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BUSINESS BULLETIN

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CHANGES TO ATO INTEREST DEDUCTIONS

If you owe tax to the Australian Taxation Office (ATO), you may be charged interest in two ways:

- Shortfall Interest Charge (SIC) – applied when the ATO amends your tax assessment, meaning you originally underpaid.
- General Interest Charge (GIC) – applied when you don't pay your tax on time.

At present, businesses can claim SIC and GIC as tax deductions. However, from 1 July 2025, the government is set to remove tax deductions for these interest charges. It is important to know that legislation to enact this change is yet to be passed, so while it is slated to take effect from 1 July 2025, until the legislation is passed this is not law and could be changed or deferred or not made law at all.

Why the proposed change and Impact?

The government wants to encourage businesses to pay tax on time instead of using the ATO as a low-effort lender. With over \$100 billion in unpaid tax debt, they are tightening the rules to make delaying tax payments less attractive.

By removing the tax deduction, the cost of paying ATO interest will increase, making it more expensive to leave tax debt unpaid compared to borrowing from a bank or lender.

KEY DATES

21 MARCH

February monthly Activity Statements due for lodgement and payment

21 APRIL

March monthly Activity Statements due for lodgement and payment

28 APRIL

Due date for 3rd Quarter Activity Statements (if lodging by paper)

21 MAY

April monthly Activity Statements due for lodgement and payment 21 may

21 MAY

FBT annual return - due for lodgement for some employers

26 MAY

Due date for 3rd Quarter Activity Statements (if using a BAS Agent or Tax Agent)

If you regularly pay tax late or have an ATO payment plan in place, this change could significantly increase your costs. For example:

- Before the proposed change: If your business had a \$10,000 GIC charge, you could claim it as a deduction, reducing your taxable income.
- After the proposed change: That same \$10,000 will no longer be tax deductible, making it a bigger financial burden.

For businesses already struggling with cash flow, this could make managing tax debt even harder.

What Can You Do?

1. Review Your Tax Debts Now – If you have an ATO payment plan, consider paying it off before July 2025 to avoid the extra cost.
2. Consider Refinancing – If you rely on ATO payment plans, it may be cheaper to take out a business loan or line of credit instead
3. Be Proactive – Work with your bookkeeper to ensure you're meeting tax deadlines and avoiding unnecessary penalties.

Importantly, should the change be made law, taxpayers will continue to have the ability to apply to the ATO and request the remission of any GIC or SIC payable. The Commissioner has the discretion to remit the interest charges where it is fair and reasonable to do so, taking into consideration the circumstances which led to the delayed payment of tax liabilities or the tax shortfall. In relation to GIC, circumstances the Commissioner may take into account include, but are not limited to, where the delay in payment was not the fault of the taxpayer such as in the event of natural disaster, where the delay in payment was caused by the taxpayer but they have taken steps to reduce the severity and impact of the circumstances, or in special situations such as where the taxpayer has a good tax compliance history.

Next Steps

At the time of writing, the changes are still to become law. Nevertheless, it may be appropriate to start planning towards the

change and if you have a sizeable ATO debt on repayment plan, it may be worth investigating the possibility of refinance with a lender where in most cases the interest would continue to be deductible.

CRIMINALISATION OF WAGE THEFT

As of 1 January 2025, wage theft has been criminalised nationwide in Australia. This means that businesses that **intentionally** underpay workers or withhold entitlements, could now face criminal charges, hefty fines, and even jail time. Importantly, this doesn't include honest mistakes.



There are protections in place for businesses to avoid criminal prosecution and these are included in the Voluntary Small Business Compliance Code (Code). The Fair Work Ombudsman has created a guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code which you can access [here](#), however in short the Code is a framework designed to help small businesses (those with less than 15 employees) meet their obligations around payroll and employee entitlements. The purpose of the Code is to help small business employers avoid criminal prosecution if they didn't intentionally underpay their workers. Important to note is that while accessing the protections of the Code prevents a business from criminal charges, Fair Work can still take Civil action against a small business employer and those involved in the underpayment.

What is Wage Theft?

Wage theft occurs when an employer **intentionally** does not pay an employee their full entitlements under workplace laws. This can include:

- Paying below the minimum wage set by the Fair Work Commission or relevant Modern Award.
- Failing to pay penalty rates, overtime, or allowances.
- Withholding entitlements such as superannuation or leave payments.
- Unauthorised deductions from wages.

Importantly, unintentional payroll mistakes are not considered wage theft. Businesses that make an honest mistake in calculating wages and promptly correct errors will not face criminal prosecution. However, ongoing and deliberate underpayments could result in serious penalties.

There are some exceptions and broadly these apply to:

- Employees in NSW, SA, QLD, Tasmania and Victoria who are employed by sole traders, partnerships, other unincorporated entities, or non- trading corporations
- Most Victorian state government employees
- Tasmanian local government employees

Penalties

If convicted of a criminal offence, a court may impose a maximum of 10 years in prison for an individual. They can also impose significant penalties for the individual or a company or both:

For Businesses (Companies & Entities)

- Fines of up to \$8.25 million OR
- Three times the amount of underpaid wages (whichever is higher).

For Individuals (Directors, Business Owners, or Payroll Officers found Personally Liable)

- Fines up to \$1.65 million OR
- Up to 10 years in prison.

The severe penalties highlight the

government's commitment to cracking down on businesses that knowingly exploit workers.

How Small Businesses Can Stay Compliant

Even though small business owners may not deliberately underpay workers, payroll errors and lack of understanding of award conditions could put you at risk. Here are some key steps you or your bookkeeper could take to reduce the risk of underpayments



Conduct a Payroll Health Check

- **Review all employee pay rates** – Ensure they align with the latest Modern Award rates, Enterprise Agreements, or where there is no award or enterprise agreement the National minimum Wage.
- **Check payslips and records** – Make sure payslips include all legally required details and keep accessible, legible and accurate time and wage records.

Stay up to date with workplace laws

Make reasonable efforts to stay up to date with changes to your obligations relating to your employee's pay. If you're unsure about your payroll obligations, consult with your bookkeeper.

Respond Quickly to Payroll Errors

- If you identify an underpayment, rectify it immediately.
- Notify the employee and pay any back pay owed, including superannuation and penalty rates if applicable.
- Keep detailed records of corrective actions in case of an audit.

Wage theft is now a serious criminal offence, meaning small business owners need to

be vigilant about payroll compliance. By staying proactive with payroll checks and seeking professional advice, small business owners can better protect themselves from unintentional breaches.

CLERICAL AWARD AND WORK FROM HOME

In August 2024, the Fair Work Commission (FWC) initiated a major case to develop a working-from-home (WFH) provision within the Clerks – Private Sector Award 2020. This initiative aims to facilitate effective WFH arrangements for clerical and administrative employees, potentially serving as a model for other modern awards.

The FWC's review will address several key issues, including:

- **Defining 'Working from Home':** Establishing a clear definition to ensure mutual understanding between employers and employees.
- **Right to Request WFH:** Considering whether employees should have the right to request WFH arrangements and under what circumstances employers can reasonably refuse such requests.
- **Modification of Existing Award Terms:** Evaluating necessary adjustments to current award provisions, such as working hours, breaks, and allowances, to accommodate WFH scenarios.
- **Interaction with 'Right to Disconnect' Laws:** Ensuring that any new WFH terms align with existing regulations that protect employees' rights to disengage from work communications outside of standard hours.

Stakeholders, including employer associations and unions, have expressed varied perspectives and currently consultation is taking place with stakeholders to determine if any changes will be made to the Clerical Award to include these arrangements. The outcome of this case could significantly influence WFH policies across various sectors, setting precedents for future employment terms and conditions.

