

# client alert

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## Transfer balance cap: ATO highlights admin issues

On 30 August 2018, ATO Assistant Commissioner Superannuation Tara McLachlan gave a speech on “Administration issues under the transfer balance cap” at the Tax Institute Sixth National Superannuation Conference.

**TIP:** The superannuation transfer balance cap is a limit on the total amount of super that you can transfer into retirement phase. The current cap is \$1.6 million.

Ms McLachlan highlighted several issues regarding common superannuation events that will need to be reported to the ATO (such as the start of new pensions that began to be in retirement phase on or after 1 July 2017), multiple transfer balance events, excess transfer balance determinations and more.

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## Australian Small Business White Paper: tax reform a key

After more than 18 months of extensive research and consultation, the Institute of Public Accountants (IPA) and the IPA Deakin SME Research Centre have released the second edition of the Australian Small Business White Paper.

“Numerous policy recommendations have been adopted from the first edition which was launched in 2015. However, we recognise that the state of our economy is reliant on the productivity, growth and prosperity of the small business sector, so this work must be ongoing”, said IPA CEO Professor Andrew Conway.

The Paper covers a range of topics, including productivity, regulation and workplace relations, and makes several tax reform recommendations relevant to small businesses and personal income tax.

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## ATO expects 200,000 to miss out on refunds by failing to lodge

The ATO expects that 200,000 people could miss out on a tax refund this year because they haven’t lodged a tax return.

Assistant Commissioner Kath Anderson has said that many salary and wage earners end up with a tax refund, but some are missing out because they fail to lodge on time.

Taxpayers had until 31 October to either lodge their own return, or ensure they are on an agent’s books, Ms Anderson said. Failing to lodge by the deadline can attract a penalty of \$210 for every 28 days that the return is overdue, up to a maximum of \$1,050.

**TIP:** Have you run out of time to sort out your tax return this year? We’re here to help – get in touch to talk about your options.

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## Black economy: electronic sales suppression tools now banned

Activities involving electronic sales suppression tools (ESSTs) and that relate to people or businesses with Australian tax obligations are now legally banned under recent changes to the law.

ESSTs come in many forms, such as:

- an external device connected to a point of sale (POS) system;
- additional software installed into otherwise-compliant software; or
- a feature or modification, like a script or code, that’s part of a POS system or software.

These tools generally misrepresent or hide income by deleting or changing electronic transaction information, and falsifying sales or POS records.

**TIP:** The ATO recognises some businesses may have bought POS software without knowing it contains suppression functions. There is a grace period to self-report without penalty. If you think you may be affected, contact us to find out more.

People and businesses may face penalties of up to \$1 million if they produce, supply, possess or use an ESST or knowingly assist others to do so.

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## Super work test exemption for recent retirees

The Government has released draft legislation and regulations to provide a one-year exemption from the work test for superannuation contributions by recent retirees aged 65–74 who have a total superannuation balance of less than \$300,000. This proposal was announced in the 2018–2019 Budget.

Currently, people aged 65–74 must pass the “work test” – working at least 40 hours in any 30-day period during the financial year – in order to make voluntary super contributions.

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## Bringing forward small business tax cuts by five years

The Prime Minister has announced that the Government will bring forward its planned tax cuts for small business by five years. The Labor Party has also indicated it supports bringing forward the tax cuts.

This means businesses with a turnover below \$50 million will pay a tax rate of 25% in 2021–2022, rather than from 2026–2027 as currently legislated.

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## Corporate tax rates and small business tax offset changes

The Bill to accelerate the reduced tax rates for base rate entities has passed through Parliament and will soon become law. Under the new law, the corporate tax rate will reduce from 27.5% to 26% in 2020–2021, before being cut to 25% for 2021–2022 and later income years.

The new law also increases the small business income tax offset rate to 13% for 2020–2021. The offset will then increase to 16% for 2021–2022 and later income years.

**TIP:** A “base rate entity” is a company that receives less than 80% of its taxable income from “passive” sources such as dividends, franking credits, interest, royalties and rent.

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## Residential rental property travel expenses: ATO guidance

Since 1 July 2017, people, self managed super funds (SMSFs), “private” trusts and partnerships have not been permitted to claim non-business travel costs connected to residential rental properties as tax deductible. These costs also cannot form part of the cost base or reduced cost base of a capital gains tax (CGT) asset.

The ATO has released new guidance about this, including details about the legal meanings of “residential premises” and “carrying on a business”.

**TIP:** Not sure if you can deduct the costs of maintaining your investment rental property? Talk to us today to work it out.

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## Tax on compensation received for inappropriate advice

On the heels of the banking and financial services Royal Commission, the ATO has published information about how tax applies for people who receive compensation from a financial institution that provided inappropriate advice and/or did not provide advice it should have. This can include compensation for the loss of an investment, or a refund of fees or interest.

Capital gains tax comes into play, and the compensation amount may count as part of your assessable income if it's a refund of adviser fees that you've already claimed as a tax deduction.

**TIP:** Contact us if you've received compensation from your bank or adviser and need to know more.

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## ATO set to issue excess super contribution determinations

The ATO has started issuing excess concessional contributions (ECC) determinations for the 2017–2018 financial year. Superannuation fund members will receive these ECC determinations if they have made super contributions above the concessional cap amount for 2017–2018.

**TIP:** “Concessional” contributions are taxed at the reduced rate of 15% in your super fund, but there's a limit to how much you can contribute at this rate (\$25,000 for 2017–2018).

Fund members may also receive an amended income tax return assessment together with the ECC determination, and may need to pay additional amounts to the ATO. This is because any super contributions you make over the concessional cap need to be included in your assessable income for the financial year, and an interest charge applies.

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**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.