

Car expense rates per km – 2013/14

The car expense rates per kilometre have been set for the 2013/14 year (and they have been increased for the first time since 2008/09).

Year	Small car	Medium car	Large car
2012/13	63c	74c	75c
2013/14	65c	76c	77c

Donations

People donating up to \$10 to 'bucket appeals' and other disaster relief funds this financial year will be able to claim a tax deduction without a receipt.

Data Matching Programs

The Government has announced that it will request and collect information for the purposes of the following data matching programs.

Credit and Debit Card Data Matching Program

The ATO will request and collect data relating to credit and debit card sales of approximately 900,000 businesses for the periods from 1 July 2012 to 30 June 2014 from major banks and other financial institutions, including American Express and Diners Club Australia.

This data will be electronically matched with certain sections of ATO data holdings to help provide a more level playing field for those businesses which meet their obligations by identifying those who may not, for potential corrective action.

The importance of BDBNs

Two recent court cases dealing with self-managed superannuation funds (SMSFs) have highlighted the importance of making, and recognising, Binding Death Benefit Nominations (BDBNs).

Editor: A member of a superannuation fund may generally make a 'BDBN' which, if valid, requires the trustee of the fund to pay out their death benefits (i.e., after they die) exactly as set out in the BDBN.

In the first case, a member of an SMSF expressed a desire in her Will that her superannuation benefits be left to her children (and specifically not to her husband).

However, she did not make a BDBN, and the Supreme Court of Western Australia held that the preference in her Will did not affect the rights or duties of the trustee of the fund under the fund's trust deed. Consequently, the remaining trustee (i.e., the husband) had no obligation to appoint the deceased's executor as a trustee of the fund, and was also entitled to distribute the death benefits at his discretion, contrary to the direction in the deceased's Will.

In the second case, the deceased member of an SMSF had executed a BDBN in favour of his two children, but the trustees (basically the deceased's spouse and her son from a previous relationship) had wrongly believed that the BDBN was invalid and so had ignored it.

Nonetheless, the Supreme Court of Victoria held that the BDBN was valid and binding on the trustees of the SMSF, and ordered that **both** the current trustee of the fund **and** the deceased's spouse **personally** were liable to make payment of the full amount of the deceased's benefits as at the date of death, plus an interest component and costs, to the nominated beneficiaries under the BDBN.

High risk industries targeted for super obligations

The ATO has identified that employers in the following industries have a higher risk of not meeting their super obligations:

- ◆ hairdressing and beauty;
- ◆ clothing retailing; and
- ◆ management advice and consulting.

The ATO is currently running an education campaign for business owners in these industries to help them better understand their super obligations.

Further, from July 2014, it will be undertaking audits of employers who continue to not meet super obligations for their employees – including:

- ◆ paying their minimum super contributions quarterly (or lodging an SGC statement);
- ◆ offering employees (and some contractors) a choice of fund;
- ◆ keeping accurate records; and
- ◆ passing on an employee's TFN to their super fund as required.

Contractor/Council data matching program

The ATO has advised that it will acquire details of approximately 20,500 individuals providing contractor services to local government authorities in the 2010/11 and 2011/12 financial years from various local government Council and Shire authorities throughout:

- Queensland;
- Tasmania;
- New South Wales; and
- Victoria.

These will be electronically matched with certain sections of ATO data holdings to identify non-compliance with lodgment and payment obligations under taxation law.

The ATO, TFNs and Australia Post

The ATO has announced that red tape affecting Tax File Number (TFN) applications has been removed thanks to a partnership between the ATO and Australia Post.

TFN applications are now simpler and easier, as they can now be applied for online at www.ato.gov.au/TFNapply and a printout of the application summary can then be verified at one of the 460-odd Australia Post retail outlets throughout the country.

Additional services also now available at Australia Post include updating a date of birth on a taxpayer's ATO record and providing notification of a deceased person.

Parents and guardians can also apply for a TFN on behalf of their children.

Super update from the ATO

Some SMSF statistics

As at 30 September 2013, there were over 516,000 SMSFs holding around \$531 billion in assets.

Although SMSFs are nearing one million SMSF members (980,000), or 8% of the 11.6 million members of Australian super funds, they account for 31% of the \$1.6 trillion total super assets as at 30 June 2013.

Common problems and ATO audit action

The top contraventions reported to the ATO on auditor contravention reports relate to:

- ◆ loans;
- ◆ borrowings;
- ◆ a lack of separation of assets;
- ◆ in-house assets;
- ◆ not investing at arm's length;
- ◆ making acquisitions from related parties; and
- ◆ sole purpose breaches.

This year the ATO will review every fund reported to it by approved SMSF auditors.

In 2012/13, the ATO's audits:

- ◆ made 150 funds non-complying; and
- ◆ disqualified 440 people from being a trustee.

New ATO powers and penalties

The government has announced that, from 1 July 2014, administrative penalties will apply to breaches of the super laws (note that this is still just proposed law at this stage).

If the proposed legislation is adopted, SMSF trustees will be personally liable for penalties between \$850 and \$10,200, depending on the provision contravened.

As trustees will become **personally** liable for these new penalties, they cannot use the resources of the fund to pay the penalty.

While the start date is 1 July 2014, it should be appreciated that contraventions, such as loans to members or relatives, still existing on that date will come under the new penalty regime.

The ATO says the message for SMSF trustees is clear: "Rectify any contraventions as soon as possible or be liable for a penalty."

Editor: If you're unsure about anything to do with your superannuation please contact our office.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.
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