

By Gillian Bristow

Taxable Payments Reporting System to affect road freight industry from 1 July 2019

From 1 July 2019, road freight businesses will have to report payments made to contractors to the ATO. This comes as a result of Federal Parliament passing the Treasury Laws Amendment (Black Economy Taskforce Measures No 2) Act on 15 November 2018.

When will the changes take effect?

As a result of the amendments, road freight businesses must report payments made to contractors to the ATO each year using the Taxable Payments Annual Report. Road freight businesses will need to lodge their first Taxable Payments Annual Report in August 2020 for payments made to contractors between 1 July 2019 and 30 June 2020.

The Act follows recent changes that extended the Taxable Payments Reporting System to businesses providing courier services. Courier businesses need to lodge their first Taxable Payments Annual Report in August 2019 for payments made to contractors between 1 July 2018 and 30 June 2019.

What are 'road freight services'?

The draft guidance material on the ATO website provides that 'road freight services':

- include transportation of freight by road, the leasing or hiring of trucks with drivers for road freight transport (wet hire) and road vehicle towing services
- do not include the leasing or hiring trucks without drivers (dry hire), operating road freight terminals or providing crating or packing services.

What information will need to be reported?

The information road freight businesses will need to report includes:

- the contractor's ABN (where known)
- the contractor's name and address
- total amounts paid to the contractor during the financial year (including any GST).

Penalties may apply for not lodging the annual report by the due date.

The ATO will use the information to identify contractors in the industry who are not accurately reporting their income.

The ATO is also likely to share this information with the various Offices of State Revenue to assist in their payroll tax audit activity. Road freight businesses should check that payments to contractors are either included in their taxable wages calculations or fall within one of the relevant exemptions for payroll tax purposes.

Find out more
For more information please call Gillian Bristow on (07) 3366 0451.

Case Study

Employer fined $375,000 after fatal forklift accident

In a recent decision of the New South Wales District Court, an employer was fined $375,000 following the death of an employee crushed between a forklift, which was carrying a large bin, and a wall. The decision highlights the need for employers to identify workplace risks and to take steps to implement safe systems of work.

What happened in this case?

Macleay River Protein Pty Ltd operated a plant that processed inedible animal by-products from an abattoir on the same site. On 4 August 2015, an employee of the company, Jason Noble, suffered fatal injuries when he was crushed between a forklift, which was carrying a large bin, and a wall.

Mr Noble had stopped the forklift on a sloping paved area. While he was repositioning the bin on the tines of the forklift, the handbrake released and the forklift rolled forward, pinning Mr Noble against the wall. Subsequent examination of the handbrake found that the notches in the lever were worn, allowing the handbrake to release with minimal pressure.

Mr Noble was booked to start TAFE training on 21 August 2015 to obtain his forklift licence. However, at the time of the accident, he did not hold a forklift licence and was not being supervised by a licensed forklift driver.

The company had not carried out an assessment of the risk of getting caught between the forklift and a stationary object. There was no system of work that prohibited the parking of a forklift on an incline or requiring the wheels of forklifts to be chocked when the vehicle was parked on an incline.

After the accident, the company offered counselling and provided financial support to Mr Noble's family. Mr Noble and his wife had a 10 month-old son, and were expecting was a second child when he passed away.

In response to the accident, the company took measures to improve their systems of work to prevent similar accidents in the future. These measures included:

- implementing a register of forklift keys;
- issuing an instruction that no one was to operate a forklift without a current licence;
- requiring a checklist to be completed before any forklift was used on site;
- arranging external training for forklift operators;
- developing a new operating system for forklifts, which specifically required the use of chocks if a forklift needed to be parked on an incline; and
- engaging external work health and safety consultants who conducted a complete risk assessment of all traffic at the site and developed and implemented a traffic management plan.

The company pleaded guilty to an offence under the New South Wales Work Health and Safety Act 2011 for failing to ensure, so far as is reasonably practicable, the health and safety of workers engaged by the company.

The penalty

In determining an appropriate penalty, the company's conduct after the accident was taken into account as evidence of its good character and good prospects of rehabilitation.

However, the Court noted that this was not a case where there was a momentary lapse in ensuring safe working methods were followed. At the time of the accident, there was no adequate system of work requiring wheels to be chocked on an incline. This was despite the fact that use of wheel chocks was a simple remedial step, which would have completely avoided the risk. Further, the risk of someone placing their body between a heavy vehicle and a wall, when that vehicle was on an incline, was an obvious and serious one.

In light of these considerations, the Court found that the company's culpability was mid-range. A penalty of $500,000 was considered appropriate but was discounted by 25% to $375,000 to reflect the company's plea of guilty.

Lessons for transport operators

Employers must ensure the safety of their workplace 'so far as is reasonably practicable'. This case emphasises that the courts will take a robust approach to what is 'reasonably practicable' in the context of a high risk workplace. Transport operators and warehouse operators regularly operate 'high risk' workplaces where forklifts and pedestrian traffic co-exist and it is therefore vital that they undertake and document appropriate risk assessments and that employees and contractors undertake proper training.

Transport operators will be aware that, under the new chain of responsibility provisions that commenced on 1 October 2018, all parties in the chain of responsibility have a duty to ensure the safety of their transport activities 'so far as is reasonably practicable'. This case serves as a timely reminder for transport operators to review their policies and procedures to ensure that comprehensive measures are in place to manage the risks associated with their business activities.