

### Practice Update

November 2021

#### Preparing for the new Director ID regime

As part of its Digital Business Plan, the Government announced the full implementation of the 'Modernising Business Registers' program.

This included recently enacted legislation introducing the new **director identification number** ('director ID') regime.

The director ID is a unique identifier that a director will need to apply for once and will keep forever.

The introduction of director IDs is intended to create a fairer business environment by helping prevent the use of false and fraudulent director identities, which *"will go a long way to better identifying and eliminating director involvement in unlawful activity"*.

*Note: Note that **all** directors will need to apply for a director ID, including directors of corporate trustees of self-managed super funds ('SMSFs') and of family trusts.*

Individuals will be able to apply for a director ID **from 1 November 2021** on the new Australian Business Registry Services ('ABRS') website (at [abrs.gov.au](http://abrs.gov.au)) and will need to log in using the myGovID app (set to a 'Standard' or 'Strong' identity strength).

When an individual must apply for a director ID depends on the date they became a director. For directors under the *Corporations Act*:

- who became a director **on or before 31 October 2021**, they must apply for a director ID by 30 November 2022;

- who become a director **between 1 November 2021 and 4 April 2022**, they must apply for a director ID within 28 days of appointment; and
- who become a director **from 5 April 2022**, they must apply for a director ID **before** their appointment.

Individuals will need to apply for their director ID themselves to verify their identity (i.e., no one can apply for it on their behalf, including agents).

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#### Varying PAYG instalments due to COVID-19

Taxpayers can vary their pay as you go ('PAYG') instalments throughout the year if they think they will pay too much, compared with their estimated tax for the year.

To assist taxpayers who continue to be affected by COVID-19, the ATO has stated that it will not apply penalties or interest on varied instalments for the 2021/22 income year for excessive variations when the taxpayer has taken **reasonable care** to estimate its end of year tax.

The ATO says this means making a **reasonable and genuine attempt** to determine the tax liability. When considering if a genuine attempt has been made, the ATO takes into account what a reasonable person would have done in the same circumstances.

Note that variations do **not** carry over into the new income year.

Therefore, if a taxpayer made variations in the 2020/21 income year, they may need to vary again in 2021/22. The varied amount or rate will apply for all of the remaining instalments for the income year, or until the taxpayer makes another variation.

The ATO encourages taxpayers to review their tax position regularly and vary their PAYG instalments as their situation changes.

If a taxpayer realises they have made a mistake working out their PAYG instalment, they can correct it by lodging a revised activity statement or varying a subsequent instalment.

If a taxpayer is unable to pay an instalment amount, they should still lodge their instalment notice and discuss a payment arrangement with the ATO to ensure they will not have a debt at the end of the year.

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### Permanent changes to AGMs and electronic communications

The Government has introduced into Parliament a Bill to **permanently** allow companies to use technology to meet their regulatory requirements, and ensure that companies can continue to meet their obligations amid the uncertainty of the COVID-19 pandemic.

*Note: These reforms build on the recently renewed temporary relief, which will remain in place until 31 March 2022.*

Specifically, the new permanent reforms will:

- ensure that **meetings** can be held physically, as a hybrid, or (if expressly permitted by the entity's constitution) virtually, provided that members, as a whole, are given reasonable opportunity to participate in the meeting;
- ensure that companies (and registered schemes) can meet their obligations to **send documents** in hardcopy or softcopy, and give members the

flexibility to receive documents in their preferred format; and

- allow documents, **including deeds**, to be validly executed in technology neutral and flexible manners, including by company agents.

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### AUSTRAC transaction report information data-matching program

The ATO will acquire transaction report information data from AUSTRAC for the period of 17 June 2021 through to 30 June 2027.

*Note: AUSTRAC (the Australian Transaction Reports and Analysis Centre) is the Australian Government agency responsible for "detecting, deterring and disrupting criminal abuse of the financial system to protect the community from serious and organised crime".*

The data elements made available to the ATO will depend on what is captured in the reporting process and can include identifying information of customers and institutions facilitating transactions, identifiers such as ABNs, ACNs and Australian Financial Services Licence details, and transaction details (including transaction type, accounts, instruments, amounts and currency).

The ATO estimates that records relating to approximately **nine million** individuals will be obtained each financial year.

The data will be acquired and matched to ATO data to support the administration and enforcement of tax and superannuation laws, including registration, lodgment, reporting and payment responsibilities.

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### Government payments data-matching program

The ATO will acquire government payments data from government entities who administer government programs for 2017/18 to 2022/23 financial years.

The data items include:

- service provider identification details (names, addresses, phone numbers, email, dates of birth, service type, ABN, ACN); and
- payment details (service provider ID, name of service, type of service linked to program, value of payments received for the financial year, count and type of claim, withholding and re-credit amount).

The ATO estimates that records relating to approximately 36,000 service providers will be obtained each financial year (including approximately 11,000 individuals each financial year).

### Martin & Orr Accountants

52 Sorrell Street, North Parramatta NSW 2151

Ph 61 2 98904411, Fax 61 2 98904433

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