

# The SOTHERTONS REPORT

Sothertons  
Australian Offices



AUGUST 2008

**Welcome to the July / August issue of the Sothertons Report** and a Happy New Financial Year to all our readers. With the world economies currently in a state of turmoil we are indeed in for an unpredictable 2008/9 financial year. Please remember that your Sothertons partners / directors and support staff are there to help you through all business cycles.

With winter finally upon us in this Olympic year we look forward to seeing how our Australian team will do this time around and certainly wish all our competitors every opportunity for success in Beijing.

This issue of The Report follows up the recent federal budget, highlights recent tax changes and outlines the ATO's areas of focus. Should any of our readers have any questions regarding any of the issues raised please contact your partner or director.

As the world expects us all to be interactive and pro-active on an ever increasing basis, time-management plays a critical role in managing both our business and private affairs. The article by Lynne Hayward goes some way to showing us how to help achieving better time management.

The Sothertons profile in this issue is Adelaide based web designers lugo who have been listed in BRW'S 2008 Fast Starters list.

We also cover an ever increasing problem – workplace bullying and important aspects that employers need to be made aware of.

Other articles that we believe could have relevance to our readership include Greenhouse Gas Reporting, the issue of workplace anaphylaxis (acute allergic reactions) and the public use of music and the appropriate licence requirements.

We hope you enjoy this issue. Until next time. ■



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## Medicare Levy Surcharge

The Government has introduced a Bill into Parliament to increase the Medicare levy surcharge threshold for individuals from **\$50,000 to \$100,000**, and for families from **\$100,000 to \$150,000**.

The increase to the threshold will take effect from 1 July 2008. ■

## Entrepreneurs' Tax Offset

In the 2008-09 Budget, the Government announced that a family income test will be introduced to determine the eligibility for the offset.

The threshold for single taxpayers was stated as **\$75,000** in the Budget Papers. However, the press release accompanying the Budget stated the threshold as **\$70,000**.

The Government has not confirmed the correct threshold. ■

## Budget Measures Bill

The Government has introduced into Parliament a Bill to implement some of the measures announced in the Federal Budget:

- **FBT:** meal cards and work related items;
- **Employee share schemes:** changes to method of making the 'discount' election and removal of double taxation; and
- **Depreciation rate for in-house software.** ■

## Tax Law Changes

In May 2008, the Government introduced into Parliament a Bill to:

- amend the tax laws in relation to shareholders' and unit-holders' rights in relation to call options and put options; and
- restrict GST refunds for overpayments, and amend the review period of indirect taxes assessments. ■

## Private Company Loans

The Tax Office has released a Taxation Determination stating the essential information that a written loan agreement between a private company and its shareholder (or their associate) **must** include:

- the name of the parties;
- the loan terms;
- a statement that the parties have agreed to the terms; and
- the date when the agreement was executed.

If a private company extends a loan to its shareholder (or their associate), the loan may be deemed to be an unfranked dividend, which is assessable income to the shareholder (or their associate) in the year the loan arises unless an acceptable loan agreement is in place. ■



## Main Residence Exemption

In a recent decision, the Administrative Appeals Tribunal held that the sale of a taxpayer's main residence did not qualify for the full CGT exemption because the taxpayer had not occupied it as his main residence throughout the ownership period.

Generally, if the main residence of a taxpayer was used either in full or in part for producing assessable income, the taxpayer is only entitled to a partial exemption from the CGT arising from the disposal of the dwelling. ■

## Self Managed Superannuation Funds and Business Real Property

The Tax Office has released a Draft SMSF Ruling in which it explains the term 'business real property'.

Generally, an SMSF is subject to various investment restrictions unless an exception exists. One of the exceptions relates to business real property.

This Draft SMSF Ruling states that an SMSF must consider the interest in the real property and apply a business use test before the exception can apply. ■

## TAXPAYER ALERTS

*The Tax Office has issued four Taxpayer Alerts warning taxpayers of arrangements that are currently being examined:*



- 1** Arrangements whereby a shareholder of a private company purports to make a repayment of a loan extended by the company via a round robin of endorsed cheques.  
The Tax Office is concerned that these arrangements have been contrived to avoid the operation of the tax legislation which may deem a loan between a private company and its shareholders (or their associates) as an unfranked dividend.
- 2** Arrangements for the prepayment of service fees from a trading entity to an associate service entity.  
The Tax Office is concerned that these arrangements have been entered into with the dominant purpose of obtaining a tax deduction.
- 3** Land impairment trust arrangements which are associated with forestry managed investment schemes.  
The Tax Office is concerned about whether these arrangements give rise to a revenue or capital loss and how distributions from the land trust should be treated for tax purposes.
- 4** Arrangements that have features which are designed to allow a member of a superannuation fund to circumvent the annual superannuation contribution limits.  
The Tax Office is concerned that certain features of these arrangements may give rise to taxation and superannuation regulatory issues. ■

## DATA MATCHING

### Luxury Cars

The Tax Office will request and collect details of individuals or entities that, between 1 July 2005 and 30 June 2007, have purchased or acquired motor vehicles valued at **\$57,009** or higher.

The data collected will be electronically matched with its data holdings to identify non-compliance with tax obligations.



### Owner-Builder Licence Registration

The Tax Office will acquire owner-builder licence registration information from the Victorian and NSW state governments.

This information will be electronically matched with its data holding to identify taxpayers who may not be meeting their tax obligations. ■



## PAYG Payment Summaries

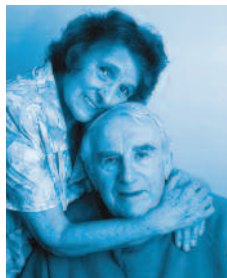
The Commissioner has issued a Legislative Instrument that removes:

- the requirement for individual taxpayers to attach a copy of their PAYG payment summary to their tax returns, and
- the requirement for employers to provide their employees with a duplicate copy of a PAYG payment summary. ■

## Increase in Pension Thresholds

The assets test thresholds for pensions will increase from 1 July 2008.

Taxpayers who will benefit from the increase include those receiving the Age Pension, Carer payment, and Austudy. ■



## FBT Car Parking Threshold

The Tax Office has stated that the car parking threshold for the FBT year that commenced 1 April 2008 is **\$7.07**. ■



## Tax Rates Changes

*The Bill amending the personal income tax rates for the 2008-09 income year and later income years has become law.*

The Bill also increases the low-income tax offset for those income years (\$1,200 for the 2008-09 financial year). In addition, the Bill increases the income threshold at which Medicare levy becomes payable for taxpayers who are eligible for the senior Australian tax offset.



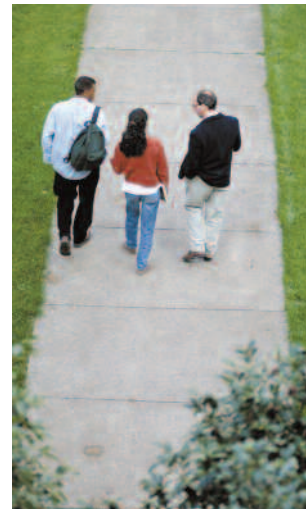
***Taxpayers earning less than \$30,000 for the 2008-09 income year will qualify for the full low-income tax offset. Taxpayers earning between \$30,001 and \$60,000 will qualify for the offset, which will be pro-rated accordingly.*** ■

## HECS and SFSS Repayment

The Tax Office has released the HECS and SFSS repayment thresholds for the 2008-09 income year.

When a taxpayer's repayment income is **above \$41,594**, the taxpayer will be required to start repaying his or her HECS debt and/or SFSS debt.

The repayment amount is calculated by applying the relevant repayment rate that corresponds to the taxpayer's income. ■



## Director Penalty Notice

In a Decision Impact Statement released by the Tax Office, the Commissioner has stated that he will calculate the time for compliance with a director penalty notice (DPN) from the date on which the notice was posted to a director of a company, irrespective of whether or when the DPN was received or delivered.

The Commissioner has the authority to recover from a director of a company any withholding amounts that the company has failed to remit. Put simply, the director becomes personally liable for the company's unremitted amount. ■

## Fuel Tax Credits

The eligibility for fuel tax credits has been expanded from 1 July 2008 to include all taxable fuels that a taxpayer uses in his or her business

activities, provided the fuel is not used in a vehicle with a gross vehicle mass of 4.5 tonnes or less travelling on a public road.

According to the Tax Office, the changes to the fuel tax credits scheme mean that most businesses, including those operating in construction, manufacturing, wholesale / retail, property management and landscaping, will be able to claim credits.

Broadly, fuel tax credits provide a taxpayer with credits for the fuel tax (excise or custom duty) included in the price of the fuel. ■



## Division 7A Interest Rate

The Tax Office has stated that the benchmark interest rate for the 2008-09 income year for the purpose of calculating the interest component of a loan from a private company to its shareholders (or their associates) is **9.45%**.

The tax laws contain provisions that allow loans by a private company to its shareholders (or their associates) not to be treated as an unfranked dividend if the loan is made under a written agreement. One of the requirements of the agreements is that the interest rate to be used in calculating the interest payable on the loan for a financial year must equal or exceed the benchmark interest rate for that financial year. ■

## Superannuation Rates & Thresholds

The Tax Office has released the 2008-09 indexed superannuation rates and thresholds, which cover contribution caps, concessional taxed superannuation lump sums, employment termination payments, superannuation guarantee and superannuation co-contributions.

The concessional and non-concessional contributions caps are **\$50,000 (\$100,000 for taxpayers over 50 years of age)** and **\$150,000** respectively, which did not change from the 2007-08 income year.

If the sum of assessable income and reportable fringe benefits (if any) of a taxpayer does not exceed **\$30,342** for 2008-09, the taxpayer will qualify for the maximum co-contribution of **\$1,500**. ■

## Child Support and Tax

The Government has announced a range of new measures aimed at boosting the collection of child support payments.

The measures include:

- requiring both parents (the liable parent and the recipient parent) to lodge a tax return; and
- stopping salary sacrifice being used to minimise child support obligations. ■



## PAYG Withholding

From 1 July 2008, 50% of the low-income tax offset will be taken into account in determining the PAYG withholding amount for eligible individuals.

The remainder of the offset entitlement will be paid upon assessment of the individual's income tax return. ■

## Capital Improvement Threshold

The Tax Office has released the capital improvement threshold for the 2008-09 income year, which is **\$119,594**. ■

## PAYG Summaries

The Deputy Commissioner has issued a Legislative Instrument that removes the requirement for superannuation funds to issue a payment summary to a recipient for a superannuation lump sum benefit paid, where the recipient is classified as having a terminal medical condition.

The Legislative Instrument applies from the 2007 income year. ■

## GST and PAYG Instalment Rate

The Tax Office has advised that the Gross Domestic Product (GDP) factor used to calculate taxpayers' GST and PAYG instalment amounts will increase to **8%** from 1 July 2008.

Taxpayers who use the GDP-adjusted notional tax method to calculate their PAYG or GST instalments may see an increase in their instalment amounts from the first quarterly instalment for the 2008-09 income year. ■

## Artworks & Antiques

In a recent decision, the AAT set aside the Commissioner's decision to cancel retrospectively the GST registration of a taxpayer whose sole activity was the acquisition of artworks and antiques. Based on the evidence presented, the Tribunal was satisfied that the taxpayer was carrying on an enterprise despite minimal sales over a number of years

Two basic conditions must be satisfied before a taxpayer can register for GST: the taxpayer must be an entity, and either be carrying on an enterprise or intending to carry on an enterprise.

For GST purposes, the carrying on of an enterprise focuses on the activity or series of activities that a taxpayer engages in, and includes running a business. ■



## Car Depreciation Limits

*The Tax Office has announced that the luxury car limit for both depreciation and Goods and Services Tax purposes for the 2008-09 financial year is \$57,180.*

## GIC and SIC Rates Released

*The Tax Office has released the general interest charge and shortfall interest charge rates for the first quarter of the 2008-09 income year:*

Rate	Annual (%)	Daily (%)
GIC	14.75	0.04030054
SIC	10.75	0.02937158

The Tax Office has also released the interest rate for overpayments, early payments and delays in refunds for the first quarter of the 2008/09 income year. The applicable interest rate is **7.75%**. ■

## Tax Law Changes

*In June 2008, the Government introduced into Parliament a Bill to:*

- provide relief from CGT for private health insurance policy holders when their insurer demutualises to a for-profit insurer; and
- change the definition of "family" and remove the ability for family trusts to make a one-off variation to the test individual specified in a family trust election.

**TIP** *Taxpayers who hold their private health insurance with NIB should consider the impact of the proposed amendments, which will provide CGT relief when a health fund demutualises.* ■

# SOTHERTONS CLIENT PROFILE

For this issue of the Sothertons Profile we are proud to introduce innovative website developers Iugo – a client of Sothertons Adelaide office.



They were recently honoured with a place in BRW magazine's "Fast Starters" list for 2008 – a list of Australia's definitive fastest growing small and medium businesses.

Sothertons Adelaide have acted for Iugo since its incorporation. During that time the company has faced the various challenges of growth in its client base and its team, cash flow planning, and research and development tax issues. A Sothertons Adelaide director chairs monthly management meetings with the directors who recognise the importance of ongoing business planning. Whilst they play important technical roles at Iugo, they also know the importance of working on the business not just in the business.

## Who are Iugo and what do they do?

Established in 2004, Iugo Pty Ltd was formed by two experienced and knowledgeable web developers who saw a need for high quality, user-friendly online applications.

Specialising in delivering user-friendly web applications and online business management tools Iugo creates solutions that focus on successful outcomes for their clients' businesses.

Their creative and collaborative approach, coupled with their technical expertise and experience makes them an ideal partner for developing online needs.

Iugo has a qualified and professional team of 13 employees dedicated to delivering flexible, tailored solutions that meet their clients' individual requirements. Offering open, responsive service at all stages of a project this ensures a client's time is used effectively.

With the experience and creative ability to customise, enhance or improve all or any of a client's existing online systems they have the skills and expertise to deliver a wide range of simple or complex projects. Iugo's system incorporates add-on components which means clients don't need to lose any investment they may have put into their previous system.

## Strategy. Consultancy. Management.

Determining your business's online requirements can be a confusing process, particularly if you don't have a technical background.

Iugo provide a comprehensive consultancy service to help identify a business's needs – including websites, email and online business management tools for finance and inventory.

(Continued)

Once they know what their clients need, they work with them to develop strategies to improve their business processes and activities – to help make that business more efficient, more effective, and ultimately more successful.

## Web development and applications.

Developing high quality web applications takes a lot of skill, knowledge, and experience. Interface design, usability, information management and search engine optimisation are all critical elements in a successful web application.

At Iugo, web development is what they do best. Taking a total process approach to a client's web development and working with them to create web applications that seamlessly integrate cohesive design with exceptional usability and efficiency.

## Online business management tools.

Web-based applications are becoming a key facet of the business environment. Core business functions can be handled with a browser window rather than a desktop application. This means a client's business data can be centralised yet still accessed by staff and customers in geographically distant places.

Making clients' businesses more efficient is one of Iugo's core philosophies. They can assist in information gathering, storing, retrieving, reporting and analysis of data – anything that will improve business processes and activities.

Workflow tools simplify and automate essential, everyday business practices and procedures. This enables a business to provide outstanding client service without increasing the burden on staff or on clients. In fact, workflow tools save clients time and money. ■

[www.iugo.com.au](http://www.iugo.com.au)



Samples of websites created by Iugo.



**GET CONTROL OF YOUR TIME  
SO YOU CAN ACHIEVE  
WHAT YOU WANT TO ACHIEVE**

**Feeling a bit pressured at work?**

**Feel like you run from one task to another?**

**At the end of the day you are exhausted...  
but what did you achieve?**

*Many people work very hard; they put in the hours but just don't get the results. Ideally, you should be spending at least 80% of your time at work on your KPIs\* (Key Performance Indicators).*

*The other 20% goes to helping others out in the team, reporting upwards, footy tipping, cc emails etc.*

**How much time would you be spending on your KPIs?**

*We only have 8760 hours per year to do what we need to do, or want to do. We cannot add more. There is no gift of time. It is simply how we use that time.*

(Continued)



## Some practical tips on how to use your time effectively:

### Energy patterns

- Identify your most alert time of the day and schedule your most intellectually challenging work in that period.
- Turn off your email alert and visit your emails only three times per day in your least alert period.
- Agree with your team for one-hour isolation time. You will get 2½ times the amount of work done.
- Get enough sleep – it increases your energy.

### To do lists

- Insert everything you need to do on a 'To-Do' list; prioritise it and then stick to it.
- Do not allow little tasks to queue jump with the excuse 'I'll just do it and get it out of the way'.
- Break big tasks into small tasks and insert only the small tasks onto your 'To-Do' list. There should be no task on your list that is greater than 1 ½ hours.
- Agree deadlines with every request for work.
- Every time someone asks you to do something, weigh it up against your current 'A' priority. If it is not more important, say that you cannot do it now, but give a time when you can do it. Often they will find an alternate way of doing it.

### Interruptions

- Have your back to 'through traffic' to stop you getting distracted.
- If you have an unwelcome interruption that is not work related, state that you are trying to reach a deadline and suggest catching up around lunch time. ■

The author, Lynne Hayward, is training the team at Sothertons Melbourne in time management, on behalf of the Institute of Chartered Accountants.

\*Key Performance Indicators (KPIs) are used by organisations both to measure individual employee performance and to measure overall organisation performance.



# ANAPHYLAXIS and the WORKPLACE

## What is Anaphylaxis?

*Anaphylaxis is the most severe form of an allergic reaction which often involves more than one body system (e.g. skin, respiratory, gastro-intestinal, cardiovascular).*

*A severe allergic reaction usually occurs within 20 minutes of exposure to the trigger and can rapidly become life threatening. It MUST be treated as a medical emergency, requiring immediate treatment and urgent medical attention.*

*The cost of allergies to the Australian economy is more than \$7 billion per year,*

## What causes Anaphylaxis?

**Common triggers include:**

- **FOOD:** Milk, eggs, peanuts, tree nuts, sesame, fish, crustaceans and soy are the most common food triggers, which cause 90% of allergic reactions, however, any food can trigger anaphylaxis. It is important to understand that even trace amounts of food can cause a life-threatening reaction. Some extremely sensitive individuals can react to even the smell of a food (e.g. fish)
- **INSECTS VENOM:** Bee, wasp and jumper ant stings are the most common causes of anaphylaxis to insect stings. Ticks and fire ants also cause anaphylaxis in susceptible individuals..
- **MEDICATIONS:** Both over the counter and prescribed pharmaceuticals can cause life threatening allergic reactions. Individuals can also have anaphylactic reactions to herbal or 'alternative' medicines.

Other triggers such as latex or exercise induced anaphylaxis are less common and occasionally the trigger cannot be identified despite extensive investigation.

## General Recommendations for the Employer and Employee

- The employee should be encouraged to disclose they are at risk of severe allergic reactions at the commencement of employment.
- Adults who suffer from anaphylaxis need to manage and take responsibility for their own health condition.
- The employer should consider implementing some strategies to reduce the risk of severe allergic reactions in the work-place.
- Any worker prescribed an EpiPen®\* (adrenaline auto-injector) should have an Anaphylaxis Action Plan with their EpiPen®.

- Any worker who carries an EpiPen® should inform the employer, supervisor or person in charge of its location.

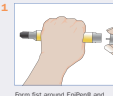



- Colleagues should be trained to recognise severe allergic reactions and administer adrenaline via an auto injector if the individual is unable to self administer the medication.

- Because of the potential severity of the allergic reaction, NO worker should be expected to be completely responsible for the administration of their EpiPen®. Assistance should always be provided.
- Most of the larger first aid providers (e.g. Red Cross, St John Ambulance) provide training in anaphylaxis management during their first aid courses.
- A work colleague does not need to have a first aid certificate in order to administer an EpiPen® according to the allergic individual's Anaphylaxis Action Plan.
- Any worker who has severe allergies should be encouraged to wear a Medic-Alert bracelet or necklace, or other suitable identification.

\* The EpiPen® auto injector is an intra-muscular injection of adrenaline for the emergency treatment of anaphylactic reactions.

**ACTION PLAN FOR Anaphylaxis**

**How to give EpiPen® or EpiPen® Jr**

- 
- 
- 
- 

**MILD TO MODERATE ALLERGIC REACTION**

- swelling of lips, face, eyes
- hives or welts
- tingling mouth, abdominal pain, vomiting

**ACTION**

- stay with person and call for help
- locate EpiPen® (or EpiPen® Jr if aged 1-5 years)
- contact family/carer

**Watch for any one of the following signs of Anaphylaxis**

**ANAPHYLAXIS (SEVERE ALLERGIC REACTION)**


- difficult/noisy breathing
- swelling of tongue
- swelling/tightness in throat
- difficulty talking and/or hoarse voice
- wheeze or persistent cough
- loss of consciousness and/or collapse
- pale and floppy (young children)

**ACTION**

- 1 Give EpiPen® (or EpiPen® Jr if aged 1-5 years)
- 2 Call ambulance\* - telephone 000 (Aus) or 111 (NZ)
- 3 Lay person flat and elevate legs. If breathing is difficult, allow to sit but do not stand
- 4 Contact family/carer
- 5 Further EpiPen® doses may be given if no response after 5 minutes

**If in doubt, give EpiPen® or EpiPen® Jr**

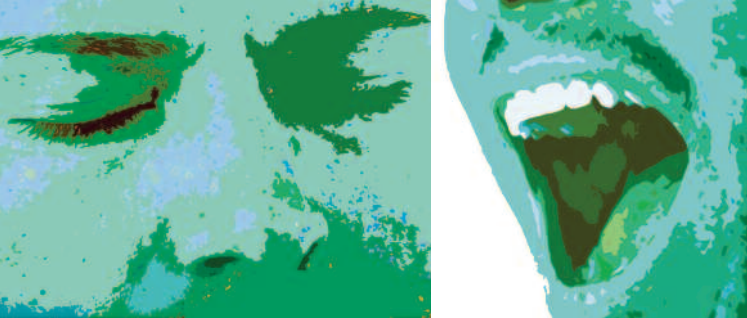
EpiPen® Jr is generally recommended for children aged 1-5 years. \*Medical observation in hospital for at least 4 hours is recommended after anaphylaxis.


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www.allergy.org.au

**anaphylaxis australia** 

developing anaphylaxis awareness through education, research & support

**Anaphylaxis Action Plans can be purchased from Anaphylaxis Australia [www.allergyfacts.org.au](http://www.allergyfacts.org.au) or a PDF version of the above poster can be downloaded.**



## WORKPLACE BULLYING – AN IMPORTANT ISSUE FOR EMPLOYERS

**Workplace bullying and occupational violence can affect employees and organisations in a number of ways. The effects can range from actual psychological and physical injuries to reduction in employee productivity.**

Psychosocial injuries are becoming the cause of the most expensive workers' compensation claims across the country. The cost of these claims is considerably higher than other injuries because they tend to involve longer periods of time off work and higher medical, legal and other claim payments.

In particular, bullying incidents are often high cost claims because employees are reluctant to return to their previous work place. Bullying has been estimated to cost Australian industry in excess of \$3 billion per year and for its victims, can have significant psychological and emotional cost.

### What is Occupational Violence?

Occupational violence is defined as any incident where an employee is physically attacked or threatened in the workplace. The term applies to all forms of physical attacks on employees including:

- Striking, kicking, scratching, biting, spitting or any other type of direct physical contact.
- Attacking with knives, guns, clubs, guns or other weapons.
- Pushing, shoving, tripping, grabbing; and
- Any form of indecent physical contact.

Many of these incidents are often characterised by factors such as inadequate training, limited supervision, inappropriate management policies and strategies, or a workplace culture that supports such behaviours.

This type of violence is often not reported and may escalate in severity over time. **Wishful thinking – that the problem will “go away” – is unlikely to be effective.**

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### What is Bullying?

Bullying can occur wherever people work together. Bullying is not always intentional, sometimes people do not realise their behaviour is harmful to others. Workplace bullying is repeated, unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

- Verbal abuse
- Excluding or isolating employees
- Psychological harassment
- Intimidation
- Assigning meaningless tasks unrelated to the job
- Giving employees impossible assignments
- Deliberately withholding information vital for effective work performance

Other types of behaviour may also constitute bullying.

### The Legal Position

Employers may be liable for workplace bullying practices under a number of laws, including discrimination legislation, occupational health & safety (OH&S) legislation, and workers compensation legislation.

Under OHS legislation, employers have a duty to provide and maintain so far as is reasonably practicable a working environment that is safe and without risk to health and to eliminate or reduce risks to employees. This duty extends to psychosocial hazards, including bullying behaviours. Employees also have OH&S legal responsibilities regarding how they act towards others within the workplace.

Employee participation is a key element in an effective health and safety management program. Employees are more likely to support actions to improve health and safety if they understand and contribute to those actions. Employee involvement and consultation promotes commitment to health and safety and develops a positive health and safety culture.

A number of publications are available to assist employers to recognise and address bullying issues in the workplace. Refer to the websites listed at the end of this article.

### Landmark Bullying Conviction a First for Victoria

An employee was convicted and fined \$10,000 on two counts relating to intimidating co-workers and for failing to take care for the health and safety of others in the workplace.

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The Court heard that the accused employee had on ten occasions allegedly subjected fellow employees to verbal abuse and threats of violence while at work.

It was also alleged that a workmate was physically assaulted. While workers have, in the past been prosecuted for physical violence in the workplace, this is the first time a worker has been convicted on allegations of intimidating co-workers.

The company was also charged with failing to provide a safe workplace for its employees.

### NSW Case

Another notable case is an important example of a victim of acute bullying relying on common law to receive compensation for psychological injuries and how employers can identify a number of steps they may take to minimise potential liability. The victim was employed by a security firm as a security guard and was assigned to work at a worksite where he reported to and was under the supervision of “Company X”.

Between 1992 and 1996 the victim's manager at “Company X” allegedly subjected him to violent and financial threats, racial and sexual abuse, excessive and unpaid working hours and directed him to perform personal tasks at the manager's home. As a result the victim developed severe depression and post traumatic stress disorder. He incurred significant medical expenses, was unable to work and his marriage disintegrated.

### The Decision

The magistrate awarded \$1.9 million in damages against “Company X”. The bulk of this was compensation for the victim's past and future medical expenses and income lost as a result of his inability to work.

The magistrate also awarded exemplary damages of \$150,000 against “Company X”, given that they had direct knowledge of the bullying and failed to act. Exemplary damages, as their name suggests, are intended to punish the wrongdoer and deter future misconduct by making an example of a particular defendant. The magistrate sent a strong signal concerning the significance the court attaches to employers' responsibilities to protect employees from abuse of this form and magnitude.

### A Strategic Proactive Approach

Organisations can effectively manage bullying in the workplace by developing an assessment methodology to identify strengths and weaknesses in relation to current management processes.

The assessment methodology can be applied across all levels of the organisation and encompasses nine key performance

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requirements which contain detailed questions in relation to workplace practices. These include:

- Senior management commitment; ■ Communication through consultation; ■ Promoting awareness; ■ Policy and procedures; ■ Organisational change management;
- Workforce characteristics; ■ Reporting and complaint handling; ■ Training; and ■ Risk Management.

Gaps in an organisation's policies and processes are able to be identified and strategies and action plans to meet obligations can subsequently be developed and implemented.

### What Can Employers do to Establish an Effective Risk Management Plan for Bullying?

Early intervention strategies that help minimise the impact of bullying incidents facilitate a process that should be developed and communicated widely across an organisation for an anti-bullying program to be successful.

The following are examples of possible control strategies:

- Implement policies specifically prohibiting bullying;
- Ensuring management is aware of its responsibilities to monitor and enforce the policies;
- Ensuring these policies are communicated to all employees, including the consequences of failure to comply. The policies should require employees to report incidents of workplace bullying;
- Actively promoting supportive leadership programs;
- Undertaking positive workplace culture initiatives;
- Developing clear guidelines and procedures for complaint handling;
- Responding quickly and effectively when complaints about bullying are made or bullying behaviour is otherwise drawn to the employer's attention; and
- Widely communicating the programs and initiatives being developed to all levels of the organisation.

For further information regarding workplace bullying the following state websites will prove invaluable:

- [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au) ■ [www.comcare.gov.au](http://www.comcare.gov.au)
- [www.safework.sa.gov.au](http://www.safework.sa.gov.au) ■ [www.aic.gov.au](http://www.aic.gov.au)
- [www.deir.qld.gov.au](http://www.deir.qld.gov.au) ■

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The Phonographic Performance Company of Australia Limited (PPCA), is a national, non-government, non-profit organisation representing the interests of record labels (licensors) and Australian recording artists.

### What is PPCA ?

PPCA grants licences for the broadcast, communication or public playing of recorded music (e.g. CDs, tapes, records) or music videos. They then distribute the licence fees collected to the record labels and Australian recording artists registered with them.



It's important to remember that if you need a licence of the type offered by PPCA, you'll probably need a licence from APRA (Australasian Performing Right Association Ltd) as well.

That's because there are at least two copyrights in most recordings and music videos:

- the copyright in the song (lyrics, composition etc.) – licences available from APRA;
- the copyright in the recording and/or music video of the song (a particular recorded performance) – 'blanket' licences available from PPCA, or individual licences available from the copyright holders.

The benefits of playing recorded music in your business are many and varied. PPCA make it simple to put music to work for you with a 'blanket' licence that covers nearly all recordings commercially released in Australia.

PPCA currently licenses over 43,000 venues Australia-wide, including clubs, hotels, bars, restaurants, fitness centres, shops, halls and dance studios, and also grants licences to radio and TV stations.



### Why you may also need an APRA Licence

Composers, like other suppliers in the market place, deserve to be paid for the use of their work. They are also entitled to payment under the Australian Copyright Act. This is because copyright law gives composers the right to control and to negotiate a fee for certain uses of their music. These include the right to play or perform music outside the domestic environment (for example, playing music via a radio, TV, CDs, karaoke, live music or DJs in your business) and the right to communicate music to the public via a music on hold system. If your business uses music in any of these ways, you need permission from the copyright owners.

APRA makes this simple. They collectively administer the public performance and communication rights on behalf of the majority of the world's composers, songwriters and music publishers. This means that rather than having to obtain permission from each and every copyright owner before you use music, you can usually take out an APRA licence to cover your business's music needs. An APRA licence can give you access to music from around the world for as little as \$1 per week, and the licence fee may be a tax deductible business expense.

### An annual licence that covers the use of:

#### Background Music

- Background Music System, including CD, tape player, radio, background music service and/or each zone/channel of a multi-channel device;

#### Music On Hold

- Radio, tape, CD or pre-recorded messages and music via a telecommunication system to callers on hold. Annual fees vary according to the number of external telephone lines.

#### Music In The Workplace

- Performances in the workplace for the benefit of employees at the office, at company functions, staff Christmas parties and as part of staff training and marketing presentations.

For more information refer to both the PPCA and APRA websites: [www.pcaa.com.au](http://www.pcaa.com.au) [www.apra.com.au](http://www.apra.com.au)



# FIRST GREENHOUSE GAS REPORTING PERIOD STARTING 1 JULY 2008

*In response to the Commonwealth Government's decision to ratify the Kyoto Protocol, the National Greenhouse and Energy Reporting [NGER] Act was passed in late 2007. The first reporting period for the Act commenced on 1st July 2008.*

As the system is still being developed, many companies are unaware of what they need to do to comply with the legislation.

So what do you need to do? Do you need to report? The answer is complex. The Regulation providing reporting guidelines has not yet been formally released.

We do, however, have an indication from the NGER Act itself as to what will be required when the reporting commences.

## Do you need to report?

In order to know if a company needs to report, each company must determine whether the thresholds are exceeded (refer to the accompanying table). Thresholds are based on the use and production of fuels and energy and are expressed as energy units or equivalent tonnes of carbon dioxide emitted to the atmosphere. Assessment of whether a company exceeds or is close to the thresholds can be done by collecting data for the 2008-2009 financial year.

Given that the first reporting period commences on July 1st, some level of assessment should be undertaken to ensure companies are prepared, if data requires collection from July 1st. This process will be made considerably easier if a system has been set up to collect information and maintain records from 1 July 2008. Records will need to indicate how much fuel and energy a company uses or produces during the financial year.

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## Auditing Scheme

It is important to remember that the NGER Act provides for an auditing scheme, in which companies will be audited by an independent firm with relevant audit expertise to verify that information reported is correct and accurate. To comply with the audit requirements, and reduce the risk of penalties, fully auditable records will need to be maintained.

## Emission Types

**There are three types of emissions that require reporting:**

- Indirect emissions of greenhouse gases from the purchase of electricity, heat or steam.
- Direct emissions of greenhouse gases from within the boundaries of the site, such as on site energy generation.
- Other indirect emissions of greenhouse gases, taking into account the wider environment. This includes things such as the production of waste going to landfill.  
(At this stage, reporting these emissions is voluntary).

## Thresholds for reporting

To ease the burden of compliance, the system is being phased in over a period of three years. The requirements are that large energy users or greenhouse gas emitters must report from July 1st this year.

**The thresholds for reporting are as follows:**

Registration Deadline	Reporting Deadline	Facility Threshold (per year)	Corporation Threshold (per year)
31 August 2009	31 October 2009	100TJ or 25kt	500TJ or 125kt
31 August 2010	21 October 2010	NA	350TJ or 87.5kt
31 August 2011	31 October 2011	NA	200TJ or 50kt

[ TJ – TerraJoules Kt – KiloTonnes of carbon dioxide equivalent ]

## Entity Structures

The reporting framework requires each company to register the entity structure for reportable components of the company. For companies that own and operate a single site, this will be very simple. For companies with multiple sites, this process can be more complex.

Corporations are to include all subsidiaries (as defined by the Corporations Act) and to outline joint ventures and partnerships in their reporting scope.

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Sites are categorised using the ANZSIC industry codes. There are special provisions for sites that have more than one function. The reporting system requires companies to report when they have operational control over a facility. This can lead to difficulties where a site is tenanted or managed by another party. In some cases a single party will be required to report, however in other situations the reporting will be split between owners, operators and joint ventures/partnerships.

## Corporation Threshold

For some corporations, individual facilities will not need to report, as these individual facilities will be small enough to not trigger the threshold. However, when all sites are aggregated the corporation as a whole may trigger the corporation threshold. In this case companies are permitted to aggregate their facilities for reporting, based on the state they operate in and their ANZSIC industry code. The Regulations Policy Paper includes a materiality clause, allowing corporations to exclude some of their facilities from the reporting process, however, only if they meet certain requirements. For example, the individual facility may comprise less than 2% of the corporation's total inventory BUT no more than 5% of total inventory can be excluded.

## Next Steps

**The process companies should undertake from here is:**

- Review the corporate structure of the company to determine how many entities, subsidiaries, partnerships/joint ventures and facilities are present;
- Assess the amount of energy and fuel used or produced in the course of one year;
- Compare the estimated fuel/energy use/production with the thresholds;
- If use/production is over or near the 2008/2009 threshold, implement a data collection system to capture information for the 2008-2009 financial year;
- If use/production is over or near thresholds for the 2009/2010 or the 2010/2011 financial years, schedule the capture of information for those reporting periods. ■

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