



NEW COMPANY/BUSINESS INFORMATION KIT

SAS Accounting Services

Registered Tax Agents & Public Accountants

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Principal: George Warda FIPA
Registered Tax Agent & Public Accountant
ABN 75 398 264 639
Website: www.sasaccounting.com.au

WELCOME!

I am very pleased to welcome your new business and hope that you will be happy with my services.

My firm brings together a wealth of accounting, management and business experience through its partners, team members and associates. As an IPA Public Practice, it is our goal to assist clients to achieve their desired business and personal success.

Once again, welcome and thank you for choosing my firm.

Please take a moment to read the attached information sheets and guides to help familiarise yourself with your obligations and responsibilities in running your business.

I look forward to a long and rewarding association for many years to come.

If you have any queries, please feel free to contact our office on 02 96445300.

Yours faithfully,

SAS ACCOUNTING SERVICES

George Warda FIPA

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SAS Accounting Services – Terms of Our Engagement

Scope of the Engagement

The scope of the engagement is as set out below:

- Analyse, discuss, and make recommendations regarding your accounting records and taxation/financial affairs.
- Prepare financial and other statements (such as BAS/IAS, FBT returns, wages summaries, etc) as needed.
- Provide full GST (BAS) support, in relation to your entity requirements.
- Prepare & lodge your various entities tax returns, review assessments, & advise on appeal procedures where needed.
- Revise your taxation/accounting issues in order to provide tax compliance, proper tax planning and to maximise your taxation advantage according to legislation.

Our proposed appointment as your Tax Agent can also provide you with additional services catered for you (subject to our confirmation), which includes; Financial Account, Business plans & tenders, Compliance issues, Periodic Reporting, Regular Reports/updates, Representations, Monitoring, Audit assistance, Objections/Waivers

The quality of our services will depend on your prompt responses to our requests for information and details, and you should be aware that inactions may bring about, fines, penalties and interest charges which will remain your own responsibility duly. While we exercise due care in the preparation of your returns, we will not be in a position to conduct an audit of any information you provide, and we will not be responsible for the same or for any fines or penalties however resulted.

Therefore, you will need to exercise reasonable care in furnishing all the relevant tax information to us, inclusive of sales invoicing records and/or detailed income from all sources. This includes banking records, interest income, dividends and any capital transactions, together with a full summary of all payments made from your business accounts in whatever form (cheques, cash, credit, direct debits etc.). You can do this either manually or via computerised means, if so desired. Our office can supply our client with own formats of manual cashbooks and or spreadsheet programs that run with Office Excel 2007 or higher, on request.

Under the new tax system, there are strict requirements in respect of:

- SALES REPORT (all reports and records of sales must be maintained daily and as applicable)
- TAX INVOICES FORMAT (must be used for all items in excess of \$82.50)
- ABN/GST Certificates (must be ascertained for all payments you make, especially contractors)
- WAGES RECORDS (Fully maintained, inclusive of declarations & superannuation records)
- PAYMENTS (all transactions must be fully explained in a cashbook form)
- RECORDS (must be maintained for a period of 5 years.)
- YEAR END REPORTING (Asset registers, creditor lists, etc, reported annually)

Professional Fees and Charges

All professional fees for the services provided to you will be based on the time, degree of skill and expertise required to complete the tasks at hand, including out of pocket expenses and statutory charges, unless otherwise agreed between the parties.

Professional fees are also charged, depending on the client's state of record keeping (of their own business), any tax related matters, and the degree of involvement of our senior staff during the course of any specialised assignment. Our fees are fully tax deductible as per ITAA36 Section 251L.

Our current charge rates (including GST) as of February 2018 are:

Principal (George Warda PFNA)	\$440 per hour
Registered Tax Agents	\$330 per hour
Senior Accountants	\$250 per hour
Associate Accountants	\$165 per hour
Clerical Staff	\$110 per hour
Junior/Trainees	\$ 55 per hour

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For work undertaken for periods of less than an hour, the rate shall be one tenth of the hourly rate per 6 minutes of work completed. All rates are GST inclusive. Under special circumstances, we may grant a one-off discounted fee to help you during the initial stages of your business operations, all at our discretion. Our office fees guide will remain the only basis for this engagement, an extract of which is herein enclosed.

You should also note that initial services that we deem as requiring special and immediate attention and extensive work will in all cases be charged for at standard rate and billed separately to the client upon completion as an additional fee, which will also be considered as a pre-engagement fee for all purposes. For any complex matters, an additional \$110 per hour may be charged on top of the charge rates for the Registered Tax Agents. Any estimate of the costs of services, are only estimates and the actual costs may vary. It is not always possible to provide an accurate estimate of the total cost, and the total costs may change due to unexpected problems and delays, the co-operation or otherwise of third persons and deficiencies in documentation provided. If the cost to you is likely to be significantly higher than originally estimated, we will try to inform you of this in advance whenever possible and state the reasons for the increase.

We reserve the right to periodically charge interim invoices for services rendered during our engagement.

If you accept this offer you will be regarded as having entered into a cost's agreement. This means that you will be bound by the terms and conditions set out in our Terms of Engagement agreement, including being billed in accordance with it. Acceptance may be by any one of the following ways:

- Signing and returning a copy of this agreement to our Terms of Engagement
- Giving us oral and/or written instructions after receiving our Terms of Engagement
- Oral acceptance

Terms of Payment

Our terms of payment are strictly 14 days from the date of each invoice, unless we have arranged otherwise. We will provide you with an itinerated account of all fees payable upon request. The terms of our engagement usually will be under review each year if there are any changes and it is agreed that either party must give one weeks' notice for cancellation of this engagement after settlement of your account with us to that date. We reserve the right to delay or suspend our services to you, in the event of our fees remaining unpaid or outstanding.

By agreeing to our terms, you also duly authorise & certify as true/complete the removal of our office as your businesses/company registered addresses with ASIC, ATO and other departments (as required at our discretion), where the address will be updated with your last available known address.

Disclosure of other fees and commissions

We shall disclose to our clients any commissions or other fees received due to of work done for that client and we will fully comply with any statutory requirements in relation to the disclosure of such information where required.

Indemnity & Authorisation

Generally, for all lodgement purposes authorisation will be required in the form of declaration we will supply each time upon completion of a task prior to submission with the authorities. Besides taxation returns, some other urgent jobs (i.e. BAS reports & other forms) may have to be signed on your behalf by our staff as your appointed agents for the task and be lodged promptly with ATO and ASIC to avoid pending penalties for any delays. All reports generated by our office will be based entirely on information you will have supplied and therefore you will always remain responsible for its correctness and agree to indemnify our office against any claims as a result.

At our discretion, we may assist with preparing STP reports on your behalf. By agreeing to our terms, you accept responsibility of providing your staff salaries and worked hours to our firm by the appropriate pay-run date. You also acknowledge that your staff wages are paid in line with the appropriate payroll awards and Fair Work guidelines and that your staff have the appropriate PAYG amounts withheld from each pay along with the statutory rate of superannuation paid quarterly. Where applicable, you authorise for our firm to lodge each STP event for the next year and will be reviewed at least annually - this will allow us to make the relevant declarations to the ATO at the time of lodging each STP event as necessary.

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Responsibility for Accounting and Internal Control Systems

We advise that the responsibility for the maintenance of a business accounting system and internal control systems rests with you (the client), including the protection of and prevention against fraud. You will be responsible for the maintenance and keeping of its books of accounts, including all matters relating to payroll, super, insurance. If any material weakness in the accounting system or internal control systems comes to our attention, we will advise accordingly. We remind you that you are personally responsible for the information contained in any statutory return and that you must retain all necessary supporting documentation to back up any claim. We will not take responsibility for any failure on your behalf to maintain adequate records or to keep in line with legislation, awards, rulings, and regulations.

Solvency

The client is solely responsible for the monitoring & maintenance of their financial position/trading at all times. If you have any queries in relation to this matter, please contact our office to arrange a meeting.

Insurances

All insurance requirements are your own responsibility & you should ensure that you have in place all required cover for public liabilities & business insurance, workers compensation, income protection and superannuation (please note that as of the 1st July 2003, superannuation will be due quarterly).

Documents

Before we lodge any necessary documentation on your behalf, we will forward a draft of that document to you for approval. Please note that all draft documents are for review purposes only, and should not be used for any other purpose. We shall endeavour to ensure that the relevant authorities will receive the necessary documentation by the due dates, so long as we receive all the necessary information and documentation to allow us adequate time for preparation and lodgement.

Ownership of Documents

The final financial statements, tax return and any other documents, which we are specifically engaged to prepare, together with any other original documents given to us, shall remain your property. Any other documents brought into existence by us including, general journals, working papers, the general ledger, draft financial statements and/or tax returns, will remain **our** property at all times. However, we will provide you with copies of any documents that you may require from time to time, at our discretion.

We may invoke a Lien over certain documents held until, such time as, an outstanding fee has been paid, or other satisfactory arrangements are reached. A Lien is a right to hold certain documents or property until the debt incurred in respect of that property/document has been satisfied. The Lien however may not be held over property that belongs to another, including if held jointly, and does not cover statutory documents (e.g. a corporate registers)

Quality Review

The professional body IPA which we relate to, subjects us to a periodic quality assurance review (as well as an annual audit of our trust account). During this review, they may at times request to review your files to ensure a good standard of work by our firm, consequently by accepting this engagement you are also authorising such action without any reservations.

Standards

We aim to provide the highest standard of professional service, and we are focused on the concerns of our clients. If for any reason you feel you have not received the service level expected, or have an issue that needs answering, then please contact myself to discuss how the problem may be resolved.

Furthermore, as a Fellow of the IPA (Institute of Public Accountants) in public practice, I am subject to the ethical requirements of the IPA and to its Investigations and Disciplinary processes. These requirements cover issues such as Code of Conduct and Ethics, adherence to Accounting and Auditing Standards, and requirements to undertake Continued Professional Education and to hold trust money in a Trust Account. Should there be an issue regarding the ethical or business practices of myself, such matters may be referred to the IPA Reviewer. However, as the accounting profession does not have regulated fees, the IPA will not investigate purely fee-based disputes.

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Previous Accountant

As a matter of professional courtesy, and in line with the requirements of my professional body, we will need to inform your previous accountant that we have been engaged by you as their new accountant and to receive from them any outstanding files of yours that they may retain. You may refuse to provide this information but it may cause problems in the efficient transfer of your files.

Trust Account Authorisation

By signing our engagement letter, you will grant authority for us to receive funds into our trust account (where required) and any trust money received by us on your account arising out of this engagement. Our trust account is set up in accordance with the requirements of the of our professional accounting body, as operated with the Commonwealth Bank at Canley Heights. The nature of our engagement includes for all related entities; preparation of taxation returns/bas, and/or other services rendered, and/or previous outstanding debts. You also authorise us to deduct from any trust monies held, the agreed fees (such fees being notified verbally and/or in writing before/after the engagement commenced) for the completion of the work set out in the engagement and in satisfaction of such work being completed, with the remainder of the trust moneys of the account being forwarded to yourself (or as directed by you). Furthermore, you authorise our professional accounting body to use any information on such files and records for the purpose of carrying out its audit and quality review requirements. This trust authority is strictly limited to our engagement with you and is understood to be between you and our firm. You also confirm that any trust moneys deposited with us at SAS Accounting Services are for lawful purposes only.

Finally, I take this opportunity to thank you for your inquiry, hoping that we will be of service to you, and wishing you prosperity in all your endeavours. Please do not hesitate to contact myself if you have any particular concern that you feel we may not have addressed to date.

Privacy Act 1988

- 1.1 *The Buyer and/or the Guarantor/s agree for the Seller to obtain from a credit-reporting agency a credit report containing personal credit information about the Buyer and Guarantor/s in relation to credit provided by the Seller.*
- 1.2 *The Buyer and/or the Guarantor/s agree that the Seller may exchange information about Buyer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:*
 - (a) *To assess an application by Buyer;*
 - (b) *To notify other credit providers of a default by the Buyer;*
 - (c) *To exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and*
 - (d) *To assess the credit worthiness of Buyer and/or Guarantor/s.*
- 1.3 *The Buyer consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).*
- 1.4 *The Buyer agrees that Personal Data provided may be used and retained by the Seller for the following purposes and for other purposes as shall be agreed between the Buyer and Seller or required by law from time to time:*
 - 1.5 *provision of Services & Goods;*
 - 1.6 *marketing of Services and or Goods by the Seller, its agents or distributors in relation to the Services and Goods;*
 - 1.7 *analysing, verifying and/or checking the Buyer's credit, payment and/or status in relation to provision of Services/Goods;*
 - 1.8 *processing of any payment instructions, direct debit facilities and/or credit facilities requested by Buyer; and*
 - 1.9 *enabling the daily operation of Buyer's account and/or the collection of amounts outstanding in the Buyer's account in relation to the Services and Goods.*
- 1.10 *The Seller may give, information about the Buyer to a credit reporting agency for the following purposes:*
 - 1.11 *to obtain a consumer credit report about the Buyer; and or*
 - 1.12 *allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.*

Default & Consequences Of Default

- 2.1 *Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and shall accrue at such a rate after as well as before any judgement.*
- 2.2 *If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Seller from and against all the Seller's costs and disbursements including on a solicitor and own client basis and in addition all of EC Credit Control Limited's (our debt collection agency) costs of collection.*
- 2.3 *Without prejudice to any other remedies the Seller may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller exercised its rights under this clause.*
- 2.4 *If any account remains unpaid at the end of the second month after supply of the Goods or Services the following shall apply: An immediate amount equivalent to 10% of the amount overdue levied for administration fees which sum shall become immediately due and payable.*
- 2.5 *In the event that:*
 - (a) *any money payable to the Seller becomes overdue, or in the Seller's opinion the Buyer will be unable to meet its payments as they fall due, Or;*
 - (b) *the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors, Or;*
 - (c) *a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer,*

Then:

 - (i) *the Seller shall be entitled to cancel all or any part of any order of the Buyer which remains unperformed in addition to and without prejudice to any other remedies; and*
 - (ii) *all amounts owing to the Seller shall, whether or not due for payment, immediately become due and payable; and*
 - (iii) *the Seller shall be entitled to reclaim any Goods in the Buyer's possession or control, which have been supplied by the Seller and to dispose of the Goods for its own benefit and shall be entitled to enter, directly or by its agents, upon any land or premises where the Seller believes the Goods which it has supplied are stored without being liable to any person.*

Yours faithfully,

SAS ACCOUNTING SERVICES

George Warda FIPA

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DIRECTOR ID REQUIREMENTS

Director ID requirement from 1 November 2021

<https://www.abrs.gov.au/director-identification-number/who-needs-apply-and-when>

The Director ID is a new requirement for all company directors including corporate trustees.

If you are a company director of a corporate trustee of a SMSF/Trust you can apply for a director ID from November 2021 on the new Australian Business Registry Services (www.abrs.gov.au).

From November 2021, all current directors and anyone wanting to become a director will need to apply for a Director Identification Number.

DATES TO REMEMBER FOR DIRECTOR ID

On or before 31 October 2021	If you are a director on or before this date you must apply by 30 November 2022.
Between 1 November 2021 to 4 April 2022	If you become a director between these dates you will need to apply within 28 days of appointment.
From 5 April 2022	If you become a director after this date, you will need to apply for a director ID number before registering a company.

HOW TO APPLY

Only directors must apply for their Director ID Number themselves which will be used to identify you as a director for all of your companies. Unfortunately, no one can apply on your behalf. However, we will be here to provide you guidance and assistance through the process.

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ASIC INFORMATION SHEETS - Extracts

[Excerpts from the ASIC INFORMATION SHEETS website <http://www.asic.gov.au>]

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ASIC INFORMATION SHEET 79

Your company and the law

This information sheet explains the responsibilities of company officeholders. It covers:

- who can be a company director or secretary
- company director responsibilities, and
- company records.

If you're a director or secretary of a small company, you must follow the requirements set out in the *Corporations Act 2001* (Corporations Act).

Obviously we can't explain every obligation or cover every situation here. At times you may need professional legal advice.

Even if you appoint an agent to look after the company's affairs, you—not the agent—may still be held responsible for those legal obligations.

What does the law expect of you personally?

As a director, you must:

- be honest and careful in your dealings at all times
- know what your company is doing
- take extra care if your company is operating a business because you may be handling other people's money
- make sure that your company can pay its debts on time
- see that your company keeps proper financial records
- act in the company's best interests, even if this may not be in your own interests, and even though you may have set up the company just for personal or taxation reasons, and
- use any information you get through your position properly and in the best interests of the company. Using that information to gain, directly or indirectly, an advantage for yourself or for any other person, or to harm the company may be a crime or may expose you to other claims. This information need not be confidential; if you use it the wrong way and dishonestly, it may still be a crime.

If you have personal interests that might conflict with your duty as a director, you must generally disclose these at a directors' meeting. This rule does not apply if you are the only director of a proprietary company.

What work must a director do?

You and any other directors will control the company's business. Your company's constitution (if any) or rules may set out the directors' powers and functions. You must be fully up to date on what your company is doing:

- Find out and assess for yourself how any proposed action will affect your company's business performance, especially if it involves a lot of the company's money.
- Get outside professional advice when you need more details to make an informed decision.
- Question managers and staff about how the business is going.
- Take an active part in directors' meetings.

Only be a company director or a company secretary if you are willing, able and have enough time to put in the effort.

Avoid any company where someone offers to make you a director or secretary on the promise that 'you won't have to do anything' and 'just sign here'. You could be exposing yourself to many legal liabilities.

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Can you sell shares to the public?

Proprietary companies are generally not allowed to raise money from the public by selling shares. Avoid anything to do with illegal fundraising.

Can anyone be a director or secretary?

You must not act as a director or secretary (or manage a company) without court consent if you:

- are an undischarged bankrupt
- are subject to a personal insolvency agreement or an arrangement under Part X of the *Bankruptcy Act 1966* (Bankruptcy Act) that has not been fully complied with
- are subject to a composition under Part X of the Bankruptcy Act and final payment has not been made, or
- have been convicted of various offences such as fraud or offences under company law, such as a breach of your duties as a director or insolvent trading. If you have been convicted of one of these offences you must not manage a company within five years of your conviction. If imprisoned for one of these offences, you must not manage a company within five years after your release from prison.

If you become bankrupt, enter into a personal insolvency agreement or are convicted of a relevant offence at a time when you're a director or secretary then you automatically lose that office. The company must then notify ASIC that you're no longer a director or secretary of the company. For more information, see Information Sheet 14 *Bankruptcy and personal insolvency agreements* ([INFO 14](#)).

ASIC can also ban you from being a company director in certain situations.

If you're not allowed to be a company director or secretary, you're not allowed to manage a company. It is a serious offence to set up dummy directors while you really manage the company.

Directors must also be 18 years or older.

What happens to dishonest directors?

Every year, the courts send dishonest and reckless company officers to prison, and impose heavy fines and award damages.

As the company watchdog, we investigate corporate crime. **You can report dishonest company directors to us.** We may take a number of steps against directors who fail in their duties.

What company records must you keep?

As a director, the law makes you personally responsible for keeping proper company records.

You must see that the company keeps up-to-date financial records that:

- correctly record and explain its transactions (including any transactions as a trustee), and
- explain the company's financial position and performance.

All companies must have financial records so that:

- true and fair financial statements of the company can be prepared if needed
- financial statements can be conveniently and properly audited if necessary, and
- the company can obey the tax laws.

If your company is a 'small proprietary company' or a small company limited by guarantee (as defined in the Corporations Act), it will generally not have to prepare formal financial reports under that Act each year and lodge them with ASIC. However, you must still keep financial records, and may need financial reports for managing and monitoring your company's financial position and performance for tax purposes or for raising finance.

In most cases, large proprietary and public companies—even not-for-profit public companies—will have to prepare

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financial reports, have them audited and lodge them with ASIC.

Some public companies limited by guarantee are exempt from these financial reporting obligations and others have reduced auditing and reporting obligations. For more details on the obligations of limited by guarantee companies, see Information Sheet 131 *Companies limited by guarantee—simplified obligations* ([INFO 131](#)).

What are financial records?

Some of the basic financial records that the law may require a company to keep are:

- general ledger, recording all the company's transactions and balances (e.g. revenue, expenses, assets, liabilities) or summarising transactions and balances detailed in other records
- cash records (e.g. bank statements, deposit books, cheque butts, petty cash records)
- debtor and sales records (e.g. a list of debtors and their balances, delivery dockets, invoices and statements issued, a list of all sales transactions)
- creditor and purchases records (e.g. purchase orders, invoices and statements received and paid, unpaid invoices, a list of all purchases, a list of all creditors and their balances)
- wage and superannuation records
- a register of property, plant and equipment showing transactions and balances in relation to individual items
- inventory records
- investment records (e.g. contract notes, dividend or interest notices, certificates)
- tax returns and calculations (e.g. income tax, group tax, fringe benefits tax and GST returns and statements), and
- deeds, contracts and agreements.

A company would also normally prepare the following statements regularly (e.g. monthly) to manage its business performance and provide to lenders:

- *Statement of Comprehensive Income:* a statement showing the company's revenue and expenses and the profit or loss that results from these items
- *Statement of Financial Position:* a statement showing the things of value the company owns and the debts the company owes, and
- *Statement of Cash Flows:* a statement summarising cash inflows and outflows.

Get professional advice if you have any doubt about the content or type of financial records to keep. The lists above give examples only, because the financial records you need will vary from company to company.

You may keep some financial records electronically, but you must be able to convert them into hard copy so that you can give them to anyone entitled to inspect them. Make backup copies of electronic records regularly (for example, weekly or daily).

See also Information Sheet 76 *What books and records should my company keep?* ([INFO 76](#)).

Your company must also keep some other basic records: see 'Company housekeeping: other records and registers' for more details.

Company housekeeping: Other records and registers

All company officers must make sure that the company attends to some basic 'housekeeping' matters. The directors remain ultimately responsible for the company's compliance with the Corporations Act.

When a company is set up, you must:

- register your company name with ASIC and obtain an [Australian Company Number](#) (ACN)
- have a registered office. (If your company doesn't occupy the same address as the registered office, then you must have written consent from the person who occupies the registered office.)

Make sure that you:

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- display the company name at every place at which your company carries on business and that is open to the public. Also, a public company must display its name and the words 'registered office' prominently at its registered office.
- display the company name, the words 'Australian Company Number' (or 'ACN') or 'Australian Business Number' (or 'ABN') and the relevant number on:
 - the common seal (if the company has one)
 - every public document of the company
 - every negotiable instrument (e.g. cheque, promissory note) of the company, and
 - all documents lodged with ASIC.

Your company must keep:

- registers of members (shareholders)
- registers of option holders (if you have them)
- minutes of general meetings
- minutes of meetings of directors
- registers of charges created by the company over company property (s271 of the Corporations Act was removed from registration under the *Personal Property Securities Act 2009*. You are required to have this register and make entries up until this point in time), and
- financial records that enable an assessment of the company's financial position and performance and are sufficient for financial statements to be prepared (and audited if necessary) for at least seven years after the transactions are completed.

For more about the ASIC forms your company must lodge, see Information Sheet 20 *Checklist for registered companies and their officers* ([INFO 20](#)).

Your annual statement

Each year within a few days after your company's review date (usually the anniversary of your company's registration) we will send your company an annual statement to one of the following:

- your electronic inbox if you have registered to use our electronic lodgement systems
- the address of your registered agent if you have appointed one
- your nominated mailing address if you aren't registered to use our electronic lodgement systems, or
- your company's registered office address if none of the above apply.

If you have not received your annual statement within five days after the review date, you should contact us.

Check your annual statement

The annual statement sets out the company's details recorded in ASIC's register, such as the names and addresses of its directors and secretary, registered office, principal place of business, ultimate holding company (if any), share details and members' details (members' names and addresses only apply to proprietary companies)..

If these details are correct and no other changes have occurred that require you to notify ASIC, then within two months after the review date:

- you need to pay the annual review fee shown in the invoice that accompanies the annual statement, and
- the director(s) need to pass a solvency resolution.

If any details on the statement are no longer correct, you must update them using [Form 484](#) *Change to company details*. You have 28 days from the statement's issue date to lodge the form.

We may also require information to be lodged (e.g. where we notice that data is missing).

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Pay fees

To avoid the payment of late fees or other non-compliance action you must:

- pay the annual review fee within two months after the review date
- lodge Form 484 to update your company's details if they change during the year, within 28 days after the change, and
- lodge Form 484 (if required) to update your company's details, within 28 days after your annual statement's issue date.

For more information, see Information Sheet 3 *Annual statements and late fees* ([INFO 3](#)).

Pass a solvency resolution

The company's directors must pass a solvency resolution within two months after the company's review date, unless the company has lodged a financial report with ASIC within twelve months before the review date.

A **positive** solvency resolution means that the directors think that there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable. You don't have to lodge notification of a positive solvency resolution with ASIC, but you must pay the company's annual review fee. Payment of the fee is taken to be a representation by the directors that the company is solvent.

A **negative** solvency resolution means that the directors think that there are not reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable. If the directors pass a negative solvency resolution we must be notified using [Form 485](#) *Statement in relation to company solvency* within seven days after the resolution has been passed.

If the directors don't pass a solvency resolution within two months after the company's review date, ASIC must be notified using Form 485 within seven days after the end of the two-month period following the review date.

Keep ASIC informed of changes in your company's details

Some of the more common things you must tell us are set out in the following table. The Corporations Act requires you to tell us about these changes within a certain time period. If you tell us after this time, you may have to pay a late fee.

Type of activity or duty		Form
Change place you keep registers	If you want to keep registers of shares, options or charges at an address other than the company's registered office or principal place of business, you must tell us where they are being kept within seven days after the change.	909
Change of officeholders or details of officeholders	If the officeholders (e.g. director, secretary or alternate director) of the company change, or if any personal details change, such as their residential address, you must tell us within 28 days after the change. You must also lodge the terms of appointment when appointing an alternate director.	484
Resignation of director or secretary	A director or secretary can tell us directly if they retire or resign. A copy of their letter of retirement or resignation from the company must be submitted with the form.	370
Change of registered office	If you change the company's registered office or principal place of business, you must tell us within 28 days after the change.	484
Change of company name	If the company has resolved to change its name, you must tell us within 14 days after the resolution was passed. (New names are subject to availability criteria.)	205
Issue of new shares	If you issue new shares, you must tell us within 28 days from the date of issue.	484
Change to members (shareholders)	Proprietary companies must advise us within 28 days of changes to the top 20 members in each class of share held. Such changes include changes of name and address, increase or decrease in shares held and cessation of membership.	484
Changes to ultimate holding company	Proprietary companies must advise us within 28 days following changes to their ultimate holding company.	484

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Division or conversion of shares	If you divide or convert shares into different classes, you must tell us within 14 days from the date of the division or conversion.	211
Negative solvency resolution	You must notify us of a negative solvency resolution within seven days after the resolution is passed.	485
Solvency resolution not passed	If no solvency resolution is passed within two months after the review date you must notify us within seven days after that period.	485
Change of company review date	You may apply to change your company's review date if it is considered unsuitable. You must, however, be able to satisfy certain conditions to have the review date varied.	488

How do you get the information to us?

If you are a director or secretary of a company you can tell us about most changes to your company's details using our [online service](#). (Refer to SAS Accounting Services to act as your registered agent on your behalf).

Alternatively, if you lodge documents on behalf of a number of companies, you can lodge them electronically using our [EDGE service](#) which uses compliant software..

By lodging electronically you will:

- save time
- have your information processed immediately, and
- quickly meet your legal obligations.

You may also lodge the changes on a paper form. These forms can be downloaded from our website or obtained by calling us on 1300 300 630 or visiting an ASIC Service Centre or an ASIC Local Representative. Single or bulk forms are also available from some law stationers.

If you use a lot of forms, interactive software is available, such as 'ASIC Forms on CD-ROM'.

We also list the fees you must pay for lodging some forms on our website.

Send the completed form and fee (where applicable) to: Australian Securities & Investments Commission (ASIC)
 PO Box 4000
 Gippsland Mail Centre VIC 3841

What if your company can't pay its debts?

You must ensure that your company is able to pay all of its debts as and when they become due for payment. A company is 'insolvent' if it cannot pay all of its debts as they become due and payable.

By law, you must prevent your company from incurring a debt when it is insolvent or about to become so. This means you must consider whether you have reasonable grounds to believe that the company will be able to pay a new debt when it becomes due, as well as pay all the other debts.

You may expose yourself to criminal prosecution, substantial fines or to action by a liquidator, creditors of the company or ASIC to recover amounts lost by creditors due to your actions.

Your personal assets—not just your company's—may be at risk.

Common signs of financial trouble are:

- low operating profits or cash flow from the main business
- problems paying trade suppliers and other creditors on time
- trade suppliers refusing to extend further credit to the company
- problems with meeting loan repayments on time or difficulty in keeping within overdraft limits, and
- legal action taken, or threatened, by trade suppliers or other creditors over money owed to them.

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If your company is in financial difficulty or in danger of being insolvent, seek immediate advice from an insolvency professional. They will be able to explain your options to you. Your options may include re-structuring your company's affairs, changing your company's activities or appointing a voluntary administrator or liquidator to the company.

Do not assume that you will be able to trade out of the problem. Delay could be damaging to the company and to you personally, and may reduce the options available.

How do you close down your company?

You can apply to have the company deregistered, if certain conditions are met, using [Form 6010 Application for voluntary deregistration of a company](#).


The conditions are that the company:

- is not carrying on business
- has assets of less than \$1000
- has paid all its fees and penalties under the Corporations Act
- has no outstanding liabilities
- is not a party to any legal proceedings, and
- all its members have agreed to the deregistration.

If these conditions are not met, the process is more complex and you'll need the help of a professional adviser.

What can you find out about other companies?

See Information Sheet 26 *Dealing with businesses and companies: How to avoid being swindled* ([INFO 26](#)) for tips on avoiding shonky operators and fly-by-night companies.

You can find out more about a company you are dealing with by checking its identity to make sure that it really exists. You can check its status and see what forms it has lodged through the [Organisations & Business Names search](#)  at ASIC Connect..

Tell us if you think another company is trading while it can't pay its debts. We may not be able to investigate everything, but we do keep detailed records of all reports of misconduct and may take action if we have evidence of serious wrongdoing. Tell us if you think that a company director is acting dishonestly.

A final word and to find out more

Finally, you are unlikely to get into trouble if you:

- are honest and careful in dealing with the company and on its behalf with others
- understand your legal obligations and make compliance with them part of your business
- keep informed about your company's financial position and performance
- get professional advice or more information when you are in doubt, and
- give the interests of the company, its shareholders and its creditors top priority.

Where can I get more information

For more about running your company, visit www.asic.gov.au/companies.

Contact ASIC on 1300 300 630 or make an enquiry at www.asic.gov.au/question.

This is **Information Sheet 79 (INFO 79)**. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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ASIC INFORMATION SHEET 76

What books and records should my company keep?

In order to provide guidance to directors of small proprietary companies in answering this question, ASIC has reviewed the requirements of the *Corporations Act 2001* (Corporations Act) and has sought input from a number of professional bodies and associations to compile a schedule of appropriate books and records. If you are in doubt about the form and content of financial statements or other records which should be prepared or maintained you should seek professional advice.

The Corporations Act in s286(1) states that a company **must** keep written financial records that:

- correctly record and explain its transactions and financial position and performance, and
- would enable true and fair financial statements to be prepared and audited.

Financial records are defined in s9 of the Corporations Act as including:

- invoices, receipts orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers
- documents of prime entry, and
- working papers and other documents needed to explain:
 - the methods by which financial statements are made up, and
 - adjustments to be made in preparing financial statements.

Financial records may be kept electronically and there are numerous accounting software packages available for this purpose. Section 288 of the Corporations Act states that if financial records are kept in electronic form, they must be convertible into hard copy. Hard copy must be made available within a reasonable time to a person who is entitled to inspect the records. If financial records are kept on a computer which is owned and operated by a third party (e.g. your company's accountant), you still have the responsibility to provide a hard copy.

Schedule of suggested books and records to be kept

Here are some of the basic financial records that accountants might expect a company to keep:

1. Financial Statements

- Profit & Loss accounts (see [Note 1](#))
- Balance Sheets
- Depreciation Schedules
- Taxation Returns eg. income tax, group tax, superannuation, fringe benefits tax, business activity statements and all supporting documents.

2. General Ledger

3. General Journal

4. Asset Register

5. Computer Back-up Discs

- Frequency - suggest at least monthly

6. Cash Records

- Cash Receipts Journal
- Bank Deposit Books
- Cash Payments Journal
- Cheque Butts
- Petty Cash Books

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7. Bank Account Statements, Bank Reconciliations and Bank Loan Documents

8. Sales/Debtor Records

- Sales Journal
- Debtors Ledger
- List of Debtors
- Invoices & Statements issued
- Delivery Dockets

9. Work in Progress Records

10. Job/Customer Files

11. Stock Listings

12. Creditors Records

- Invoices & Statements Received & Paid
- Creditors Ledger
- Unpaid Invoices

13. All Correspondence, Annual Returns and ASIC forms

14. Wages Records and Superannuation Records

15. Registers (where applicable - refer [Note 2](#))

- Members
- Options
- Debenture Holders
- Prescribed Interests
- Charges (see [Note 4](#))
- Unclaimed Property

16. Minutes of Meetings of Directors and/or Members

17. Deeds (where applicable)

- Trust
- Debentures
- Contracts & Agreements (e.g. HP and leases).
- Inter-company transactions, including guarantees.

Notes

Note 1. Although the Corporations Act does not require small proprietary companies to prepare financial statements, unless requested by ASIC or shareholders, they are considered a valuable tool for managing your company and checking its progress and financial position and may be helpful if you are contemplating raising finance.

Note 2. The above schedule is by no means exhaustive and the financial records required will vary from company to company. Further, the schedule does not cover the registers you must keep if your company holds a securities or futures licence.

Note 3. Section 286(2) of the Corporations Act requires financial records to be kept for seven years.

Note 4. With the commencement of the Personal Property Securities Register on 30 January 2012 s271 of the Corporations Act was repealed; however, companies are still required to maintain a register of charge details up to that point in time.

This is **Information Sheet 76 (INFO 76)**. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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ASIC

INFORMATION SHEET 49

Minimum officeholders

A company is required to have a minimum number of directors and secretaries.

Proprietary companies

A proprietary company can generally be identified by the company name ending with the words 'proprietary limited' or the abbreviation 'pty ltd'.

Minimum number of directors for a proprietary company

A proprietary company must have at least 1 director. That director must ordinarily reside in Australia. (s201A(1) of the Corporations Act 2001)

Minimum number of secretaries for a proprietary company

A proprietary company is not required to have a secretary but, if it does have 1 or more secretaries, at least 1 of them must ordinarily reside in Australia. (s204A(1) of the Corporations Act 2001)

Public companies

A public company can generally be identified by the company name ending with the word 'limited' or the abbreviation 'ltd' (without the word 'proprietary' or abbreviation 'pty').

Minimum number of directors for a public company

A public company must have at least 3 directors (not counting alternate directors). At least 2 directors must ordinarily reside in Australia. (s201A(2) of the Corporations Act 2001)

Minimum number of secretaries for a public company

A public company must have at least 1 secretary. At least 1 of them must ordinarily reside in Australia. (s204A(2) of the Corporations Act 2001)

What happens if my company does not have enough officers?

1. You should make every effort to ensure that new officers are appointed as quickly as possible to meet the obligations of the company. There is no period in which the company is permitted to function without the required number of officers.
2. If the company does not have sufficient officers, it will be in breach of the requirements of the Corporations Act 2001.

The consequences of this can be:

- i. ASIC can serve a Penalty Notice on the company requiring the company to pay a penalty of \$687.50.
- ii. The company may also be prosecuted for failing in its statutory obligation to have the minimum number of officeholders.

This is **Information Sheet 49 (INFO 49)**. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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ASIC INFORMATION SHEET 47

Members of a company

A member of a company is commonly called a shareholder. Members of a company have certain rights and responsibilities. This information sheet explains:

- what a member is and their role
- how to become a member of a company
- what changes regarding members and share structures companies need to notify ASIC about
- how to access information about a company, and
- the rights and responsibilities of members and companies regarding meetings.

What is a member?

A member of a company must be a person (e.g. John Citizen), a body corporate (e.g. XYZ Company Pty Ltd), or a body politic (e.g. State of Queensland). A member is an entity that can own property, sue or be sued. A business name is not a legal entity and therefore cannot be a member. Estates and trusts cannot hold shares in their own right – they must nominate an executor or a trustee.

The *Corporations Act 2001* (Corporations Act) does not specify a minimum age for a member of a company. However, a company may make its own determination regarding a minimum age for a member.

All companies must have at least one member. Proprietary companies must have no more than fifty members that aren't employees of the company. There is no limit on the number of members of a public company. ASIC may apply to a court to have a company wound up if it does not have any members.

What is the role of a member?

The members of a company own the company, but the company has a separate legal existence and the company's assets belong to the company.

As a member you are not liable (in your capacity as a member) for the company's debts. Your only financial obligation is to pay the company any amount unpaid on your shares if you are called on to do so. If the company is not a company limited by shares, in some circumstances members may have to contribute to the costs of winding up the company (and any incidental costs).

You can make decisions about the company by passing resolutions, usually at a meeting: see **'Meetings'** below.

Becoming a member of a company

There are a number of ways you can become a member of a company. You can:

- be listed as a member at the time of registration of the company. You must have given your written consent to be a member before the application for registration is made. The names and addresses of all persons who have consented to be members form part of the application for registration as an Australian company
- agree to become a member of a company that is already registered with us. After you have given written consent and your name is entered on the register of members, the company is responsible for notifying us of changes to the register of members, or
- already be a member of a company limited by guarantee when it converts to a company limited by shares.

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Notifying ASIC about changes to member and share structure details

Proprietary companies and public companies have different responsibilities for notifying us about changes:

- Proprietary companies must tell us of any changes to member details and the share structure, including the issue or cancellation of shares and share conversion or division.
- Public companies are only required to tell us of changes to the share structure, including the issue or cancellation of shares and share conversion or division. They are not required to tell us of changes to member details.

Accessing company information

Share register

The share register is usually held at the company's registered office and contains the name and address of each member, the number of shares held, share classes and the amount paid and unpaid on the shares.

Anyone has a right to inspect a copy of a company's share register. As a member, you may inspect the register free of charge. However, the company may charge other people to inspect the register. The inspection fee is set out in Sch 4 of the Corporations Regulations 2001 (Corporations Regulations).

Anyone has a right to request a copy of a company's share register. A company must provide a copy of the register to you within seven days of you requesting the copy. The maximum fee for supplying a copy of the register is set out in Sch 4 of the Corporations Regulations.

When requesting a copy, you must provide your name, address and the purpose of your request. You cannot obtain a copy of a register for an improper purpose, such as:

- soliciting a donation from a member
- soliciting a member of a company as a stockbroker or sharebroker
- gathering information about the personal wealth of a member, or
- making an unsolicited offer to purchase financial products such as shares or units off-market.

Company constitution

If you are a member, the company must send a copy of its constitution to you within seven days of you making a written request. The company may charge the fee for this service set out in Sch 4 of the Corporations Regulations.

Any changes to the constitution of a public company must be made by a special resolution: see '**Voting**' below. A copy of the resolution must be lodged with us within 14 days of the special resolution being passed.

Financial statements of the company

Members with at least 5% of the votes in a small proprietary company or a small company limited by guarantee may give a direction to the company to:

- prepare a financial report and directors report for a financial year, and
- send them to all members.

The direction must be:

- signed by the members giving the direction, and
- made no later than 12 months after the end of the financial year concerned.

The direction may specify all or any of the following:

- that the financial report does not have to comply with some or all of the accounting standards
- that a directors' report or a part of that report need not be prepared, and

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- that the financial report is to be audited.

Unless a member specifically requests not to receive the report, public companies must prepare and send a copy of their financial accounts to all members at least 21 days before the annual general meeting and within four months of the end of the financial year. Financial reports may be made available on a website and hard copies supplied only to members that request one. Alternatively, the company can continue to distribute hard copy reports to members.

Minutes

A company must keep a written record (minutes) of the members' resolutions and meetings. Members are entitled to inspect, free of charge, the minute books of a company at its registered office address or principal place of business. However, if a member requests a copy of minutes, the company may charge the fee for this service set out in Sch 4 of the Corporations Regulations.

Meetings

Meetings may be held regularly or to resolve specific questions about the management or business of the company. The process to be followed in calling meetings, conducting meetings, and voting at meetings is in Pt 2G.2 of the Corporations Act.

A proprietary company can pass a resolution without a physical meeting being held, if all members entitled to vote on the resolution sign a document stating that they are in favour of the resolution. This does not apply to a resolution to remove a company auditor.

How is a meeting of members called?

Company directors have the power to call meetings of all members or meetings of only those members who hold a particular class of share (a company may have different classes of shares to which different rights and restrictions are attached).

Members who hold at least 5% of the votes that may be cast at a general meeting of the company have the power to:

- call and hold a meeting themselves, or
- require the directors to call and hold a meeting.

What is a quorum?

A quorum is the minimum number of members required to be present to legally transact business. For a meeting of company members, a quorum of at least two members must be present for the full meeting (unless otherwise specified in the company's constitution).

Voting

Different classes of shares may have different rights to vote at meetings of members. Unless specified by the company's constitution, each member has one vote in a show of hands and, in a poll, each member has one vote for each share held.

If a company has only one member, that member may pass a resolution by recording and signing their decision. A member of a company that is entitled to attend and cast a vote at a meeting of members may appoint a person as their proxy to attend and vote for them at the meeting. If you do something by proxy, you appoint someone else to do it on your behalf.

An ordinary resolution must be passed by a majority (50% or more) of the votes cast by members entitled to vote on the resolution and who vote at the meeting in person or by proxy (if proxies are allowed).

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A special resolution must be passed by at least 75% of the votes cast by members entitled to vote on the resolution and who vote at the meeting in person or by proxy (if proxies are allowed).

Where can I get more information?

- Go to www.asic.gov.au/companies.
- Read our information sheets *Financial reports* ([INFO 31](#)) and *Your company and the law* ([INFO 79](#)).
- Call ASIC on 1300 300 630.

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

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ASIC INFORMATION SHEET 73

Why do directors need a will?

The importance of sole company directors/shareholders having a will

Difficulties can arise when an ordinary person dies without leaving a will. Their estate cannot be quickly wrapped up and dependants (widows, children, etc) can be left waiting lengthy periods before either the State or Territory Public Trustee steps in to manage the estate, or letters of administration are granted by the Court to someone else to administer it.

But when a sole director of a company dies without leaving a will the complications and distress can have an even greater impact. The death will usually leave the company without any person properly authorised to immediately manage the company.

Ordinarily, if a director of a company dies, the surviving directors can continue to manage the company and may even make a temporary appointment, pending the appointment of a new director by the members (shareholders) of the company.

Equally, if the sole shareholder of a company dies, the directors can continue to manage it until the beneficiaries under the will have the shares transferred to them.

Where the sole director is also the sole shareholder, however, the risk of uncertainty is much greater.

Section 201F of the *Corporations Act 2001* does provide that, in the event of the death of a single member/director of a proprietary company, the executor or other personal representative appointed to administer the deceased's estate may appoint a new director to the company. The director has all the powers, rights and duties of the deceased director and can keep the company running until shares are transferred to beneficiaries who may then appoint new directors if they wish.

As mentioned above, the executor is ordinarily and most efficiently appointed by means of a valid will.

Where there is no will, however, a near relative or other person would have to apply to the local Supreme Court for letters of administration to manage the estate and this could take some time- possibly weeks if not months. Alternatively, in the absence of any immediate relatives or other obvious people to deal with the estate, the Public Trustee may step in and administer the deceased estate but this process can also take months.

During that period when there is no director, the company may be completely unable to operate. With no-one properly authorized to make management decisions or act for the company, it may be unable to trade. Banks and other financial institutions in particular may be unwilling to accept instructions in relation to a company's trading account if they are not satisfied there is someone properly authorized to act for it. Equally, staff and suppliers may not be able to be paid, which can quickly have a deleterious effect on the reputation and value of the company to the beneficiaries of the estate.

If, on the other hand, a person is willing to purchase the company, they may not be able to do so quickly because there will be no recognized owner of the shares who can authorise their transfer until the testator has been appointed and settled the estate. Even if the final decision is taken to wind up the company so all beneficiaries can be paid out, the delay of possibly several months may mean the value of the company will be much less than it might otherwise have been if it had been able to continue operating in the interim period.

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What makes a will valid?

To be valid a will must be signed at the end by the testator, or by someone authorised by him or her, and the signature must be acknowledged by the testator in the presence of at least two witnesses who are not also beneficiaries under the will, who must themselves sign the will in the testator's presence.

If you are a sole shareholder/director of a company, you should have a will and, it is recommended that in this will you make provision for who is the beneficiary or beneficiaries of your shares.

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ASIC INFORMATION SHEET 14

Bankruptcy and personal insolvency agreements

What happens to me as a director, alternate director or secretary if I am bankrupt or subject to a personal insolvency agreement under Part X of the Bankruptcy Act 1966?

Under the *Corporations Act 2001* (Corporations Act), if you;

- are an undischarged bankrupt; or
- have entered into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966* (Bankruptcy Act) or a similar law of an external Territory or a foreign country and the terms of the agreement have not been fully complied with,

you are automatically disqualified from managing corporations and cease to be a director, alternate director or secretary of a company unless you have been given leave by the Court to manage corporations.

This includes those persons who previously:

- have executed a deed of arrangement under Part X of the Bankruptcy Act (Part X) where the terms have not been fully complied with; or
- have creditors who have accepted a composition under Part X where final payment has not been made under the composition.

It is an offence for a person within one of the above categories to continue to manage a corporation without the leave of the Court. The penalty on being found convicted of this offence is a fine up to \$8,500.00 or 1 year imprisonment or both.

If you have any queries whether you are bankrupt or have entered into a personal insolvency agreement you should contact AFSA.

What does being bankrupt mean?

A person is a 'bankrupt' if they have been declared bankrupt under the provisions of the Bankruptcy Act and have not been discharged from the bankruptcy. The bankruptcy is registered with Australian Financial Security Authority (AFSA).

What is a personal insolvency agreement under Part X?

A personal insolvency agreement' (formerly known as a 'Part X arrangement') is an alternative to bankruptcy and for the purposes of the Corporations Act, is where a person enters into an agreement with their creditors without being made bankrupt. The person entering into the agreement must sign a deed.

What you need to do with us.

If you are within one of the above categories you should promptly lodge with us a Form 296 *Notice of disqualification from managing a corporation*.

While you may be automatically ceased as an officeholder of a company, the company is still required to notify us of your cessation as a director, alternate director or secretary and the appointment of a replacement (if applicable) by lodging a Form 484 *Change to company details* within 28 days of the cessation. If there is more than one officer in your company, any remaining officer should sign the Form 484. If there are no other officers in the company, but there are members other than you, the members can appoint a replacement director.

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If you are the only officeholder and member, your trustee in bankruptcy can appoint another person as a director of the company to take your place.

The company may wish to seek independent legal advice if your disqualification from managing a corporation affects the continued operation of the company, including the number of directors being below the statutory minimum required under the Corporations Act .

If the company is no longer carrying on business, another officeholder or member of the company may wish to apply for voluntary deregistration by completing and returning to ASIC, a Form 6010 *Voluntary deregistration of a company* in accordance with s601AA(1) and 601AA(2) of the Corporations Act.

Consideration can be given to the deregistration of the company if the company meets all of the following criteria:

- All members of the company agree to the deregistration; and
- The company is not carrying on business; and
- The company's assets are worth less than \$1000; and
- The company has paid all fees and penalties payable under this law; and
- The company has no outstanding liabilities; and
- The company is not a party to any legal proceedings.

When can I be a director, alternate director or secretary again?

If you were an undischarged bankrupt, you can be a director, alternate director or secretary again after the bankruptcy is discharged.

If you were subject to a personal insolvency agreement under Part X, you can be a director, alternate director or secretary again after you have fully complied with the terms of this agreement.

However, your appointment will not automatically recommence on one of the above events occurring. The company will need to reappoint you in accordance with the company's constitution and the appointment must be notified to ASIC by lodging a Form 484 *Change to company details* within 28 days of the appointment.

Liaison with AFSA

As part of a Data Matching Protocol with AFSA (formerly called ITSA) we may receive information from AFSA that you may be a person within one of the above categories and therefore disqualified from being a director, alternate director or secretary. We will undertake steps to record your cessation as a director, alternate director, or secretary on ASIC's publicly available database in accordance with the Data Matching Protocol. Generally, if you disagree with the information received from AFSA, you would need to resolve the matter with AFSA.

This is **Information Sheet 0014 (INFO 0014)**. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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ASIC INFORMATION SHEET 26

Dealing with businesses and companies: How to avoid being swindled

This information sheet sets out general steps you can take to reduce the risks of being swindled by unreliable operators and fly-by-night businesses. It is not personal advice.

As a consumer or small business owner, you need to ensure that your interests are protected when you deal with other businesses. You can take four steps to help protect your interests:

1. [Ask questions](#)
2. [Verify information](#)
3. [Seek help](#)
4. [Monitor and report](#)

1. Ask questions

Find out details about the company or business that will help you to obtain further information. Ask for:

- the company's Australian Company Number (ACN) (if it is a registered company)
- the business name and the ABN of the holder or the state registration number (if it has one), and
- details about the company or business's licence (if it has one), including the licence number.

What is an ACN?

Since 1 January 1991, every company in Australia has been issued with a nine-digit ACN. The ACN is a unique identifier and no two companies can have the same ACN.

What is an ABN?

The Australian Business Number (ABN) is a number for business dealings with the Australian Taxation Office (e.g. an ABN is needed to register for GST). When a company with an ACN has also been issued with an ABN, the ABN may be the ACN with two additional digits before it, resulting in an eleven-digit number. For example, a company that has both an ACN and ABN could have an ACN of 123 456 789 and an ABN of 77 123 456 789 (i.e. the last nine digits will be the same).

What is a business name registration number?

Since 28 May 2012, business names are registered by ASIC and the business name holder must have an ABN. Before 28 May 2012 they were registered by the state or territory in which the business or trade was carried out. Each registered business name had an individual number, but the format and length varied according to the state or territory of issue. The state or territory of registration preceded the number (e.g. NSW E6882145 or QLD BN2027148 or SA 0341685J).

You can search ASIC's registers on [ASIC Connect](#) to find out if a business name or company is registered. For more about the differences between a registered business name and a company, see 'Understand the difference between a business and a company' below.

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2. Verify information

After you have obtained the ACN, ABN or state and territory business name registration number, you can:

- check if the business name or company is registered
- find out who holds the business name or who are officeholders of the company
- search ASIC's registers, and
- ask more questions.

Verify that the business or company is registered

You can verify that the company or business name is registered by conducting an [Organisations & Business Names Index search](#). Because each company and business has its own unique registration, searching by an ACN, ABN or former state or territory business name registration number can assist in narrowing a search.

Remember that finding a company or business on our register doesn't mean it's a safe company or business to deal with. There are many other searches that will help you find out more about the company or business: see Search ASIC's registers and databases below.

It is also important to understand the difference between a registered business name and a registered company.

What is a registered business name?

A registered business name is a trading name under which a person or entity carries on business or trades. Examples might be Roxy Cafe, TJ Smith & Co or Hollingdale & Page. The word 'Company' or 'Co' in a name does not necessarily mean that the business is registered as a company under the *Corporations Act 2001*.

What is a registered company?

A company is a body corporate registered in Australia by ASIC under the Corporations Act (section 9 of the Corporations Act has a detailed legal definition). Each company is allocated a unique ACN.

A company name will usually include one of the following legal elements:

- Proprietary Limited (Pty Ltd)
- Unlimited Proprietary (Pty)
- Limited (Ltd), or
- No Liability (NL).

The general characteristics of a company are that it:

- is a corporate body created by law
- has all the powers of an individual and a corporation
- can sue and be sued in its own right
- has officeholders (director(s), secretary(ies))
- has a registered office
- has member(s) (shareholder(s)), and
- has perpetual succession (i.e. it continues even if its members die or resign).

Find out who owns the business

If you are dealing with a business trading under a business name or company, it must be registered with ASIC. The business name holder or company must provide us with information which is available to any member of the public: see Search ASIC's registers and databases below.

Search ASIC's registers and databases

You can use our registers to find information about a company. You can print summaries of key information.

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ASIC lists

Our [MoneySmart](#) website enables you to check basic facts about the people, companies or schemes you are thinking of dealing with before you get financial advice, hand over your money for an investment, get a loan or credit or buy financial products. Our databases can tell you if these people or companies are registered or licensed.

ASIC media releases

Our media releases and advisories cover a wide range of ASIC activities, such as enforcement outcomes and consumer warnings. You can check if we have issued a [media release](#) about a company or individual by searching the company or individual name.

Detailed company and name searches

You can purchase a company extract at [ASIC Connect](#) that will provide current and historical details about a company, including the officeholders, addresses and, in some cases, members (or shareholders) of the company. You can also purchase images of company documents that are on ASIC's public register.

You can do a [personal name search](#) on the directors and company officers for a fee. This will show what other companies each person is involved in as a company officer or member.

You can also purchase a business name extract. This shows the business name holder and details such as the principal place of business and address for service of documents.

Getting help

You can also use an ASIC [information broker](#) to do company and name searches of our registers. Your accountant, solicitor, business consultant, credit reference agent or mercantile agent may also be able to do the searches for you.

Use your search results

If a business is a registered company, you can use your search results to answer the following questions, which will help you to assess how risky dealing with that company is.

How long has the company been in business under its current name?
This may give you some idea about the stability of the company.

What's the company's status? Is it registered, deregistered or under external administration?
You should only deal with a registered company. If it's deregistered, then the company can't legally operate. If it's under external administration (shown as EXAD in your search), you know that it has run into financial trouble and you should be cautious about dealing with it.

Who are the directors and company officers? How long have they been with the company?
This will give you some more clues about the company's stability. New management and new directors may mean fresh ideas, but frequent changes can point to problems. The company may not be stable, and it may have inconsistent management policies.

If the person you are dealing with seems to be in charge of the company but isn't a listed director, this could be a warning sign. You should make further inquiries to find out if they are bankrupt (see below), or have been disqualified as a director (see below).

What's the company's share capital? Is it a \$2 company or does it have more capital?
A \$2 company is not necessarily a bad risk, but \$2 may be all the members have put in to fund a company's operations. The amount that members are willing to invest suggests how much risk they're willing to accept in backing the business.

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Who are the members?

The names and details of the members will tell you more about who is behind the business. Member information cannot be obtained if the company is a public company because these types of companies are not required to tell us who their members are.

What are the company's financial details?

If the company is a small proprietary company, it doesn't have to prepare or lodge financial statements with ASIC.

If it's a large proprietary company, a public company, a disclosing entity, or a registered scheme, it should have lodged financial statements within four months after the end of its financial year (three months for a disclosing entity or registered scheme). You can obtain copies of financial statements lodged with ASIC.

Are any of the directors disqualified from acting in management?

Your search of the banned and disqualified persons register on [ASIC Connect](#) should show if a director is disqualified from managing a company. (Note that the register does not include those disqualified from management because they are undischarged bankrupts or have been convicted of fraud.) A disqualified director is a strong danger signal. If the search says 'NIL return' it means the directors haven't been disqualified.

What other companies are the directors and company officers involved in? Are any of these failed companies? Your [personal name search](#) on the directors and company officers will show what other companies each person is involved in. This may help you form an opinion about their business background. If the directors have been involved in other failed companies, it is a strong warning sign.

Has the company or director offered an 'enforceable undertaking' to ASIC?

Enforceable undertakings are undertakings given to us (and accepted by us) that are enforceable in a court. They are generally accepted by us as an alternative to civil or administrative action if there has been a breach of the Corporations Act or other legislation we administer (e.g. the Insurance Act 1973). For example, a director may undertake to stop acting as a director or taking part in the management of a company for a specified period.

For further information, refer to the [enforceable undertakings regulatory guide](#).

Ask more questions

Before doing business, here are some more questions you can ask of the people you are dealing with:

Do the business activities require a licence?

Many small businesses need a licence to carry out their business (e.g. builders, plumbers, motor car traders). The fair trading/consumer affairs department in your state or territory can tell you which licences a business needs and whether that business or company holds a particular licence.

You can verify licence details by checking with the [relevant state or territory bodies](#).

Businesses and companies that engage in activities relating to credit or financial products may need to be licensed with ASIC or be authorised to engage in these activities. It is important to only deal with licensed people and businesses because you will be better protected if things go wrong and will have access to free dispute resolution services. Visit our [MoneySmart](#) website for information on when a company or business may need to hold a credit licence or an Australian financial services (AFS) licence.

You can browse our [professional registers](#) for AFS licensees and authorised representatives to determine whether the company or business has the appropriate authorisations.

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To help you determine whether the company or business has the appropriate authorisations, you can also browse [Professional registers](#) for:

- credit licensees
- credit registered persons, and
- credit representatives.

Are any of the people you're dealing with, or anyone involved with the management of the business, bankrupt? You can check if a person is an undischarged bankrupt with the [Insolvency and Trustee Service Australia \(ITSA\)](#) for a small fee. It's against the law for bankrupts to be involved in the management of companies.

Does the business have adequate books and records?

You may not be able to inspect the records, but do any of your dealings suggest these records are poorly kept? Poor records are a definite danger sign.

Does the business have an accountant? If so, how long has that person been associated with the business?

An accountant isn't a guarantee of safety, but it means there's a better chance that the financial records are in order. Larger companies may have an external auditor as well.

Does the business have a good name with others (e.g. suppliers, competitors)? Does the business pay its suppliers on time? Can it produce credible trade references?

It's a good idea to check trade references by contacting others who deal with the business and asking some questions.

What's the credit rating of the business?

If you provide credit to someone for more than seven days (even if it's just a small amount), you may join [Veda Advantage](#) . You can use its credit reference services to find out the credit rating of the business and if it has any credit defaults. This will tell you whether it's a good idea to extend credit to the business.

You can also check with credit reference agents (where you do not have to be a member). There will be a fee for this service.

What's the quality of the goods or services?

You may know, or you may be able to find out, from previous customers the standard of goods or services being offered. This is not a guarantee of good business practices, but poor quality may be a warning sign.

Is the business a member of an industry association?

There are various industry associations that the business could belong to. Some of these have standards of conduct and ethics that their members must comply with. If the business belongs to one of these, it's a good sign.

Call the Employers Federation/Chamber of Commerce or equivalent in your state or territory. They can tell you which industry associations are relevant to the business you're interested in. Ask the business if they are a member of an association, and check this with the relevant association.

3. Seek help

You may need help understanding the answers to the above questions, or the answers you have found may point to serious problems. In this case, you may wish to get professional advice from your accountant or solicitor. While this may be expensive, it's money well spent if it stops you from losing money owed to you by a business or company that fails.

4. Monitor and report

To monitor the company, you can register for our free [Company Alert](#) service. This service will automatically notify you by overnight email if documents are lodged relating to the companies you nominate.

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If you believe directors of a company may be breaching the Corporations Act (e.g. the company is still trading even though it can't pay its debts or the directors are not honest or taking proper care when operating a company), contact us on 1300 300 630 (for the cost of a local call from anywhere in Australia) or [lodge a complaint online](#).

If you are concerned about a company's products or services, you may need to contact the fair trading/consumer affairs office in your state or territory.

Where can I get more information?

- Go to www.moneysmart.gov.au
- Contact ASIC on 1300 300 630

Important notice: Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

This is Information Sheet 26 (INFO 26). Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.



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ATO INFORMATION SHEETS – Extracts/Samples

[Excerpts from the ATO website <http://www.ato.gov.au>]



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Director Penalty Regime

ATO – QC 44005

[This information only applies if you're a director of a company.] Last updated 6 May 2022

Director penalties

Directors must ensure their company complies with tax and super obligations. Failure will result in personal liability. On this page

- [What is a director penalty](#)
- [Becoming a new company director](#)
- [Once you become a director](#)
- [A director penalty is a parallel liability](#)
- [You are no longer a director](#)
- [How we recover director penalties](#)
- [Remittance of the director penalty](#)

As a company director you are responsible for ensuring that the company's tax and super obligations are reported and paid on time. If your company does not pay certain liabilities by the due date, we can recover these amounts from you personally as a current or former company director.

What is a director penalty

As a company director you become personally liable for your company's unpaid amounts of:

- [pay as you go withholding](#) (PAYGW)
- [goods and services tax](#) (GST)
- [super guarantee charge](#) (SGC).

These amounts that you are personally liable for are called director penalties. We can recover the penalty amounts from you once we issue you a [director penalty notice](#).

Becoming a new company director

Before you become a company director, check if the company has any unpaid or unreported PAYGW, GST and SGC liabilities. Once you are appointed as a company director you become personally liable for any unpaid amounts.

As a new director you can avoid becoming liable for director penalties that were **due before** your appointment, if within **30 days of your appointment**, you ensure the company does one of the following:

- pays their debts in full for PAYGW, net GST from 1 April 2020 (including luxury car tax (LCT) and wine equalisation tax (WET) amounts) and SGC from 1 April 2012
- appoints an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appoints a small business restructuring practitioner under section 453B of that Act
- begins to be wound up (within the meaning of the *Corporations Act 2001*).

Even if you resign as a company director within the 30 day period, you will still be liable for the company's unpaid PAYG withholding, net GST or SGC liabilities that were due before your appointment.

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Example: appointment of a new director

Kevin and Ashley are directors of XYZ Pty Ltd. During the January to March quarter of the 2019–20 income year, the company withheld tax from employees' wages but failed to pay PAYGW. When the company did not pay by the due date of 28 April 2020, Kevin and Ashley both became personally liable for a penalty amount equal to the unpaid amounts.

On 2 June 2020, Michael became a director of the company. Michael has 30 days from the date of his appointment to ensure that the company:

- pays the amount
- appoints a voluntary administrator
- appoints a small business restructuring practitioner, or
- is put into liquidation.

If Michael fails to ensure the company does at least one of the above within 30 days of the date of his appointment, he too will become liable for the unpaid PAYGW.

You need a [director identification number](#) (director ID) if you're a director of a company, registered Australian body, registered foreign company or Aboriginal and Torres Strait Islander corporation.

Once you become a director

Once you become a director, you are responsible for ensuring the company meets its [PAYGW](#), net [GST](#) and [SGC obligations](#) in full by the due date.

If these obligations are not met, you become personally liable for [director penalties](#), unless you take steps to ensure the company lodges and pays its:

- PAYGW by the due date,
- Net GST (as well as LCT and WET amounts) by the due date, and
- Superannuation guarantee (SG) to employees' superannuation funds by the due date – if that doesn't occur, the company must lodge a superannuation guarantee statement and pay the resulting SGC liability.

A director penalty is a parallel liability

If the company has more than one director, the amounts owed are likely to be the same for all directors.

This is because the company liability (what the company owes) and the director penalty liability are parallel in nature.

When we [recover director penalties](#) we may do so equally from all the directors, depending on each director's circumstances.

You are no longer a director

If you resign as a director of the company, you remain liable for [director penalties](#) for liabilities of the company that:

- were due before the date of your resignation
- fell due after your resignation if
 - for PAYGW and net GST (including LCT and WET), the first withholding event in the reporting period occurred before your resignation
 - for SGC liabilities, the date the charge became payable.

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If you resigned as a director before:

- the first withholding event in that period for **PAYGW** and **net GST**, you will also be liable for any unpaid liabilities for reporting periods that started while you were a director
- the date the **SGC** became payable, you will also be liable for any unpaid liabilities for reporting periods that started while you were a director.

Example: resigning as director within 30 days of appointment

On 2 June 2020, Gabrielle became a director of 123 Pty Ltd. The company owes \$20,000 in PAYGW and \$30,000 in net GST. To avoid becoming personally liable for penalty amounts equal to the above liabilities, Gabrielle has 30 days starting on the day of her appointment to do **one** of the required actions:

- cause the company to pay the debt
- appoint an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appoint a small business restructuring practitioner under section 453B of that Act, or
- have a liquidator appointed to wind up the company.

On 13 June 2020, Gabrielle resigns from being a director of the company.

By 1 July 2020, the company had not paid the above amounts, nor did the company enter administration, restructuring or liquidation.

Gabrielle is still liable for the \$20,000 PAYGW and \$30,000 net GST.

Although Gabrielle resigned from being a director of the company within 30 days of her appointment, she did not cause the company to do one of the 4 required actions within those 30 days.

As a result, she incurs a director penalty at the end of that 30th day.

How the ATO recover director penalties

In this section

- [Director penalty notices](#)
- [How a parallel liability works](#)
- [Remittance of the director penalty](#)
- [Estimates](#)
- [Defence to a Director Penalty Notice](#)

Director penalty notices

A Director penalty notice (DPN) is a notice we must give you that allows us to recover the company's unpaid amounts.

The notice outlines the unpaid amounts and [remission options](#) available to you.

We can recover the amounts of the director penalty by:

- issuing [garnishee notices](#)
- offsetting any of your tax credits against the director penalties
- initiating legal recovery proceedings against you to recover the director penalty.

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If you are a current director, when we give you the DPN, we will use the address you registered with Australian Securities & Investment Commission (ASIC). Otherwise, we will use the address last known to us, therefore it is important you keep this address updated.

The date we post (or leave the DPN at the address registered with ASIC) is the date the notice is **given** to you.

How a parallel liability works

Once DPNs have issued, we may commence or recommence recovery action from each director personally, because these penalties are a parallel liability.

To recover the debt, the Commissioner can pursue either:

- the company
- the directors.

This means that any payment or credit applied to the company's account or to a director's account to reduce the penalty, will reduce the director penalty amount for the other directors and the company's corresponding liability for the same reporting period.

Example: issuing parallel liabilities

Kerry and Claire are directors of ABC Pty Ltd, which is required to pay PAYGW on a quarterly basis. For the January to March quarter in the 2019–20 income year, the company withheld \$4,000 (PAYGW) from payments made to its employees and directors.

If ABC Pty Ltd does not pay its PAYGW liability, we will issue Kerry and Claire DPNs and then seek to recover the amount of the director penalty (\$4,000) from either Kerry or Claire, or both.

If Kerry pays \$1,000 against her director penalty liability, both the liability of the company and Claire's director penalty will be reduced by \$1,000 as they are parallel liabilities. Alternatively, if the company pays \$1,000 against its PAYGW liability, both Kerry and Claire's director penalty will be reduced by \$1,000 as they are parallel liabilities.

Remittance of the director penalty

PAYGW and net GST

Remission of a director penalty is possible, but it depends on when the PAYGW and net GST payable was reported to us.

Liabilities reported within 3 months of the due date

If the unpaid amount of PAYGW or net GST is reported **within 3 months** of the due date (or, in the case of new directors, within 3 months of the date of their appointment), the penalty can be remitted by ensuring the company does one of the following:

- paying the debt in full
- appointing an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appointing a small business restructuring practitioner under section 453B of that Act
- the company begins to be wound up (within the meaning of the *Corporations Act 2001*).

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Liabilities reported 3 months after the due date

If the unpaid amount of PAYGW or net GST:

- is reported **more than 3 months** after the due date (or, in the case of new directors, 3 months or more after the date of their appointment), the only way to remit the director penalty is to pay the debt in full
- **remains unreported after 3 months**, the corresponding director penalty can only be remitted by payment in full.

Example: remittance of director penalty amounts for PAYGW and GST

Kerry and Claire are directors of ABC Pty Ltd, which is required to pay PAYGW on a quarterly basis. For the January to March quarter in the 2019–20 income year, the company withheld \$4,000 from payments made to its employees and directors.

They also failed to report or pay \$2,000 in GST collected.

The company did not report or pay the above amounts within 3 months of the due date of liability.

Kerry and Claire each receive DPNs.

The only way Kerry and Claire's director penalties can now be remitted is by Kerry or Claire making sure that the amounts are paid in full within 21 days of the date the notices are given to them.

Kerry and Claire place the company into administration. However, Kerry and Claire's director penalty amounts are still payable by **either one or both** to the equivalent amount of \$6,000 (\$4,000 + \$2,000).

SGC amounts

For SGC, remission of the director penalty depends on when we have been notified about SGC amounts.

If the unpaid amount of the SGC is **reported by the due date** for the SGC statement, the penalty can be remitted by ensuring the company does **one** of the following:

- paying the debt
- appointing an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appointing a small business restructuring practitioner under section 453B of that Act
- beginning to wind the company up (within the meaning of the *Corporations Act 2001*).

The only way to remit the amount is to pay the debt in full if:

- the unpaid amount of the SGC obligation is reported **after the due date**
- any part of the liability remains unreported.

Example: remittance of SGC liability

Kerry and Claire are directors of ABC Pty Ltd, which has incurred a SGC liability as it failed to remit employees' superannuation to a complying superannuation fund by the due date. It also failed to report the unpaid amounts to the ATO by the due date for the SGC statement.

Kerry and Claire each receive DPNs.

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The only way Kerry and Claire's director penalties can now be remitted is by causing the amounts to be paid in full within 21 days of the date the notices were given to them. This is because the company did not report or pay the SGC amounts by the due date for the SGC statement.

Once we give you a Director Penalty Notice

Once we give you a DPN, you have 21 days to either:

- pay the corresponding penalty amounts in full
- engage with us and negotiate a payment plan for the company debt – we may still offset your personal credits against this debt.

If neither of the above happens, we may recommence action against you to recover the director penalty amounts.

Example: failing to report and pay within 3 months

Kerry and Claire are directors of ABC Pty Ltd which is required to pay PAYGW on a quarterly basis. For the January to March quarter in the 2019–20 income year, the company withheld \$4,000 from payments made to its employees and directors. It also collected net GST of \$10,000 for the same period.

The company did not report or pay the amounts withheld within 3 months of the due date of the liability. Kerry and Claire each receive DPNs. The only way Kerry and Claire's director penalties can now be remitted is by causing the amounts to be paid in full within 21 days of the date the notices are given to them.

Estimates

If the company fails to report PAYGW, net GST or SG obligations by the due date, we may make a reasonable estimate of the unpaid and overdue amounts. The director penalty provisions apply to these estimated liabilities. The estimate is due and payable by the company on the day we give the company the estimate notice.

The estimated amounts of PAYGW, net GST or SGC are treated as an unreported amounts.

Example: ATO estimate of unpaid PAYGW

Kerry and Claire are directors of ABC Pty Ltd, which is required to pay PAYGW on a quarterly basis. For the January to March quarter in the 2019–20 income year, the company withheld from payments made to its employees and directors but failed to report or pay this to the ATO by the due date of 28 April 2020.

On 21 August 2020, the ATO estimated the unpaid amount of PAYGW for the January to March quarter and gave the company written notice of the estimate that same day. At the end of this day, both Kerry and Claire are both personally liable for a director penalty amount equal to the unpaid amount of the estimate.

A DPN based on the estimated amount of PAYGW was issued on 21 September 2020. As the unpaid amount was not reported within 3 months of the due date of the liability, the director penalty can only be remitted by the company or directors paying the amount of the estimate.

Example: ATO estimate of unpaid GST

Kerry and Claire are directors of ABC Pty Ltd, which collected GST on sales on a monthly basis. The company was required to report and pay GST collected during the month of April 2020 by 21 May 2020 but failed to do so.

On 21 September 2020, the ATO estimated the unpaid amount of GST for April 2020 and gave written notice of the estimate to the company that same day. At the end of this day, both Kerry and Claire are both personally liable for a director penalty amount equal to the unpaid amount of the estimate.

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A DPN based on the estimated amount of GST was issued on 21 October 2020. As the unpaid amount was not reported within 3 months of the due date of the liability, the director penalty can only be remitted by the company or directors paying the amount of the estimate.

Defence to a Director Penalty Notice

The director penalty regime outlines circumstances in which a director is not liable for director penalties. You can ask us to consider a defence you may have to your director penalty before any legal recovery proceedings begin.

You will have a defence and not be liable for a director penalty if:

- you did not take part (and it would have been unreasonable to expect you to take part) in the management of the company during the relevant period because of illness or other acceptable reason
- you took all reasonable steps, unless there were no reasonable steps you could have taken, to ensure that **one** of the following happened
 - the company paid the amount outstanding
 - an administrator was appointed to the company
 - a small business restructuring practitioner was appointed to the company
 - the directors began winding up the company (within the meaning of the *Corporations Act 2001*)
- in the case of an unpaid SGC liability – the company treated the *Superannuation Guarantee (Administration) Act 1992* as applying in a way that could be reasonably argued, was in accordance with the law, and took reasonable care in applying that Act.

The courts have:

- held that these defences must be proved for the entire period the director was under the obligation
- also ruled that, as a director, it is not a defence if you relied on others (including fellow directors and professional advisors) to ensure your obligation was met
- ruled that the natural meaning is that the combined defences must cover the whole of the period between the breach of the obligation on the due date, and the expiry of the notice (*Canty v Deputy Commissioner of Taxation* [2005] NSWCA 84). See also *DCT v George* [2002] NSWCA 33).

A director's non-participation in the management of the company will usually involve a breach of the duty, **whether the director is aware of this or not** (*DCT v Lesley Frances Robertson* [2009] NSWSC 597).

A DPN defence needs to be submitted to the Commissioner in writing, clearly articulating what defence you are seeking to rely on. It should provide all the necessary information and supporting documentation to substantiate the defence.

Once you have completed your application, you can either:

- ask your tax agent to lodge the application through Online services for agents
- mail it to

Attention: Debt Case Leadership
Australian Taxation Office
PO Box 327
ALBURY NSW 2640

As a company director, you must ensure your company complies with its tax and super obligations. Failure to do so will result in a personal liability.

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ATO

Tax Basics for Small Business - Extract

[Tax basics for small business video series | Australian Taxation Office \(ato.gov.au\)](#)

Tax Basics for Small Business

Keeping good records

Poor record keeping is one of the main reasons why many small businesses fail.

Good business records will help you manage your business, meet your tax obligations and make sound business decisions. They will save you time and money. Specifically, good records will help you:

- work out your costs and profitability and monitor your stock
- show your financial position to banks and other lenders, or to prospective buyers of your business
- use your accountant's time for business and financial planning, not for sorting out your receipts and invoices
- complete and lodge activity statements and tax returns
- make super contributions by the quarterly cut-off dates
- manage your cash flow so you can pay your tax on time.

Legal requirement

The final reason for keeping good records is that the tax laws say you must. If you don't keep appropriate records, you can incur penalties. You must keep records that explain all your business transactions.

You must keep written records in English. If you keep electronic records on your computer, they must be in a form that you can easily access and convert into written English.

You must keep any account books, records or documents related to preparing your tax return for at least five years after they are prepared, obtained or the transaction is completed, whichever occurs last. Some records need to be kept for longer than five years.

For capital gains tax (CGT), you must keep records for at least five years after the relevant CGT event - for example, the sale of an asset. You may have purchased the asset many years before you sold it. To streamline record keeping, you can choose to enter information from your CGT records into an asset register.

When claiming earlier year losses, you must keep records relating to those losses for five years following the year you claimed the losses in.

Keeping manual or electronic records

Good records are the foundation of a good business, so it is a good idea to have a suitable record keeping system ready to go from day one. If you need to, get some help to set up and manage your records.

Your record keeping system should be as simple as your business needs and capabilities allow.

You can keep your records electronically or on paper. Paper records are generally quicker to start with but can be slower at the end of the month or at tax time when you have to total everything.

A variety of electronic record keeping packages are available. They can take more time to set up but have advantages, including automatically totalling amounts, printing invoices and providing summary details for your activity statements and tax returns.

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If you do decide to keep electronic records, make sure you choose a software package that meets your business needs and our requirements.

Records you need to keep

Generally, records you need to keep include:

- **Income and sales records**
Keep records of all sales and barter transactions - for example, invoices, receipt books, cash register tapes and records of cash sales.
- **Expense or purchase records**
Keep records of all business expenses, including cash purchases. Records could include receipts, invoices, cheque butts, credit card vouchers and diaries to record petty cash expenses.
- **Bank records**
Keep all bank records, such as bank statements and loan documents.
- **Asset purchase records**
Keep details of what assets you buy and what you spend on those assets. An asset register can help you keep track of these expenses.
- **Contracts and agreements**
Keep copies of contracts and franchise or other agreements.
- **Year-end records**
These include lists of creditors or debtors and worksheets for depreciating assets.
- **Minor deductible expenses**
For certain work, car and business travel expenses, it is not always possible to get a receipt. But you can still claim the expenses as deductions as long as you record the details of these expenses in a diary or logbook.

Special records you may need to keep

As well as general records, you may need to keep other records, depending on your tax obligations or the type of expense.

GST records

The main GST records you need to keep are tax invoices and adjustment notes. Remember, you need a tax invoice to claim GST credits. You must also keep any other document that records an election, choice, estimate, determination or calculation made for GST purposes.

Employee or contractor records

For employees or contractors, you need to keep:

- records of wages, allowances and other payments you made to them
- superannuation guarantee records, including payments you made and records that show you have met your choice of super fund obligations
- records of FBT calculations, worksheets, declarations, elections and supporting details
- copies of TFN declarations or withholding declarations
- copies of any contracts you have with contractors.

Motor vehicle records

You may have to keep logbooks, lease or loan documents or yearly odometer readings for motor vehicles you use in your business.

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Stocktake records

Businesses that sell goods usually have to do a stocktake (a physical count and valuation) at 30 June each year. You take changes in stock levels into account in working out your taxable income for the year.

Broadly, if your annual turnover is less than \$2 million, you can use simpler stocktake rules.

No ABN withholding

Keep statements by suppliers who have not quoted their ABN, records of any amounts you have withheld from them and payment summaries you have given them.

Fuel tax credit

To support your claims for fuel tax credits, you must keep records that show you:

- acquired the fuel
- used the fuel in your business
- applied the correct rate when working out how much you could claim.

You must keep these records for five years after you make the claim.

If you are claiming fuel tax credits of \$300 or less in a financial year, you do not have to keep records of fuel purchases.

Set up a good filing system for your records

This will help you keep the right records and have them available when you need them. Get into a routine and do your books regularly.

Fill in cheque butts in detail

Write enough information on your cheque butts so that you (or your accountant) can understand what the payment was for later on.

Clearly separate business and private expenditure

We recommend you keep your business and personal banking in separate accounts. If you have a company or trust, it is a legal requirement. Avoid paying personal expenses from your business account.

Cross-reference your transactions

When you pay bills, write the invoice number on the cheque butt, and the cheque number on the invoice. This will help you track down information if you have any problems later.

Regularly reconcile your cash book entries with bank statements

Reconciling your accounts helps find errors or omissions. It could save your accountant time, which will save you money.

Avoid keeping cash register tapes

If you use a cash register, you can discard your cash register tapes after one month, provided you keep Z-totals and they have been reconciled with actual sales and banking for the period. Otherwise, you must keep the full rolls for five years. The Z-total is the figure printed by the cash register showing the total of all recorded takings for a day.

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Assessable income

Most money you receive in carrying on your business is assessable income. There are some exceptions, such as:

- loans you receive
- money you contribute as the business owner
- GST you collect.

Allowable deductions

You can claim a deduction for most expenses you incur in carrying on your business and you can generally claim:

- an immediate deduction for expenses that are necessary for the everyday running of your business
- a deduction over a number of years (depreciation) for other expenses - for example, capital assets such as machinery, tools or computers.

You cannot claim a deduction for all expenses you incur. This includes:

- loans the business makes
- money you draw or borrow from the business as the business owner
- private or domestic expenses
- GST you pay if you can claim it as a credit on your activity statement.

Making payments towards your income tax

PAYG instalments is a system for individuals and companies to pay instalments towards their income tax.

In your first year of business, you generally don't pay PAYG instalments. After you lodge your first tax return showing a profit from business or investment income, we send you a letter if you must pay PAYG instalments. The letter and additional information will tell you your payment options and how often to pay - usually quarterly, but you may be able to pay annually.

Once you enter the PAYG instalments system, we credit any instalments you pay during the year towards your final tax assessment after you lodge your tax return.

Budgeting to pay your tax

You will need to budget for the total amount of income tax you are liable to pay, especially in your first year of business. This is because we may not receive your tax return and assess your PAYG instalments until sometime after the end of the first year. One way to budget to pay your tax is to make voluntary payments to us during the year. You must be able to estimate the total amount of tax you will be liable to pay to do this.

Claiming deductions

Making a claim

Under income tax law, if you carry on a business, you can generally claim a deduction for expenses you incur in carrying on the business; however, there are some basic rules:

- you must have actually paid or committed to spending the money
- the expense must be related to your business - you must be able to show why you needed to spend the money to carry on your business.

Common claims

There is no complete list of what you can claim because what businesses do, and how they do it, varies. However, the following is a list of common expenses you can generally claim:

- advertising
- bank fees and charges
- business travel (away from home)

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- decline in value of depreciating assets (depreciation)
- electricity
- employee wages
- the cost of any fringe benefits you provided, and FBT you incurred
- hiring or leasing plant and equipment
- home office expenses
- interest on borrowed money
- motor vehicle expenses
- phone expenses
- registered tax agent fees
- renting or leasing business premises (including home business premises)
- repairs
- super contributions for employees
- trading stock
- transport and freight.

If you are not sure about what you can claim, check with us or consult your tax adviser. If you make an ineligible claim, we may amend your tax return and you may have to pay more tax.

Things you cannot claim

You cannot claim:

- private or domestic expenses - for example, food or ordinary clothing. If the expense is part private and part business, you can only claim a deduction for the business part
- capital expenses - these are the expenses you incur in establishing, replacing, enlarging or improving a business operation, as distinct from everyday working or operating expenses. You can claim deductions for some capital expenses - for example, machinery, tools or computers
- a deduction for GST if you can claim GST credits - you claim GST credits separately on your activity statement
- the superannuation guarantee charge - this is an amount you must pay if you don't contribute enough super for your employees or if you contribute after the quarterly cut-off date
- expenses you incur before you started your business - you generally must have started business before you can claim deductions but there are some exceptions and you can
 - write off over five years, at 20% a year, some business-related capital expenses you incur before your business starts operating - for example, the cost of feasibility studies and legal expenses to establish your partnership, trust or company
 - claim the cost of licences and permits
 - start claiming the decline in value (depreciation) of plant and equipment as soon as it is installed ready to use.

Claiming deductions for decline in value (depreciation)

You may be able to claim a deduction for the decline in value of your depreciating assets. A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time it is used.

Examples include:

- computers
- electrical tools
- furnishings
- carpet and curtains
- motor vehicles.

You can claim a deduction for part of the value of these assets in each year of their effective life.

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That is, the length of time you expect to use the asset for business purposes.

We publish a complete list of assets and their effective life to help you work out these claims, or you can assess the effective life of the depreciating assets yourself.

You can work out your deductions using the uniform capital allowance system or, if you operate a small business, you can use simpler depreciation methods.

Simpler depreciation rules

Broadly, if you operate a small business with less than \$2 million turnover, you can choose to use a simpler and more generous treatment of depreciating assets.

By using the simpler depreciation rules, you can:

- immediately write off most depreciating assets that cost less than \$1,000 each (please note the legislated increases to the write off amounts, for more information please contact our office)
- pool most other depreciating assets and claim a deduction for them at a rate of 30% (if their effective life is less than 25 years) or 5% (if their effective life is 25 years or more).

Making capital gains

A capital gain or capital loss is the difference between the amount you receive when you sell an asset and what the asset cost you.

How you are affected

Not all assets attract CGT. As a small business operator, you most commonly make a capital gain or capital loss when you sell one of the assets you use in your business, for example, your business premises or goodwill.

If you conduct your business through a company or trust, you may make a capital gain or capital loss if you sell your shares in the company or interest in the trust.

CGT does not generally apply to depreciating assets you use only in your business, for example, tools or motor vehicles. Gains from these assets are included in your income and you can claim a deduction for your losses.

CGT affects the amount of income tax you are liable to pay because you must include any net capital gain you made in your assessable income.

Your net capital gain is the total of your capital gains for the year, less any capital losses for the year or earlier years, and any relevant concessions.

There is a range of CGT concessions that can reduce the tax you must pay on capital gains.

How GST works

GST is a 10% tax on most goods and services sold in Australia. It is collected by registered businesses at each step in the supply chain.

If you are registered for GST, you send the GST you collect (less GST credits you can claim) to us monthly, quarterly, or annually, if you are eligible.

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GST credits

If you are registered for GST, you can generally claim a credit for any GST included in the price you pay for your business purchases, provided you hold a tax invoice. This is called a GST credit.

If you purchase goods or services you use for both business and personal purposes, you can only claim a GST credit for the amount you use the goods or services for business purposes.

For example, if you use something 50% for your business, you can claim 50% of the GST credit.

You may be able to choose to work out your private use just once a year.

If you are eligible, you can claim a GST credit for the total amount of GST you paid in the purchase price and then make an adjustment after the end of your income year to account for your private use of these purchases.

GST sales and purchases

What are the different types of GST sale?

There are three types of GST sale:

- taxable sale
- GST-free sale
- input taxed sale.

It is important to understand which type of sales you make because this affects whether you collect GST or can claim GST credits (see [Collecting and claiming GST on different types of sales](#)).

Taxable sales

Most goods and services sold in Australia are taxable sales. This can include the sale of business assets.

GST-free sales

Some sales are GST-free sales, including:

- basic food for human consumption, for example, fruit, vegetables, plain milk and bread
- exports
- some health services and education courses
- some activities of charitable institutions
- childcare
- religious services
- water and sewerage services
- the sale of a going concern - for example, a business.

Input taxed sales

Input taxed sales include:

- financial supplies, for example, loans by banks
- residential rent.

Special GST rules

Special rules apply to collecting GST or claiming credits for:

- food

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- the costs of setting up your business
- second-hand goods
- cars with a GST-inclusive value above the LCT threshold
- sales you make to associates for nominal or no payment
- the sale or purchase of property using the margin scheme
- insurance settlements
- long-term accommodation in commercial residential premises
- financial supplies (finance industry)
- imports
- exports.

Tax invoices

If you make a taxable sale, by law you must provide a tax invoice to your customer if:

- they ask for one
- the sale was for more than \$82.50, including GST.

A tax invoice is like a normal invoice, but must include some extra information.

You must have a tax invoice to claim a GST credit (there are some concessions for purchases of \$82.50 or less). As a buyer, you may need to ask the seller to provide a tax invoice if you don't get one at the time of the sale. The seller must then provide it to you within 28 days. As a seller, you must provide a tax invoice within 28 days to anyone who buys goods or services from you and asks for one.

Reporting GST

You report your GST on the activity statement we send you at the end of each tax period. As a small business, you will normally have quarterly tax periods, but may choose to report monthly.

If you are eligible, you can choose to:

- pay quarterly instalments (that we work out) and lodge an annual GST return
- report and pay GST annually if you are voluntarily registered for GST.

Your super obligations

As an employer, you must pay super for your eligible employees and certain contractors. This obligation is called the superannuation guarantee. Your employees may also be eligible to choose the super fund you pay their super into. The following table summarises the super obligations you have to yourself, employees and contractors, depending on your business structure.

What you must do

You must:

- work out which workers are eligible
- offer a choice of fund to eligible employees
- work out how much to pay and which complying super funds or retirement savings accounts to pay into
- pay at least quarterly by the cut-off dates
- understand what you need to do if you do not pay the minimum amount of super by the cut-off dates
- pass on your employees' TFN to their super funds.

Working out which workers are eligible

Generally, employees aged between 18 and 70 who are paid \$450 (before tax) or more in a calendar month are covered by the superannuation guarantee law, whether they work full-time, part-time or on a casual basis.

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The definition of 'employees' is extended, for super purposes, to include some additional categories of workers, including company directors and contractors who wholly or mainly supply labour.

Exceptions include employees who are:

- paid less than \$450 (before tax) in a calendar month
- aged 70 years and over
- non-resident employees paid solely for work done outside Australia
- under 18 years and employed for no more than 30 hours a week
- paid to do work of a domestic or private nature - that is, work that relates personally to the payer or the payer's home or household affairs, for not more than 30 hours a week.

Offer a choice of super fund

You must offer eligible employees a choice of super fund. To do this, provide each new eligible employee with the *Standard choice form* (NAT 13080) within 28 days of their start date so they can nominate a fund for their super contributions. You should already have done this for existing employees.

Work out how much you must pay

The minimum amount of super you must contribute for your employees is equal to 9% of each employee's earnings base. For most employees, their earning base is their ordinary time earnings as defined in the superannuation guarantee law.

Any existing super obligations you have under an industrial award count towards the minimum level of support you must provide. However, an employee's own contributions (for example, amounts they ask you to deduct from their salary) do not count towards your obligations.

Where to pay contributions

You must pay the super contributions you make for your employees at least quarterly into a complying super fund or retirement savings account.

If an employee doesn't choose a fund, you can pay the contributions into the fund you have chosen as your employer-nominated or default fund. From 1 July 2008, as an employer, you must nominate a super fund that offers minimum life insurance benefits for its members.

If an employee chooses a fund and provides all of the necessary information to you, you must start paying contributions to the chosen fund within two months. A super fund is complying if it meets specific requirements and obligations under super law.

Do you have to report to workers?

If you make super contributions under a salary sacrifice arrangement, or extra super contributions to a super fund for an employee, you may need to report those contributions on your employee's payment summary. These contributions are called reportable employer super contributions.

What if you haven't met your super obligations

If you haven't met your super obligations as an employer, you have to lodge a Superannuation guarantee charge statement - quarterly (NAT 9599) and pay a superannuation guarantee charge to the ATO by the due dates outlined. You must pay the superannuation guarantee charge if you do not pay:

- enough super contributions (at least 9.5%) for your eligible employees - this is called a superannuation guarantee shortfall
- super contributions by the quarterly cut-off dates
- super to your eligible employee's chosen super fund - this is called a choice liability.

The superannuation guarantee charge is made up of three parts:

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- superannuation guarantee shortfall amounts, including any choice liability
- interest on that amount - 10% per annum
- an administration fee of \$20 per employee per quarter.

Payments for super are normally tax deductible, but if you haven't met your obligations and have to pay the superannuation guarantee charge, no part of the superannuation guarantee charge is deductible.

Once you lodge a statement and pay the superannuation guarantee charge, we will transfer the superannuation guarantee shortfall amount and any interest to your employee's chosen super fund.

Changes to contribution offsets

If you have made a late contribution to a super fund for an employee, you may be able to offset that payment against the amount of superannuation guarantee charge you have to pay for that employee for that period.

You can offset the superannuation guarantee contributions you pay late to a super fund against the superannuation guarantee charge if all of the following apply:

- you have made a late payment to your employee's super fund
- you made the payment before the date we made your original superannuation guarantee charge assessment
- you lodge the late payment offset election to us within four years of your original assessment date.

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SuperStream

Requirement for paying employee superannuation

To use SuperStream, you need to pay super and send employee information electronically using one of the following methods:

- A payroll system that meets the SuperStream standard
- Your bank or super fund's online system (you may need to apply with them) · The ATO has a free Small Business Clearing House if you have less than 19 employees (please contact us for assistance in setting this up on your behalf).
- A messaging portal.

You must ensure that your super guarantee (SG) contributions for your employees are made on at least a quarterly basis, in line with your quarterly BAS lodgements by the 28th of the month following the end of quarter. Please note that by not being in compliance with the new SuperStream rules as mentioned above, you may be subject to penalties for failing to pay super on behalf of your employees.

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ATO

Record Keeping for Small Business - Extract

[Tax basics for small business video series | Australian Taxation Office \(ato.gov.au\)](#)

Record Keeping for Small Business

Keeping good business records

There are a number of reasons for keeping good records of your business transactions.

Legal requirement

The most important reason for keeping good records is that it is a legal requirement. By law, you must keep business records:

- for five years after they are prepared, obtained or you complete the transactions, whichever occurs latest
- in English or in a form that we can access and understand to work out the amount of tax you are liable to pay.

You will have to keep records for longer if you use information from those records in a later tax return - for example, if you claim a loss carried forward from a business activity in an earlier year. Under these circumstances, you must keep the records until the end of any period of review for that later return.

You may also need to keep records relating to assets for capital gains tax purposes for a longer period.

You can issue and store records in either paper or electronic form.

There are penalties for not maintaining the required records and for not keeping them for five years. Keeping good records will help you avoid these penalties.

Other reasons to keep good records

Other reasons for keeping good business records are to:

- make it easier to complete your activity statements and prepare your annual income tax and fringe benefits tax returns
- monitor the health of your business and be able to make sound business decisions - for example, by keeping track of debtors and creditors
- help you manage your cash flow so you can pay your tax when it falls due
- demonstrate your financial position to banks and other lenders, and also to prospective buyers of your business
- make best use of your tax adviser. Rather than paying them to sort through a shoebox of paperwork, give your tax adviser well-prepared records and pay them to help you with your business and financial planning
- show the basis for any amendments you need to make to activity statements or tax returns you have already lodged

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Deciding whether you should keep electronic or manual records

You can record the information from your business transaction documents in a cash book, either electronically or manually.

Recording your transactions manually can be as simple as using an exercise book, but we recommend you buy a commercial cash book from a newsagent or a stationery shop.

To record your transactions electronically, you can use an electronic spreadsheet or a software accounting package. There are various commercial packages available, ranging from simple systems to complex ones. The advantages of an electronic record keeping package are that it:

- helps you record your business transactions, including income and expenses, payments to workers, and stock and asset details
- automatically tallies amounts and provides ready-made reporting
- can produce invoices and provide summaries and reports for GST and income tax purposes
- keeps up with the latest tax rates and tax laws, and rulings
- allows you to report certain information, such as your activity statement, to us electronically (if the package meets our requirements)
- requires less storage space
- allows you to back up records and keep back-ups in a safe place in case of fire or theft
- enables you to use your time more efficiently.

If you are planning to use an electronic record keeping package, you need to take into account that:

- it may initially be more expensive to set up
- you will need to know how to operate a computer and use the software
- you will need to be familiar with accounting principles and understand how the software calculates and treats your information.

If you decide to go electronic, make sure you choose a software package that meets your business needs and our requirements. You may want to consult your tax adviser.

Electronic record keeping requirements

There are certain requirements you must meet if you keep your business records electronically. As with paper records, you must keep electronic records:

- for five years after they are prepared, obtained or the transactions completed, whichever occurs latest
- in English, or in a form that we can access and understand to work out how much tax you are liable to pay.

You can choose to provide a printed copy of your electronic records and, where necessary, documents from your computer system if we request it.

Keeping electronic records secure

You must be able to show the records kept on your computer system are secure and accurate. This includes having:

- control over access to your computer; for example, through the use of passwords
- control over incoming and outgoing information
- control over processing of information
- back-up copies of computer files & programs & the ability to recover records if your computer system fails

Storing paper records electronically

Whether you use a manual or an electronic system, you can store and keep paper records electronically. We accept the imaging of business paper records onto an electronic storage medium, provided the electronic copies are:

- a true and clear reproduction of the original paper records
- kept for five years

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- capable of being retrieved and read by us at all times.

You don't have to keep original paper records once they have been imaged onto an electronic storage medium.

Business records you must keep

Income tax and GST

You must keep the following records:

- sales records
 - sales invoices, including tax invoices
 - sales vouchers or receipts
 - cash register tapes, credit card statements
 - bank deposit books and account statements
- records of purchases expenses
 - purchase/expense invoices, including tax invoices
 - purchase/expense receipts, which include an ABN
 - cheque butts and bank account statements
 - credit card statements
 - records showing how you worked out any private use of something you purchased
- year-end income tax records
 - motor vehicle expenses
 - debtors and creditors lists
 - stock-take sheets
 - depreciation schedules
 - capital gains tax records.

Payments you made to your employees

You must keep the following records:

- tax file number declarations and withholding declarations
- withholding variation notices
- worker payment records
- pay as you go (PAYG) payment summaries
- annual reports
- super records
- records of any fringe benefits you provided.

PAYG withholding for your business payments

You must keep the following records:

- records of amounts you withheld from payments where no ABN was quoted
- a copy of any PAYG withholding voluntary agreements
- records of voluntary agreement payments
- all PAYG payment summaries including PAYG payment summary - employment termination payments
- all PAYG annual reports.

Fuel tax credits:

You must keep records of:

- fuel you acquired
- eligible and ineligible fuel use
- claim calculations
- any fuel you lost, sold or disposed of

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Income tax records you need to keep

You need to keep records of all your sales (income) and expenses to prepare your activity statements and annual income tax return, and to meet other tax obligations.

The amount of income tax you are liable to pay depends on your taxable business income and business expenses. You have to lodge an annual income tax return showing your business income and expenses. If you are carrying on a business, you need to keep records explaining all transactions that relate to your tax affairs.

These records include:

- sales and expense invoices
- sales and expense receipts
- cash register tapes
- credit card statements
- bank deposit books and cheque butts
- bank account statements.

If you use any business purchases for private purposes, you must have records that show how you worked out the amount of any private use. Sales and expense invoices and receipts could show such things as the:

- name of the supplier
- Australian business number (ABN) of the supplier
- amount of the sale or expense
- nature of the goods or services sold or purchased
- date of sale or date the expense was incurred
- date of the document.

Year-end income tax records

As well as records of income and expenses, you may need to keep the following specific income tax records (if they apply to your business) for each financial year.

Motor vehicle records

Most people use one or more vehicles in their business. How you claim motor vehicle expenses differs significantly depending on whether you operate your business as a company or trust, or as a sole trader or partnership.

Companies and trusts

If you operate your business as a company or trust, you can claim a full deduction for expenses involved in running motor vehicles you own or lease. If those vehicles are also used for private purposes, you may have to pay fringe benefits tax.

Sole traders and partnerships

If you operate your business as a sole trader or a partnership, you work out your deductions for motor vehicles differently, depending on whether your vehicles are:

- business purpose vehicles
- other vehicles.

1. Business purpose vehicles

You can usually claim a deduction for the running costs of these vehicles, which include:

- larger trucks or vans
 - smaller vehicles (for example, utes, wagons or panel vans) that have been heavily modified for business use, or where your private use is restricted to travel between your home and work, and other minor personal use.
2. Other vehicles

Other vehicles include:

- ordinary cars, station wagons or four-wheel-drive vehicles

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- most other vehicles designed to carry less than one tonne or fewer than nine passengers
- utes and panel vans where private use is not strictly limited.

Debtors and creditors lists

Debtors are people who owe your business money, while creditors are people your business owes money to. If you have debtors or creditors, you may want to ask your tax adviser whether your business needs to keep and update debtor and creditor lists, and when. A good filing system for both accounts receivable (debtors) and accounts payable (creditors) will allow you to keep track of customers or clients who owe your business money. This means you can promptly follow up overdue accounts and will have better control over your cash flow by knowing which accounts you need to pay, and when.

Stocktake records

If your business buys or sells stock, you usually need to do a stocktake at the end of each income year. You may not have to do an annual stocktake for income tax purposes if your business turnover is less than \$2 million and the difference between the value of your opening stock and a reasonable estimate of your closing stock is \$5,000 or less. If your turnover is \$2 million or more, you must do a stocktake at the end of each income year. Where you do a stocktake, your records should include:

- a list describing each article of stock on hand and its value
- who did the stocktake
- how and when it was done
- who valued the stock and the basis of the valuation.

When you start a business, you may be entitled to GST credits and an income tax deduction for any goods you already own and bring into your new business as trading stock. This means you need records of the market value or cost of these goods at the time your business starts.

Records of depreciating assets

You may be able to claim deductions for the decline in value of depreciating assets such as machinery and other equipment you use in your business. If you claim deductions for the decline in value of your depreciating assets, you must keep:

- the original purchase agreements or invoices
- information you used to work out your deductions, such as the amount of any private use of the assets.

If your business turnover is less than \$2 million, you may be eligible to use the simpler depreciation rules that allow you to:

- write-off immediately most depreciating assets costing less than \$20,000 each
- pool most other depreciating assets.

To help you keep this information, we have produced a depreciating assets worksheet. You can work out the decline in value of some assets that cost, or have been written off to, less than \$1,000 through a low-value pool using set rates. We have also produced a low-value pool worksheet to help you keep the information you need to claim the decline in value of these assets.

Records relating to assets for capital gains tax purposes

Your business itself is not an asset for capital gains tax purposes. Rather, each of your business' assets (for example, land and buildings, goodwill) is a separate capital gains tax asset and you must keep records for each asset. Because there may be a big gap between the time when you acquire and dispose of an asset, it is essential to keep good records from day one.

You need to keep records of everything that may be relevant to working out whether you have made a capital gain or capital loss from an asset. The main capital gains tax records you need to keep are:

- records of the date you acquired an asset and the cost of that asset - for example, the purchase contract

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- records of the date you disposed of an asset and any proceeds you received when you disposed of it - for example, the sale contract
- details of commissions you paid or legal expenses you incurred for an asset
- details of improvements you made to an asset; for example, building costs
- any other records relevant to calculating your capital gain or capital loss.

You must keep these records for five years after you sell or dispose of an asset, unless you keep an asset register.

GST records you must keep

You must keep records of all your sales and purchases to prepare your activity statements. To claim GST credits, you must have GST records called tax invoices that record your purchase of goods or services and comply with the GST law.

You must keep these invoices for five years. You must have a tax invoice to claim a credit for the GST included in the price of any goods and services you buy for your business that cost more than \$82.50, including GST. In most cases, the business selling the goods or services issues the tax invoice. In some special cases, a tax invoice may be issued by the business buying the goods and services - this is called a recipient-created tax invoice. If you sell goods and services that include GST and a customer asks you for a tax invoice, for sales of more than \$82.50 (including GST), you must give them one within 28 days of the request.

Information for tax invoices

Any tax invoices you issue to your customers or receive from your suppliers must contain certain information to be valid.

The information a tax invoice must contain varies according to whether the tax invoice is for an amount less than \$1,000, or for \$1,000 or more. If you make taxable purchases for business purposes, you can use the tax invoices you receive to claim the correct amount of GST credits for those purchases.

To claim a GST credit for purchases that cost more than \$82.50 (including GST), you must be registered for GST and have a valid tax invoice or [recipient created tax invoice](#) (RCTI). If you use an incorrect or incomplete tax invoice to claim a GST credit, the GST credit may not be allowed.

If you are not registered for GST

If your business is not required to be registered for GST and you have chosen not to register, you:

- don't collect GST on your sales or claim GST credits on your purchases. Your business issues normal invoices - it must not issue tax invoices. Normal invoices don't include the words 'tax invoice' or indicate that the invoiced amount includes GST
- can claim the full cost of your business purchases (including any GST) as a tax deduction on your tax return.

If you receive an invoice for goods or services you have purchased from someone who is not registered or required to be registered for GST, it is not a tax invoice and you cannot claim a GST credit for the GST included in the price of those goods or services.

Records of payments to employees

As a business operator, you have three main obligations when it comes to paying your employees:

- withhold according to the pay as you go (PAYG) withholding rules in relation to payments to employees
- pay super contributions to a complying super fund or retirement savings account on behalf of eligible employees, directors and contractors, and offer eligible employees a choice of super fund
- provide payment summaries for salary, employment termination payments, and reportable fringe benefits amounts.

PAYG withholding

Under the PAYG withholding system, you must withhold amounts from payments such as:

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- salary or wages to employees
- remuneration to company directors
- retirement payments, termination of employment payments, annuities, and benefit or compensation payments.

You must send the withheld amounts to the ATO.

Single Touch Payroll

[Single Touch Payroll | Australian Taxation Office \(ato.gov.au\)](#)

Please be advised that Single Touch Payroll reporting will be compulsory for employers with less than 20 employees from 1 July 2019. Single Touch Payroll is a reporting change for employers. You will report payments such as salaries and wages, pay as you go (PAYG) withholding and superannuation information from your payroll solution each time you pay your employees.

For more information, please visit the ATO website or contact our office for assistance.

PAYG withholding records you must keep

For PAYG purposes you must keep:

- declarations you obtain from employees, including withholding variation notices
- worker payment records
- payment summaries
- annual reports of amounts you have withheld.

Declarations

Your employees:

- should complete a [Tax file number declaration](#) (NAT 3092). They don't have to quote their tax file number but, if they don't quote it, you may have to withhold 47% of any amount you pay them
- must complete a [Withholding declaration](#) (NAT 3093) if they want to claim certain entitlements (for example, the senior Australians tax offset) by reducing the amount withheld from their pay. This also applies to company directors.

Superannuation

[Super for employers | Australian Taxation Office \(ato.gov.au\)](#) QC33737

Super guarantee

You must keep records that adequately explain your super transactions, including documents that show how you worked out the amount of super you contributed for each employee. You should also keep records that affect the amount of super you must contribute. This may include advice you have received from trustees about the funds you contribute to.

If you make super contributions under an award or employment agreement, you may have additional record-keeping obligations, so check your relevant award or regulation.

Contractors who are sole traders may be eligible for super support, even though they are not employees. This applies in situations where the contractor is engaged mainly for their labour.

How to pay super

[How to pay super | Australian Taxation Office \(ato.gov.au\)](#)

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Employers must make super guarantee contributions to their employees' complying funds or retirement savings accounts. Super guarantee (SG) contributions are payments employers must make to their employees' complying funds or retirement savings accounts to avoid the SG charge.

Pay employee SG contributions electronically to either a:

- complying super fund: a fund that meets specific requirements and obligations under super law
- retirement savings account (RSA): an account that provides a low cost and low risk savings strategy for retirement.

Report payments electronically through:

- [SuperStream](#)
- [Single Touch Payroll](#).

You must ensure the fund or RSA meets rules on:

- [MySuper products](#)
- [choice of super fund](#).

You must pay SG contributions by the [quarterly due dates](#) – 28 days after the end of each quarter to avoid the SG charge.

Eligible small businesses can pay super for their employees through the [Small Business Superannuation Clearing House](#).

Some super funds require employers to contribute monthly. By registering with these funds, you agree to make monthly contributions to that fund.

Award obligations

Some industrial awards require employers to pay super contributions to a specific super fund. Make sure you check if this affects your employees.

Personal super contributions

You can arrange to make post-tax super payments on behalf of your employees. These payments are personal super contributions.

You must make these contributions according to:

- the employee's terms of employment
- legal requirements
- industrial award conditions.

Your employee's personal super contributions don't count towards your SG obligations.

Check for complying super funds

You can use [Super Fund](#) to check if a fund is compliant.

If they are not listed, you can get written confirmation from the fund's trustee.

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Written confirmation must state that the fund:

- is a complying super fund
- intends to accept your super contributions
- will continue to meet the relevant legal requirements.

If the fund fails to comply, written confirmation will protect you from penalties.

If you pay contributions to a **non-complying** super fund, the contributions:

- won't count towards meeting your SG obligations
- won't be tax-deductible
- may incur a fringe benefits tax (FBT) liability.

Claim a tax deduction

SG contributions you make for your employees are tax deductible. You can only claim the deduction in the financial year payments are made.

To claim a deduction, a contribution must be made:

- in accordance with an industrial award or agreement
- to reduce the liability of the SG charge
- 28 days after a person turns 75.

[Missed or late super payments](#) may incur the SG charge. The SG charge is not tax deductible.

You can make a late payment:

- to reduce the super guarantee charge
- as pre-payment of a future super contribution (for the same employee).

Example: timing of super payments affects tax deduction claim year

Malia has 5 employees. In 2019, she wanted to claim a tax deduction for SG contributions made in 2017–18.

To do this, Malia needed to pay SG contributions to her employee's complying funds or RSAs by 30 June 2018 (end of the financial year).

However, Malia did not pay the SG contributions for the fourth quarter of 2017–18 until 5 July 2018.

Therefore, Malia could not claim these fourth quarter contributions as tax deductions until the next financial year (2018–19).

FBT records you need to keep

You need to keep records that show:

- the taxable value of each fringe benefit you provided to each employee. Some examples of records you may need to keep are invoices, receipts, travel diaries, logbooks, odometer records and employee declarations
- the method you used to allocate the taxable value of a fringe benefit you provided to two or more employees
- that 100% of the taxable value of the benefits has been allocated to employees.

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Where an associate provides a fringe benefit, the associate must provide copies of the records to you within 21 days of the end of the FBT year. Both you and the associate must keep the records for five years from the date of the relevant transaction. You must also keep specific records if you want to take advantage of exemptions or concessions that reduce the amount of FBT you are liable to pay. You must keep these documents for five years from when you lodge the relevant FBT return. Examples of these records are:

- all documents you must obtain from an employee, such as declarations, invoices, receipts, bills of sale, lease documents, travel diaries, copies of logbooks, odometer records
- where the benefit is a car fringe benefit valued under the operating cost method, fleet management records, logbook records and odometer records.

For some concessions and exemptions, you have to obtain documentary evidence of an employee's expenditure. This means, you must generally obtain the original invoice or receipt from the employee. This must show:

- the date of the invoice or receipt
- the date of the expense
- the name of the supplier
- what they bought
- the amount they paid.

You must make elections and declarations, and obtain all employee declarations, no later than the day your FBT return is due to be lodged.

No-ABN withholding records you need to keep

Payment summaries

If you withhold an amount from payments to any of your suppliers who have not quoted an ABN, you must:

- complete a [PAYG payment summary - withholding where ABN not quoted](#) (NAT 3283) for each payee at the time you paid them or as soon as you can afterwards
- provide a copy of the payment summary to the payee and keep one for your own records.

Unlike the other payment summaries, you may issue suppliers with a receipt, remittance advice or similar document in place of a [PAYG payment summary - withholding where ABN not quoted](#) (NAT 3283), as long as it contains the following information:

- the payer's name, ABN and branch number, if applicable
- the payee's name, if known
- the payee's address, if known
- the date you made the payment
- the total amount of the payment, including the market value of non-cash benefits
- the amount you withheld
- the words 'To be retained by payee for taxation purposes'.

Annual reporting of amounts withheld from suppliers

If you withheld amounts from suppliers who did not quote an ABN during the financial year, you must:

- send an annual report to the ATO by 31 October each year. You can provide your annual report electronically or complete a [PAYG withholding where ABN not quoted - annual report](#) (NAT 3448)
- keep a copy for your records.

Tips for healthy record keeping

Here are some tips to keep you on top of your record keeping - and some traps to avoid.

- Get organised and stay organised.
- Decide what record keeping system works best for you. Some people may prefer to keep paper records, while others find an electronic software package more efficient.

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- Set up a good filing system for your paperwork. If you don't record your transactions frequently, it is important to have a system for filing information that needs to be entered.
- A good filing system will help you follow up overdue debts and know when your accounts are due to be paid. This will help you manage your cash flow.
- Make sure your records can be understood by anyone, not just one person. Document how you keep your records, what your various records contain and where they are kept, and where you keep your back-up records.
- Obtain the required paperwork from suppliers and customers at the time of a transaction and record details as soon as possible - don't leave it until later. You need paperwork to support your claims for tax deductions.
- Make sure your records contain enough information; for example, tax invoices with all the required information and cheque butts correctly filled out. It is a good idea to cross-reference records; for example, when you pay bills, write the invoice number on the cheque butt and the cheque number on the invoice. You can also add notes to paperwork that will remind you later of special circumstances.
- Get into the habit of entering transactions into your cash books or software program regularly to keep your files up to date. You may choose to do this daily, weekly or monthly - but remember, the longer you leave it, the more difficult it is to catch up. Never leave record keeping until the end of the year.
- Make sure you enter transactions correctly into your cash books - mistakes can be costly.
- Don't mix up personal and business paperwork; for example, by using business bank accounts and credit cards for personal transactions and vice versa.
- Ask for help before things get out of control. You may want to engage a bookkeeper to set up your books or set up a software program. Remember, these costs are generally a tax deduction for your business.

Keeping necessary information

The first thing you need to do is to make sure the invoices you receive from other businesses contain all the information you need, especially tax invoices.

- Check that all invoices quote a valid ABN and, if they are tax invoices, that they contain all the requirements for a tax invoice. Remember, you generally cannot claim GST credits for your business purchases unless you have a valid tax invoice. Also, make sure the invoices you issue from your business contain the required information for a tax invoice.
- Make sure you record enough information on the cheque butt - date, payee, and details of goods or services purchased, if you use cheques to make business payments.

Once you have established that your incoming and outgoing invoices contain all the necessary information, you then need to keep track of your invoices. Remember, you can check the ABN at www.business.gov.au if you are not sure whether an ABN is correct.

This site provides access to the publicly available information businesses provide when they register for an ABN.

Recording the information

If you are very organised and don't have many business transactions, you may be able to record the information in these documents immediately; that is, at the same time as you provide them to your customers or receive them from other businesses.

While it is a good idea to record the information on your transaction documents as soon as possible, most people are too busy to do this. They tend to record the information at the end of the day, week or even month.

If you don't record the information immediately, you need some system for filing your various transaction documents, so when you come to record them in your business records you know where they are. How you do this is up to you, but one way is to file all your incoming and outgoing invoices in separate folders.

If you keep electronic records, you simply file them in electronic folders.

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Keeping business and personal expenses separate

It is important to keep business and personal expenses separate. One way to do this is to have a separate bank account for your business. If you do most of your transactions through a credit card, it is a good idea to have a business credit card. This means that your statements are, in effect, a checklist of your expenses.

If you use one bank account for both business and private purposes, you must clearly identify any personal payments or expenses in your cash book so they can be treated as non-business expenses. This includes any cash taken from money your business receives. These payments or withdrawals are often called 'drawings'.

Sometimes, you may have expenses that relate to both business and private use; for example, where you have a home-based business and use one phone line for both business and personal purposes. In this case, you have to clearly work out how much of the expense is private and how much is related to your business because you cannot claim a deduction for the amount related to private use.

Cash books

One of the simplest ways to record your purchases and expenses, and sales or receipts, is in a cash book. This is a record of all your business transactions - whether they are by cash, cheque, credit card, direct debit, direct credit, EFTPOS or another payment or receipt method. Cash books are sometimes referred to as journals. For example, a cash receipts book may also be referred to as a cash receipts journal.

A cash book is generally in two parts:

- a section for payments - the money going out of your business
- a section for receipts - the money coming into your business.

It is up to you whether you record payments and receipts in one book or two separate books.

Whether you choose to keep your records electronically or manually, your cash book is the basis of your record keeping system. If you record your transactions correctly, your cash book should contain the information you need to complete all of the following:

- your activity statements at the end of each month or quarter, or your annual GST return
- your income tax return at the end of the financial year
- other returns and reports.

Once again, the advantage of using an electronic cash book is that all the columns will automatically total. If you use a manual cash book, you have to add the amounts manually.

Benefits of cash books

It is good business practice to use a cash book because it:

- records all receipts and payments, whether by cash, cheque, credit card, direct debit, direct credit, EFTPOS or other payment or receipt method
- allows you to keep an eye on your cash flow; that is, how much money is coming into your business and how much is going out
- helps you track your receipts and expenses, including for past transactions
- helps you record any barter transactions
- enables you to provide us with a complete record of most of your business transactions
- makes sure you have the records you need to complete your activity statements and annual income tax return, and for any other returns or reports you may need; for example, financial statements for your bank.

Handy tips to help manage your cash flow

To make sure you always have enough cash available to keep your business operating, consider:

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- specifying a pay-by date on your invoices so you know when you will receive payment, rather than just saying 'Due within 30 days'
- issuing invoices at the same time as you provide goods or services, rather than leaving it until the end of the month
- offering a discount to customers for paying invoices early
- obtaining a deposit from customers for more expensive items or when they order
- encouraging late payers to pay by offering them a discount for paying by credit card
- having a firm policy on accepting personal cheques and offering credit to customers
- making sure you don't have money tied up unnecessarily in excess stock
- checking when you have to pay incoming invoices to work out how you can stagger your payments
- banking amounts you receive (cash and cheques) regularly so that you have a better idea of your actual cash position
- adjusting the amount you pay yourself at times when your cash situation is tight
- looking at how you can better use the people resources you have, rather than employing more people.

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Fair Work Information Statement

From 1 January 2010, this Fair Work Information Statement is to be provided to all new employees by their employer as soon as possible after the commencement of employment. The Statement provides basic information on matters that will affect your employment. If you require further information, you can contact the **Fair Work Infoline** on **13 13 94** or visit www.fairwork.gov.au.

The National Employment Standards

The *Fair Work Act 2009* provides you with a safety net of minimum terms and conditions of employment through the National Employment Standards (NES).

There are 10 minimum workplace entitlements in the NES:

1. A maximum standard working week of 38 hours for full-time employees, plus 'reasonable' additional hours.
2. A right to request flexible working arrangements.
3. Parental and adoption leave of 12 months (unpaid), with a right to request an additional 12 months.
4. Four weeks paid annual leave each year (pro rata).
5. Ten days paid personal/carer's leave each year (pro rata), two days paid compassionate leave for each permissible occasion, and two days unpaid carer's leave for each permissible occasion.
6. Community service leave for jury service or activities dealing with certain emergencies or natural disasters. This leave is unpaid except for jury service.
7. Long service leave.
8. Public holidays and the entitlement to be paid for ordinary hours on those days.
9. Notice of termination and redundancy pay.
10. The right for new employees to receive the Fair Work Information Statement.

A complete copy of the NES can be accessed at www.fairwork.gov.au. Please note that some conditions or limitations may apply to your entitlement to the NES. For instance, there are some exclusions for casual employees. If you work for an employer who sells or transfers their business to a new owner, some of your NES entitlements may carry over to the new employer. Some NES entitlements which may carry over include personal/carer's leave, parental leave, and your right to request flexible working arrangements.

Right to request flexible working arrangements

Requests for flexible working arrangements form part of the NES. You may request a change in your working arrangements, including changes in hours, patterns or location of work from your employer if you require flexibility because you:

- are the parent, or have responsibility for the care, of a child who is of school age or younger
- are a carer (within the meaning of the Carer Recognition Act 2010)
- have a disability
- are 55 or older
- are experiencing violence from a member of your family or
- provide care or support to a member of your immediate family or household, who requires care or support because they are experiencing violence from their family.

If you are a parent of a child or have responsibility for the care of a child and are returning to work after taking parental or adoption leave you may request to return to work on a part-time basis to help you care for the child.

Modern awards

In addition to the NES, you may be covered by a modern award. These awards cover an industry or occupation and provide additional enforceable minimum employment standards. There is also a Miscellaneous Award that may cover employees who are not covered by any other modern award. Modern awards may contain terms about minimum wages, penalty rates, types of employment, flexible working arrangements, hours of work, rest breaks, classifications, allowances, leave and leave loading, superannuation, and procedures for consultation, representation, and dispute settlement. They may also contain terms about industry specific redundancy entitlements.

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If you are a manager or a high income employee, the modern award that covers your industry or occupation may not apply to you. For example, where your employer guarantees in writing that you will earn more than the high income threshold, currently set at \$142,000 per annum and indexed annually, a modern award will not apply, but the NES will.

Agreement making

You may be involved in an enterprise bargaining process where your employer, you or your representative (such as a union or other bargaining representative) negotiate for an enterprise agreement. Once approved by the Fair Work Commission, an enterprise agreement is enforceable and provides for changes in the terms and conditions of employment that apply at your workplace.

There are specific rules relating to the enterprise bargaining process. These rules are about negotiation, voting, matters that can and cannot be included in an enterprise agreement, and how the agreement can be approved by the Fair Work Commission.

You and your employer have the right to be represented by a bargaining representative and must bargain in good faith when negotiating an enterprise agreement. There are also strict rules for taking industrial action. For information about making, varying, or terminating enterprise agreements visit the Fair Work Commission website.

Individual flexibility arrangements

Your modern award or enterprise agreement must include a flexibility term. This term allows you and your employer to agree to an Individual Flexibility Arrangement (IFA), which varies the effect of certain terms of your modern award or enterprise agreement. IFAs are designed to meet the needs of both you and your employer. You cannot be forced to make an IFA, however, if you choose to make an IFA, you must be better off overall. IFAs are to be in writing, and if you are under 18 years of age, your IFA must also be signed by your parent or guardian.

Freedom of association and workplace rights (general protections)

The law not only provides you with rights, it ensures you can enforce them. It is unlawful for your employer to take adverse action against you because you have a workplace right. Adverse action could include dismissing you, refusing to employ you, negatively altering your position, or treating you differently for discriminatory reasons. Some of your workplace rights include the right to freedom of association (including the right to become or not to become member of a union), and the right to be free from unlawful discrimination, undue influence and pressure.

If you have experienced adverse action by your employer, you can seek assistance from the Fair Work Ombudsman or the Fair Work Commission (applications relating to general protections where you have been dismissed must be lodged with the Fair Work Commission within 21 days).

Termination of employment

Termination of employment can occur for a number of reasons, including redundancy, resignation and dismissal. When your employment relationship ends, you are entitled to receive any outstanding employment entitlements. This may include outstanding wages, payment in lieu of notice, payment for accrued annual leave and long service leave, and any applicable redundancy payments.

Your employer should not dismiss you in a manner that is 'harsh, unjust or unreasonable'. If this occurs, this may constitute unfair dismissal and you may be eligible to make an application to the Fair Work Commission for assistance. It is important to note that applications must be lodged within 21 days of dismissal. Special provisions apply to small businesses, including the Small Business Fair Dismissal Code. For further information on this code, please visit www.fairwork.gov.au.

Right of entry

Right of entry refers to the rights and obligations of permit holders (generally a union official) to enter work premises. A permit holder must have a valid and current entry permit from the Fair Work Commission and, generally, must provide 24 hours notice of their intention to enter the premises. Entry may be for discussion purposes, or to

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Registered Tax Agent & Public Accountant
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investigate suspected contraventions of workplace laws that affect a member of the permit holder's organisation or occupational health and safety matters. A permit holder can inspect or copy certain documents, however, strict privacy restrictions apply to the permit holder, their organisation, and your employer.

The Fair Work Ombudsman and the Fair Work Commission

The Fair Work Ombudsman is an independent statutory agency created under the Fair Work Act 2009, and is responsible for promoting harmonious, productive and cooperative Australian workplaces. The Fair Work Ombudsman educates employers and employees about workplace rights and obligations to ensure compliance with workplace laws. Where appropriate, the Fair Work Ombudsman will commence proceedings against employers, employees, and/or their representatives who breach workplace laws. If you require further information from the Fair Work Ombudsman, you can contact the Fair Work Infoline on 13 13 94 or visit www.fairwork.gov.au.

The Fair Work Commission is the national workplace relations tribunal established under the Fair Work Act 2009. The Fair Work Commission is an independent body with the authority to carry out a range of functions relating to the safety net of minimum wages and employment conditions, enterprise bargaining, industrial action, dispute resolution, termination of employment, and other workplace matters. If you require further information, you can visit the Fair Work Commission website, www.fwc.gov.au. The Fair Work Information Statement is prepared and published by the Fair Work Ombudsman in accordance with section 124 of the Fair Work Act 2009.
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SAMPLE FORMS



SUBCONTRACTOR'S STATEMENT

REGARDING WORKERS COMPENSATION, PAY-ROLL TAX AND REMUNERATION (Note 1)

Workers Compensation
s175B Workers Compensation Act 1987

Pay-roll tax
Part 5B s31G-31J Pay-roll Tax Act 1971

Remuneration
ss127, 127A Industrial Relations Act 1996

Sub Contractor: _____ ABN: _____
(Business name)

of _____
(Address of subcontractor)

has entered into a contract with _____ (Note 2)
(Business name of principal contractor)

ABN: _____ For work between: ____/____/____ and ____/____/____ (Note 3)
Date Date

and/or Payment Claim Details: _____ (Note 4)

Nature of contract work: _____ (Note 5)

DECLARATION

I, _____ a Director of / a person authorised by the subcontractor on whose behalf this
(delete as appropriate)
declaration is made, hereby state that the abovementioned subcontractor:

Is either

A sole trader or partnership without workers or subcontractors (Note 6).

OR

Has and will maintain in force valid workers compensation insurance, policy _____
(Policy Number)

held with _____ as indicated on the attached Certificate of
(Insurance Company)

Currency dated _____, in respect of work done in connection with the contract, during any period of the contract and has paid all workers compensation insurance premiums payable in connection with the contract (Note 7).

Is Is not also a principal contractor in connection with the work under contract (Note 8).

Has Has not been given a written statement by subcontractors in connection with the work.

Is Is not required to be registered as an employer under the *Pay-roll Tax Act 1971* _____
(Pay-roll tax client No.)

Has paid all pay-roll tax due in respect of employees who performed the work for the principal contractor, as required at the date of this statement (Note 9).

Has paid all remuneration payable to relevant employees, for work done under the contract during the period outlined above (Note 10).

Signature _____ Full Name _____
(please print)

Position/Title _____ Dated _____

WARNING

- Any subcontractor, who knowingly provides a principal contractor with a written statement that is false, is guilty of an offence (Maximum penalty 100 units or \$11,000).
- Any written statement will not relieve the principal contractor of liability if, at the time the written statement was provided, the principal contractor believed the written statement to be false.
- The principal contractor must retain a copy of any written statement for a period of not less than five years (Pay-roll tax), six years (Remuneration) or seven years (Workers compensation).
- This statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the *Workers Compensation Act 1987*

NOTES TO THE SUBCONTRACTOR'S STATEMENT

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Part 5B section 31G-31J of the *Pay-roll Tax Act 1971* and section 127 of the *Industrial Relations Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, pay-roll tax and remuneration payable by the subcontractor.
2. For the purpose of this statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity), referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal.
3. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates.

Section 127(6) *Industrial Relations Act 1996* defines remuneration as '*remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.*'

Section 127(11) of the *Industrial Relations Act 1996* states '*to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.*'

4. Payment claim details – Where a subcontractor has entered into a payment schedule with a principal contractor they must identify the period or payment to which the statement applies.
5. An accurate description of the work covered by the contract must be included.
6. In completing the statement, a subcontractor declares that they are a sole trader or partnership without workers or subcontractors and is not required to hold workers compensation insurance.
7. In completing the statement, a subcontractor declares that workers compensation premiums payable up to and including the date(s) on the statement have been paid, and all premiums owing during the term of the contract will be paid.
8. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out work. If your business falls within this category you should also obtain statements from your subcontractors.
9. In completing the statement, a subcontractor declares that all pay-roll tax payable relating to work undertaken as part of the contract has been paid.
10. In completing the statement, a subcontractor declares that all remuneration payable has been paid.
It is noted that definitions of employer, employee, remuneration, and specific provisions for employers of outworkers in the clothing trades are as defined in s127A of the *Industrial Relations Act 1996*.
11. Failure to complete this statement may result in the principal contractor withholding any payment due to the subcontractor. Any penalty for late payment under the contract does not apply to any payment withheld under this subsection. Subcontractors may wish to keep a copy of the statement for their own records.

For more information, please visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Pay-roll Tax Act 1971* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

SAMPLE PAY SLIP

Date of Payment: / /	Pay Period: From / / To / /		
Employee's Name:	Employer's Name:		
Name of Award/Agreement (optional):	Employer's ABN:		
Classification/Job Title:	Employment Status (full-time, part-time, casual):		
Super Fund/Scheme:	Employer Super Contribution:		\$
Wages – Ordinary hours – Mon-Fri	hrs	@ (rate)	\$
Wages – Ordinary hours – Saturday	hrs	@ (rate)	\$
Wages – Ordinary hours – Sunday	hrs	@ (rate)	\$
Public holiday(s)	hrs	@ (rate)	\$
Shift loadings	hrs	@ (rate)	\$
	hrs	@ (rate)	\$
	hrs	@ (rate)	\$
Overtime	hrs	@ (rate)	\$
	hrs	@ (rate)	\$
	hrs	@ (rate)	\$
Allowances	Type		\$
	Type		\$
Holiday Pay (casual 1/12th)	Type		\$
Gross Wage			\$
Tax Deductions			\$
Other Deductions (purpose)	(details)		\$
Total Deductions			\$
Net Wages			\$

Note: payslips must be issued to employees at the time of payment.

Need assistance?

Call the Office of Industrial Relations on **131 628** or visit www.industrialrelations.nsw.gov.au.

Online services: **Awards Online**, **Pay Rate Updates** by email, **Check Your Pay** wages calculator.

This payslip complies with State and Federal requirements.

TAXABLE PAYMENTS REPORTING – WORKSHEET

DETAILS OF PAYMENTS TO CONTRACTORS FOR BUILDING AND CONSTRUCTION SERVICES

This worksheet may help you record details of payments you make to contractors for building and construction services. You can use the details you record in this worksheet to help you complete your Taxable payments annual report.

This worksheet is for your records only – do not send it to the ATO.

Financial year: _____

Contractor's name	Contractor's address
Contractor's ABN	Contractor's contact number

Date paid <i>(eg 02/07/12)</i>	Details <i>(eg invoice number, labour and materials, etc)</i>	Total tax withheld where ABN not quoted	GST amount paid <i>(eg \$100.00)</i>	Total amount paid (including GST) <i>(eg \$1,100.00)</i>
TOTAL				

TAXABLE PAYMENTS ANNUAL REPORTING

Additional business industries will soon be required to report annually their contractors payments to the ATO. Using information obtained by your contractors invoices, you will need to lodge a Taxable payments annual report (TPAR) by 28 August each year if you are a business providing:

- 1) Building and construction services
- 2) Cleaning services - for contractor payments from 1 July 2018 (first report due by 28 August 2019)
- 3) Courier services - for contractor payments from 1 July 2018 (first report due by 28 August 2019)
- 4) Road freight services – for contractor payments from 1 July 2019 (first report due by 28 August 2020)
- 5) Information technology (IT) services – for contractor payments from 1 July 2019 (first report due by 28 August 2020)
- 6) Security, investigation or surveillance services – for contractor payments from 1 July 2019 (first report due by 28 August 2020)

SAMPLE CAR LOGBOOK

Vehicle registration no		
Period covered by logbook	from:	to:
Odometer readings for period	start:	end:

Odometer readings per journey		Date of travel		Kilometres travelled	Reason for journey
start	end	start	end		

Total km for period: **Total business km:** Km %

Odometer record

Make:	Model:		Registration number:	Engine capacity:
Odometer reading at start of year/period:				
Odometer reading at end of year/period:				

Replacement vehicle

Make:	Model:		Registration number:	Engine capacity:
Odometer reading of replacement vehicle at start of year/period:				
Odometer reading of replacement vehicle at end of year/period:				

Estimated business use:		km		%
--------------------------------	--	----	--	---

SAMPLE RECONCILIATION OF DAILY SALES

Name of business: _____

DAY: _____

DATE: _____

Sales				
A	Takings per cash register tape		Sales per Z-total 1	
	GST-free sales			
	Input taxed sales			
	Taxable sales			
Cash & cheques in cash register				
B	Notes			
	Coins			
	Cheques		Total cash & cheques 2	
Other sales				
C	Credit card			
	EFTPOS			
	Other		Total other sales 3	
Cash payments from cash register				
D	Business purchases with GST in the price			
	Business purchases with no GST in the price (including GST-free)			
	Purchases for making input taxed sales			
	Cash payments to workers			
	Private cash drawings		Total outgoings	
E	Refund to customer (taxable)			
	Refund to customer (GST-free)			
				Total refunds
		Total cash from cash register	4	
		Beginning float	5	
		Additional float	6	
		TOTAL SALES (=2+3+4-5-6)	7	
Sales reconciliation			*Explanation	
Cash register tape (Z-total)				
Less total sales				
Variation (1 minus 7)*				

SAMPLE CASHFLOW PROJECTION

Cash flow projection	July	August	September	Quarterly total	October	November	December	Quarterly total
RECEIPTS								
Sales/Supplies								
- Taxable								
- GST-free								
- Input taxed								
Other income								
- Interest and dividends								
- Rent receipts								
- Other								
Total receipts								
PAYMENTS								
Purchases/acquisitions								
- Taxable								
- GST-free								
- Input taxed								
Total purchases/acquisitions								
Other expenses and outgoings subject to GST								
- Rent								
- Repairs and maintenance								
- Electricity								
- Telephone								
- Vehicle								
- Other								
Total other expenses and outgoings subject to GST								
Other expenses and outgoings NOT subject to GST								
- Net wages								
- Superannuation								
- Bank fees and other charges								
- Other								
Total other expenses and outgoings NOT subject to GST								
Total payments								
PROJECTED CASH FLOW POSITION								
Beginning bank balance (estimate)								
Plus receipts								
Less estimated refund from the Tax Office								
Less payments								
Less estimated payments to the Tax Office								
Ending bank balance (estimate)								

	January	February	March	Quarterly total	April	May	June	Quarterly total
RECEIPTS								
Sales/Supplies								
- Taxable								
- GST-free								
- Input taxed								
Other Income								
- Interest and dividends								
- Rent receipts								
- Other								
Total receipts								
PAYMENTS								
Purchases/acquisitions								
- Taxable								
- GST-free								
- Input taxed								
Total purchases/acquisitions								
Other expenses and outgoings subject to GST								
- Rent								
- Repairs and maintenance								
- Electricity								
- Telephone								
- Vehicle								
- Other								
Total other expenses and outgoings subject to GST								
Other expenses and outgoings NOT subject to GST								
- Net wages								
- Superannuation								
- Bank fees and other charges								
- Other								
Total other expenses and outgoings NOT subject to GST								
Total payments								
PROJECTED CASH FLOW POSITION								
Beginning bank balance (estimate)								
Plus receipts								
Plus estimated refund from the Tax Office								
Less payments								
Less estimated payments to the Tax Office								
Ending bank balance (estimate)								

SAMPLE BANK RECONCILIATION

Name of business: _____ Period: _____

<hr/>	
Bank balance as per bank statement at:	<u> </u> / <u> </u> / 20 <u> </u>
	\$ _____
Plus	outstanding deposits*
	Date / / \$
	Date / / \$
	Date / / \$

	Total \$ _____
Subtotal	+ \$ _____
	= \$ _____
Less	unpresented cheques**
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$
	<u>Cheque no.</u> \$

	Total \$ _____
	- \$ _____
	= \$ _____
Closing cash balance as per cash books***	\$ _____

* Money received by end of period and recorded in cash book, but not yet banked
 ** Cheques issued, but not yet shown on bank statement
 *** If you maintain a running cash balance in your cash book, it should equal this figure if all amounts have been entered

SUMMARY OF CASH PAYMENTS & RECEIPTS BOOK

Name of business: _____

Financial Year: _____

Summary cash payments book			
Month	Total payments	GST amount	Private use
July			
August			
September			
Subtotal			

Summary cash receipts book		
Month	Total receipts	GST amount
July		
August		
September		
Subtotal		

October			
November			
December			
Subtotal			

October		
November		
December		
Subtotal		

January			
February			
March			
Subtotal			

January		
February		
March		
Subtotal		

April			
May			
June			
Subtotal			

April		
May		
June		
Subtotal		

Year total			
-------------------	--	--	--

Year total		
-------------------	--	--

SAMPLE EMPLOYEE TIMESHEET

Employer's name:

Employee's name:

Pay period (date/month/year): / / to / /

Pay date (date/month/year): / /

For information about hours of work, including minimum and maximum hours of work, penalty rates, overtime and break obligations, visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94

Employee's ordinary hours: _____ hours _____ minutes per week / fortnight / other <small>(circle appropriate option and insert information if required)</small>							Overtime					Leave	
Day / date <small>(e.g. Day: Mon; Date: 21/3)</small>	Start time <small>(e.g. 8.30am)</small>	Start time of unpaid break <small>(e.g. 12:30pm)</small>	Restart time <small>(e.g. 1:30pm)</small>	Finish time <small>(e.g. 5:00pm)</small>	Other times/ Breaks <small>(e.g. time of other unpaid breaks)</small>	Total <small>(Hours minus unpaid breaks)</small>	Start time <small>(e.g. 8:30am)</small>	Start time of unpaid break <small>(e.g. 12:30pm)</small>	Restart time <small>(e.g. 1:30pm)</small>	Finish time <small>(e.g. 5:00pm)</small>	Total <small>(Hours minus unpaid breaks)</small>	Type <small>(e.g. personal leave, etc.)</small>	Hours <small>(hours minus unpaid breaks)</small>
Total:							Total:					Total:	

Signature of employee: _____ Date: ____/____/____

SAMPLE EMPLOYMENT RECORDS – EMPLOYMENT DETAILS

(to be completed and retained for each employee)

EMPLOYER DETAILS:

Employer's name (registered name): Trading Name (if applicable)*:
ABN (if any):

EMPLOYEE DETAILS:

Full Name: Date of Birth*:/...../.....
Address*: Phone Number(s)*:
Tax file number*: Date employment commenced:/...../.....
Employed as: Ongoing or Temporary: Full-time/Part-time/Casual/Other: (e.g. Piece worker, employed for a specified term/task, etc):
Ordinary hours of work (for Part-time or Full-time employee)*: (e.g. 38 hours):
Agreed/required method of pay (e.g. EFT)*: Agreed/required pay period (e.g. weekly)*: Agreed/required pay day (e.g. Tuesday)*:
Apprenticeship/Traineeship details*:
Name of Award(s) or Agreement(s) that applies*:
.....
Classification/job title under their Award/Agreement*:
Superannuation Fund Name⁴: Employee membership No:
Workers Compensation – policy name: Policy No:
Next of kin*: Contact details*:

OFFSET ARRANGEMENT: Where salary is above the award, then the annual salary is paid in satisfaction of any or all provisions (including clauses 16, 19, 27, 28, 29, 30.3 – min. weekly wage, allowances, overtime/penalty rates and annual leave loading respectively)

TERMINATION OF EMPLOYMENT DETAILS:

Date notice of termination given to the employee/employer*:/...../..... Date of the employee's last day at work¹:/...../.....

Method of termination of employment: by consent: by notice: summarily: other (specify):

Reason(s) given*:
.....
.....

If the termination of employment was by the employer:

Name of person who terminated the employee's employment:

Position in the business* (of the person who terminated the employee):

- NOTES:
1. All records must be retained for a minimum of seven years from the date the employee ceases their employment.
 2. Where there is a transfer of a business from the old employer to the new employer (e.g. business changes hands), employee records must be transferred to the new employer for each transferring employee.
 3. An employer must ensure that employee records are not, to the extent of their knowledge, false or misleading.
 4. Any election made by the employee in relation to the fund into which superannuation contributions are made must be kept by the employer, along with a record of the date of the election.

The Fair Work Ombudsman acknowledges that the inclusion of information marked with an asterisk () is not a requirement under the Fair Work Regulations 2009. This template is provided as a best practice model.