Penalty rates and the impact of change

The Fair Work Commission (FWC) has moved to cut Sunday and public holiday penalty rates.

Changes to penalty rates are not yet in force – see *When will the changes take effect?* below.

Flagged back in 2014, the review into penalty rates was part of the FWC's four yearly review of all Modern Awards. Hearings, submissions and reviews have been ongoing since 2015. The outcome of that process (see AM2014/305 Penalty rates case) is to reduce Sunday and public holiday rates in the following Modern Awards:

- Hospitality Industry (General) Award 2010 [MA000009]
- Registered and Licensed Clubs Award 2010 [MA000058]
- Restaurant Industry Award 2010 [MA000119]
- Fast Food Industry Award 2010 [MA000003]
- General Retail Industry Award 2010 [MA000004]
- Hair and Beauty Industry Award 2010 [MA000005]
- Pharmacy Industry Award 2010 [MA000012]

When will the changes take effect?

The public holiday penalty rate reduction will come into effect from 1 July 2017 with the exception of the Clubs Award, which remains unchanged.

For the reduction in Sunday penalty rates, transitional measures will be put in place from 1 July 2017. The FWC has flagged that the reduction may be via a series of annual instalments so the full impact of the reduction will be graduated. The decision on how penalty rates will be reduced and over what time period won't be known until May 2017.

Not everything is as simple as it seems with some penalty rate changes only impacting on employees at certain levels. For example, in the Fast Food Industry Award, Sunday penalty rates for Level 1 employees will decrease from 150% to 125% for full and part timers, and from 175% to 150% for casual employees. Level 2 and Level 3 employees are unaffected.

There are also some minor variations to the early/late night work loadings in the Restaurant and Fast Food Awards that will take effect in late March 2017. These variations don't change the loading but the spread of hours; changing it from midnight to 7am to midnight to 6am.

It will be important for all employers affected by the Award changes to not only understand what Award their employees are covered by, but at what level. While nothing needs to be done now, keep an eye out for the finalised Awards and other changes from May.

FBT rate change

The Fringe Benefit Tax rate decreases on 1 April 2017. The rate change is because of the 2% Debt Tax on high-income earners which imposes a 2% levy on every dollar of a taxpayer's annual taxable income over $180,000 from 1 July 2014 until 30 June 2017. The FBT rate was brought into line with the Debt Tax to discourage high-income earners from using the FBT system to lower their taxable income.

Assuming the Debt Tax does end on 30 June 2017 as anticipated and not extended, the FBT and gross up rates will decrease to previous levels from 1 April 2017.

Click here to review the FBT rate table on our website or call us on 02 6686 3000.

Continue reading this edition for more FBT updates.

Meet Roger Tseng B Bus, Collins Hume Accountant

After joining the team in April 2016, Accountant Roger Tseng has been all hands to the pump doing company tax returns, BAS, accounting and financial reporting for Collins Hume's clients.

Roger enjoys a steady stream of work from all of Collins Hume's Partners, but is currently gearing up for the bout of pre-year end tax planning that typically occurs each April.

At the moment Roger's focus has been on local sole traders, particularly trade businesses and contractors.

Being a Xero Certified Adviser, Roger knows that benefits that a cloud accounting system can bring to any business and, for tradies and contractors, the advent of mobile payments is an exciting development.

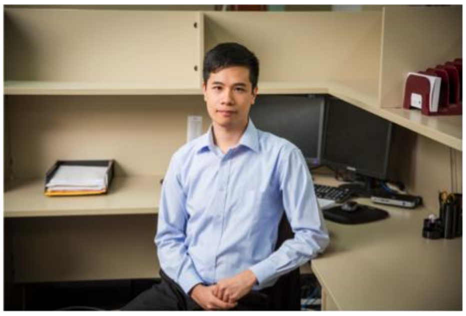
"Mobile payments are being forecast as the next big thing for businesses," says Roger. "Whilst most people continue to pay using traditional credit cards and cash, the mobile payment revolution is coming – it's only a question of when."

At the end of this year Roger plans to have completed the work experience component of his CPA qualifications, under the careful tutelage of mentor Peter Fowler.

"With Peter we discuss the type of work I do; Collins Hume have a career plan for me and my professional direction," says Roger. "Obviously I enjoy doing the actual accounting working more than the exams. At Collins Hume the door is always open for any questions I have – I just have to knock."

For now, Roger is focussing on 'everything tax' (except super funds) and is very much looking forward to becoming a fully-fledged member of CPA Australia in the not too distant future.

Roger holds a Bachelor of Business in Professional Accounting from Queensland University of Technology. Before moving to the Northern Rivers, he worked as an accountant for a Brisbane firm. Roger is a Xero Certified Adviser and is also proficient in using MYOB, QuickBooks and BankLink.



Don't miss out

The 100% immediate write-off for small business assets costing less than $20,000 ends 30 June 2017. Are you eligible to immediately claim the cost straight off your bottom line and reduce your tax? You can buy all types of equipment and vehicles – even second hand. Contact Collins Hume on 02 6686 3000 to see if your business is eligible.

App-scuse us!

If you haven't downloaded our new free App, then now's a great time to find out the Top 5 functions that our users love the most! Download free onto your iPhone, iPad or Android phone now at http://www.collinshume.com.au/client_tools/collins_hume_app and stay up to date, all within the palm of your hand.

Super reform and its impact on you

The wide-ranging superannuation reforms originally announced in the 2016-17 Federal Budget have passed Parliament.

As the majority of the reforms start from 1 July 2017, it's important to consider how these might impact on you and whether you need to take any action before then.

Key reforms include:

- Non-concessional contributions capped at $1.6 million – Once your super balance has reached $1.6m, from 1 July 2017 you will no longer be able to make non-concessional contributions to super. This does not stop you from making non-concessional contributions in the current 2017 financial year.
- If the balance of your superannuation pensions exceed $1.6m at 1 July 2017, the Tax Commissioner will direct your fund to reduce your retirement phase interests back to $1.6m and you will be subject to an excess transfer balance tax. Your overall super balance can be more than $1.6m but only $1.6m can be in a tax-free pension. Keeping the excess balance in super, albeit in accumulation phase, may still be worthwhile because of the low 15% tax rate.
- Non-concessional contributions reduced to $100,000 per annum (from the current $180,000). If you are under 65, you have until 30 June 2017 to use the current caps and contribute up to $540,000 this financial year. You can do this using the 'bring forward' rule that allows you to bring forward up to three years worth of non-concessional contributions in one year (and then make no or limited contributions for the next two years).
- The advantage of using the bring forward rule now is that your three years worth of contributions utilise the current caps. If you contribute more than $180,000 this financial year but not the full $540,000, you still trigger the bring forward rule but any further contributions from 1 July 2017 are subject to the new $100,000 cap.
- Concessional contributions reduced to $25,000 per annum.
- More high income earners to pay higher tax rate – High income earners with incomes of $300,000 or more pay 30% tax on super contributions they make, rather than the usual 15%. From 1 July 2017, this threshold will reduce to $250,000.
- Earnings on fund income no longer tax-free. From 1 July 2017, the income from assets supporting transition to retirement income streams will no longer be exempt from tax but included in the fund's assessable income. For example, if your super fund earns interest from a term deposit, that interest is currently tax-free in a transition to retirement pension. From 1 July, that interest will be included in the fund's assessable income.

There are also some positives in the reforms:

1. Claiming a tax deduction on super contributions
2. 'Carry forward' unused super cap

How Collins Hume can help?

If you are concerned that the Government's changes to superannuation will affect you, please call us on 02 6686 3000 to arrange a time to go over your particular needs in detail.

General Advice Warning

This information has been prepared on a general advice basis only. The information has not been prepared to take into account your specific objectives, needs and financial situation. The information may not be appropriate to your individual needs and you should seek advice from your financial adviser before making any investment decisions.

What employers need to know about FBT in 2017

We know that no one likes to pay tax and certainly no more tax than they should. But very few people want to be on the wrong side of an Australian Taxation Office (ATO) audit where fees and penalties are paid for neglecting your obligations.

The Fringe Benefits Tax (FBT) year ends on 31 March which means the ATO will be looking closely at whether or not every employer who should be paying FBT is, and whether they are paying the right amount.

Housekeeping

If your business has cars and you need to record odometer readings at the first and last days of the FBT year (31 March and 1 April), have your team take a photo on their phone and email it through to a central contact person – it will save running around to every car.

Should I be registered for FBT?

If you have employees (including Directors of a company) then it's possible your business needs to register for FBT. Generally, your business needs to register for FBT if you are providing benefits to employees that are not exempt from FBT. So, if you provide cars, car spaces, reimburse private (not business) expenses, provide entertainment (food and drink), employee discounts etc., then you are likely to be providing a fringe benefit.

There are exemptions to FBT, such as portable electronic devices like laptops and iPads (although there are rules around how many), protective clothing, tools of trade etc. If your business only provides these exempt items, or items that are infrequent and valued under $300, then you are unlikely to have to worry about FBT.

Managing the log book just got easier

Log books need to be kept by employers using the operating cost method for FBT purposes so that they can estimate and validate the business use percentage of a car. The more personal use the more tax paid. Anyone who has been through this process knows it is time consuming, particularly where there are multiple cars. The ATO has now made the process simpler where employers have 20 or more 'tools of trade' cars. A tool of trade car is a car required for the job – like for a sales representative required to travel extensively for business purposes.

There are a few conditions to access the simplified method:

- Valid log books need to be kept for at least 75% of the cars in the log book year
- The employer (not the employee) chose the make and model of the car
- Each car in the fleet has a value less than the luxury car limit when purchased
- The cars are not provided as part of an employee's remuneration package, and
- Employees cannot elect to receive additional remuneration in lieu of the use of the cars

If these conditions are met, the employer can apply an average business use percentage to all 'tool of trade' cars held in the fleet in the log book year and the following four years. Employers who can access this simplified method can apply this approach for five years assuming the key details remain the same. Call us on 02 6686 3000 if you need our help.

What the ATO is targeting this FBT-year

Businesses that have bought cars and living away from home allowances.

Data matching has become more sophisticated over the years to the point where there very few transactions you can make without the ATO knowing about it. While the ATO's officers don't go through data line by line they do look at anomalies. These anomalies, or exception reports, narrow down who should come under scrutiny.

If you or your business comes up on one of these lists the first thing that will happen is that the ATO will reach out and start asking for more information to validate your position. This is why having your documentation in place is so important. If you don't have records validating your position the next step might be an audit.

One of those anomalies this FBT year is where a business has purchased vehicles but fringe benefits have not been reported to the ATO. While this position might be legitimate, it's important to have the documentation backing up your position.

While the changes to the living away from home allowance (LAFHA) rules have been in place for a number of years, it's an area of continued consternation for the ATO. One of the key issues is whether the employee is actually living away from home, as opposed to simply travelling in the course of their work or relocating. If you provide these benefits to employees, you need to ensure you have sufficient evidence to support any exemption claimed and that the employee has met the relevant conditions. It's up to the employer to not only obtain the signed LAFHA declaration from the employee, but also to verify and maintain records to evidence that the employee or their spouse has retained an ownership interest in the home that they are living away from and that it remains available to them while they were required to work in another location by the employer.

Review salary packages and opportunity for high-income earners

Salary packaging has been less attractive over the last few years with the higher FBT rate and restrictions being placed on some of the popular FBT concessions. With the FBT rate changing again on 1 April 2017, it's important to review all existing arrangements and make sure that everyone understands – employers and employees – what the package looks like once the rate decreases. In general, salary packaging will become less expensive to provide once the FBT rate goes down again, so look for the opportunities to save.

For high-income earners earning above $180,000, you have a one-off opportunity to reduce your taxable income when the FBT rate is reduced from 1 April 2017 until the Debt Tax is removed on 30 June 2017. Be certain that any arrangements put in place are executed correctly. The ATO will be looking closely at any packaging arrangements that drop an individual's income below the Debt Levy threshold.

Briefly, an effective salary sacrifice arrangement is one that:

- Forms part of the employee's remuneration, i.e. the benefits are replacing amounts that would have been payable as salary.
- Is documented in writing. The employee needs to agree in writing to forgo a certain amount of income before that income has been earned, in return for benefits of a similar value. If the ATO want to clarify this point there will need to be documentation and a trail backing it up.
- Is not reimbursed to the employee's bank account. The salary sacrificed amount needs to come out of the salary or wages.

The FBT year ends 31 March and the ATO will be looking closely at whether or not every employer is treating fringe benefits correctly. Call us on 02 6686 3000 to get organised before 1 April 2017.

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ACCOUNTANTS
BUSINESS ADVISERS
FINANCIAL ADVISERS
MORTGAGE BROKERS

Your free seminar invitation

CARE Investment philosophy helps you avoid the big mistakes, so you can focus on having an 'exciting life and boring money' and not the other way around.

Join us on Wednesday 29 March 2017 to hear Head of the CARE Investment Committee, Emmanual Calligeris, joined by Collins Hume's Christopher Atkinson and Adam Vermillion from Essential Wealth and Retirement at the Ramada Ballina.

Seminar details

- Seminar Date: Wednesday, 29 March 2017
- Seminar Time: 6:00pm for 6:30 start
- Seminar Location: Ramada Ballina, 2 Martin St, Ballina NSW 2478

Click here to learn more about the CARE approach to investing.

Take action! Seats are limited so book now on 02 6686 3000.

Essential Wealth and Retirement

Collins Hume is a Corporate Authorised Representative (1243440) of GPS Wealth Ltd / AUSTRALIAN FINANCIAL SERVICES LICENCE NO. 254544 / AUSTRALIAN CREDIT LICENCE NO. 254544 / GPS WEALTH LTD ABN 17 005 482 726.

CGT main residence exemption

The main residence exemption and how and when capital gains tax (CGT) does or does not apply is a common question but often depends on a range of factors. One of the best but rarely used options available is where you have a current main residence you live in and own, and you then purchase another house to move into and keep the old house as an investment property. You then have the option of choosing either one or the other house as your main residence, but not until you actually sell one of these properties, or you rent the first house out for more than 6 years. This allows you to plan the exemption in order to get the largest profit on either house tax-exempt using this concession. To discuss your CGT management tactics, please contact us on 02 6686 3000.

Privacy Act passed by Parliament

This legislation applies to every business and not-for-profit organisation with annual turnover of $3M or more and requires all regulated businesses to report any "eligible" data breach to the Office of the Australian Information Commissioner and also to notify individuals who may have been affected as soon as practical. A regulated organisation must conduct an assessment into the breach circumstances within 30 days to determine whether it has actually occurred and whether notification is required.

Crowd Funding Legislation Update

The crowd funding legislation is currently in the Senate.

Some commentators believe that the legislation will be passed later this month. The key sections of the legislation proposed by the government appear to have survived the parliamentary debate.

This will mean that the legislation will have these key causes:

- To be a company that can raise funding as a "crowd funding equity raising" the company will need to be a public company.
- Businesses with Australian Financial Services Industry Licenses (AFSLs) will be able to perform the "gatekeeper" role. This means that the gatekeeper will have to check the various documentation prepared by the applicant company before the details of the proposed capital raising can be listed on the gatekeeper's website.
- The capital raising period is a maximum of three months, however the company can make it an earlier period if they wish.
- Companies will be able to raise up to a maximum of $5 million every 12 months.
- Companies will need to have an annual turnover of less than $25 million and assets of less than $25 million to be eligible to apply to raise funds from the "crowd".
- Companies that aspire to raise money as a crowd funding equity raising will need to have produced appropriate documentation including:
  - business plan
  - budgets and cash flow forecasts
  - information memorandum, and
  - other requirements such as audit and directors.

The government expects thousands of companies to avail themselves of the opportunity of raising capital from the "crowd".

Let us help you review your business and look at where you want your business to be in the next 3-5 years, exactly how you and your team can achieve these desired goals and objectives, with the help of government grant funding. Call us on 02 6686 3000 to find out more.

R&D reminder

A reminder that any business that undertook research and development (R&D) expenditure in the year ended 30 June 2016 and that wishes to claim the R&D tax rebate has to register with AusIndustry by 30 April 2017 or the date of lodgement of the company's income tax return, whichever is the earlier.

Government Grant	Application Deadline
QLD Small Business Digital Grants Program	10 April 2017
Strategic Opportunities Program NSW	30 June 2017
Drought Assistance Concessional Loans Scheme QLD	30 June 2017
Advance Queensland – Startup Events and Activities Fund	15 December 2017
Made In Queensland – Manufacturing	30 January 2019
Job Action Plan NSW	30 June 2019