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## Estate planning considerations



**Estate planning is a complex area which requires careful consideration of tax implications.**

*Many issues that affect the distribution of assets to beneficiaries will need to be considered before an individual dies, to ensure undesirable tax consequences are avoided for both the individual and their potential beneficiaries. These include the timing on the transfer of the assets, potential*

*gifts, transfer duties and the use of testamentary trusts.*

While gifts can be made as a part of estate planning before an individual dies, remember that if the gift is an asset (e.g. property, crypto assets, shares, etc), CGT will apply at the time of the gift (and the donor may have insufficient funds to pay the tax).

Another consideration in terms of the timing of transfers (in particular, of property) is the transfer duty involved at the state or territory level. For example,

# Estate planning considerations

in New South Wales, if property is received from a deceased estate in accordance with the terms of a will, the beneficiary will pay transfer duty at a concessional rate of \$100. However, if the transfer occurs before an individual's death or not in accordance with a will, normal rates of transfer duty will apply. In that scenario, it would be better to wait to transfer the property. The rules for each state and territory differ, so it's important to check before making decisions.

Superannuation benefits are taxed to non-dependent beneficiaries – taking pensions before death are tax effective, although introduce complications in managing cash flow.



For individuals looking to exert more control after their own death, or protection or flexibility for the family, a testamentary trust may be one way of providing a flexible and tax-efficient way to manage and distribute the assets of the estate to beneficiaries. Generally, the terms and conditions of the testamentary trust are outlined in the will of the deceased, including the appointment of trustees and beneficiaries and how the trust assets are to be managed and distributed. The trust itself comes into existence upon the death of the person making the will, and it is separate from the deceased estate for legal and tax purposes.

However, establishing and managing testamentary trusts can involve significant costs, and there is a requirement to carefully draft the trust deed, so it includes clear instructions for the establishment and operation of the testamentary trust, in order to avoid



possible future disputes. There may also be ongoing legal, accounting and administrative expenses, making testamentary trusts a complex route to head down. Offsetting this is family flexibility, asset protection and tax savings, which can be significant.

The specific tax implications of estate planning can vary widely depending on individual circumstances and the state or territory in which an individual lived. This is a complex area and seeking professional advice tailored to the situation is crucial.

# 5 checklists to support your business



**Find the list of tasks to be done in your business or reminders you need to know about.**

Do you like to tick things off a to-do list? These checklists will help you know which steps you need to complete when undertaking operational tasks or improving your business.

Here are the top 5 checklists for business owners.

## 1. Cyber security checklist

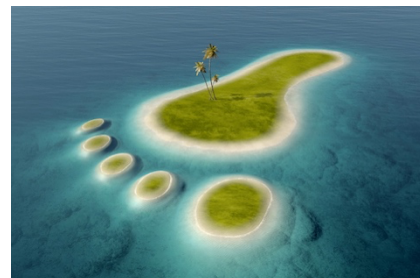
Protecting your business from cyber threats is crucial. Scams, email attacks, and malicious software can cost a lot of time and money. They can also compromise your sensitive data and



reputation. Use the [Cyber security checklist](#) to find out how cyber secure your business is and strengthen your business against cyber threats.

## 2. Sustainability checklist

Being sustainable is about making positive changes in your business for the planet and people around you. It helps you stay resilient and able to meet the growing demand for products and services that do no harm. The [Sustainability checklist](#) guides you through some steps you can take towards sustainability.



# 5 checklists to support your business

## 3. Hiring employees checklist

Are you thinking about hiring staff for your business? Use the [Hiring](#)



[employees checklist](#) to help you meet Australian laws when hiring an employee. We've also included some tips that might help you through the hiring process.

## 4. End of financial year checklist

The end of a financial year (EOFY) is an important time for your business. You'll need to complete bookkeeping, tax returns and plan for the new



financial year. Use the [End of financial year checklist](#) to prepare, get your business organised and work smarter in the year ahead.

## 5. Setting up your finances checklist

Get your finances in order. The [Setting up your finances checklist](#) will help you understand the steps to set up your business accounts and find the tools and help you need to start managing your business finances.



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# The superannuation changes from 1 July



## Changes you need to know about for the 2024-25 financial year.

These changes are designed to help working Australians get more money into the retirement savings system.

If fully utilised, the changes potentially allow all super fund members, including those with a self managed super fund (SMSF), to add tens of thousands of dollars extra into their account from the start of the 2024-25 financial year.

## What are the super changes?



## Higher superannuation guarantee (SG) rate

The compulsory superannuation guarantee (SG) rate payable by employers to their employees will

increase by 0.5% from 11% of ordinary time earnings to 11.5%. The SG rate will increase by a further 0.5% to 12% on 1 July 2025.

## Increase to the concessional (before-tax) contributions cap

The concessional contributions cap, which is indexed to average weekly ordinary time earnings (AWOTE), will increase by \$2,500 from \$27,500 per financial year to \$30,000.

Concessional contributions are taxed at a flat 15% rate and include the pre-tax super contributions paid by your employer into your super fund account as well as any personal super contributions you make, such as pre-tax contributions made through a salary sacrifice arrangement.

People with an existing salary sacrifice arrangement through their employer may want to review their current contributions level to factor in the higher contributions limit. Employees generally set their personal salary sacrifice contributions at either a fixed percentage of their salary or at a fixed dollar amount. These contributions are deducted from their pre-tax salary.

# The superannuation changes from 1 July

## Increase to the non-concessional (after-tax) contributions cap

The annual non-concessional contributions cap that limits the amount of after-tax contributions that can be made into your super account will rise by \$10,000 from \$110,000 per financial year to \$120,000. This level is also indexed to AWOTE.

This increase also changes the three-year bring forward limit from the current \$330,000 to \$360,000. This limit provides people with the opportunity to deposit up to three years of non-concessional contributions in one financial year, but then prohibits them from making any further non-concessional contributions for another three financial years.



However, those with a larger sum of money, such as from a large asset sale or inheritance, could consider depositing the maximum \$120,000 annual amount allowable this financial year and a further \$360,000 next financial year using the new three-year bring forward limit based on the higher non-concessional contributions cap.

## Preservation age

The minimum age individuals must reach to access their super, either through an account-based pension or lump sum payments, will be 60. Amounts accessed from super are not

subject to income tax, once preservation age has been reached.



## Transfer balance cap

The transfer balance cap relates to the amount of superannuation that can be transferred from a super account to start a pension account, where the income payments and the investment returns are both generally tax free.

The transfer balance cap is indexed periodically to the consumer price index (CPI) and increased in \$100,000 increments. The cap was lifted to \$1.9 million at the start of the 2023 financial year, and will remain at the \$1.9 million level in the 2024-25 financial year.

Amounts over \$1.9 million must be retained within a superannuation accumulation account, where investment earnings are taxed at 15%.

Keep in mind that the value of assets held within a pension account can increase above the \$1.9 million transfer balance cap without any penalty.

# When It's the End of the Business Road



If you're at the end of the business road there's a number of administrative issues you need to address, and we are here to help you. These compliance issues might include:

a) **Cancel Business Registrations** - you may need to cancel various tax registrations within 21 days of closing including:

- GST and PAYG withholding
- Business Name (through the Australian Securities and Investments Commission)
- Australian Business Number (ABN) via the Australian Business Register
- Website Domain Name and Hosting Fees so you stop incurring ongoing costs that might be on direct debit from your bank account or a credit card
- Complete your final BAS and Income Tax Return
- If you are selling the business, consider Capital Gains Tax implications
- Software licences and subscriptions (with the exception of accounting software)

- Cancel insurances (but you may need to retain some insurances like Professional Indemnity)
- Cancel periodical payments so they stop coming out of your account or credit card
- Others may include Luxury Car Tax, Wine Equalisation Tax and Fuel Tax Credits.

Every business must keep their financial records for a minimum of five years and that includes your accounting records plus your employee and wage records. Note, there may also be privacy guidelines around the retention of your customer records.

b) Staffing Issues



- Finalise employee tax payments - calculate final pay with outstanding leave entitlements,

PAYG withholding, superannuation.

- Notice of Termination - you will need to notify your employees in writing that you are terminating their employment. You may be able to provide payment in lieu of notice but make sure you comply with any notification period under their award or enterprise agreement.
- Employee Entitlements - you will need to pay your employees any outstanding wages or accrued leave including annual leave, long-service leave and any redundancy amount. Make sure you review their award, employment contract and any State-based regulations for a business of your size before taking any further action.

## c) Terminate Your Commercial Lease

If you rent a commercial property your lease obligations will remain unchanged even though you may have closed the doors and vacated the building. Get your solicitor and/or real estate agent to review the terms of your lease agreement to ascertain if you can get a release (with a fee) or have the right to sub-lease the building to another party. You may also be able to negotiate with your landlord to surrender the lease which means both



parties mutually agree to end the lease. This will usually involve paying a fee and covering the landlord's legal costs. Don't forget to clean the property to make sure your bond money is returned.

## d) Sell Business Assets

If you can sell the business complete with the stock that would be a good outcome. Failing that, what do you plan to do with the stock, tools, furniture, fittings, equipment, property, vehicles, domain name(s), patents, trademarks, licenses, or permits?

## e) Notify Suppliers

Let your suppliers know the business is closing and from what date. End any supplier agreements and pay any outstanding bills.

## f) Notify Your Customers

Notify your customers that the business is closing and the date. You might consider a 'closing down sale' to clear as much stock as possible.

## g) The Loose Ends

There are always some small items to finalise. Make sure you disconnect utilities (power, phone, internet), redirect the mail, close bank accounts, terminate your website and social media channels.



# Changes to Casual Employment from the 26th August



**Casual employment is set to change again after Amendments to the Amendments to the Fair Work Act 2009 (Cth).**

**On the 26<sup>th</sup> August the following changes will come into effect:**

- There is a new definition of casual employment
- The pathway for casuals to move to permanent employment has changed
- Issuing the casual employment information statement has a new arrangement

This information is applicable to national employers only and does not apply to employers in the state system.

## **New definition of casual employment**

A new definition of 'casual employee' will be introduced. Under this definition, an employee is only casual if:

- There is no firm advance commitment to continuing and indefinite work; and
- They are entitled to receive a casual loading or specific casual pay rate

It is important to note that this definition will focus on the true nature of the employment rather than just the written terms of the employment contract. It's important to be aware that even if there is an absence of a firm advance commitment to continuing and indefinite work the employment will be assessed on the basis of the 'true nature' of the employment relationship.



## **New pathway for converting from casual to permanent**

The current rules for casual conversion are being abolished. An offer of

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# Changes to Casual Employment from the 26th August

permanent employment is no longer required for employers to offer casual employees.

Instead, it will be up to the employee to notify you of their intention to change to permanent employment if:



- They've been employed for at least 6 months (for employers with 15 or more employees) or 12 months (for employers with less than 15 employees); and
- They believe they no longer fit the definition of a casual employee.

## Casual employment information statement (CEIS)

A new obligation will exist for providing the Casual Employment Information Statement (CEIS) to casual employees. In addition to providing the CEIS to

<b>Employers with 15 or more employees</b>
<ul style="list-style-type: none"><li>• After 6 months of employment</li><li>• Again after 12 months of employment</li><li>• And then every subsequent 12 months</li></ul>
<b>Employers with less than 15 employees</b>
<ul style="list-style-type: none"><li>• After 12 months of employment</li></ul>

casual employees on commencement, employers will now be required to provide the CEIS:

## What you need to do?

- Review your casual workforce and assess these employees against the new definition

It is very important that employers ensure they meet their ongoing obligations under these new arrangements. Employers need to put a mechanism in place to remind them to meet the new obligation, see Table above, for issuing the Casual Employment Information Statement at the required times.

# 7 Steps to Dealing With a Legal Issue or Dispute.



**If you run a business for any length of time, you will likely get involved with disagreements and disputes with your associates, whether they be customers, employees, suppliers or competitors.**

Some legal issues or disputes are more serious than others. Nevertheless, all legal issues and disputes need to be dealt with efficiently and quickly in order to prevent them from escalating.

**Seven ways you can deal with a legal issue or dispute.**

## **1. Have a Plan**

You never know when a legal issue or dispute may arise during the course of your business, so it is always a good idea to be prepared. The key to ensuring that legal issues and disputes are dealt with efficiently is ensuring that you have an effective dispute resolution system set up.

The result of having such a system in place is that it can spring into action when needed, thus saving you from making hasty decisions when an issue



arises. This can be as simple as having a dispute resolution clause in your contracts or the terms and conditions of your services.

## **2. Review the Contract**

If your legal issue or dispute relates to a particular contract, you should review the contract in question. The important clauses to look for are:

- the clause that relates to the particular dispute;
- a dispute resolution clause, which sets out the procedures should any dispute arise; and

# 7 Steps to Dealing With a Legal Issue or Dispute.

- the termination clause, which sets out how the parties to a legal agreement can end their contractual relationship.

Usually, these clauses will outline the steps that must be taken to resolve the dispute before escalating any further. Often they will have a mandatory Alternative Dispute Resolution (ADR) clause in an attempt to resolve the dispute in the most efficient, timely and cost-friendly manner, without the need for court proceedings. It is important to note that ADR is not always appropriate for certain disputes. For example, if you need an urgent court order or injunction to stop the other party from taking certain action, [ADR](#) may be unsuitable.

### 3. Speak to a Lawyer

You will likely need to speak with a lawyer if you are involved in a legal issue or dispute. This will apply even if it is a minor issue.



A lawyer will give advice on your legal position and can guide you in your approach and discuss your options moving forward. This guidance is best sought at the beginning of the dispute when your strategy can still be mapped and changed easily. Ideally, you want to avoid beginning legal action and then consulting a lawyer, only to learn the lawyer advises a different course.

### 4. Attempt to Reconcile

It is sensible to attempt to reconcile with the other party to your legal issue or dispute if at all possible. Taking a legal issue or dispute into the legal arena is usually very time-consuming and can be expensive. You should carefully consider, along with your legal adviser, whether the severity of the dispute warrants legal action. The first step to resolving the dispute is to communicate with the other side. Put your concerns in writing or arrange a call or meeting to explore possible solutions.



### 5. Arbitration

Arbitration is a form of alternative dispute resolution. In many ways, it is similar to court proceedings but much more flexible and sometimes less costly. Some contracts will include requirements for arbitration in a dispute resolution clause. Generally, the parties to the issue can choose an arbitrator and agree on the procedures and processes to be followed. This ensures you can resolve the dispute in a manner suitable to the party's needs and the industry standards involved. You can, however, agree to binding arbitration when a dispute arises. Whether arbitration is a good option will depend on the circumstances of your legal issue or dispute. This is why you should work with a lawyer who can advise you on these matters.

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# 7 Steps to Dealing With a Legal Issue or Dispute.

## 6. Mediation

Mediation is a less formal type of ADR that involves parties meeting with an experienced mediator to attempt to resolve the dispute. It has a high success rate and is less structured and, therefore, quicker and cheaper than arbitration or going to court. The mediator does not make a binding determination about the dispute but guides the parties through all options to resolve it.



## Key Takeaways

The key to resolving a legal issue dispute as effectively and cheaply as possible is to work with the right legal professional at the right time.

## 7. Litigation

If you cannot resolve your legal issue or dispute through communication, discussion, compromise and possibly ADR, you may need to move to litigation. Obviously, this means getting the courts involved.

Litigation is generally expensive. The court will usually order that the losing party pays the successful party's costs, but this is only about 60% -80% of the total out-of-pocket costs, depending on the type of cost order made. Litigation is also very time-consuming, with some matters taking several years to resolve in the courts. For all these reasons, we always recommend litigation as a last resort and attempt to resolve matters outside the courts wherever possible.

## 'Bleisure' travel claims in ATO sights.



**Travellers who mix business and pleasure will face increased scrutiny as the Tax Office cracks down on work-related expenses.**

Industry experts warn that Business travellers who mix work with pleasure will face increased scrutiny from the ATO this tax time as part of its crackdown on work-related expenses. The warning comes as fresh data shows Australians' business trips were twice as long as the rest of the world, averaging six nights compared to the global average of 3.5, according to Flight Centre's Corporate Traveller division.

Flight Centre said those blending business trips with personal leisure time, dubbed "bleisure" travellers, would continue to rise due to reduced flight costs and "strong travel trends".

"This tax season, business travellers should take extra care to avoid

scrutiny," Global managing director Tom Walley said.

**In May, the ATO said work-related expenses would be one of three focus areas this tax time along with rental deductions and a failure to include all income sources in lodgments.**

It said over 8 million people made a work-related claim last year and urged taxpayers to follow "three golden rules", including only claiming expenses if they spent money themselves and were not reimbursed, the expense was directly related to income and there was a record of the expense.



Moneywise Global general manager John Tuohy advised travellers to delay filing their taxes until they were fully prepared.

## 'Bleisure' travel claims in ATO sights.

"There are over 14,000 pages of tax law in Australia, meaning there are lots of incentives and terms and conditions, and with the ATO focusing this year on work-related expenses, it's particularly important to take that time to get it right, and to understand the nuances to avoid audit triggers."

"So don't rush it unless you know your tax is relatively simple and you're expecting a refund," he said, **with the deadline for returns on 31 October, or mid-May if taxpayers registered with a tax agent.**

Key tips for "bleisure" travellers claiming work-related deductions included maintaining detailed travel diaries of work expenses and avoiding "double dipping" on claims.



If leisure travel was "incidental" to a business trip, more expenses such as accommodation and meals would be allowable as deductions.

Legitimate client entertainment expenses and weekend

accommodation could also be deductible when business extended from Friday to Monday, he said, however paying to take family on trips or extending travel for leisure before or after work commitments would not.

"Don't be tempted to claim these on your tax," he said.

Tuohy said day travel was also not an allowable expense. "Public transport, parking, tolls, taxi/rideshare, flights, meals and other incidental expenses that aren't reimbursed by your employer will only be tax deductible when they are associated with an overnight work trip."

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