



Adding to your ministry

NEWSLETTER APRIL 2023

Related Party transactions

A related party transaction is a transfer of resources, services or obligations between related parties. It does not necessarily include a financial transaction.

With the 2023 Annual Information Statement (AIS) there will be additional questions regarding Related Party transactions. Charities will need to ensure that they have maintained appropriate records. For more information refer to our October 2022 Newsletter, page 4. Helpful information is also available on the ACNC website at acnc.gov.au and use the Search facility. Note that these new requirements apply to all charities other than Basic Religious Charities (BRC). If your charity is classified as a "small" charity (revenue under \$500,000) you will only need to disclose "material" transactions. "Medium" and "Large" charities have greater obligations in accordance with the relevant Australian Accounting Standards (see below).



A related party includes —

- A person such as a Responsible Person or close family member that has control or significant influence over the charity. This could include a father (or mother) figure.
- An organization that is connected to the charity and has significant influence over the charity, such as a parent entity, subsidiary or a member of the same group.
- A member of the charity's key management personnel (people with authority or influence either directly or indirectly) or a close family member.
- An associated entity, not necessarily a charity, or joint venture that has significant influence.



ACNC recommend that charities establish and maintain a register of related party transactions and also have an appropriate policy and procedure.

ACNC will provide further advice with the availability of the 2023 AIS. More detail is available in Australian Accounting Standard AASB 124 at clause 9.

See also the next two topics regarding Conflict of Interest and Key Management Personnel.

Conflict of Interest



A conflict of interest occurs when a person involved in the management of an entity, such as a committee or board member has a direct or indirect interest in a matter being considered at a committee or board meeting and the matter appears to raise a conflict with the person's independence and/or proper performance of duties. Both the ACNC Governance Standard 5 and the WA Associations Incorporation Act at Section 31 place specific obligations in the event of a conflict, whether direct or indirect, occurring. Conflict may be actual, or perceived, or even a potential conflict.

Where a conflict exists, the person concerned should identify the nature of the conflict to the chair of the meeting. The secretary of the meeting is then required to record the nature of the conflict and the person(s) conflicted in the Minutes or some alternative permanent record. The person conflicted should, subject to the decision of the committee or board, not be present during the deliberation of the matter and should not vote. The committee may determine that the conflict is not material. In such an event the committee decision should also be recorded. The Associations Act imposes penalties for non-disclosure. The Related Party transaction provisions also apply here.

Key Management Personnel remuneration

Key management personnel are the senior decision makers of the charity. This includes Responsible Persons and senior staff. This applies whether they are employed directly by the charity or by a separate related entity. A definition of key management personnel is available in AASB 124 para. 9 and AASB 1060 para. 193. Remuneration includes all consideration including superannuation, paid leave, bonuses and non-monetary or fringe benefits. Such rewards are to be reported in the annual financial report, subject to the following guidelines —



- Basic Religious Charities do not have to report.
- Small charities are not required to submit an annual financial report, they are only required to lodge an AIS, so there is no need to also submit a financial report. However, in the event they choose to lodge a separate financial report in addition to their AIS the requirements for a Medium charity would normally apply.
- Medium charities that prepare General Purpose Financial Statements (GPFS) must report key management personnel remuneration. Where the Medium size charity prepares Special Purpose Financial Statements (SPFS) reporting is optional.
- Large charities must report key management personnel remuneration (unless an exemption applies).

ACNC provide a template on their website. AASB 124 at clause 21 provide examples of related party transactions.

Super Guarantee update

The Super Guarantee rate will increase from 10.5% to 11% effective from 1 July 2023. You will need to update your payroll programs and systems to incorporate these changes. Also remember that the next super guarantee payment is due on 28 April BUT they are only considered "paid" on the date they are received by the super fund.

It's Fringe Benefits Return time



For those employers using the Fringe Benefits Tax (FBT) system for the benefit of eligible employees the reporting year is from 1 April 2022 to 31 March 2023. For Public Benevolent Institutions and Health Promotion Charities there is a cap of \$30,000 on the grossed-up value of the benefit. For payments above the cap the tax rate is 47% and the grossed-up rate for Type 1 is 2.0802 and for Type 2 it is 1.8868. Where the employer is a religious institution and the employee is a religious practitioner primarily engaged in religious duties, the institution is exempt from paying the tax, and no FBT Return is needed, (however, note that the Single Touch

Pay Roll reporting will include relevant information). More information is available by searching our website at addministry.org.au at [FBT for Churches](#). Also, further information is available on the ATO website, in fact there is so much information there it can be somewhat overwhelming.

National Fundraising harmonisation

The Commonwealth Treasury advise that, with the cooperation of the States, encouraging progress is being made with this project. In July public information should be available, regarding the way forward. As it will involve changes in State legislation as well as by the Commonwealth a time line for the implementation is not yet finalised.



Sending money to conflict zones

Transferring money from Australia to agencies working in conflict zones is a task with significant risk. It raises issues for the potential of funds to be misrouted, or the overseas agency may apply the funds for a purpose inconsistent with the purpose for which the Australian charity was intending. ACNC provide a range of case studies on their website under the heading of External Conduct Standards. Where there is uncertainty in relation to such a matter ACNC may be able to provide helpful guidance.

Remuneration of Ministers & Single Touch Payroll

We provide a link to a welcome article by Alastair Abbott of Australian Audit on this difficult matter. Alastair is a Partner in the accounting practice that undertakes significant work with religious charities and has provided advice on this subject. The article covers Single Touch Payroll 1 and 2, and incorporates exempt ministry benefits and superannuation guarantee including payroll set-up along with useful examples. The link is available here. - If there are difficulties accessing this site, the paper is attached to this newsletter.

<https://australianaudit.com.au/documents/2022/9/nrfb-stp2>

The ACNC and Compliance

ACNC have made statistics available relating to ensuring the integrity of the ACNC Charity Register. The statistics reveal that in the 2021-22 fiscal year there were 7,346 completed compliance activities. Many of these actions enabled ACNC staff to provide helpful assistance in remedial action. They are there to assist, but also have an obligation that charities activities comply with the law. There were 1,685, or 23% voluntary revocations of charity registration. ACNC initiated a further 815 revocations, or 11%, as double defaulters. A double defaulter revocation is only taken after efforts have been made to contact the charity. ACNC staff are available and willing to provide advice and assistance where a charity is experiencing difficulty in complying with its obligations. Charity leaders are encouraged to contact ACNC to seek their assistance when they become aware of a concern.



Addendum

Religious Schools

The Australian Law Reform Commission have published a public consultation paper on discrimination in religious schools. See www.alrc.gov.au/publication/adl-cp-2023

ABN Changes Coming

New powers are proposed for the Australian Business Register (ABR). The aim is to give the ABR the ability to cancel an ABN in certain circumstances.

ADD-MINISTRY INC.

P O Box 175

BAYSWATER WA 6933

Ph: (08) 9271 1855

E-mail: administry@hardingthornbury.com.au

Visit our website at:

www.addministry.org.au

[Previous copies of this newsletter are also available on our website.](#)

REMUNERATION OF RELIGIOUS MINISTERS AND INTERACTION WITH SINGLE TOUCH PAYROLL

The ability for ministers of religion to be paid exempt, non-reportable fringe benefits is a very generous concession within the Australian Taxation landscape. Unfortunately, misunderstandings of how this concession works sometimes lead to inappropriate payroll settings being used. Previously this may have only resulted in a lack of clarity for internal reporting, but with the introduction of Single Touch Payroll Phase Two (STP2) such oversights could result in inaccurate reporting to the ATO.

This article aims to clarify how *exempt, non-reportable fringe benefits* work, linking back to standard payroll concepts, which will then make it clear how such payments should be recorded for STP2 purposes.



EXEMPT, NON-REPORTABLE FRINGE BENEFITS

Section 57 of the *Fringe Benefits Tax Assessment Act 1986* is explained and clarified in **Taxation Ruling 2019/3 *Fringe benefits tax: benefits provided to religious practitioners.*** Stating that where:

*the employer of an employee is a **religious institution**; the employee is a **minister of religion**; a benefit is provided to **the employee**; and the benefit is not provided principally in respect of duties of the employee other than any **pastoral duties**; the benefit is an **exempt benefit**.*

For the purpose of this article, it is assumed you have already determined that the employer is a religious institution, the employee is a minister of religion and that the benefits are being provided principally in respect of pastoral duties. **Benefits in this context refers to fringe**

benefits. For additional clarification on the application of those assumed components, **Taxation Ruling 2019/3** is a helpful reference.

Exempt, non-reportable fringe benefits paid to ministers of religion are known by a variety of different names, including:

- Minister's benefits
- Exempt benefits
- Exempt fringe benefits
- Non-reportable fringe benefits

For the purpose of this article the abbreviation NRFB will be used.

The **salary or wages paid to a minister of religion by transfer to their bank account are not NRFB**; they are recorded, paid and taxed under the same rules as any other employee.

FRINGE BENEFITS

Fringe benefits are things of value that an employer provides to an employee, but excluding wages / salary paid by cash / bank transfer. For example, the use of a motor vehicle, the use of a house at below market rental, reimbursement of private expenses, repayment of a loan.

Fringe benefits may be provided either as a benefit in addition to the employee's salary, or through a valid salary sacrifice arrangement. You will need to review the employment contract to determine which (or which combination) of these payment types is being paid. If it is not clear it might be timely to update your employment contracts. There is a very different payroll treatment depending on which type of payments are being made.

Salary Sacrifice Fringe Benefits may often be described in an employment agreement with wordings such as 'you will receive a salary of \$50,000, but may elect to receive up to 70% of that remuneration as fringe benefits', or 'you will receive an hourly rate of \$40 and can receive up to 50% as NRFB'. These should be processed within the payroll system and appear as a deduction from the gross remuneration of the employee.

In Addition Fringe Benefits may be described in terms such as 'in addition to your salary of \$50,000pa you will also be provided with a fully maintained motor vehicle' or 'as part of your employment you may live rent free in the housing provided by the employer'. These are not normally processed through the payroll system, and may be described qualitatively or quantitatively within the employment contract.

Every employment contract is worded slightly differently, so it can't be stressed enough the **importance of reading the actual employment contract** and ensuring that you are processing payroll as per how it has been agreed in the contract.

Fringe benefits can also arise when an employee receives a benefit during the course of their work, for instance meals and entertainment enjoyed at a work function. These types of benefits are not part of the employee's remuneration, and hence not discussed further in this article.

To ensure an equitable taxation outcome between wages that form part of an employee's taxable salary and fringe benefits that are not part of salary, the ATO levies fringe benefits tax on employers. Fringe benefits tax is charged at a rate such that if the employee were on the highest tax bracket there would be the same amount of tax collected whether they received a salary or fringe benefits. The fringe benefit tax payable normally works out to cost about as much as the value of the benefit provided. However, the ATO provides a special incentive to religious institutions, that they are 'exempt' from paying fringe benefits tax on fringe benefits provided to a religious practitioner undertaking pastoral duties (**Taxation Ruling 2019/3** for full details).

Normally any fringe benefits provided to an employee would be listed on their annual tax finalisation as part of the reporting to the ATO under the heading 'reportable fringe benefits amount' (RFBA). This can have some bearing on the employees' personal financial situation. For ministers of religion, fringe benefits received have not previously been reportable to the ATO, and don't form part of the 'reportable fringe benefits amount'.

SALARY SACRIFICE

Other fringe benefits are salary sacrifice benefits, where the employee may choose to forgo a part of their agreed salary to receive a fringe benefit of equal value instead. It is normally the employee's choice whether or not they want to receive any salary sacrifice benefits, however, I have seen many employment contracts that stipulate 70% of the salary is to be received as such benefits.

A NOTE ON SUPERANNUATION

An employer is required to make superannuation guarantee payments in respect of ordinary time earnings at the relevant rate. However, fringe benefits and other non-cash payments are not salary or wages for superannuation guarantee purposes and thus are not ordinary time earnings. (ATO SGR 2009/2 (46)).

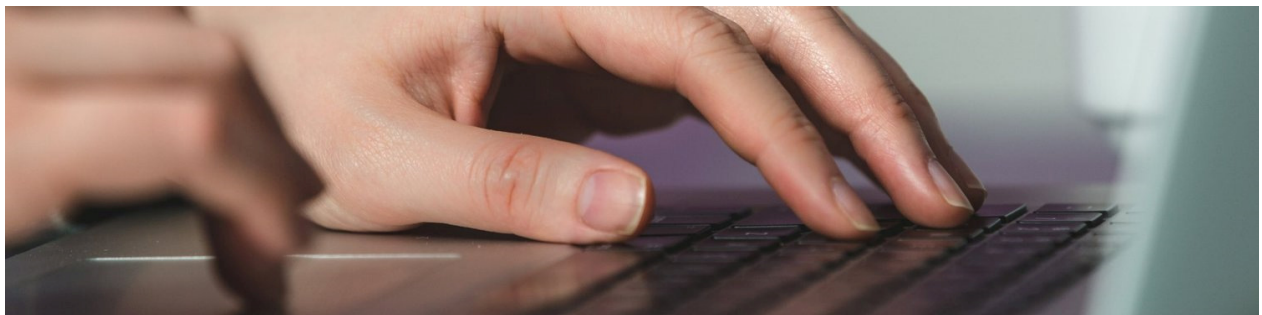
This generally means that it is not technically mandatory for the religious institution to pay superannuation guarantee in respect of the NRFB portion of a minister's remuneration. However, in practice we see that the vast majority of religious institutions choose to pay superannuation at the relevant rate on the full remuneration of their ministers, including the NRFB component.

Unfortunately, in some instances the religious institution may have intended to pay superannuation on the full remuneration, however, due to incorrect setup of the payroll system, this is not implemented and the minister may not have received superannuation on the NRFB component.

PAYROLL SETUPS THAT CAN CAUSE PROBLEMS

We have seen a great variety of different setups used for the processing the payments of NRFB. It is helpful to describe some of the setups that do not work well, as this can contrast against the setups that work in a more preferable manner. Listed below are some setups that have been used in practice, and the reasons why they are less preferable:

- ‘cash wages’ and NRFB processed as separate categories of ‘base hourly wages’. The pay slip would show one line item for cash wages and a separate line item for NRFB, added together this gives the total remuneration.
 - Leave taken doesn’t get correctly applied between the two categories
 - Leave balance reports don’t calculate based on the correct hourly rate
 - When there are changes in pay rates it is more complicated to process the updates and more prone to error
- Salary sacrifice fringe benefits not included in the payroll system at all, instead a ‘spend money’ type of transaction is used to record the payment of NRFB when transferred out of the bank account.
 - Gross wages reports generated from the payroll module of your software do not include all the remuneration of the employee
 - It is not easy to track the total value of Salary sacrifice fringe benefits provided
 - Workers’ compensation calculated on only the totals from the payroll software don’t cover the salary sacrifice portion of the remuneration
 - Superannuation guarantee can’t be automatically calculated based on the Salary sacrifice fringe benefits amounts



PREFERABLE PAYROLL SETUP

Both in order to be able to comply with STP2 reporting obligations and for more helpful internal reporting, the preferable way of setting up the payroll of ministers of religion is:

Total remuneration (prior to any salary sacrifice) **processed as a single pay item** – normally called ‘base hourly’, ‘base salary’, or similar.

Salary Sacrifice NRFB processed as a deduction item. This can be set in the payroll system as a **pre-tax deduction** to reduce gross salary prior to calculation of PAYG withholding and prior to calculation of W1 for activity statements, and reported as a **salary sacrifice deduction in STP2 reporting**. Where the employee has elected for the NRFB to be a set percentage of their gross remuneration, this pay item can be set as a percentage so it will automatically be correct even after changes in rates of pay. This pay item would normally be linked to a liability account on the employer’s balance sheet, so that with each payroll the value of NRFB due to the minister is coded to that liability pending distribution to the minister. The employer can select whether this item will reduce or not reduce the superannuation guarantee payable.

The payroll system will automatically calculate the net cash salary payable after the salary sacrifice deduction.

The benefits of processing in this setup include:

- Payroll reports will reflect the full remuneration – helpful for internal reporting, workers compensation, etc
- Leave taken can be recorded through the payroll system and will report correctly for STP2 purposes
- NRFB amount is automatically calculated according to the employees directions
- NRFB are automatically coded to a liability account in the employee’s name with each payroll transaction
- Employer can easily process superannuation on the full remuneration if required
- Changes in pay rates are easy to process

NRFB are often provided to ministers by way of a reimbursement of expenses already incurred or a payment to their home mortgage account. This is easily facilitated by having a liability account in the name of each minister, which increases with each payroll being processed and decreases with each payment made. The balance of that account is the value of NRFB due but not yet provided to the minister.

INTERACTION WITH STP2

Most bookkeepers would be well aware of single touch payroll phase two (STP2). This has been talked about for a while and there is plenty of guidance on how to set up your payroll software to provide the required additional information to the ATO.

As a brief recap, STP1 was essentially converting the previous manual system into an electronic system for lodgement of payroll data to the ATO each payday. STP2 then goes further to start capturing additional and different types of data, with one of the ultimate goals being to reduce some of the administrative work required from various different lodgements and processes. For example, TFN declaration forms will no longer be required as the data that would have previously been on the TFN declaration form will now be lodged to the ATO through the STP system.

I will not attempt to cover all of the details of the STP 2 system in this article, rather, to look at how it might apply in the context of payments made to religious ministers. STP2 does not treat religious practitioners differently to other employees in any way, and all of the normal payroll rules and concepts still apply. However, there is a degree of confusion and misunderstanding in relation to payments to ministers, and this could lead to mistakes in reporting through STP2. Before progressing further, the most important fact to highlight is that STP 2 could result in reporting to the ATO more data than was reported previously; just because full remuneration was not reported previously, does not mean it won't be reported going forward.

For STP 2 will need you to be able to categorise payroll transactions into more detailed categories than previously. Some of the reporting categories include:

- Gross Remuneration
- Paid leave
 - Other paid leave (Annual leave, LSL, TOIL, etc)
 - Paid parental leave
 - Cash out of leave in service
 - Unused leave on termination
- Allowances
 - cents per km
 - domestic or overseas travel
 - qualification and certification allowances
 - task allowances
 - other allowances
- Overtime
- Bonuses and commissions
- Salary sacrifice

Note: not all available categories are listed here – you can see a full list including definitions on the ATO website here: [STP 2 reporting amounts paid](#)

In order to do this, all of the types of payroll payments made will need to be able to be coded between those different categories. The way that some organisations have previously set up their payroll will not allow them to do this without first changing the way their payroll is processed.

REPORTING EXAMPLE

Assume a religious minister has a contract of employment including the following terms:

- \$50,000 pa remuneration
- \$5,250 superannuation guarantee (10.50%)
- \$35,000 exempt fringe benefits (70%)
- \$15,000 salary – paid to bank account (30%)
- Rent free accommodation at church owned house

Prior to STP2 this would have been recorded as:

- \$50,000 recorded as gross remuneration in payroll system
- \$50,000 appears as ‘wages expense’ on income statement
- \$35,000 pre-tax, post super deduction – coded to liability account. Not reported to ATO.
- \$15,000 reported to ATO as salary
- House costs a church expense (accounts payable / spend money)

Under STP 2 the reporting of payroll data to the ATO will change:

	STP 1	STP 2
Gross wages	\$15,000	\$45,000
Leave	N/A	\$5,000
Salary sacrifice	N/A	(\$35,000)
Reportable fringe benefits	Nil	Nil

IMPACT OF INCREASED REPORTING

There may be some concern among ministers and employers that this increased reporting could impact on a variety of different benefits. Currently the ATO clarifies on their website that this shouldn’t be the case and ‘STP 2 salary sacrifice’ and ‘RFBA’ are two different items for two different purposes.

Depending on how payroll was processed under STP1, the change to STP 2 could impact the information visible on pay slips. Staff may not be fully aware of how these changes apply in relation to remuneration of religious ministers, and there is a risk this could cause errors in

processing pay, lodging STP and assessing minister's eligibility for various benefits. Especially if these decisions are being made based on STP lodgement data which will be reporting Salary Sacrifice amounts on each pay date, while the RFBA may only be reported on an annual basis.

It's important to remember that salary sacrifice type O and RFBA are different things and used for different purposes:

***Salary sacrifice type O** helps us identify the pre-tax deduction so that we can help your employee complete their tax return correctly.*

RFBA is used in income tests for various obligations and benefits administered by the ATO and Services Australia, including study and training support loan repayments and Family Tax Benefit and helps us ensure you are meeting your FBT obligations.

ATO: Relationship between reporting RFBA and salary sacrifice type O

If you are unsure about your payroll setup or have further questions specific to your personal circumstances, please contact our office.

Alastair Abbott CA RCA MIACD M. Forensic Accounting
Director – Australian Audit