will be an assessable asset, depending on how you invest it. So taking that accrued leave as a lump sum could push some people over the assets limit to receive the Age Pension.

On the other hand, your pay while on holidays won't be counted in determining whether you qualify for Age Pension after you retire.

In summary, taking leave can provide more super contributions, tax flexibility and additional leave accrual, while taking the entitlement as a lump sum at retirement may allow earlier access to social security and, in some cases, favourable tax treatment.

Speaking with your tax adviser about your personal situation, well in advance of retirement, can pay off in so many ways.

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## What happens when SMSF trustees breach super laws?

Setting up your own self managed super fund (SMSF) can have its benefits, but it also comes with significant obligations.

These include appointing trust members, trustees and a registered super fund auditor; valuing assets each year; paying levies and taxes; ensuring audits are conducted and minimum payments are made annually; and making lawful investments.

There's a lot to keep on top of. If you're a trustee and fail to comply with certain requirements under the super laws, your auditor will report the breach to the ATO within 28 days. This type of breach is known as a contravention.

Once you become aware of your contravention, you're required to correct it as soon as possible, with the help of your auditor or your SMSF adviser if needed.

If the contravention continues to be unrectified, you can use the ATO's "SMSF voluntary disclosure service", and the regulator will take this into account in their final deliberations. Voluntary disclosure is a formal process involving completion of a detailed form and providing supporting documentation.

As the penalties can be quite serious, you may decide to try to mitigate the outcome by initiating an undertaking to remedy the contravention. You'll need to document a timeframe and a breakdown of your proposed remedial action, and include strategies to ensure the contravention doesn't recur.

There is a range of penalties the ATO can apply to a contravention depending on its severity, including:

- issuing a trustee or a director of a corporate trustee with a direction to rectify – this can lead to disqualification and/or the removal of the fund's complying status;
- applying administrative penalties – fines of thousands of dollars can be imposed on trustees, which can't be paid from the fund;
- where a trustee illegally accesses their super, including this accessed amount in their assessable income;
- issuing the SMSF with a notice of non-compliance, with severe tax consequences;
- disqualifying an individual from acting as a trustee or director of a corporate trustee, preventing them from becoming a trustee again;
- freezing the SMSF's assets; and
- imposing civil and criminal penalties through the courts.

Winding up your SMSF in the event of a contravention will not stop the ATO's compliance action.

When the ATO considers your SMSF contravention and the applicable penalties, it will take into account whether you intended to breach the law, how you communicated the contravention to the ATO and if you tried to repair it.

If it's likely you have contravened a super law in your SMSF, the first step is to seek professional advice to ensure you keep your integrity as a trustee and the integrity of your fund intact.