



Superannuation and Choice of Fund

In coming months you will see increasing coverage about the new Choice of Fund legislation. In this issue we look at what it's all about, how it affects you as an employer and what you need to do to meet your obligations.

From 1 July the new legislation, Choice of Fund, will come into effect. This will allow many employees to choose the superannuation fund their Superannuation Guarantee Contribution (SGC) is paid into.

Under current legislation employers make Superannuation Guarantee Contributions to a fund of their choice. These contributions are equivalent to 9% of an employee's salary.

Under choice of fund, most employees will be able choose the fund they wish to have their SGC contributions paid into. This election can be made every 12 months.

If no fund is selected, generally the employer's default fund is used although some exceptions apply to the use and need for default funds.

Employers will be responsible for ensuring that they educate employees about their superannuation choice options.

Here are some tips on how you can prepare for your obligations under the Choice of Fund legislation:

What you can do now:

Review your existing employee arrangements and determine which employees can make a choice of fund.

The new Choice of Fund legislation will apply to most employees except where:

- employees are hired under state awards and contributions are being made in accordance with the award;
- employees for whom contributions are being made in accordance with certain workplace agreements or certified agreements under the Workplace Relations Act 1996 or Industrial Relations Act 1988;
- employees who are members of certain defined benefit funds.

By 1 July 2005:

By this date employers should have the following processes in place:

Review Systems

Review payroll systems and update procedures to allow employee's choice of fund information to be captured. As a minimum, employers will require the name, ABN, contact details and postal address of the fund, plus the employee's membership number.

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Business benefit in recent tax changes

March saw a busy month for tax changes that benefit business. Here's a break down of some of the major changes to keep an eye out for and what it means to you as a business owner.

Loans to shareholders

Currently a loan from a private company to its shareholders or their associates is subject to Division 7A.

Division 7A puts in place a series of requirements for the loan to be deemed a bona fide commercial arrangement. This includes a requirement for a shareholder loan agreement. A written agreement needs to be in place and executed prior to the making of the loan to avoid the amount loaned being deemed an unfranked dividend.

Where the loan is repaid prior to the end of the income year or if a loan agreement meeting the maximum period and minimum interest rate is in place, this does not apply.

Under the amendments to Division 7A, a loan from a private company can be repaid or put on a commercial footing (that is a loan agreement is put in place) before either:

- the due date for lodgement of the company's tax return or;
- the actual date when the return is lodged

Whichever is the earlier of these two dates applies.

In doing this the loan avoids being treated as a deemed dividend.

The amendments will apply to loans made in or after the 2004-05 year of income.

It is really important to get the processes right at the beginning in order to avoid a loan being subject to Division 7A, as the tax consequences may be severe.

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Business benefit in recent tax changes

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25 per cent entrepreneurs' tax offset

This is the enactment of one of the Government's election promises. It is directed toward micro businesses or those that are in their early start up phase.

The 25% entrepreneurs' tax offset is for small businesses in the simplified tax system (STS) with an annual turnover of \$75,000 or less.

The full 25% offset is available to STS businesses with an annual turnover of \$50,000 or less. Where the business turnover is greater than \$50,000 the offset will be phased out so that it ceases once it reaches \$75,000.

The offset is only claimable against business income and is available to either:

- The STS taxpayer in the case of an individual or company operating as an STS taxpayer;
- The partners of a partnership that is an STS taxpayer; or
- The trustee or beneficiaries of a trust that is an STS taxpayer, depending on who is liable for tax on the trust income.

The STS groupings provisions apply to prevent businesses from subdividing in order to pass the turnover test and access the offset.

The 25% entrepreneurs' tax offset applies to income years commencing on or after 1 July 2005

Extending the Simplified Tax System

The Simplified Tax System (STS) was introduced in 2001. The aim of STS is to reduce the complexity of the tax system for businesses with a turnover under \$1 million.

Currently STS applies to businesses that account on a cash basis - that is they account for income when it is received. This requirement to use the cash method has led to many small businesses electing not to enter the STS.

From 1 July 2005 businesses using the accrual accounting method - that is they account for income when the invoice is raised and/or expenses when the liability is incurred, will be able operate in the STS.

The removal of these restrictions means that more businesses will be able to access the concessions by using either a cash or accrual accounting method.

Quote of the month:

The entrepreneur is essentially a visualiser and an actualiser...
He can visualise something, and when he visualises it he sees exactly how to make it happen.
Robert L. Schwartz

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Default Fund

Choose a default fund. A default fund is required where an employee has a choice of fund but does not exercise it. In choosing a default fund you need to ensure that it meets the minimum level of life insurance cover as required by Superannuation Guarantee Regulations.

New Employees

All new employees commencing after 1 July 2005 must be given a Standard Choice form, within 28 days of commencing work, unless they have already advised their choice of fund. This form will allow employees to notify where they want their superannuation contributions to be paid.

It's a good idea to update employee induction packages to include the standard choice of fund form.

By 28 July 2005

All existing employees must be given a standard choice form by this date. If the employee is exempt or if the employer is already making contributions to the employee's choice of fund, then a standard choice form does not have to be given to the employee provided that the employer has a record of the choice in writing.

August - September 2005

Collect the choice of fund forms from employees. Employees must provide all of the necessary information, including written evidence from the fund that it will accept contributions made by the employer for the employee.

Employers have 2 months from the collection of forms to act on the form and cease contributions to the default fund.

If you have any questions about the issues we've covered in this newsletter, please contact us today.