

## Client eBrief



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## ATO Lodgement Dates

### Correcting Activity Statements

#### Correcting is *not* making an adjustment!

Correcting an error or mistake is about fixing an amount that was incorrect when lodged, typically due to transposition error, misclassification or double counting.

Adjustments are to items that were correct at the time but where something has changed the GST.

#### When and How to “Fix”

Fix on the next BAS when:

- An adjustment occurs due to another transaction (returned goods, price change, etc.)
- A credit error (you previously overpaid) – must be within 4 years and 1 day from the date the original BAS was lodged
- A debit error (you underpaid) – for business with turnover less than \$20m, and where the aggregated amounts of all adjustments is less than \$10,000, they have 18 months from the due date of the original Activity Statement; for others 12 months. For companies with more than \$20m turnover, the aggregated value of adjustments must be considered on a scale starting at \$20,000.

You have to go back and revise the lodged BAS if:

- The time limits have expired, or value limits above are exceeded
- There is a 4 year limit on payment of refunds
- The revision of past statements is required so that appropriate interest would be calculated and then paid as a result of underpayments.

#### Lodging the Revision

Using the Online Services for Agents, select the “Revise” link when reviewing the list of lodgment “History”.

\*Lodgment software may also allow the lodgment of adjustments.

**Please speak to us if your Activity Statements need adjustments**

These dates are from the ATO website and do not take into account possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

#### BAS/IAS Monthly Lodgements

Final dates for lodgements and payments:

January Activity Statement:

21 February 2020

February Activity Statement:

21 March 2020

#### BAS Quarterly Lodgements

Final dates for lodgements and payments:

**2nd Quarter 2020 Financial Year:**

**December Quarter 2019 (incl. PAYGI)**

28 February, 2020

**3rd Quarter 2020 Financial Year:**

**March Quarter 2020 (incl. PAYGI)**

28 April, 2020

When a due date falls on a Saturday, Sunday or Public Holiday\*, you can lodge or pay on the next business day.

\*A day that is a public holiday for the whole of any state or territory in Australia.

Due date for super guarantee contributions:

**2nd Quarter 2020 Financial Year:**

October to December 2019 – contributions must be **in the fund** by 28 January, 2020

**3rd Quarter 2020 Financial Year:**

January to March 2020 – contributions must be **in the fund** by 28 April, 2020

The super guarantee charge is not a tax deduction if not paid by these dates.

Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.



## FWO Challenges Payments to Contractors

The Fair Work Ombudsman recently instigated court action which challenged whether the worker was a Contractor or an Employee – FWO believe they are employees and the persons were underpaid.

### A purchaser should ensure they are paying enough

A developing perspective being applied to all businesses is:

*that when you are purchasing services, the amount you are paying to your supplier has to be at least what would allow the persons providing the service to receive a minimum wage.*

#### Example:

A supermarket business, contracts with another business to provide people to collect trolleys, the supermarket must ensure they are paying the supplying business an amount that would cover at least minimum wage and any applicable award entitlements (including leave and overtime amounts) the trolley collecting person is entitled to receive. The supermarket cannot turn a blind eye to any underpayment of the intermediary business.

### Contractors should not be paid less than employees

In the case where a transport company (Boske Road Transport) was paying individuals (who were engaged as contractors) less than they would have received had they been employees, FWO alleges that the drivers were underpaid as they were in fact employees covered by the *Road Transport and Distribution Award 2010*, and for one worker in relation to a period of long-distance work, the *Road Transport (Long Distance Operations) Award 2010*.

It is alleged three of the workers were underpaid hourly overtime rates and public holiday rates, and not paid for any annual or personal leave. The long-distance driver, who had the largest alleged underpayment, was also allegedly underpaid through failures to pay for loading and unloading duties and to meet a cents-per-kilometre entitlement.

As a general principle, this cannot be right.

### Were they employees?

The Employee vs Contractor laws have 6 factors which together determine whether a person is to be treated as an employee or a contract for the different obligations: PAYG Withholding, Superannuation, Fair Work Award application.

1. Control – who really determines how, when and where a task is to be performed
2. Integration – are they really an integral part of the business
3. Results – is the basis of the engagement purely payment for time or to produce a result
4. Delegation – can the worker delegate the task to another person
5. Terms of engagement – how was the engagement established
6. Risk – who pays for corrections

No one test determines the relationship and not all tests are necessary for a definite conclusion as to the status of the engagement.

Not all contractor relationships are “sham-contractors”

## The Boske Road Transport case

Fair Work is challenging the company on the basis that the individuals are employees.

If they are then the law definitely applies the award and minimum payment applies.

Increasingly individuals who are contracted themselves or through another entity will still have to be paid at least what they would have been paid if they were employed directly. Another application of the “Better-Off Overall” Test.

Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances. For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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