Super guarantee contributions for the December 2022 quarter

A reminder to employers that their December 2022 superannuation guarantee ('SG') contributions were due by 28 January 2023.

Do not forget the two changes to SG that commenced on 1 July 2022:

- the rate increased from 10% to 10.5%
- employees no longer need to earn $450 per month to be eligible.

Employers now need to make super contributions for all eligible employees, regardless of how much they were paid – their earnings amount is not relevant. However, employees who are under 18 still need to work more than 30 hours in a week to be eligible.

Electric vehicle FBT exemption legislation is now law

Legislation to make certain electric vehicles exempt from Fringe Benefits Tax ('FBT') has now been enacted into law.

Certain zero or low emissions vehicles provided as a car benefit on or after **1 July 2022**, can be exempt from FBT.

For this exemption to apply various criteria need to be satisfied.

The car needs to have been both held and used for the first time by the employer on or after 1 July 2022 and it cannot have been subject to the luxury car tax when it was purchased.

For the 2023 income year, to qualify for this exemption, the car needs to cost less than the luxury car tax threshold for fuel efficient vehicles of $84,916.

A vehicle is a zero or low emissions vehicle if it satisfies both of these conditions:

- It is a:
  - battery electric vehicle; or
  - hydrogen fuel cell electric vehicle; or
  - plug-in hybrid electric vehicle.
- It is a car designed to carry a load of less than 1 tonne and fewer than 9 passengers (including the driver).

Motorcycles and scooters are not cars for FBT purposes and do not qualify for the exemption, even if they are electric.

Please note that in relation to plug-in hybrid electric vehicles, there is a specific limitation on the FBT exemption.

From 1 April 2025, a plug-in hybrid electric vehicle will not be considered a zero or low emissions vehicle under FBT law.

There are special provisions allowing the exemption to continue when a plug-in vehicle was provided as an exempt benefit under an agreement entered into before 1 April 2025 that continues after this date.

Although the private use of an eligible electric car is exempt from FBT, an employer still needs to include the notional value of the benefit when working out whether an employee has a reportable fringe benefits amount ('RFBA').

An employee has an RFBA if the total taxable value of certain fringe benefits provided to them (or their associate) is more than $2,000 in an FBT year. The RFBA must be reported through Single Touch Payroll or on the employee's payment summary.

The amount of an RFBA reported for an employee is not added to an employee's taxable income for determining income tax and Medicare Levy liabilities.

However, it is added to an employee's taxable income for calculating Medicare Levy Surcharge liability, and is included in income tests for family assistance, child support assessments, and some other government benefits and obligations.

Further eligibility age change for downsizer contributions

In another recent legislative change, the eligibility age to make a downsizer contribution into superannuation has been reduced to 55 from 1 January 2023.

This further reduces the downsizer eligibility age, which changed from 65 to 60 from 1 July 2022.

From 1 January 2023, eligible individuals aged 55 years or older can choose to make a downsizer contribution into their super fund of up to $300,000 per person ($600,000 per couple) from the proceeds of selling their home that has been held for at least 10 years and qualifies for at least a partial main residence exemption.

There are no changes to the remaining eligibility criteria.

Significant change to claiming working from home expenses

Before 1 July 2022, an individual taxpayer that incurred additional deductible expenses as a result of working from home, had a choice of three methods to claim these expenses.

These choices were:

- The shortcut method – which was available from 1 March 2020 to 30 June 2022;
- The fixed-rate method – which was available from 1 July 1998 to 30 June 2022; or
- Actual expenses, that is calculating the actual expenses incurred as a result of working from home *(Editor: This method can be burdensome to apply in practice)*

From 1 July 2022 the ATO has abolished the shortcut method and the fixed-rate methods.

A replacement method that can be used instead of the actual expenses method (which has not been abolished) is the revised fixed-rate method.

Under the revised fixed-rate method, a deduction can be claimed of 67 cents per hour for energy expenses (electricity and gas), internet expenses, mobile and home phone expenses, and stationery and computer consumables.

Other expenses associated with working from home, such as depreciation of home office furniture and a personally owned computer used at home for work purposes, will need to be calculated on an actual basis when using the revised fixed-rate method.

To claim a deduction under the new fixed-rate method, an individual needs to meet three criteria, which are:

- The individual is working from home while carrying out their employment duties or carrying on their business on or after 1 July 2022;
- They are incurring additional running expenses of the kind outlined in the above discussion as to what the 67 cents per hour amount reflects, as a result of working from home;
- They keep and retain relevant records in respect of the time they spend working from home and for the additional running expenses (covered by the rate per hour) they are incurring.

There are strict record keeping requirements associated with this new method.

For the year ending 30 June 2023, a taxpayer using this new method will need to keep a record which is representative of the total number of hours worked from home during the period from 1 July 2022 to 28 February 2023.

The taxpayer will also need to keep a record of the total number of actual hours they worked from home for the period 1 March 2023 to 30 June 2023.

The record of the actual hours worked from home could be maintained by timesheets, rosters, time-tracking apps, logs of time spent accessing employer systems or online business systems, or a diary kept contemporaneously.

For the year ending 30 June 2024 and later income years, a taxpayer using this method must also keep a record of actual hours worked from home for the entire year.

Under both the short-cut method and the previous fixed-rate method, there was no need for detailed record keeping of the actual hours worked from home. Estimates were acceptable. This is a significant change and increases the record keeping burden on taxpayers.

Another significant change, which results in an increase in record keeping obligations under the revised fixed-rate method, is that in relation to running costs such as energy costs, phone and internet costs, a taxpayer needs to maintain at least one monthly or quarterly bill.

This is because the ATO now requires proof that the individual has incurred the running costs represented by the 67 cents per hour deduction.

Transfer balance cap indexation

An individual's transfer balance cap ('TBC') determines the maximum amount they can commit to a retirement phase interest in their super fund, such as an account-based pension, without being subject to penal taxation.

When the TBC concept was introduced with effect from 1 July 2017, it was initially $1,600,000. It was increased by $100,000 as of 1 July 2021 to $1,700,000.

The TBC increases in $100,000 increments (or multiples of $100,000) in line with the Consumer Price Index ('CPI').

As a result of a substantial increase in the CPI, the TBC is due to increase on 1 July 2023 by $200,000.

Accordingly, an increase in the TBC is seen as a good thing, as it potentially means an individual can have more of their superannuation interest supporting a tax-free pension.

Individuals who start their first retirement phase income stream (otherwise known as a pension) on or after 1 July 2023 will have a TBC of $1.9 million.

From 1 July 2023 individuals will have a TBC between $1.6 million and $1.9 million.

An individual who already had a transfer balance account and at any time met or exceeded their personal TBC will not be entitled to indexation, and their personal TBC will remain the same.

For example, an individual who started their first retirement phase income stream, an account based pension, on 1 January 2022 with a value of $1,700,000 at the time of commencement, would have fully utilised their then TBC of $1,700,000.

Such an individual, having already fully utilised their TBC, will not gain any benefit from the increase in the TBC due to indexation.

Where an individual has partially utilised their TBC before 1 July 2023, instead of benefiting from the full $200,000 increase in the TBC, they will have access to a proportional indexation of their TBC based on the unused cap percentage of their transfer balance account.

Editor: To see if this change will impact on how much you can have counted towards a pension interest in your super fund, please contact our office