RJC EVANS & Co

News

RJC EVANS & Co
Accountants • Tax Agents • Advisors

1921 - 2021 100 YEARS ANNIVERSARY RJC EVANS & Co
WORKING TO MAXIMISE YOUR WEALTH

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Resilience needs to be seen as a continual process

"Change is the only constant in life"

The Ancient Greek philosopher, Heraclitus, is quoted as saying "change is the only constant in life" and with change comes resilience.

Resilience is about adaptation. It is crucial to learn from these crises to be better prepared for changing circumstances.

The invasion of Ukraine by Russia has led to a major humanitarian crisis. Thousands of lives have been lost and several million people displaced as they have fled for their safety. Repeatedly the news footage from the Ukraine shows the people are still determined and resilient.

The Ukrainian crisis has taken place at a time when countries around the world are still dealing with the repercussions of the Covid-19 pandemic.

As the conflict continues, many raw materials and agricultural commodities are becoming more expensive, with shortages becoming a possibility.

Organisations need to adapt to this new reality, paying particular attention to how these unpredictable events may challenge their business and/or stock levels.

The pandemic in this current crisis state stresses the importance of long-term resilience strategies. Resilience needs to be seen as a continual process. Building resilience – or the practice of resilience – rather than achieving resilience should be a mutual goal of RJC Evans & Co and our clients so that we can continually build up resilience to draw upon it when times are more difficult and uncertain, i.e., droughts, floods, stock or feed shortages - or taxation due dates!

With the recent change in Government and new financial year about to commence, there will also be changes with tax rates and associated expenses. Articles contained within this newsletter may assist in explaining what this could mean for you and your entities during the next financial year. Please contact our office should you require any advice surrounding these topics.

General

Superannuation updates as of 1st July 2022

Removal of the $450 threshold

From the 1st of July 2022, employers will now need to pay superannuation to all employees regardless of how much they are paid. The $450 gross wage per month threshold has been removed.

The rules for workers under the age of 18 will remain generally the same. They will still only be eligible for Superannuation Guarantee (SG) contributions if they work more than 30 hours per week.

Increased SG rate to 10.5%

The SG rate is set to increase again, from 10% to 10.5% as of the 1st of July 2022. This is in-line with the intent to raise Superannuation Guarantee Contributions to 12% by 2026.

Decrease in eligibility age for downsizer contributions to 60

Retirees who downsize their home will be able to contribute $300,000 to superannuation within 90 days of settlement. The recent changes as part of the budget have changed the minimum age from 65 to 60.

Work test removal for employee super contributions

Those aged between 67 and 74 no longer have to meet the 'work test' (i.e. working 40 hours over 30 consecutive days in a year) to make salary scarified and non-concessional superannuation contributions. Note the 'work test' still applies for personal concessional (i.e. tax deductible) contributions.

Superannuation Minimum Pension Drawdown remains halved

Superannuation Minimum Pension Drawdown rates will remain halved for another financial year, now ceasing by the 30th of June 2023.

The Superannuation Guarantee rate is increasing to 10.5% from 1st of July 2022.

Other updates as of 1st of July 2022

Motor vehicle cents/kilometre increase

The rate used to calculate a Motor Vehicle expense under the Cents per Kilometre Method will increase to 78c per kilometre, up from 72c in the 2022 financial year. This brings the maximum claim without a logbook from $3,600 to $3,900 (5,000km x $0.78) for the 2023 financial year.

COVID-19 Hourly Rate ending

The ATO has acknowledged that many people have been required to work from home during COVID and it has now become a permanent working condition for some. However, the ATO have elected not to extend the 80c per hour shortcut method for another year and will revert back to the standard 52c per hour method from the 1st of July 2022.

Low Middle Income Tax Offset (LMITO) Ending

Tax offsets for low and middle income earners will cease from the 1st of July 2022. Individuals will observe a decrease of up to $1,500 in their 2023 Income Tax Returns.

ATO Crackdown on Trust Distributions

Trusts, specifically Discretionary Trusts, have long been the favoured investment vehicle for families.

They provide flexibility, asset protection, succession planning and taxation benefits. With the ATO's recently announced updated interpretation of the law, the taxation benefits risk being eroded.

Background

Trustees of Discretionary Trusts regularly resolve to make certain beneficiaries entitled to income or capital of the Trust by way of a distribution. These distributions may not be paid immediately or not paid at all and instead loaned, gifted or forgiven. It is these types of distributions that are now attracting the scrutiny of the ATO.

What are the ATO targeting?

The ATO is seeking to tax unpaid distributions at the top marginal rate (rather than the intended beneficiaries' marginal rate) where some or all of the following conditions are met:

- The benefit of the distribution is ultimately received by someone other than the nominated beneficiary;
- There is no intention of the nominated beneficiary ever benefiting from the distribution;
- The distribution has the result of reducing another taxpayer's income tax liability;
- The distribution is outside the course of ordinary family or commercial dealing;
- A child's distribution entitlement is forgiven in lieu of expenses the family incurred on the child's behalf prior to them turning 18 years old.

What does this mean?

Trust distributions that are physically paid to the beneficiary in a timely fashion and are used by the beneficiary for their own benefit are unlikely to come under scrutiny. Arrangements that differ slightly that are reasonable, appropriately documented and accounted for correctly may be safe. However, unpaid distributions to taxpayers on a low tax rate without appropriately documented arrangements in place could be levied with tax at 47%.

This development will be significant for trustees in the lead up to the 30th of June. Please feel free to contact our office to discuss how this might affect you.

The ATO is seeking to tax unpaid distributions at the top marginal rate.

IMPORTANT READ

ATO Compliance

ATO monitoring lifestyle assets and social media

Most people are aware of the range of powers the Australian Taxation Office (ATO) has when it comes to gathering data on your financial affairs; but did you know the ATO may now know what car you drive or if you own a yacht?

In recent times, the ATO have built up an array of information gathering systems, partially due to the shift to digital data storage. Historically, the ATO were limited to gathering data from locations where Tax File Numbers (TFN) had been provided, such as banks, security exchanges, and employers. This had the dual purpose of providing taxpayers with 'prefilled' information at tax time and to check no information is omitted when lodging your return. However, recently the ATO has shifted their focus onto 'lifestyle asset data' as they pursue other avenues to catch possible tax evasion.

Insurance companies are one known source of data the ATO has called upon. The information collected ranges back to 2013/14 for anyone who has insured a high value asset. According to the ATO, the following assets are flagged during their data collection programs (relevant for the years 2020-2023):

Asset Class:	Minimum asset value threshold:
Marine Vessels	$100,000
Motor Vehicles (incl. Caravans)	$65,000
Thoroughbred horses	$65,000
Fine art	$100,000 (per item)
Aircraft	$150,000

The information gathered consists of personal information - including addresses, ABNs and business names.

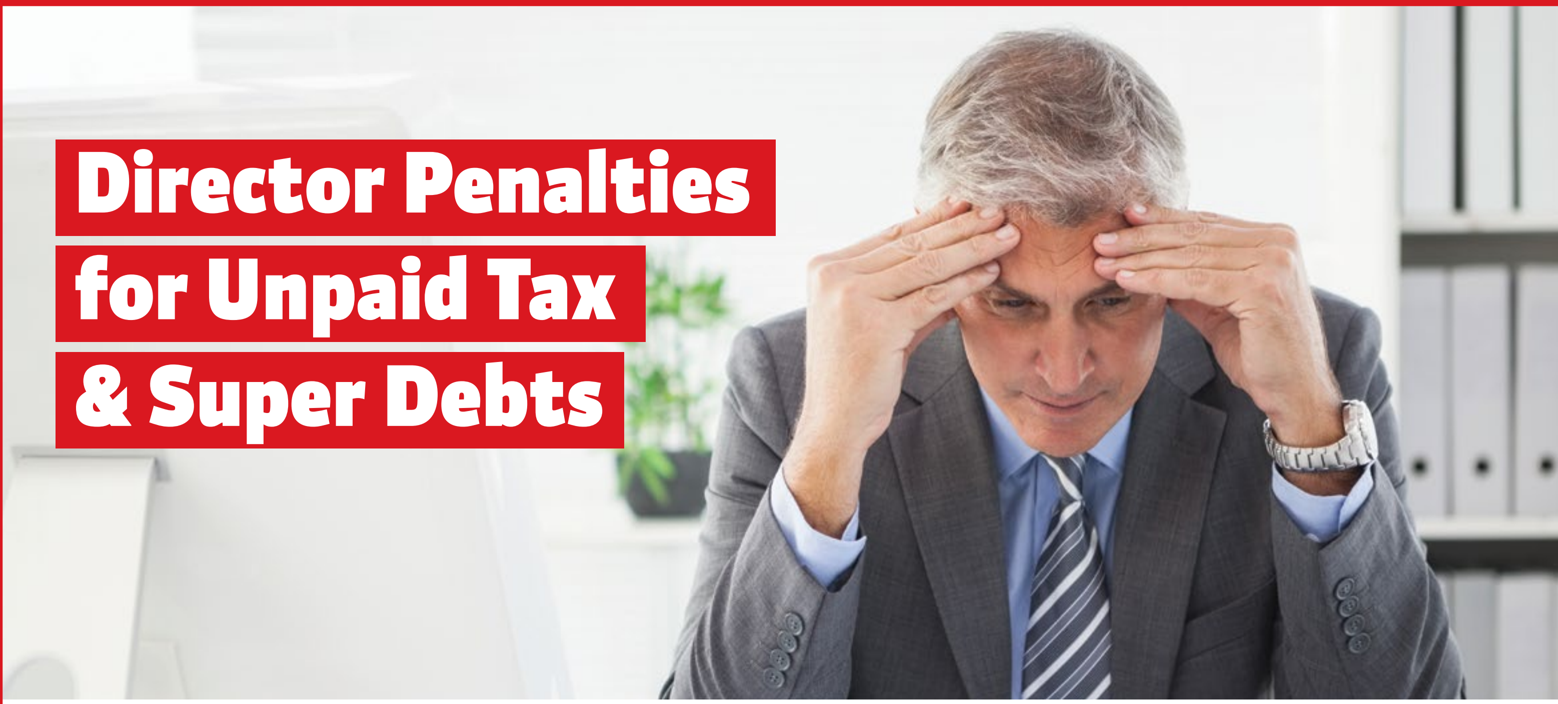
Policy details are also collected, including the value of insurance items, purchase prices and the physical location of insured property.

This information collected will be used to confirm ownership of assets, correct disclosure of disposals and to match reported income to the level of expenditure. For example, the ATO would become suspicious of a taxpayer owning an unexplained Porsche when declaring a small taxable income.

Social media is another goldmine of information. The ATO has confirmed that they check social media posts for lavish purchases or holidays. They may also review your activity during a declared business trip to ensure no fraudulent claims are being made.

If the ATO believes a taxpayer's actions are serious enough to be considered tax fraud or tax evasion, they may also lay criminal charges. The maximum penalty for tax fraud is 10 years imprisonment.

Director Penalties for Unpaid Tax & Super Debts



What is a Director Penalty Notice?

A director penalty notice is presented to a director when the company they control fails to meet all its Pay-As-You-Go (PAYG) Withholding, Super Guarantee Contribution (SGC) or Goods and Services Tax (GST) obligations.

Who does this apply to?

All past and present directors can be given a penalty notice. Although a director may resign from their position, they are still liable for any payments that fell due or transpired from events starting before the date of their resignation.

If there are multiple directors of a company, each individual is liable equally for the unpaid debt and will be given personal notices, this is known as parallel liability.

How to Avoid a Director Penalty Notice?

As a general rule, the best way to avoid a penalty is to pay all PAYG withholdings, SGC and GST requirements on time and in their entirety. However, if a new director is appointed, they will have 30 days before they become liable for all outstanding obligations. In those 30 days, the company must either pay all debts in full, appoint an administrator or small business restructuring practitioner, or commence the winding up of the company to avoid a director penalty.

What happens if a penalty notice is issued?

The company and director(s) will be required to remit the debts in any of the ways outlined below:

PAYG Withholding and Net GST

If the unpaid amount is reported to the ATO within 3 months of the due date, the penalty can be remitted by any of the following:

- Paying the debt;
- Appointing an administrator;
- Appointing a small business restructuring practitioner;
- Starting the wind up process.

If the amount is not reported to the ATO within 3 months of the due date, the only option available is to pay the debt.

SGC Amounts

If the unpaid amount is reported by the due date, the penalty can be remitted by one of the following:

- Paying the debt;
- Appointing an administrator;
- Appointing a small business restructuring practitioner;
- Starting the wind up process.

If the amount unpaid is reported to the ATO after the due date, the only option available is to pay the debt.

The remission of the debts can be made at any time before the notice is issued. Once the notice is issued however, the director has 21 days from the date of issue of the notice to settle any penalties.

If the company finds an arrangement to pay the debt then the ATO will not seek to recover debts from the directors personally; although they may offset the directors personal tax credits.

What if the company fails to report debt?

If the debt has not been reported to the ATO by the due date, a reasonable estimate will be made of the unpaid and overdue amounts. This estimate is due and payable by the company the day the ATO issues the estimate notice.

As a general rule, the best way to avoid a penalty is to pay all PAYG withholdings, SGC and GST requirements on time and in their entirety.

ATO Guidance

Employee Allowances

A travel allowance will generally need to be included in your employee's assessable income

The ATO has issued new guidance to help employers determine whether to pay employees a travel allowance or a living-away-from-home allowance (LAFHA).

There are some key differences between the treatment of the two types of payments:

- A travel allowance will generally need to be included in your employee's assessable income and may need to have tax withheld from it. It covers accommodation, food, drink or incidental expenses an employee incurs when they stay away from their home overnight or for a short period to carry out their duties. It's generally deductible to the employer.
- A LAFHA payment provided to employees may be considered a LAFHA fringe benefit. In this instance, it will need to be reported in the employer's annual Fringe Benefits Tax (FBT) return. LAFHAs are paid to compensate an employee for additional living expenses they incur if they're required to live away from home for an extended period for work purposes. In certain circumstances, such payments may be exempt from FBT for the employer and not taxable to the employee.

LAFHAs are paid when an employee has moved and taken up temporary residence away from their usual place of residence to be able to carry out their duties at the new but temporary workplace. The employee has a clear intention/expectation of returning home on the cessation of work at the temporary location (in this sense, the employee is absent for a limited/finite period of time).

On the other hand, a travel allowance is paid for specific trips because the employee is travelling in the course of performing their employment duties but has not temporarily relocated as a LAFHA recipient would. The existing work location continues to be the employee's regular place of work. In travelling away from home, the employee simply takes travel items (such as toiletries and a few changes of clothes). Employees receiving a travel allowance will also typically use temporary styles of accommodation such as hotels.

A travel allowance provided by an employer is not taxed under the FBT regime but may be taxed under the PAYG withholding regime as a supplement to salary and wages. The ATO publishes guidelines each year on what it considers to be reasonable amounts for a travelling employee. These guidelines give a reasonable daily travel allowance amount and take the following factors into consideration:

- destination of travel (broken down into metropolitan cities, country centres within Australia and international countries);
- accommodation;
- meals;
- other incidentals;
- employee annual salary (in ranges);
- specific rates for truck drivers.

The reasonable amounts are intended to apply to each full day of travel covered by the travel allowance, with no apportionment required for the first and last day of travel.

Where the employer has paid the employee less than the ATO-determined reasonable amount, then the employer is not obligated to withhold from the allowance nor does the employer have to include the allowance on the employee's PAYG income statement.

Some key differences between the two types of payments are captured in the following table:

TRAVEL ALLOWANCE	LAFHA
The existing work location continues to be the employee's regular place of work	The employee has established a second or alternative work location
The employee simply takes travel items with them (e.g. toiletries, change of clothes)	The employee effectively takes up temporary residence away from what is considered their usual place of residence, and may take residential belongings with them
The employee (and their family) continues to reside near the existing work location	The employee has temporarily relocated, and their family may also have joined them or visit them
The employee uses temporary styles of accommodation such as a hotel	The employee uses longer-term accommodation while away from home e.g. lease of residential premises
The employee is away on a specific trip for less than a month or so	The employee is staying away to work at an alternative work location for a significant period, generally more than one month

A travel allowance is paid for specific trips because the employee is travelling in the course of performing their employment duties but has not temporarily relocated as a LAFHA recipient would.

Four priorities for the ATO this Tax Time

In the middle of May, the ATO announced that there will be four focus areas on their radar during Tax Time 2022 – record-keeping, work-related expenses, rental property income anddeductions, and capital gains from crypto assets.

It is reminding taxpayers that there are three golden rules when claiming a deduction:

1. You must have spent the money yourself and weren't reimbursed
2. If the expense is for a mix of income producing and private use, you can only claim the portion that relates to producing income, and
3. You must have a record to prove it.

1 Record-keeping

For the many people who lodge their tax return using a tax agent, your agent's hands are tied in terms of claiming deductions on your tax return… unless you can furnish them with records to prove you have incurred the work-related expense, then they can't claim it. Records can be kept in paper or digital format.

Examples of records you need to keep include are:

- Income statements or payment summaries from your employer and Services Australia
- Statements from your bank and other financial institutions showing the interest you earned during the income year
- Dividend statements
- Summaries from managed investment funds
- Receipts or invoices for equipment or asset purchases and sales
- Receipts or invoices for expense claims and repairs, contracts
- Tenant and rental records.

2 Work-related expenses

Noting that many people worked from home during COVID-19, if your working arrangements have changed, the ATO warns taxpayers to not just copy and paste your prior year's claims. If you use a tax agent, inform them of your changed circumstances. If your expense was used for both work-related and private use, you can only claim the work-related portion of the expense. For example, you can't claim 100% of mobile phone expenses if you use your phone for private purposes. You can easily keep track of your expenses with the myDeductions tool in the ATO app. Simply take a photo of the receipt in the app, record the details of the expense, and at tax time, simply upload the information directly to your return in myTax or email it to your registered tax agent.

3 Rental income and deductions

If you are a rental property owner, make sure you include all the income you've received from your rental in your tax return, including short-term rental arrangements, insurance payouts and rental bond money you retain. The ATO says it knows that many rental property owners use a registered tax agent to help with their tax affairs. The ATO encourages you to keep good records, as all rental income and deductions need to be entered manually, you can ask us.

4 Capital gains from crypto

If you dispose of an asset such as property, shares, or a crypto asset, including non-fungible tokens (NFTs) this financial year, you will need to calculate a capital gain or capital loss and record it in your tax return.

Says the ATO's Assistant Commissioner:

"Crypto is a popular type of asset and we expect to see more capital gains or capital losses reported in tax returns this year. Remember you can't offset your crypto losses against your salary and wages."

"Through our data collection processes, we know that many Aussies are buying, selling or exchanging digital coins and assets so it's important people understand what this means for their tax obligations".

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Record keeping

Keeping good business records is important for a number of reasons. It assists with:

- Complying with tax and superannuation obligations;
- Gaining a greater insight into the financial health of your business, enabling you to make informed decisions;
- Managing your cashflow;
- Demonstrating your financial position to prospective lenders and also potential buyers of your business.

ATO requirements

Broadly, the ATO requires that:

- Most records are kept for five years from when the records were obtained, transactions completed or acts that they relate to – whichever is the most recent.
- The records are available and accessible to be provided to the ATO when and if sought after;
- The records must be in English or able to be easily translated to English.

Digital records

The ATO is reminding business owners that records (paper/hard copies) can be kept digitally. The ATO accepts images of business paper records saved onto a digital storage medium, provided the digital copies are true and clear reproductions of the original paper records and meet the standard record keeping requirements.

Once you have saved an image of your original paper records, these no longer have to be kept unless a particular law or regulation requires you to.

However, if the information (for example, supplier information, date, amount and GST) is entered from digital or paper records into your accounting software, a copy of the actual record is still required to be kept, either digitally or on paper. Some accounting software packages may do both accounting and record keeping.

Storage options

1. Cloud

If you use cloud storage, either through your accounting software or through a separate service provider, such as Google Drive, Microsoft OneDrive or Dropbox, ensure:

- The record storage meets the record-keeping requirements;
- You download a complete copy of any records stored in the cloud before you change software provider and lose access to them.

2. E-invoicing

Regardless of your E-Invoicing software or system, your business is responsible for determining the best option for storing business transaction data. You should:

- Ensure that your process meets the record-keeping requirements;
- Discuss your options with your software provider;
- Talk to your business adviser, if necessary.

Digital advantages

As stated by the ATO, there are many advantages to keeping your records digitally. If, for example, you use a commercially available software package, it may help you to:

- Keep track of business income, expenses and assets as well as calculate depreciation;
- Streamline your accounting practices and save time so you can focus on your business
- Automatically calculate wages, tax, super and other amounts, including:
  - Developing summaries and reports for GST, Income Tax, Fringe Benefits Tax (FBT) and Taxable Payments Reporting System (TPRS), as required.
  - Being prepared to lodge your tax and super obligations, including your Income Tax Return, Business Activity Statements (BAS) and Taxable Payments Annual Report (TPAR) if you are a business that is required to.
  - Sending information to the ATO online (if the package meets ATO requirements), for example, your Activity Statement.
  - Meeting your legal Single Touch Payroll (STP) reporting obligations.
- Back up records using cloud storage to keep your records safe from flood, fire or theft.

Vale John Colman Evans

17/11/1933 – 2/6/2022

The staff of RJC Evans & Co pass our thoughts and condolences to Andrew, Stephen, Louise and the extended Evans family on the passing of John.

John joined the practice alongside his father in 1951, playing an integral part in making the firm and its clients, what they are today.

The values and work ethic John displayed are reflected in the staff and clients he influenced during his lifetime whom will carry on his legacy for many generations into the future.

REMINDER

Reminder: Director IDs - Application deadlines

Existing Directors must apply by the **30th of November 2022.**

New Directors must apply before appointment.

This includes directors of corporate trustees for Trusts and Superannuation Funds.

Applications must be made by the director and cannot be undertaken by anyone else on their behalf. Please contact our office should you require assistance.