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Regulations coming for "buy now, pay later" market

In recent years, the financial landscape in Australia has been significantly transformed by the advent of buy now, pay later (BNPL) services. These innovative credit products have provided consumers with a convenient and often cheaper alternative to traditional credit forms such as credit cards, small amount credit contracts and consumer leases.

BNPL arrangements typically involve a third-party provider financing consumer purchase of goods and services, with repayments collected in instalments. Unlike traditional credit products, BNPL services generally don't charge interest but may impose small fees on consumers and service fees on merchants. Australian BNPL transactions were worth around $19 billion in 2022–2023, accounting for approximately 2% of all Australian card purchases.

Currently, BNPL products aren't regulated under the *National Consumer Credit Protection Act 2009* (Credit Act). As a result, providers aren't subject to responsible lending obligations (RLOs) or other Credit Act requirements, and they don't need to hold an Australian credit licence. Some of the most common concerns about the BNPL sector include unaffordable lending practices, inadequate complaint resolution and hardship assistance, excessive late payment fees, and a lack of transparency in product disclosures and warnings.

Although BNPL providers adhere to the Australian Finance Industry Association's voluntary Buy Now, Pay Later Industry Code, which covers approximately 90% of the market, this self-regulation isn't enforceable by the Australian Securities and Investments Commission (ASIC). Consequently, breaches of the Code don't attract criminal or civil penalties, highlighting the need for more robust regulatory oversight.

A Bill currently before Parliament aims to extend application of the Credit Code to BNPL contracts and regulate most BNPL contracts as low-cost credit contracts (LCCCs). Once the Bill passes, providers of LCCCs will be required to hold and maintain an Australian credit licence and comply with the relevant licensing requirements and licensee obligations, with some modifications to ensure regulation is proportionate to the relatively low risk posed by LCCCs. The existing RLO framework will also be modified to create an alternative, opt-in framework that scales better with the risks posed to consumers and requires each LCCC provider to develop and review a written policy on assessing whether an LCCC would be unsuitable for the consumer.

Deducting gifts and donations: getting it right at tax time

Have you made charitable gifts or donations in the past financial year? The good news is these items are often deductible, giving many Australians a welcome boost to their tax refund. Make sure you know the rules this tax time.

When gathering your donation receipts, it's important to understand what can and can't be claimed as a deduction. The first general rule is that a donation of money of $2 or more may be deducted if the donation was made to a "deductible gift recipient" (DGR). A DGR is an entity that has registered with the ATO as being eligible to receive deductible gifts and donations.

Some charities may not have DGR status, so check if you're unsure. Many online crowdfunding platforms are also not DGRs, which means you typically won't be able to claim your donation towards fundraising for individual causes, such as someone's funeral or medical costs.

The second general rule is that a donation is only deductible if you didn't receive a benefit in return. This means you can't make a claim if you received things like raffle tickets or items that have an advertised price, such as toys and food items. However, you may receive a "token" promotional item such as a sticker or lapel pin and still qualify for a deduction. Note that donations to a school's building fund won't be deductible if you received benefits such as reduced school fees or a certain placement on a waiting list in return for the donation.

Small cash donations totalling up to $10 don't require a receipt. However, beyond that you must be able to provide evidence of your claim. You aren't required to keep an original paper receipt, provided you keep an electronic copy that is a true and clear reproduction. If you don't have a receipt, you may be able to substantiate the claim with other documentation such as a bank statement evidencing the donation.

If you make donations through a "workplace giving program" operated by your employer, you can simply claim the amount of donations shown in your income statement or payment summary. You can claim this deduction in your tax return regardless of whether your employer has reduced the tax withheld each pay period. In both cases, your gross salary or wages and deductible donations for the year will be the same, but any difference in the tax withheld during the year will factor into your eventual tax refund. Workplace giving programs aren't the same as salary-sacrifice, as they don't lower your gross salary or wages.

Motor vehicle expenses: which method should my business use?

If your business owns or leases a vehicle that's used for business purposes, it's essential to keep proper records to ensure you're entitled to the maximum deduction for your vehicle expenses. Running costs like fuel and oil, repairs, servicing, insurance premiums and registration are all potentially claimable, as well as interest payments on a loan to purchase the vehicle, lease payments, and depreciation. However, the method used to calculate your claim depends on your business structure and the type of vehicles you're claiming for.

If your business operates in a trust or corporate structure, you must use the "actual costs" method for all types of vehicles used in your business. This means you can claim the expenses actually incurred, which requires you to keep receipts.

You can only claim for business-related use, so if you use the vehicle for any private purposes, you must identify the percentage that relates to business use. Keeping a diary that records your business and private use will allow you to justify your claim. Travel between your home and your business is treated as "private" use, unless you operate your business from home and need to travel away from home for business purposes.

If you're a sole trader (or operating in a partnership that includes at least one individual), the method to use depends on whether the vehicle you're claiming for is a "car" (a vehicle designed to carry fewer than nine passengers and a load less than one tonne). For non-cars, you must use the "actual costs" method. But for car expenses, you have a choice of which method to use either the "cents-per-kilometre" method or the "logbook" method.

The cents-per-kilometre method allows you to claim a set rate per kilometre travelled for business use, up to a maximum 5,000 km per year. The current rate for 2024–2025 is 88 cents per business kilometre. The law requires you to make a "reasonable estimate" of your business kilometres, which means you need to be able to show the ATO how you derived your total number of hours.

The logbook method isn't limited to 5,000 km, but you'll need to keep more detailed records. A logbook of your business kilometres travelled is required in order to calculate the percentage of total kilometres travelled for business during the year. This is then multiplied by your car expenses. In the first logbook year, you'll need to record detailed odometer readings for each trip in a 12-week continuous period. This representative period can then be used as the basis for calculating your claim for the year, and for the next four years.

Time for a superannuation check-up

The new financial year has begun, and with it have come some important changes to superannuation from 1 July 2024. With these changes coming into effect, it's a good time to give your super a check-up. Your super could be one of the biggest assets you ever have, so getting into the habit of checking in regularly can help you stay on top of it and make better choices for your future.

On 1 July 2024, the superannuation guarantee rate increased from 11% to 11.5%. Employer super contributions are calculated on a worker's ordinary time earnings, for payments of salary and wages. For employers, the maximum super contribution base increased from $65,070 to $62,270 (the limit on what you can earn each quarter before your employer can stop making super guarantee contributions). The concessional super contributions cap also increased from $27,500 to $30,000 and the non-concessional contributions cap increased from $110,000 to $120,000.

The ATO suggests the following steps as a good place to start in giving your super a check-up:

- *Check your contact details:* Make sure your contact details and tax file number (TFN) are up to date with the ATO and your super fund.
- *Check your super balance and employer contributions:* Checking your super balance and keeping track of your employer contributions can be done at any time through ATO online services or your super fund. Your employer should be paying your super at least every three months.
- *Check for lost and unclaimed super:* If you've changed your name, address or your job, you may have lost track of some of your super. Lost super is where your super fund hasn't been able to contact you, or your account is inactive. Unclaimed super is where your fund has transferred lost super to the ATO.
- *Check if you have multiple super accounts and consider consolidating:* If you've ever moved jobs, you might have more than one super account. Each account will charge fees and may include insurance, so combining your super accounts may reduce fees, help you pay only for the insurance you need and make your super easier to manage.
- *Check your nominated beneficiary:* Make sure you have a valid death beneficiary nomination with your super fund, as this isn't covered by your will. Check with your fund if there is an expiry on the nomination – some funds have options where the nominations don't expire, while most nominations expire every three years. If you don't have a beneficiary nominated, your fund will follow the law in determining where your super should go.

You should also take a careful look at how your fund is performing and check that you aren't paying too much in fees. You might also think about evaluating how your super is being invested – does it match your stage in life, how much risk you are willing to bear, or even your ethics and values? If you have insurance cover with your super fund, regularly check that it still meets your needs.

Do you have enough super?

The Association of Superannuation Funds of Australia (ASFA) has developed a "retirement standard" which provides a broad approximation of how much super you need in retirement. As of March 2024, as combined amounts for couples retiring at age 67, ASFA suggests:

- $690,000 for a comfortable retirement (providing an income of $72,663 per year); and
- $100,000 for a modest retirement (providing an income of $47,387 per year).

These figures assume that you will draw down all your super, receive a part Age Pension, own your home outright and are in good health. While useful as a baseline, your personal needs may differ significantly.

Many people assume that they will just fall back on the Age Pension if there is not enough in their super. This is a safety net; however, you may not be comfortable on the restrictive budget required to get by on the Age Pension. As of 1 July 2024, Age Pension for a couple is $43,752 per year.

For the most accurate assessment of your superannuation needs, it's best to seek professional advice. Your adviser can consider factors such as your health and life expectancy, inflation and investment returns, wages growth and taxation, and fees and regular contributions. Professional advisers have access to sophisticated tools and can provide customised forecasts based on your unique situation.

New SMSF expense rules: what you need to know

If you manage a self-managed superannuation fund (SMSF), recent changes to tax rules for certain fund expenses could affect you. These changes may even apply to services provided for free. If your fund doesn't pay market price for services, it could face significant extra tax.

The new rules focus on "non-arm's length general expenses" – services provided to your SMSF at below-market prices or for free. Income related to these general expenses may be classified as "non-arm's length income" (NALI) and taxed at 45%. The new rules took effect on 29 June 2024 but are retroactive to 1 July 2018.

Key points to consider

- *General expenses:* The rules apply to general expenses not charged at market price. These are expenses that don't relate to a specific fund asset, such as accounting fees or investment advice that does not relate to a specific investment (eg asset allocation advice).
- *Trustee roles:* As a trustee, under the superannuation law you generally can't charge for your duties. However, if you provide services for free, or at a significant discount, as a professional (eg accountant, auditor or financial adviser) the NALI rules may apply.
- *NALI limits:* The amount of NALI is capped at twice the difference between the actual expense and the market rate. If no expense is incurred, it's limited to twice the market rate.
- *Overall cap:* The non-arm's length component can't exceed the SMSF's taxable income (minus assessable contributions plus related deductions).

These new rules could catch out professionals trying to save their SMSF some money. If you're providing services to your SMSF or getting services at below-market rates, you need to be aware of these rules.

If you're unsure about how these rules affect your SMSF, it's best to consult with a tax adviser. They can help you understand if your fund's expenses are subject to the new rules and advise on any necessary changes.