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Beware of payment redirection scams

The Australian Securities and Investment Commission (ASIC) has warned small and micro businesses to be alert for payment redirection scams, which have caused some of the highest losses to businesses in 2021, to the tune of $13.4 million reported. In fact the true figure is likely much higher, as an estimated one-third of scam victims do not report their loss.

These scams typically involve scammers impersonating legitimate businesses or their employees and redirecting upcoming payments to a fraudulent bank account. The most common contact method reported was phone or text message, and bank transfers were the most common payment method.

In some cases, the scam may involve the actual hacking of legitimate business email accounts to send scam emails. Other methods include intercepting legitimate invoices and amending bank details before releasing the email to the unsuspecting business customer, or registering email addresses that are very similar to ones from a legitimate business.

TIP: Take immediate action if you or your business inadvertently fall prey to a scam. Start by contacting your financial institution to see if anything can be done to recover the money, and then report the scam to either Scamwatch or the Australian Cyber Security Centre.

Businesses should also beware of falling victim to a follow-up money recovery scam, where victims of previous scams are contacted with the promise of recovering lost money for an up-front payment and/or retrieving detailed personal information.

These money recovery scammers often pose as trusted organisations such as a law firm, the fraud taskforce or a government agency. Some more sophisticated scams will have official-looking websites with fake testimonials.

TPAR due soon: is your business ready?

The taxable payments annual report (TPAR) must be lodged every year by businesses that have made payments to contractors for building and construction services, cleaning services, courier services, road freight services, IT services and security, investigation or surveillance services.

TIP: The TPAR for 2021–2022 is due to be lodged by 28 August 2022.

The ATO uses TPAR information in its data analytics to identify non-compliance with a range of tax obligations, such as lodging income tax returns, reporting the correct amount of income, lodging BASs, being registered for GST when required, and using valid ABNs. The ATO also uses it in pre-filling tax return data, to assist contractors in lodging correctly.

According to the ATO, around $11 billion a year goes missing in taxes. The TPAR system is just one of the tools used to identify non-compliance and keep things fair for all businesses. Last financial year, around $350 billion in payments made to 950,000 contractors was reported through the TPAR.

Tax time focus on rental properties

Rental property income and deduction mistakes continue to be one of the main focus areas for the ATO this tax time. This is no surprise, considering that a recent ATO random enquiry program found 90% of tax returns that report rental income and deductions contain at least one error.

One of the income categories for rental properties that may be important for this year, but that many landlords may not know to include, is insurance payouts. With recent events such as the major flooding in large parts of the country, if you obtained insurance payments in relation to loss of rental income or repairs, those amounts will need to be included in your tax return.

If you rent out your investment property, your home, or even part of your home on a short-term basis on platforms such as AirBnB, that income also needs to be included, and you'll need to apportion any expenses according to the space rented out. Joint owners of properties need to ensure that their income and deductions are in line with the rental property's ownership interest.

As for expenses, while some expenses such as rental management fees, council rates, repairs, interest on loans, and insurance premiums can be deducted in the year they are incurred, other expenses, such as borrowing costs, capital works, and some depreciating assets, can only be claimed over a number of years.

If you've sold a property during the 2021–2022 income year you'll need to be extra cautious, as capital gains is another of the ATO's focus areas for this year.

Remember that the ATO receives rental income data from a wide range of sources,including share economy platforms, rental bond authorities of various states, property management software providers and state and territory revenue and land title authorities. This information can of course be matched and compared to the information provided on tax returns, meaning that there is no hiding income from the all-seeing eye of the ATO.

SMSF COVID-19 relief measures have now ceased

The ATO has reminded trustees of self managed superannuation funds (SMSFs) that COVID-19 relief measures that previously applied for the 2019–2020, 2020–2021 and 2021–2022 income years no longer apply from 1 July 2022. The relief measures covered a wide range of areas, including residency requirements, rental reductions and waivers, rental deferrals, in-house assets, loan repayments, limit recourse borrowing arrangements, and related party transactions.

Until 30 June 2022, individuals who became stranded overseas due to COVID-19 and so were out of Australia for more than two years could rely on the SMSF residency relief. This meant the ATO wouldn't take compliance action to determine whether a particular SMSF met the residency test, provided there were no other changes in the SMSF or member/trustee circumstances. Since this relief no longer applies, SMSFs may risk failing to meet some of the residency conditions to be an Australian super fund for tax purposes, which may see it lose its complying super fund status and associated tax concessions.

One of the other prominent relief measures now ended is rental relief provided to related parties. The ATO had confirmed that no compliance action would be taken and no auditor contraventions needed to be reported for rental reductions and waivers to related parties, provided they were on commercial terms, relief was due to COVID, and the arrangement was property documented. Again, now that the rental relief has ended, if an SMSF provides rental reductions or waivers to related parties, it may give rise to a reportable contravention of the super laws.

Similarly, the relief measures relating to loan repayment relief provided by an SMSF and SMSF limited recourse borrowing arrangements relief no longer apply. Therefore, from 1 July 2022, approved SMSF auditors must report contraventions via the auditor/actuary contravention report. Before that happens, SMSF trustees are encouraged to use the ATO's voluntary disclosure service to report any identified contraventions and plan to rectify the contravention as soon as possible. Voluntary disclosures will be taken into account when determining what action the ATO will take.

Thinking of ditching your SMSF?

Are you having doubts about using your self managed superannuation fund (SMSF) for your retirement? Whatever your age, if recent market conditions, cost or the amount of administration involved are getting to be too much and you would like to wind up the SMSF, there are several steps involved. Winding up an SMSF is not a simple process and requires the trustee to understand the terms set out in the trust deed, dispose of the fund's assets and finalise compliance obligations, among other things.

Even if you are happy with your SMSF, it may be prudent to ensure that there are no impediments to winding up if something unforeseen happens. An exit plan should be in place as a matter of course. In some complex cases it may be prudent to seek professional advice.

For most SMSFs, the first step in a winding up is to find out what the fund's trust deed requires in that event. For example, the trust deed may require all of the assets of the fund to be sold, or all ownership to be transferred to members.

Trustees are then required to meet to ensure they agree with the winding up decision and to sign the winding up agreement. Decisions and details about asset sales should be carefully documented.

The next step is to finalise outstanding tax and compliance obligations, and final invoices and expenses due to assets sales and outstanding tax liabilities need to be paid before the calculation and distribution of member benefits. Where a member meets a condition of release, their benefits can either be paid out in cash or rolled over into another complying super fund. Where a condition of release is not met, the member benefit must be rolled over into another complying super fund.

Finally, after member benefits have been distributed, the trustee needs to ensure the SMSF has been audited every year since its establishment and complete one final audit.The final SMSF annual return can then be lodged. The ATO will confirm by letter that the SMSF has been wound up, close the SMSF records on its system, and cancel any associated ABNs.

Important: Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.