

Q1 2014

# BUSINESS MATTERS

Strategies for managing your business



## INSIDE:

- PPSA deadline looms
- Update on unemployment laws
- New year's resolutions for 2014
- ATO reminder about RFB
- Record keeping for businesses
- And more

## Protecting personal information

As businesses prepare for the Privacy Act reforms that are coming into play in March 2014, it is important they also look at the security of the personal information they hold.

The Office of the Australian Information Commissioner (OAIC) has released a "Guide to Information Security: reasonable steps to protect personal information." This Guide provides information to businesses on the measures they need to be taking to protect personal information, including sensitive information.

Currently, the Information Privacy Principles (IPPs) and the National Privacy Principles (NPPs) require businesses to take 'reasonable steps' to protect the personal information that they hold from misuse, loss and from unauthorised access, use, modification or disclosure.

This obligation is retained in the new Australian Privacy Principles (APPs). However, it is important to note that APP 11 requires a business to take the further step of protecting personal information from 'interference.'

The inclusion of this is intended to recognise that attacks on personal information could also include interference such as computer hacking.

When the OAIC investigates a potential breach of the APPS, it will consider two factors:

1. the steps that the business took to protect the information
2. whether those steps were reasonable in the circumstances

Here are some steps and strategies that businesses could consider in order to protect personal information:

**IT security.** Using effective IT measures, as well as ensuring websites are secure and safe for individuals to use.

**Physical security.** Regulating access to the workplace and securing workshops and storage areas

**Testing.** Regular testing of security systems to identify any weaknesses that require attention

**Workplace policies.** Training staff on their responsibilities under the businesses privacy policy, as well as conducting compliance reviews

The Guide also outlines what is considered to be a 'reasonable step' in ensuring the security of personal information. This includes the nature of the business holding the personal information, the nature of the information being held, the risk of harm and the data handling practices.

Whilst the Information Security Guide is not binding, the OAIC has stated that it will refer to the Guide when assessing a business's compliance with its obligations under the Privacy Act.



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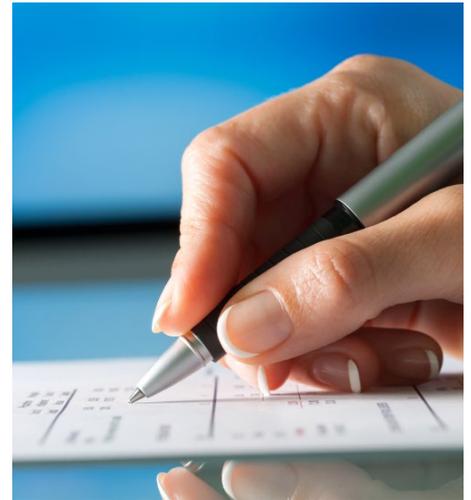
## Be wary of GST clauses in contracts

A recent legal case in the Victorian Supreme Court has highlighted the importance of ensuring that the correct GST clause is used in business contracts.

A properly drafted GST clause can avoid any problems or unintentional financial consequences. The recent Victorian case involved a contract that failed to list GST as being inclusive or exclusive of the purchase price. As a result, the purchaser was not required to pay an additional amount on account of GST.

Many businesses that draw up contracts rely on template GST clauses to address the GST issues involved within the contract. Whilst template GST clauses can be useful, they can also be a costly mistake if businesses use them without a thorough understanding of how the GST works.

It is important to draft the GST clause in a way that ensures that the parties' intentions are clear, and all GST matters are addressed. It is often a good idea to have contracts reviewed by a specialist before signing.



## PPSA deadline looms

Businesses need to ensure that their interests are correctly registered on the Personal Property Securities Register (PPSR).

Here are some key points to think about in the lead up to the end of the transitional period:

Security interests need to be perfected under the PPSA by 30 January 2014. Perfection is most commonly achieved

by registering the interest on the PPSR. Registration is a relatively simple and inexpensive process.

If a security interest remains unperfected after the end of the transitional period:

- subsequent purchasers or lessees of the secured property may acquire or lease it free of the security interest.
- the security interest will lose in any

priority contest with another security interest over the same property which has been perfected

- the security interest may be lost on the insolvency of the grantor

Certain security interests were automatically migrated to the PPSR, however, this does not mean that the process was free of errors. It could be preferable to re-register migrated security interests before 30 January 2014.

## Update on employment laws

The past year has seen important changes in the area of employment laws.

It is essential that all employers are up-to-date with these changes and are taking the necessary steps to remain compliant.

The following are some of the changes occurring to employment law that will affect employers in 2014:

The Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) (2013) has made it unlawful to discriminate against an individual on the basis of sexual orientation, gender identity and intersex status.

Businesses will need to review their policies and also conduct staff training to ensure employees are educated on the Act.

An increase of 2.6 per cent to the minimum wage, as well as to all modern award rates of pay, was granted from the first full pay period on or after 1 July 2013. As a result of this, the national weekly minimum wage has increased to \$622.20.

The casual loading for award/agreement-free employees has increased from 23 per cent to 24 per cent.

The superannuation guarantee contribution rate has increased from 9 per cent to 9.25 per cent. This will then

increase to 9.5 per cent in July 2014.

The Fair Work Amendment Act (2013) will come into effect on 1 January 2014. This Act will introduce a new sphere of protection to workers experiencing bullying in the workplace.

This amended Act will allow workers to directly lodge complaints to the Fair Work Commission, instead of notifying their employer.

The amended Act also broadens the definition of 'worker,' and extends the scope of these changes to other employees such as volunteers, contractors and work experience students.

## New Year's resolutions for 2014

Around this time, every year people draw up a list of resolutions that they wish to achieve in the New Year.

The New Year offers a chance to reflect on the past year and focus on performing better in the year ahead—not just personally, but also in business.

Here are some New Year's resolutions to get started on in 2014:

### Put it all in the Cloud

More businesses will be shifting their IT infrastructures to the Cloud in 2014 as the online storage becomes cheaper, more reliable, and the connection to the Cloud becomes faster.

Cloud storage allows businesses to be nimble, efficient and cost-effective.

It provides the flexibility of anywhere access and can be more secure than any security device a company can offer.

### Adapt to mobile

2014 will see a significant increase in customers accessing websites from their mobile.

Businesses need to adapt their website to the more compact screen size of contemporary devices.

This will help users access the company easily and more frequently, and ensure the business keeps up to date with current trends.

### Review the marketing plan

The New Year is a good time to review the businesses marketing plan and

identify new ways to reach the target market.

2014 is a good time to increase the focus on social media and consider adding more interactive tools to the businesses website, such as videos or blogs.

### Legislative framework

Businesses can expect legislative change and compliance regulations in 2014. For example, the new Privacy Act in March 2014 represents the biggest change to privacy laws in the last 25 years.

It is a good idea to begin preparing for these changes sooner, rather than later, to ensure the business is continually compliant with the law.

## Planning for the Super Guarantee rate rise

Employers should be prepared for the increases to the Superannuation Guarantee (SG) rate.

The steady climb in the SG rate requires employers to contribute more money into their employees' superannuation fund.

The SG rate has already increased to 9.25 per cent as of July 2013. The next increase to 9.5 per cent will come into play in July 2014.

It is scheduled to increase further over the coming years, eventually reaching the 12 per cent target.

It is also important that employers are aware that the upper age limit for paying the SG for an employee was removed this year.

This is to allow mature age workers to build up their retirement savings for a longer period of time.

The removal of the upper age limit means that employers must continue to pay eligible employees super if they are over 70 and continue to be employed by the

business. Employers need to ensure that they are prepared for the changes to the SG rate rise.

It is essential that employers do not make rough calculations about their financial obligations, or they may find themselves caught out.

Now is the time for you to make the effort to put systems in place. A few systems can alert you each time an increase in super is due. This can help to ensure that a you do not miss an increase date.

Automatic superannuation systems are able to take the administrative issues out of meeting superannuation obligations.

Systems can also help to calculate what the costs will be as the SG continues to increase over the years.

Employers will also need to check that their payroll and accounting systems are able to cater for the gradual increase in the SG rate, as well as the removal of the upper age limit.

Also, employers need to consider the contents of the payslips they are



issuing to employees.

Payslips will now need to identify the date when superannuation will be paid to employees.

You should also take this opportunity to review their employment arrangements and make sure that superannuation is being dealt with appropriately in light of these changes.

## ATO reminder about RFB

Employers are reminded that the ATO will be focusing on businesses not complying with the Fringe benefits tax (FBT) system in 2013-14.



The ATO will be paying particular attention to those employers who are failing to fulfil their FBT obligations, including disclosing the reportable fringe benefits (RFB) amount. Employers should be recording the value of fringe benefits provided to each employee.

If the value of certain fringe benefits provided exceeds \$2000 in an FBT year (which is 1st April to 31st March) employers need to record the gross taxable value of the benefits on the employee's payment summary for the corresponding income year (which is the 1st July to 30th June).

Generally, if there is an RFB, there will be an FBT liability. However, this does not occur where benefits are exempt from FBT because an employee works in or for a public benevolent institution,

health promotion charity, hospital, public ambulance service or is a live-in residential care worker.

If employees do not correctly report their RFB amounts in their income tax returns it may affect their government benefits and obligations.

## Record keeping for businesses

Maintaining good records will help businesses manage their cash flow and make sound business decisions. It will also ensure that businesses are meeting their tax obligations.

Keeping good records is essential for those in business and can potentially save a business significant time and money. Poor record keeping is often a key factor in the failure of businesses.

There are a number of reasons why businesses should be keeping good records of their transactions.

Good record keeping:

- makes it easier for businesses to meet their tax obligations
- makes it easier to understand how the business is doing
- helps with making good business decisions

Record keeping is a legal requirement. If businesses are not keeping the right records they can be liable to penalties.

The law states that records must be kept for a minimum of five years (non companies) and eight years for companies, and can be either on paper or stored electronically.



Records must also be in English or a form that is easily converted.

It is a good idea to set aside some time each week to maintain the businesses records. This helps to prevent an overload of paperwork during tax time.

The following business records are required to be kept; income tax records, income and sales records, year-end records, bank records, GST records, fuel tax records and employee and contractor records.

## Important tax dates

### JANUARY 28

Due date for super guarantee contributions for Quarter 2 (1 Oct-31 Dec) 2012-13

### 31

Final date for lodgement of Quarter 2 (Oct-Dec 2012) TFN report for closely held trusts for TFN's quoted to a trustee by beneficiaries

### FEBRUARY 21

Due date for lodgement and payment of January 2013 monthly activity statement

### 28

Due date for lodgement and payment of Annual GST return or Annual GST information report

### MARCH 21

Due date for lodgement and payment of November 2013 monthly activity statement

### 28

Due date for lodgment and payment of February 2014 monthly activity statements for deferred BAS payers

### 31

End of 2014 FBT year