



Balancing the books – year-end checklist

It's easy for small business operators to overlook their paperwork. They are focussed on running the business and often the books get updated only when time is available.

But directors need to recognise the importance of ensuring their lodgement and payment obligations are made on time. Failure to do so may result in personal liability for the directors of non-complying companies.



Year-end lodgements

The important lodgements at this time of the year are:

1. **9% Super Guarantee** – if you did not pay the super guarantee for your employees by 30 June, you have until 28 July to pay (but you will not receive a deduction for the amount paid in FY11). If you don't pay by 28 July then you have to pay the amount directly to the Australian Taxation Office (ATO) along with an administration fee, notional interest and a unit-based penalty rate (one unit equates to 28 days and costs \$110) up to a maximum of \$550.
2. **Business Activity Statement (BAS)** – if you lodge your BAS monthly you should have lodged it by 21 July to avoid the unit-based penalty. If you lodge your BAS quarterly, the due date will be 28 July.
3. **Pay As You Go Withholding Summaries** – you should provide staff with their summaries (the old Group Certificates) by 14 August to avoid fines. The ATO copy of the summaries also needs to be provided to the ATO by 14 August.



Important considerations

Where your company adopts the accruals basis for remitting GST, Directors should ensure that if they have not paid a creditor within 12 months they will need to refund to the ATO the input tax they have already claimed in an earlier BAS.

The ATO is actively reviewing outstanding creditors' lists in GST audits and will issue a penalty of 50% for recklessness for failing to address adjustments in BAS returns.

Directors lodging on an accruals basis should also review bad debts on a regular basis and ensure adjustments are made to subsequent BAS returns to get back GST that has been paid to the ATO when a debtor fails to pay.

What if you are late in lodging or cannot pay when you lodge your returns?

On 1 June 2009, the ATO introduced measures to help small businesses struggling to manage their tax payment obligations. If your business had an annual turnover of less than \$2 million and an activity statement debt, you could apply to enter into an interest-free payment arrangement with the ATO provided all of your lodgements were up to date. Those measures were extended until 30 June 2011.

To date there has been no further extension to these measures. This means that Directors must ensure they comply with their lodgement and payment obligations to avoid receiving a Director Penalty Notice (DPN) which would make them personally responsible for the company's liabilities.

If you receive a DPN, you will have only 21 days to take one of the following steps to be relieved from its obligations:

- Pay the tax obligation in full
- Appoint a voluntary administrator to the company
- Commence a winding up of the company

While a Director may still be able to enter into an instalment payment arrangement with the ATO, that action will no longer satisfy the Director's obligations under a DPN and it will only preclude the ATO from commencing proceedings to enforce the DPN whilst the instalment arrangement is in force and being complied with.

For further details on DPNs, click here to see "Directors take notice – new DPNs, new rules" in SME Insights last year.



SME insights

Issue 10

July 2011

Ferrier Hodgson

Ferrier Hodgson is a specialist Corporate Advisory, Forensics, Management Consulting and Corporate Recovery firm, known for its ability to achieve successful outcomes for companies in both distressed and non-distressed environments. If you have questions about DPNs and their effects on directors, their advisers and financiers, we can help.

Ferrier Hodgson can:

- Provide advice on the effects of the new DPNs.
- Advise how to deal with and satisfy obligations imposed by a DPN.
- Advise on the company's solvency and how to deal with it.
- Act as voluntary administrator or liquidator.

For further information on any of the above please contact us.

Regards

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