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NEWSLETTER – OCTOBER 2022

Single Touch Payroll Phase 2 – Changes affecting ministers of religion

Changes have been introduced that will require religious institutions providing exempt benefits to eligible employees to report the value of these benefits to the ATO.

Single Touch Payroll (STP) is an employer obligation, which requires employee payroll information to be reported at the time of payment through STP-enabled software. The information reported under STP is then provided to government agencies such as Centrelink, and is intended to assist employers with reducing their reporting obligations.

STP Phase 1 was introduced 1 July 2018. Subsequent requirements, known as STP Phase 2, commenced 1 January 2022, although employers may have deferral exemptions depending on availability of software upgrades. The major providers have implementation dates of;

- Quickbooks – enabled now
- MYOB – January 2023
- Xero – March 2023
- Reckon – June 2023



Although STP Phase 2 requirements affect all employees, they particularly impact remuneration received by ministers of religion due to their utilisation of exempt benefits, commonly referred to as a salary-sacrifice arrangement.

What has changed?

There are two main changes under STP Phase 2. The first is the requirement for additional information to be reported in relation to allowances provided to employees. Secondly, and the most significant change affecting ministers of religion, is the reporting of exempt benefits due to the requirement for salary-sacrificed amounts to now be disclosed. This is different to what was required initially under STP when only a minister's reduced salary was disclosed. For example, if an employee had a salary sacrifice arrangement so that their normal salary of \$80,000 was reduced by the provision of a benefit value at \$35,000, only their reduced salary of \$45,000 was disclosed. Under STP Phase 2, the gross salary of \$80,000 is reported as well as the \$35,000 salary-sacrificed amount. Employers are now required to disclose the minister's full remuneration of \$80,000, even though only \$45,000 is the minister's taxed salary.

A salary-sacrificed amount is required to be reported under STP using either of the following codes:

- “S” for salary-sacrificed superannuation
- “O” for other employee benefits

How will this affect ministers of religion?

It is common for ministers of religion to receive part of their remuneration in the form of exempt benefits. This is often facilitated by their employer allocating an amount to a separate church bank account so that the funds can be used to pay for expenses directly, or the provision of a debit/credit card.

The allocation of funds in this way is a salary-sacrifice arrangement, so at the time the minister is paid, the amount transferred is to be reported in STP using code “O”. This information will be reported to Centrelink and may affect the minister’s eligibility for Centrelink entitlements.

Please note that although the provision of information to Centrelink at the time of payment via STP is new, the requirement for ministers of religion to disclose information in relation to exempt benefits they receive has previously existed and remains unchanged.

What has not changed?

Although exempt benefits provided to ministers of religion are now be reported via STP, they will still not give rise to a “reportable fringe benefit amount” that certain employers are required to determine at the end of the financial year and disclose on PAYGW summaries.

This means that a minister of religion does not need to disclose a reportable fringe benefit amount in their income tax return as other employees of not-for-profit organisations must, even though the exempt benefits they receive are reported via STP.

Action required

Employers need to undertake the following actions:

- Identify benefits paid and determine the value of exempt benefits to be disclosed
- Inform employees of the requirement for employers to report the value of salary-sacrificed amounts
- Inform the governance body members of the new requirements
- Consider if changes are required to systems, policies or employment agreements
- Consider whether your organisation should use this as an opportunity to have your packaging arrangements reviewed by an external specialist, as this is an area of risk where misunderstandings often arise.

Associations Incorporation Act 2015 – Review

Dep’t of Mines (the department with responsibility for this Act) is conducting a wide review of the Act. This will lead to changes to the Act in some areas with the aim of providing simplification and clarification for associations. Matters being considered currently include –



- Provision for reservation of a name prior to applying for registration,
- Ensuring the provisions for access to the register of members are clearer,
- Ensuring members of an association can have access to the State Administration Tribunal for disputes about membership,
- Simplifying the procedure for cancellation where an association is no longer operating.

The review has received many submissions from associations towards the review and they are being carefully considered. Such a process is preliminary to introducing amending legislation to the WA Parliament so is not speedy.

Changes to financial reporting limits

Financial reporting revenue bands have been increased, effective from 1 July, 2022 as follows –

Tier 1 – currently less than \$250,000, will become less than \$500,000.

Tier 2 – currently \$250,000 to \$1 million, will become \$500,000 to \$3 million.

Tier 3 – currently more than \$1 million, will become more than \$3 million.

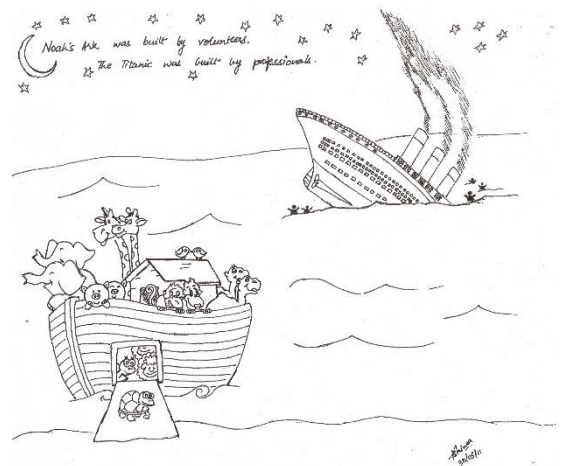
Work health & safety laws include volunteers

WorkSafe WA have published a guide to assist organisations that work with volunteers. Access is available to this helpful publication by searching “work health & safety for volunteer organisations guide.” This 21- page booklet includes a useful check list. Enquiries can be made by emailing safety@dmirs.wa.gov.au . As a worker, a volunteer also has duties under the Work Health and Safety legislation.

Are your people volunteers, contractors or employees?

Not-for-profit organisations should consider how they distinguish between an employee, independent contractor and volunteers. This is particularly important where a person is part volunteer and part employee. This split role can be very important where a person is injured to establish whether there is a liability for workers compensation insurance but there are wider implications. A written agreement is important to identify the nature of the relationship.

Recently the Fair Work Commission made an important decision to determine whether a person was an independent contractor or an employee in a case identified as *Deliveroo Australia Pty Ltd v Franco*, Diego 2022 FWCFB 156. In this case the importance of the wording of the written agreement between the company and the individual was the key to establishing whether the person was an employee or an independent contractor. The issue was whether the person was covered by the Fair Work Act and could claim unfair dismissal.



DGRs not yet registered charities

In our December 2021 Newsletter we advised that non-government DGRs that were not as yet registered with ACNC as a charity were required to become registered. This new arrangement referred in the main to organisations that were registered with either the Register of Cultural Organisations (ROCO) or the Register of Environmental Organisations (REO). With ROCO and REO organisation that are not already registered as a charity there will almost certainly be a need for amendments to their Constitution or Rules and also, once registered, in their reporting procedures. The amending legislation has provided for an extension of time for up to three years provided application is made before 14 December, 2022. Such an application would be subject to there being no changes in their Objects or their activities since initial DGR registration was approved.

It has now emerged that Harm Prevention Charities were not included in these new law changes so such organisations will not as yet be obligated to register with ACNC and new applications will continue to be through the Dep't of Social Services. Also, their annual statistical return will continue as before.

Reporting Remuneration for Responsible Persons

Large charities with two or more key management personnel will need to report remuneration paid to Responsible Persons and senior executives – but on an aggregated basis – in their Annual Information Statement from 1 July 2022 (reporting against the 2021-2022 financial year). These requirements will also be an obligation for the financial reports for the 2022-23 financial year under AASB changes.

ACNC has issued a reminder that charities should ensure –

- Payments are not excessive (Industry benchmarking may be a guide),
- Payments are consistent with the charities funding arrangements,
- The charities governing document allows such payments.

Related Party Transactions



There are already special rules for identifying and reporting related party transactions. The potential for a conflict of interest to arise is significant. Accounting Standard AASB 124 has specific provisions for charities and related parties. ACNC Governance Standard 5 includes requirements on charities –

- To act with reasonable care and diligence,
- To act honestly and fairly in the best interests of the charity and for its charitable purpose,
- Not to misuse their position or information they gain as a Responsible Person,
- To disclose conflicts of interest,

A related party includes –

- A person or a close family member, who has control, or significant influence in relation to the charity, or
- The charity that is a member of the same group, or participates in a joint venture.

More detail is available in AASB 124 Clause 9.

From 1 July 2023 (reporting for the 2022-2023 financial year) all charities, other than Basic Religious Charities, regardless of size, will be required to report related party transactions in their Annual Information Statements, regardless of whether there is a financial consideration. Additionally, medium and large charities must disclose material transactions in their annual financial report. Charities are advised that a record in the Minutes of management meetings and/or a register of related parties should be established.

ACNC will provide guidance on the additional information required in the Annual Information Statement.

Harmonising Fundraising Laws



In September 2022 a meeting of State and Territory Consumer Ministers met and reaffirmed their support for the reform of outdated and inconsistent fundraising laws. A Working Group of jurisdictions has now been formed to finalise a framework for nationally consistent fundraising requirements. It is hoped that an agreement between all jurisdictions can be reached in late 2022. This project has the active support of the Federal Minister for Charities, Dr Andrew Leigh. This forward movement gives hope that the long waited for changes in law will become a reality in the very near future.

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