



## FROM THE ATO

January is traditionally a quiet time for many businesses, but the ATO hasn't stopped publishing useful information.

### Hiring contractors

You have a choice between hiring contractors and employees – both are legitimate as long as the conditions of the working contract match the worker's classification.

It's important to understand the difference between employees and independent contractors because:

- it changes your obligations for paying and reporting tax, superannuation and other entitlements for your workers; and
- penalties and charges may apply if you incorrectly classify an employee as a contractor and fail to meet the relevant obligations or entitlements for that worker.

Although you generally don't need to make super guarantee contributions for independent contractors, you may be required to make contributions for a contractor where the contract engaging them is wholly or principally for their labour.

If they're registered for GST, you will need to pay the appropriate GST to them for the services or work they provide to your business.

### Employee for super guarantee purposes?

It is also important to know for super guarantee purposes whether an individual providing services to your business is an employee.

You pay super on behalf of an employee regardless of whether they:

- are full-time, part-time or casual - working holidaymakers are included;
- receive a super pension or annuity while still working; or
- are a company director.

There was an important change last year (from 1 July 2022) – you now have to pay super for employees who are paid less than \$450 in a month.

**Tip!** If you are uncertain whether you need to pay super on behalf of a person working for you, talk to 145 financial

### Are you still using your ABN?

Your ABN may be flagged for cancellation if you haven't reported business activity in your tax return, or there are no signs of business activity in other lodgements or third-party information.

If the ATO identifies your ABN as inactive, they will contact you by email, letter or SMS.

If you:

- still require your ABN, the ATO will explain what you need to do to keep it;
- are no longer in business, no action is required and the ATO will cancel your ABN.

If your ABN has been cancelled and you are still entitled to it, you'll need to reapply.

You can reapply for the same ABN unless your business structure has changed, for example, if you were a sole trader and you now operate the business through a company.

All ABN holders have a responsibility to keep their business details up to date. This includes cancelling your ABN if your business is no longer operating. You must tell the ATO of any changes to your business details within 28 days of the change.

**Tip!** 145 financial can give you further advice.

## Protect your business from cyber scams

The ATO has warned small businesses about business email compromise scams.

Cybercriminals send fraudulent emails posing as a legitimate business contact or staff member. They typically request a change in bank account details for a deposit, wages or invoice payment. Victims then unknowingly send money to the cybercriminal.

These fraudulent emails may come from hacked email accounts, or cybercriminals might register domain names that are similar to legitimate companies.

The ATO advises that you can protect yourself, and the reputation of your business, by taking a few simple steps:

- verify payment details. If you hold sensitive financial records, ensure you confirm the identity of anyone who requests changes to their information;
- alert your staff. Train your employees to identify suspicious requests or emails that may link to fake websites built to capture passwords; and
- secure your email account. Use multi-factor authentication or, if this is not possible, a strong unique passphrase that would be difficult to hack.

Taxpayers have also been advised to be wary of scammers impersonating ATO officers on Twitter, Facebook and other social media platforms.

Scammers scan public conversations on social media, where taxpayers ask questions or make complaints about the ATO. The scammers then use a fake ATO profile to contact the taxpayer directly with an offer to help resolve a complaint or follow up on a comment. Once trust is established, the scammers then ask the taxpayer to click on a link or provide personal details.

The ATO is working with social media platforms and other government agencies to address this.

## Phoenix Taskforce - targeting dodgy businesses

The Phoenix Taskforce, which was established in 2014, brings federal, state and territory agencies together to combat illegal phoenix activity.

Illegal phoenix operators deliberately liquidate, wind up, or abandon their business to avoid paying their debts. Just like the mythological phoenix, these “dodgy individuals” often rise up with a near-identical business and restart the process.

As well as short-changing employees, suppliers and sub-contractors, illegal phoenix operators can put honest businesses at a competitive disadvantage. They cost businesses, employees, and the community an estimated \$2.85 billion to \$5.13 billion a year.

The Phoenix Taskforce takes action against phoenix operators by:

- working to disrupt their business model and make it financially unviable;

- removing their ability to operate;
- applying financial penalties; and
- prosecuting the worst offenders.

The most serious cases are referred to the Serious Financial Crime Taskforce (SFCT).

The director identification number initiative will:

- help prevent the use of false and fraudulent director identities; and
- make it easier for government regulators to trace directors' relationships with companies over time to help better identify and eliminate director involvement in unlawful activity.

If you know or suspect phoenix or shadow economy activity or tax evasion, you can report it by:

- completing the tip-off form (the form is also available in the Help & support section in the ATO app);
- phoning the ATO on 1800 060 062;
- lodging an unpaid super enquiry about your employer (but not about another business); or
- writing to the ATO (mark all letters "in confidence") and posting it to Australian Taxation Office, Tax Integrity Centre, PO Box 188, ALBURY NSW 2640.





## WHAT HAS PARLIAMENT DONE?

### FBT exemption for electric vehicles

In past *Business edition of TaxWise® News*, we told you about the fringe benefits tax (FBT) exemption for electric and other low emission cars used by employees for private use. At the time, this measure was being considered by the Parliament. It is now law.

During its progress through Parliament, the Government agreed to phase out the FBT exemption for plug-in hybrid electric cars. As a result, the exemption for such cars will cease from 1 April 2025 (the start of the 2025–26 FBT), unless the relevant car is made available to the employee before that date.

### Failing to keep correct records

From 12 March 2023, the ATO will be able to issue a “tax-records education direction” if your business has failed to comply with its tax-related record-keeping obligations (subject to certain exceptions). A tax-records education direction will require you to complete an approved tax record-keeping course. This will be an alternative to the existing administrative penalties.

You can nominate an appropriate person within the business to complete the course.

You will have to provide the ATO with evidence that the course was completed.

A tax-records education direction cannot be issued where the failure to keep records does not give rise to an administrative penalty. These include certain FBT statutory evidentiary records and records substantiating certain work and business expenses.

## WHAT'S IN THE PARLIAMENTARY PIPELINE?

### Bonus deductions for small and medium business

Legislation presently before Parliament will provide small and medium businesses (those with aggregated annual turnover of less than \$50 million) with bonus deductions equal to 20% of eligible expenditure incurred on external training or technology. The expenditure must already be deductible under the taxation law.

*Training* – the 20% boost is available for expenditure incurred on training employees, either in-person in Australia or online, between 7:30pm on 29 March 2022 and 30 June 2024. The training must be conducted by a third party registered training provider, which must not be an associate of the business.

*Technology* – the 20% boost is available for expenditure incurred between 7:30pm on 29 March 2022 and 30 June 2023 on the business' digital operations or on digitising its operations. If the expenditure is on a depreciating asset, the asset must be first used or installed ready for use by 30 June 2023. The technology bonus deduction is capped at \$20,000 per financial year.

Parliament has resumed (on Monday 6 February) so these measures could be passed by the end of February 2023.

### Reducing FBT compliance costs

Another measure being considered by Parliament should reduce employers' FBT compliance costs.

The new rules will allow employers to rely on adequate alternative records (as determined by the ATO) which contain the information required for FBT record keeping purposes, instead of keeping and retaining the current designated statutory evidentiary documents such as prescribed employee declarations.

The ATO has already released 2 draft determinations specifying alternative records in certain circumstances where a fringe benefit consists of the reimbursement of car expenses or where a travel diary is presently required.



## KEY TAX DATES

Date	Obligation
<b>21 Feb 2023</b>	January 2023 monthly BAS due
<b>28 Feb 2023</b>	December 2022 quarterly BAS due
	Pay December 2022 quarterly instalment notice
	Annual GST return due (if no income tax return due)
	December 2022 SG charge statement due (if required)
	SMSF 2021–22 annual return due (unless first return or late with return for previous financial year)
<b>21 Mar 2023</b>	February 2023 monthly BAS due
<b>21 Apr 2023</b>	March 2023 monthly BAS due
<b>28 Apr 2023</b>	March 2023 quarterly BAS due
	Pay March 2023 quarterly instalment notice
	Employee super guarantee contributions due
<b>21 May 2023*</b>	April 2023 monthly BAS due
	Lodge and pay annual FBT return (if your business lodges one)
<b>28 May 2023*</b>	March 2023 SG charge statement due (if required)

\*The next business day will apply.

**Note!** Talk to 145 financial to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by COVID-19 or a natural disaster.

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