

Reminder to lodge outstanding prior year income tax returns

The due date of 31 October 2010 applies to 2010 returns for clients operating on a standard year (not a substituted accounting period), with one or more prior years overdue as at 30 June 2010.

If all overdue prior year returns are lodged by 31 October 2010, your 2010 income tax returns will be due according to your normal lodgement program.

You won't need to apply for a deferral of the 2010 return, provided all overdue prior years are lodged by 31 October 2010.

Overdue prior year returns may incur penalties and interest when lodged.

The bTa difference – providing your point of view.

The BTA Team

Reminder of Lodgement Dates

21 October 2010 September 2010 monthly activity statement
28 October 2010 September 2010 quarter superannuation guarantee contributions
31 October 2010 Income tax returns for all entities where one or more prior years were outstanding as at 30 June 2010
11 November 2010 September 2010 quarter activity statement*
21 November 2010 October 2010 monthly activity statement
25 November 2010 September 2010 quarter activity statement**
21 December 2010 November 2010 monthly activity statement

* for those lodging their own

** for those lodging via a tax agent

GIC and SIC rates for quarter ended 31 December 2010

The ATO has advised that the General Interest Charge (GIC) and Shortfall Interest Charge (SIC) rates for the period 1 October 2010 to 31 December 2010 are as follows:

- GIC rate – 11.74%
- SIC rate – 7.74%

The fuel tax credit rate for heavy vehicles changed on 1 July 2010

From 1 July 2010, the fuel tax credit rate for fuels such as diesel or petrol for use in heavy vehicles on public roads was reduced to 15.543 cents per litre. This change is due to an increase in the road user charge.

A heavy vehicle is either of the following:

- a vehicle with a gross vehicle mass (GVM) of greater than 4.5 tonne or
- a diesel vehicle acquired before 1 July 2006 with a GVM equal to 4.5 tonnes or more.

TFN withholding for closely held trusts - transitional arrangements

The government has extended the tax file number (TFN) withholding rules to closely held trusts, including family trusts. Under these rules, the trustee of a closely held trust must withhold from payments they make to their beneficiaries who have not provided their TFN.

Transitional TFN reporting arrangements have been developed for the first income year starting on or after 1 July 2010.

Trustees will be able to meet their TFN reporting obligations for the 2011 income year by lodging their 2010 trust income tax return.

What trustees need to do for the first year of TFN withholding reporting

The Trustee has to report each eligible beneficiary's TFN to us by fully completing the information in the statement of distribution in the 2010 trust income tax return. The key fields to be completed for this purpose are:

- the beneficiary's TFN;
- the beneficiary's full name (for individuals or non-individuals);
- the beneficiary's postal address;
- the beneficiary's date of birth (for individuals); and
- the correct assessment calculation code. Only codes 30, 34 and 35 represent beneficiaries that may be subject to the TFN withholding rules.

Further, the Trustee is to report each eligible beneficiary's TFN and associated details on the statement of distribution in the 2010 trust income tax return, even if the beneficiary did not receive a payment in 2010.

What trustees need to do if a beneficiary did not receive a payment

Where the beneficiary did not receive a payment, complete the statement of distribution as follows:

- Disclose the appropriate assessment calculation code for the beneficiary type at label V. Only codes 30, 34 and 35 are applicable to the TFN withholding for closely held trusts;
- Report a zero distribution amount at the non-primary production label B; and
- Leave all other labels blank.

Trusts should only register for these rules if they have a withholding obligation. The administrative arrangements for registration are still being developed and further information will be published on our website once these are determined.

For further clarification on this issue, please do not hesitate to contact us.

Changes to ATO Director Penalty Notices

Recent changes have been made to the Income Tax Assessment Act 1936 in relation to unpaid company taxes.

The revisions include changes to the regulating of Director Penalty Notices (DPN).

A DPN can cause a director to become personally liable for the company's unpaid PAYG tax withheld.

As a result of the amendments:

1. DPNs take effect from the day they were posted rather than the day they were received by the director;
2. A director now has 21 days (not the former 14 days) to comply with the DPN before the Commissioner may commence recovery proceedings against a director for the unpaid PAYG withheld stated in the DPN;
3. In order to avoid penalty, directors must, within 21 days of *issue* of the DPN (a) pay the debt or (b) appoint an administrator (or liquidator) to the company;
4. Personal liability will no longer be avoided by entering into a payment arrangement. However the Commissioner must not commence proceedings if the payment arrangement is in force. The Commissioner may commence recovery action against the director for the balance of the debt if there is a default in the terms of the payment arrangement;
5. The defence of 'not taking part in the management of the business due to illness or some other good reason' is now subject to the additional requirement of proving that it would have been unreasonable to expect the director to have taken part in the management of the company at the time they were a director and the PAYG tax was withheld.