

# Empire Update – March 2019

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# Single touch payroll extended to all employers

**From 1 July 2019, single touch payroll – the direct reporting of salary and wages, PAYG withholding and superannuation contribution information to the ATO – will apply to all employers. What employers need to report will also be extended to include certain salary sacrificed amounts.**

Employers with 20 or more employees have been required to use single touch payroll since 1 July 2018. The new rules push all businesses with employees into the single touch payroll system. This includes the situation where payments are made to the owners of the business in the form of salary, wages or directors fees.

The ATO has asked software providers to provide new low-cost payroll options for micro employers (1-4 employees). MYOB and Xero have announced new \$10 per month offerings (limited to 4 employees) with other software houses following suit.

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The ATO also states that to assist micro employers there will be, “a number of alternate options that are not available to employers with 20 or more employees – such as initially allowing your registered tax or BAS agent to report quarterly, rather than each time you run your payroll.”

While the start date for small employers will technically start on 1 July 2019, the Commissioner of Taxation released a statement indicating that small employers can actually start reporting through single touch payroll any time from 1 July 2019 until 30 September 2019. No penalties will be applied to mistakes, missed or late reports for the first year.

Plus, if your business is in an area with no viable internet connection, such as some rural and remote regions, then exemptions may apply.

### Under 20 employees? What you need to do

1 July 2019 is not that far away. If your business does not already use STP compliant software, you may need to upgrade your systems or implement new ones.

STP requires PAYG withholding and superannuation contribution details to be reported to the ATO as payments are made to employees or superannuation funds.

When it comes to PAYG withholding, employers will report details of salary and wages paid to employees as well as the PAYG withholding amount at the time the payment is made to the employee. Employers have the option of paying the PAYG withholding liability at the same time, although this is not compulsory.

What needs to be reported:

- Salary & wages
- Director remuneration
- Return to work payments to individuals
- Employment termination payments (ETPs) – not compulsory if the employee has died
- Unused leave payments
- Parental leave pay
- Payments to office holders
- Payments to religious practitioners
- Superannuation contributions (at the time the payment is made to the fund)
- Salary sacrificed amounts (from 1 July 2019).

### Employers with poor super guarantee payment history outed

Underpayment or non-payment of superannuation guarantee (SG) is a big issue. New laws will enable the ATO to advise employees (or former employees) of their employer’s poor SG payment and reporting history.

If an employer makes a complaint to the ATO, then a taxation officer is able to make

a record or advise the employee about a failure or suspected failure by their employer or former employer to comply with their SG obligations. They can also share the Tax Commissioner’s response to the complaint. So, if the Commissioner finds there is a problem with SG payments, they can disclose this information to the complainant.

*If you have any concerns about how impending legislation may impact on you, please give the team a call and we would be happy to clarify your position.*

## Quote of the month

“Give me six hours to chop down a tree and I will spend the first four sharpening the axe.”

Abraham Lincoln



# Legislation in limbo

## A budget, an election, and the legislation that hasn't made it through.

The February 2019 Parliamentary sitting days were the last opportunity before the Federal Budget for the Government to introduce or push through new legislation. Next month, on 2 April, Parliament reconvenes for the Federal Budget and it's likely that an election will be called very soon after that (18 May 2019 is the last possible date for the election of the House of Representatives). Any legislation that has not passed when the election is called basically goes back to the drawing board and may never be enacted.

With the focus of politicians firmly on the impending election and the asylum seeker debate, and the Government now in an untenable position following the loss of its majority in the lower house, tidying up outstanding business legislation was not the priority in February, and as a result, several key pieces of legislation are in limbo.

### Extension of the \$20k instant asset write-off

Originally introduced in the 2015-16 Budget, the popular \$20k instant asset write-off has been extended across consecutive years. At present, small businesses are able to immediately deduct purchases of eligible assets costing less than \$20,000 that are first used or installed ready for use by 30 June 2019.

In a pre-election sweetener, the Government announced that the threshold for the small business instant asset write-off will increase to \$25,000 and the timeframe to claim the increased write-off extended from 29 January 2019 until 30 June 2020.

The Bill enabling the changes was rushed into Parliament in February. While the upcoming Budget will provision for the measure, the outcome of the next election may determine whether the change comes to fruition.

### Removing the CGT main residence exemption for non-residents

Currently, individuals are generally not subject to capital gains tax (CGT) on the sale of the home they treat as their main residence. If the home was your main residence for only part of the ownership period or if the home is used to produce income (for example, you use part of the home as business premises or rent out part of the property), then a partial exemption may be available. In addition, if you move out of your home and you don't claim any other residence as your main residence, then you can continue to treat the home as your main residence for up to six years if you rent it out or indefinitely if you don't rent it out (the 'absence rule').

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“...any employer who made a voluntary disclosure to the ATO will not benefit from the reduced punitive penalties unless the legislation passes, which at this stage, is highly unlikely...”

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The main residence exemption is currently available to individuals who are residents, non-residents, and temporary residents for tax purposes.

In the 2017-18 Federal Budget, the Government announced that non-residents and temporary residents would no longer have access to the main residence exemption under the CGT rules. The Government later confirmed that the exemption would still be available to temporary residents as long as they were residents of Australia under the normal residency tests.

The proposed rules would prevent non-residents from claiming the main residence exemption even if they were a resident for some (or even most) of the ownership period. The proposed rules do not allow for partial exemptions. If, however, you are an Australian resident at the time you sell, then the normal main residence exemption rules apply, even if you were a non-resident for some or most of the ownership period.

The draft laws become even more complex when dealing with deceased estates.

**Under the proposed new laws, the transitional period for non-residents to make arrangements to either sell their property or restructure their affairs, ends on 30 June 2019.** The transitional period applies if the property was held at 9 May 2017 and is sold under a contract entered into on or before 30 June 2019. If there is no contract of sale in place by 30 June 2019, then the main residence exemption will not apply if the individual is a non-resident when the sale takes place.

With the legislation stalled in the Senate, non-residents are in a precarious scenario. If the legislation is enacted with the current deadlines, it will now be difficult to sell any property in time to meet the transitional period requirements.

We expect that the timing of the main residence exemption amendments will be addressed in the upcoming Federal budget. We will keep you posted!

## Employer Superannuation Guarantee amnesty

Back in May 2018, the Government announced an amnesty for employers who had fallen behind with their superannuation guarantee (SG) obligations. Under the amnesty, employers could catch up or “self correct” outstanding SG payments for any period from 1 July 1992 up to 31 March 2018. The intent was to reduce the estimated \$2.85 billion owed by employers in late or missing SG payments.

Running from 24 May 2018 for 12 months, the amnesty was to provide relief from some of the punitive penalties that normally apply to late SG payments. To take advantage of the amnesty, employers were to make voluntary disclosures to the ATO about outstanding payments.

But, the legislation enabling the amnesty has stalled in the Senate. Up until recently, the ATO was encouraging employers to make voluntary disclosures with the view that when the legislation passed Parliament, the amnesty would be applied. However, any employer who made a voluntary disclosure to the ATO will not benefit from the reduced punitive penalties unless the legislation passes, which at this stage, is highly unlikely in its current form.

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Further, the Tax Commissioner has no discretion under the law to reduce the penalties applied to employers in this scenario, so if the legislation doesn't pass, then there isn't much the ATO can do to soften the blow.

### **SMSF membership limit changes**

Rushed into Parliament before the break was a bill enacting the Government's 2018-19 Budget measure increasing the maximum number of allowable members in a Self Managed Superannuation Fund from four to six. The measure is before the Parliament but unlikely to be addressed before the election.

### **Superannuation guarantee and salary sacrifice**

The Bill amending how superannuation guarantee is calculated, to ensure that an individual's salary sacrifice contributions cannot be used to reduce an employer's minimum superannuation guarantee (SG) contributions, appears to have stalled. The Bill has not progressed since November 2017. At present, the minimum amount of SG an employer is required to pay is based on an employee's ordinary time earnings. As entering into a salary sacrifice arrangement reduces the employee's ordinary time earnings, it reduces the amount of SG that an employer is required to pay.

### **Craft beer excise changes**

Australia's growing craft beer industry were promised changes to the way excise applies to their product. The amendments extend the concessional excise duty rates that currently applying to draught beer in kegs and other containers exceeding 48 litres to smaller containers of 8 litres or more if these containers are designed for dispensing from commercial premises. Once again, this measure made it into Parliament but is unlikely to be addressed before the next election.

### **Future Drought Fund**

The Future Drought Fund is a dedicated investment vehicle to secure a revenue stream for "drought resilience, preparedness and response". The fund uses \$3.9 billion in uncommitted funds from the Building Australia Fund. The Bill to create the fund made it into Parliament in November 2018 and passed the lower house on the last sitting day in February. The future of the fund is in the hands of whoever wins the next election.

### **Curbing payday loans and rent-to-buy schemes**

The Bill curbing payday lending is unusual because it was introduced in the last sitting period by the Labor Party who have in effect, introduced the Government's

own exposure draft reforms from 2017. The reforms amend the consumer credit code to impose caps on total payments made under a consumer lease, require small amount credit contracts to have equal repayments and interval periods, remove the ability for small loan providers to charge monthly fees if the loan is fully paid out before the term of the loan expires, prevent door to door selling, and strengthen compliance. In the wake of the Royal Commission and the recent Senate enquiry into payday lending, there will be reform, it's just a question of when.

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## **Benefits during emergencies exempt from FBT**

If your business assists employees during an emergency, for example floods, bushfires etc., then fringe benefits tax is unlikely to apply to the assistance you provide. While we doubt anyone would be thinking about FBT during a crisis, it's good to know that the tax system does not disadvantage your generosity.

The exemption applies in a range of scenarios including natural disasters, accidents, serious illness, armed conflict, or civil disturbances

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# International Women's Day: Has anything changed?

Women and girls make up just over half (50.7%) of the Australian population. While women comprise roughly 47% of all employees in Australia, they take home on average \$251.20 less than men each week (full-time adult ordinary earnings). The national gender “pay gap” is 15.3% and it has remained stuck between 15% and 19% for the past two decades.

In 2017, Australia was ranked 35th on a global index measuring gender equality, slipping from a high point of 15th in 2006. While Australia scores very highly in the area of educational attainment, there is still a lot of progress to be made in the areas of economic participation and opportunity and political empowerment.

So, what are we missing? Why do we have so many highly educated women but still have a pay gap and unequal representation in senior management? The number of women on the Boards of ASX-listed companies grew from 8.3% in 2009 to 26.2% in 2017 but while very positive, this percentage is hardly representative of the broader population.

McKinsey & Co's recent [Women in the Workplace](#)

[2018](#) study tracks a similar dilemma in the US. The study states:

“The two biggest drivers of representation are hiring and promotions, and companies are disadvantaging women in these areas from the beginning. Although women earn more bachelor's degrees than men, and have for decades, they are less likely to be hired into entry-level jobs. At the first critical step up to manager, the disparity widens further. Women are less likely to be hired into manager-level jobs, and they are far less likely to be promoted into them—for every 100 men promoted to manager, 79 women are. Largely because of these gender gaps, men end up holding 62 percent of manager positions, while women hold only 38 percent.”

While it is convenient to point to the amount of work women do in the home and maternity leave as the reason for why women do not progress, it is not enough to justify the statistics: Australian women account for 68% of primary carers for older people and people with disability and 95% of primary parental leave (outside of the public-sector) is taken by women and women spend almost three times as much time taking care of children each day, compared to men.

*International Women's Day is on Friday, 8 March.*

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## Benefits during emergencies exempt from FBT

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As an employer you might provide benefits such as meals, temporary accommodation, clothing or transport, etc.