



## INTRODUCTION

We're in the midst of our busy period at the moment with our heads down and bums up getting you the best tax refund possible.

We'd like to take the opportunity to remind our clients that our standard processing times are:

- Salary & wage earners: 1 week
- Businesses: 6 weeks
- Super funds: 8 weeks

We've experienced a greater work load this year than previously with more clients getting their tax info to us earlier than any other year. While fantastic, it also means that it takes us longer to get some jobs done.

As always we do our best to prioritise refunds and urgent jobs (such as business sales), and work around due dates (such as BAS's). These can effect the time it takes us to get to your job on the odd occasion, so please be patient.

## RECENT ATO ACTIVITY

### Benchmark Audits

The concept of a random audit no longer exists. The ATO get that much data these days it can narrow its focus based on this data.

One way of choosing audits is to use what they call "benchmarking". This involves comparing you to other people / business in similar situations and focusing on those that are outside of the norm.

For example, if you run a coffee shop the ATO expect that your cost of sales is between 32% and 42%. If yours is actually 50% (legitimately or not) then the risk of an ATO visit increases.

When the ATO come to visit you for benchmarking, they don't just look at that in isolation, they will take the opportunity to look at your GST compliance, superannuation, PAYG Withholding, and anything else they can find.

You may be outside of the benchmark for a legitimate reason (or the benchmark the ATO are using may not be relevant), but even if you provide a legitimate reason for being outside the benchmark, they will still continue with the full audit.



It's therefore best to avoid ATO scrutiny at all costs.

Generally though, only the extremes are scrutinised, so don't stress if your coffee shop is a little bit different to other coffee shops.

[Click here](#) to view the ATO benchmarks.

### Work Related Expenses Crackdown

The ATO are cracking down on work related expense claims, and the below recent cases highlight this.

#### **Car Expenses – Transporting Tools**

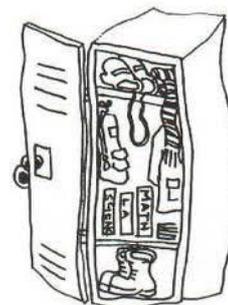
A car mechanic claimed \$3850 in car expenses (the maximum without a log book) on the basis that they carried bulky tools to and from work (otherwise travelling between home and work is not deductible).

The ATO contacted the employer about this, who said that all tools are provided, however the employee chooses to use his own tools.

The deduction was disallowed because it was therefore not necessary for the employee to transport tools, and the taxpayer had to repay over \$2000 to the ATO.

#### **Car Expenses – Transporting Tools (2)**

A sheet metal worker was denied \$14,000 of deductions for transporting tools because storage space was provided by the employer, even though there were doubts over its security.



The employee had not raised his concerns about the security of the storage space with his employer, so the employer was none the wiser.

Because of this, the court viewed the decision to take tools home as a personal choice and not a requirement of the workers job. As such, the travel is not tax deductible.

#### **Phone Expenses**

A labourer claimed \$1200 in mobile phone expenses for "keeping in touch with co-workers". The ATO called the employer who told them that the worker was not required to use their mobile as part of their duties.

The ATO then asked the labourer to substantiate their phone expenses, however there were no records of phone calls made to "co-workers".



As a result, the ATO disallowed the majority of the deduction (they allowed \$50, accepting that some use was likely).

### False Claims

An insurance broker claimed \$65,000 of expenses in his return, and (some would say predictably) received attention from the ATO.

Upon investigation, the ATO found that many of the deductions were either completely false, had no documentation backing them up, or were not allowable deductions.

As a result the insurance broker has to pay the ATO over \$75000 in taxes, interest & penalties.

### Early Engagement Letters

In this electronic age the ATO get notifications of all sorts of transactions – property sales, assets insurance, share dividends, eBay transactions, etc – and this enables them to data-match these against what you put in your tax return.

Now the ATO are getting on the front-foot and sending these early engagement letters to people that have undertaken large transactions with potentially significant tax consequences.

It is the ATO's attempt to get an understanding of a transaction before it is reported on a tax return. It is not a notification of an audit, nor any sort of warning that an audit is forthcoming.

It's simply the ATO reviewing the transaction now instead of 2 years after it is lodged which commonly happens now.

## POST-ELECTION UPDATES

We're all aware that Turnbull's Coalition scraped through the election, but what does this mean for a number of policies?



### Increase 32.5% Bracket to \$87,000

Labor stated during the election campaign that while it disagreed with the policy to increase the threshold from \$80,000 to \$87,000, they would accept it.

This has now passed through Parliament and is Law.

This had a start date of July 2016, but will practically apply from 1 October when the ATO releases new tax tables.

You can access the new tax tables from the ATO website at [www.ato.gov.au/taxtables](http://www.ato.gov.au/taxtables), or from your payroll software provider.

### Superannuation Changes



The proposed lifetime \$500,000 limit to non-concessional super contributions (i.e. after-tax contributions to super) will be replaced with an annual cap.

Currently non-concessional contributions are capped at \$180,000 per year. This new proposal will reduce it to:

- \$100,000 per year; and
- Only if a person's superannuation balance is below \$1.6mil.

Also changing is the proposal to allow persons over 65 and not working to make non-concessional contributions. This has been scrapped.

Other changes (\$1.6mil tax-free pension limit, deductibility of super contributions, etc) all seems to be going ahead with support from Labor.

### Changes to the Company Tax Rate

You'd be forgiven for believing that Labor opposed the tax cut for businesses – however they only oppose it for "big business". In fact the proposal is that cuts are staggered with small businesses getting the cuts first and big businesses not getting any cuts for years.

Labor (and the Greens) will object to the entire package, but in all likelihood a compromise will be reached to ensure small (and probably medium) businesses don't miss out because of a disagreement over big business.

## CLIENT PORTAL & DIGITAL SIGNING

Recent additions to our services include client portals and digital signatures which enables the process of signing your tax return to be fully electronic. No paper, no waiting for AusPost.

We currently have over 200 client portals setup and being used, with all reports so far highlighting the convenience and time savings it offers.





Instructions, details, and terms can all be found on the Client Portal page of our website.

[www.mcaaccountants.com.au/portal](http://www.mcaaccountants.com.au/portal)

In the coming months we will be increasing the portal service to include other correspondence from MCA, including forwarding ATO letters and notices.

It is our preference to use the portal and digital signing where possible, however we fully understand that it's not for everyone and we are happy to continue posting tax returns, letters, notices, etc to anyone that wishes.

Due to the Privacy Act, we are unable to email tax returns and other sensitive information - if you want to receive documents electronically, it needs to be via our client portal.



## FACEBOOK



Facebook won't be replacing our website or emails, but will be another method for us to get information across to our clients in a timely manner.

[www.facebook.com/mcaaccountants](http://www.facebook.com/mcaaccountants)

## SUPERANNUATION REPORTING

We've raised it in a number of previous newsletters and email-outs, but given the ATO are asking tax agents to check their client's – we thought we'd do the right thing.

As of 1 July, EVERY employer is required to report their superannuation contributions in the approved format each quarter. The ATO call this "SuperStream".

Employers are required to use a third party service to complete this reporting. If you use up to date accounting or payroll software, chances are it's all taken care of there.

One thing that is required is an "Electronic Service Address" ("ESA"). All retail / industry funds will have theirs organised and should be available on their website.

Self Managed Superannuation Funds are also required to have an ESA, which means registering with one of the ESA providers available at a small cost (approx. \$50 per year).

## What if a SMSF doesn't have an ESA?

If the SMSF fails to give their ESA to their employer, the employer must:

- Contact the employee and "remind" them that they are required to provide an ESA;
- Provide the employee with a superannuation "choice form"; and
- Should you still not receive the information within 28 days, you must make payment of your employees superannuation to your default fund – even if it against the wishes of your employee.

Basically not having the info doesn't absolve you of having to make payment.

## SMSF PROCESSING

For a similar price to what you are paying now, you can have your SMSF processed regularly by our office with quarterly reports on the performance of your fund.

At the same time we will monitor your fund's compliance with the relevant rules and help prevent you incurring penalties for breaching these rules.

Something as small as not signing a "Trustee Declaration" upon becoming a member can cost you \$1,700 - so adhering to the rules is vitally important.

If you are interested in getting the above benefits for essentially no extra cost, give our office a call, or click [here](#) for more information and [here](#) for our fixed fee SMSF brochure.

*Note: A SMSF Electronic Service Address (ESA) is included with our package at no extra cost.*

## SMSF REIMBURSEMENTS

We sometimes get asked (and more often it simply occurs without our intervention) whether a Self Managed Superannuation Fund can reimburse a trustee or member for expenses they personally paid.

It's a simple question that unfortunately has a complicated answer due to the complex rules around SMSF's.



## SMSF Rules That Are Of Concern

There are 5 SMSF rules that can potentially be broken by reimbursing the trustees / members.



## Remuneration of Trustees

A SMSF cannot remunerate (pay) a trustee for any duties or services that he or she performs unless it is for services that the trustee ordinarily provides to the public.

*For example, an accountant can charge his or her SMSF accounting fees, however average Joe cannot.*

The question arises as to whether a reimbursement is classed as remunerating a trustee or not.

Generally where a pure reimbursement occurs for the costs of a service or product proved by a third party, there are no "duties or services" provided by the trustee, so it would not come under this rule.



If however the trustee charged a travel fee, an incidentals allowance, or some other fee to go with the reimbursement – that would be a problem and classed as remuneration.

## Financial Assistance to Members

A SMSF is prevented from giving financial assistance to members (or related parties).

The general application of this rule is to prevent the SMSF loaning money to a member (or as we get asked more than we'd like – to a business being run by a member).

According to the ATO's SMSF ruling SMSFR 2008/1, financial assistance includes both:

- *acquiring services in excess of what the SMSF requires from a member or relative of a member; and*
- *paying an inflated price for services acquired from a member or relative of a member*

This indicates that if the item being reimbursed is a genuine expense of the SMSF, then it shouldn't be a problem.

Ensure however that only the amount of the expense is reimbursed, and that no interest or extra is paid – because that would be a breach of this rule.

## Separation of Assets

A SMSF must keep its assets (and general business) separate to those assets of everyone else.

This rule is mainly to prevent the SMSF paying personal expenses or allowing the members to use assets of the SMSF, but applies in a much larger sense in reality.

By paying expenses from an account other than the SMSF's, the SMSF is essentially operating from a bank account that it doesn't own – and therefore it isn't keeping its affairs separate to those of everyone else.

The ATO will accept that some expenses cannot be paid by the SMSF directly (for example where payment is required to be made by credit card) – and will accept these transactions.

The ATO also accepts that sometimes it is logistically necessary for a member or trustee to pay an expense first, then seek reimbursement (for example if it is an overdue bill and payment needs to be made immediately, or possibly if it's a spur of the moment purchase and the SMSF's cheque book isn't in the car) – again, the ATO will accept these transactions.

What will breach this rules however is if the members / trustees are paying the expenses out of mere convenience.

## Borrowings

A SMSF generally cannot borrow money.

There are a few exceptions, none of which apply to a reimbursement. So the question is whether the obligation to reimburse the trustee constitutes a borrowing or not.

According to the ATO's SMSF ruling SMSFR 2009/2, the liability for reimbursement will not constitute a borrowing where

*"...arrangements under which expenses are paid on behalf of the SMSF trustee by an agent or any other person where reimbursement is immediately sought from and made by the SMSF..."*

So if the reimbursement is immediate (a couple of days) the ATO accept it is not a borrowing, other than that and you have basically been given extended payment terms – which is essentially a loan.



## Sole Purpose

A SMSF must be operated for the sole purpose of providing funds for its members during retirement.

While it's hard to imagine that a simple reimbursement could possibly contravene that statement, according to



the ATO it can in some circumstances as explained in SMSFR 2008/2

*"If an SMSF trustee is reimbursed out of the funds of the SMSF for expenses properly incurred in the administration of the SMSF, the reimbursement will not involve the provision of a benefit in contravention of the sole purpose test. However, the sole purpose test is likely to be contravened if an SMSF trustee is reimbursed out of the funds of the SMSF for expenses that are not properly incurred in the administration of the SMSF. This latter scenario includes circumstances where the expenses reimbursed are manifestly excessive."*

So the Sole Purpose test is generally OK as long as the reimbursement is for a necessary expense.

## **Form of Reimbursement**

Reimbursement must be by way of a monetary payment to the person being reimbursed. It cannot be in any other form.

Ideally, the reimbursement will also be a separate amount to any other amounts paid (e.g. the reimbursement won't be lumped in with the payment of a pension).



## **Contributions**

If an expense is paid by a member and not reimbursed, that amount is treated as a contribution to the fund.

The rationale behind this is that a contribution is defined as "...anything of value that increases the capital of a superannuation fund...".

By not seeking reimbursement you are effectively increasing the capital of the SMSF because the SMSF did not have to pay for that expense.

## **Conclusion**

For the reimbursement to be acceptable, it must:

- Be for a necessary expense;
- Not be an excessive expense;
- Be paid in cash;
- Be paid within a couple of days;
- Not include any interest;
- Not include any additional fees; and
- Have been reasonably necessary that the member or trustee paid for the expense instead of the SMSF paying it directly.

## **MCA STUFF**

### **Sending Large Files**

If you have a file that's too big to email, simply go to [www.mcaaccountants.com.au/send](http://www.mcaaccountants.com.au/send) and your file will be uploaded to us directly.

### **Payment Options**

For details of our payment options, head across to <http://www.mcaaccountants.com.au/payments>.

Included is a direct debit facility for those that need extra time to pay their fees, or for those that wish to spread the cost of their fees over the full year.

### **Bookkeeping Services**

In addition to your tax needs, we also offer bookkeeping.

We can send a bookkeeper out to you at \$50 per hour, or if you are a small business and would like us to do all of your bookkeeping, we have fixed fee packages that would be more suitable.

We have a brochure outlining how cloud computing and accounting software go together [here](#), and a brochure that outlines our fixed fee packages [here](#).

### **Terms & Conditions**

Our various terms and conditions documents are available on our website, with a few of them below:

- [Standard terms of engagement](#)
- [Invoicing and debtors policy](#)
- [Fixed fee bookkeeping](#)
- [Fixed fee SMSF processing](#)

## **MCA PARTNERS**

Below are the details of our other business partners. Just click on the name to learn more.

### **de Jonge Read**

Pre-insolvency practitioners. Protect your assets from current and future creditors by getting set up right from the start.

### **EC Credit Control**

A complete debt management solution, from terms of trade to contracts, credit reporting, and finally debt collection.



## Xero

Beautiful accounting software that is 100% cloud based. Log in and do your accounts from anywhere you have an internet connection, on any device.

## Quickbooks Online

One of Xero's main competitors, priced cheaper, and more function rich. 100% cloud based, so you can do your books when it suits you.

## TAX RATES

### Current Rates

Individual tax rates for the **2017** income year are:

Taxable Income	Tax	+	Rate on excess
0 - 18,200	0		
18,201 - 37,000	0	+	19%
37,001 - 87,000	3,572	+	32.5%
87,001 - 180,000	19,822	+	37%
180,001 +	54,232	+	45%

All of the above exclude the Medicare Levy (2%), Deficit Levy (2%), and any offsets such as the Low Income Rebate.

For example, a person earning \$50,000 will pay \$3,572 + 32.5% of the excess over \$37,000 (\$4,225), being a total of \$7,797.

### Average Rate of Tax

We often get asked by sub-contractors how much of their income they should put aside for tax. Essentially they are asking what their average tax rate is, and it is handy to know for everyone.

Note: These figures include the Medicare Levy & Low Income Rebate.

Income	Avg Tax %	Income	Avg Tax %
\$10,000	0.0%	\$70,000	22.4%
\$20,000	0.0%	\$80,000	23.9%
\$30,000	8.0%	\$100,000	26.6%
\$40,000	12.4%	\$120,000	28.7%
\$50,000	17.1%	\$140,000	30.2%
\$60,000	20.2%	\$180,000	32.1%

For example, a person earning \$80,000 pays tax of \$19147 (\$17,547 + \$1,600 Medicare Levy), which is 23.9% of their income.

### ATO Interest Rate

The ATO interest rate is based on the 90 day "bank accepted bill" interest rate.

When you owe the ATO money, the rate used is the BAB rate + 7% (which works out to be around 9%)

When the ATO owes you money, you receive just the BAB rate, but only in limited circumstances.

## MCA CONTACT DETAILS

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[www.facebook.com/mcaaccountants](https://www.facebook.com/mcaaccountants)

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