

The following are some examples of frequently asked questions relevant to Business. In no way do they replace personal advice for personal circumstances and, in the interests of keeping answers brief, are intended as a guide only. Most of the topics are dealt with in greater detail in our fact and flash sheets – if you require more information, please refer to these, and remember you should always contact our office to discuss and confirm how each topic affects you individually.

The questions are organised in sections, as follows:

- [Businesses – Payroll Obligations](#)
- [Businesses – GST](#)
- [Businesses – Special Topics](#)
- [PAYG Instalments](#)

You can proceed directly to each section by clicking on the hyperlinks above.

Businesses – Payroll Obligations

What is PAYG Withholding?

The PAYG (Pay As You Go) Withholding system is the means by which tax is withheld from certain kinds of payments, and remitted to the ATO. Those certain kinds of payments include:

- Salary and wages paid to employees
- Remuneration paid to a company director
- A payment covered by a voluntary agreement or a labour hire agreement (typically, payments to contractors)

If you are in business and you have payroll obligations, you are required to withhold tax amounts from payments to employees, contractors and directors and remit these amounts to the ATO on their behalf.

What date do I need to pay my employees' superannuation by?

You need to remit your employees' superannuation entitlements on a quarterly basis by the 28th day of the month following the end of quarter. You can pay more frequently (for example, on a monthly basis) if you wish to smooth cash flow.

In terms of the tax deductibility of superannuation, it is important to note that:

- Superannuation is only deductible by businesses when paid, therefore as a tax planning measure, pay your year-end superannuation liability by 30 June of each year in order to secure a deduction for that year
- If you do not remit your annual superannuation obligations in full by 28 July of the year following, you will be permanently denied a deduction for the amount outstanding, and you will incur penalties

Am I liable for Payroll Tax?

Your liability for payroll tax is state-specific, however you will generally be liable for payroll tax if your "taxable wages" exceed the threshold applicable to the state or territory you are deemed to be paying wages in. "Taxable wages" include a variety of different types of payroll expenses, including salaries, wages and superannuation. The following payroll tax rates and thresholds are applicable in the various states for the financial year commencing 1 July 2011:

State	Rate	Annual Wages Threshold
NSW	5.45%	\$678,000
VIC	4.90%	\$550,000
QLD	4.75%	\$1,000,000
SA	4.95%	\$600,000
WA	5.50%	\$750,000
TAS	6.10%	\$1,010,000
ACT	6.85%	\$1,500,000
NT	5.55%	\$1,500,000

Refer to our fact sheet on Payroll Tax for further information.

Businesses - GST

Do I need to register for GST?

You are required to register for GST if you:

- Are carrying on an "enterprise", and
- Your current / projected annual turnover is greater than \$75,000

You can elect to register for GST if you are carrying on an enterprise but do not meet the annual turnover test.

What should I do if I cannot pay my BAS by the due date?

If you are experiencing cash flow difficulties and believe you need a payment extension, contact us immediately. We will contact the ATO accordingly and if the ATO is in agreement, a payment plan will be arranged. It is important to note that:

- Despite the payment plan you will be charged GIC (General Interest Charge) on amounts not paid by the due date over the period that they remain unpaid
- You still need to lodge your BAS on time in order to avoid late lodgement penalties

Businesses – Special Topics

Can you explain the Personal Services Income legislation?

If you operate a service business via a company or trust structure, and you derive income as a result of exercising personal effort or skill, the Personal Services Income (PSI) legislation may apply to you and prevent you from:

- Channelling “personal services income” to another entity, be it an associated individual, partnership, company or trust in order to take advantage of lower tax brackets, and
- Claiming inappropriate business deductions

For example, if you consult through a corporate structure the PSI legislation may prohibit you from leaving profits in the company in order to take advantage of the capped corporate company tax. Or if you operate via a trust structure, the legislation may prohibit the leaving of profits in the trust in order to distribute to tax entities with lower marginal tax rates.

In order for PSI legislation to NOT apply, you must:

- Have no more than 80% of your income sourced from one client, AND satisfy one of the following tests:
 - Unrelated clients test – clients must not be associates of each other, and taxpayer’s services must be offered to at least a section of the public
 - Employment test – at least 20% of the work is performed by an unrelated entity engaged by the taxpayer (eg: employee, contractor) OR you employ at least one apprentice for at least half the income year
 - Business premises test – taxpayer maintains and has exclusive use of business premises that are separate to any premises used for private purposes

If you do not satisfy the above tests, 100% of the profits derived as a result of conducting your service business must be declared in your income tax return, even if the profits have not actually been paid to you.

PAYG Instalments

What is a PAYG Instalment?

The PAYG (Pay As You Go) Instalment system is the means by which the ATO taxes you on your expected taxable income that is not taxed at source. For example, business income and investment income (excluding net capital gains). Individuals, companies and superannuation funds can potentially be captured in the PAYG Instalments system.

The ATO will determine either (or both):

- A dollar-based instalment amount you must pay, or
- An instalment rate which must be multiplied by the gross income you earn in the reporting period in order to arrive at a PAYG instalment you must pay

Both the dollar-amount and the instalment rate are determined with reference to the tax liability of your most recent income tax return lodged, plus an uplift factor for expected growth. PAYG Instalments are paid progressively throughout the income year that the instalments relate to – either quarterly or annually.

PAYG instalments are reported and paid on Instalment Activity Statements or Business Activity Statements issued to taxpayers by the ATO, depending on whether you are registered for GST. The frequency of paying and lodging these statements is determined by:

- The size of the assessed PAYG Instalments, and
- Whether you are registered for GST and whether you have made an annual GST election

If you are registered for GST, you remit your GST quarterly, and have an annualised PAYG Instalment liability which exceeds \$8,000, you are required to pay your PAYG Instalments in quarterly instalments.

Can I vary my PAYG Instalment?

Yes, you can vary your PAYG Instalment or Instalment Rate. If you expect the component of your taxable income not taxed at source to vary significantly, you can apply to either increase or decrease your PAYG instalments accordingly. This can be done on your next Instalment / Business Activity Statement. It is important to note the following when varying your PAYG Instalments:

- You cannot vary PAYG Instalments that have passed their due date for payment
- You may be subject to penalties for underestimating your PAYG Instalment liability when lodging your income tax return for the year in question therefore:
 - Be conservative in your estimations
 - Vary again if your circumstances change such that your untaxed income increases since the initial variation, or
 - Consider leaving your PAYG Instalments as is if you expect fluctuating or unpredictable untaxed income

Disclaimer: The information contained in this fact sheet is not intended as specific advice. Please contact Isaacs & Cole to discuss your individual situation.