ASIC's new alert list offers guidance on suspicious investment "opportunities"

As a part of the government strategy to target investment scams, ASIC and the Australian Competition and Consumer Commission (ACCC) – through the newly formed National Anti-Scam Centre – have published an investor alert list which may help consumers to identify whether entities they are considering investing with could be fraudulent, running a scam or unlicensed. While the list is not exhaustive, as new scams are appearing every day, any reduction of consumer harm, financially and non-financially, is surely a positive step.

According to the National Anti-Scam Centre, which commenced operation on 1 July 2023, Australians reported a record $3.1 billion of losses to scams the previous year. The Centre is already making inroads by highlighting the most harmful scams and making it easier for Australians to report scammers, and it will build its capabilities over the next three years, working on a new system to improve scam data-sharing across government and the private sector.

The new investor alert list replaces the previous list of "companies you should not deal with" issued by ASIC, and has the advantage of including both domestic and international entities that regulators are concerned about. These concerns largely relate to entities operating and offering services to Australians without appropriate licenses, exemptions, authorisation or permission. The alert list also includes entities that run impersonation scams, falsely claiming to be associated with legitimate and often well-known businesses.

ASIC recommends conducting the following checks before handing over any investment money:

- Check whether the company or person is licensed or authorised: generally, a company or finance professional must hold an Australian financial services (AFS) licence to issue or sell investments in Australia, or they must be an authorised representative of an AFS licence holder.
- Understand how the investment works: ASIC recommends obtaining a product disclosure statement (PDS) or prospectus from the public website for the company, speaking to a financial adviser and/or searching ASIC's Offer Noticeboard.
- Check for common signs of an investment scam: confirm the company's details through open-source searches and consider calling the number on the public website. Be wary of any offer documents sent by email.

TIP: You can consult the investor alert list at https://moneysmart.gov.au/check-and-report-scams/investor-alert-list.

ATO pauses "debts on hold" awareness campaign

In response to community feedback and perhaps to negative commentary in the media, the ATO has announced it is pausing its "awareness campaign around tax debts on hold". It notes that the purpose of the letters it sent was to ensure that taxpayers had full visibility of their existing tax debts. Nonetheless, it will undertake a review into its overall approach to debts on hold before progressing any further.

If your small business has tax amounts owing to the ATO and hasn't received a letter thus far, keep in mind that you may still have a debt on hold.

Many small business debts were put on hold entirely by the ATO (meaning debt amounts were not deducted from tax refunds or credits) during the COVID-19 pandemic's rapidly changing business conditions, with the intention of giving these businesses a chance to recover and rebuild. The Australian National Audit Office reviewed this approach and found it to be inconsistent with the law, and the ATO then received clear advice that by law, any credits or refunds that a small business becomes entitled to must be used to pay off (offset) its tax debt. This action is generally automatic, and should apply even where the ATO is not actively pursuing the debt (such as was the case during the height of the pandemic).

Due to the legal requirement for offsetting, small businesses with debts on hold may now find that any credits or refunds from lodged tax returns or BASs may be less than expected, or may even be reduced to zero. After the offsetting, any balance payable relating to your business's debt on hold will remain on hold until it is paid in full.

You don't need to actively do anything in relation to offsetting of debts, and you will only need to contact the ATO if you'd like to make payments towards your debt on hold or make a request for the ATO not to offset.

TIP: There are very limited circumstances where the ATO has the discretion not to offset a debt and to instead issue a refund. Contact us to find out more.

The easiest way to check whether a debt on hold exists is through ATO online services. You may need to download a file with all transactions on the applicable account to check, as debts on hold will not show as an outstanding balance on the account (because of their "on hold" status).

It's important to be aware that debts on hold can be reactivated at any time where the ATO believes that there's capacity for your business to pay. You will be notified if this is going to happen, usually in writing. A reactivated debt *will* show as an outstanding balance on the relevant account in ATO online services.

While the ATO acknowledges that its approach to communicating about debts on hold caused "unnecessary distress", particularly to taxpayers whose debts were incurred several years ago, it has verified that all debts exist and that all taxpayers were previously informed when the debt was originally incurred through their notice of assessment.

Simplified payroll reporting and STP Phase 2: employers take note

While Single Touch Payroll Phase 2 (STP Phase 2) started on 1 January 2022, many digital service providers have a deferral in place to enable them to transition their customers over time. Under STP Phase 2, businesses report certain information directly to the ATO through their payroll software, such as:

- details of the remuneration they pay (eg salary and wages to employees, directors' remuneration);
- details of PAYG withholding, including how the amounts are calculated; and
- superannuation liability information.

STP Phase 2 doesn't change which payments employers need to report through STP, but it does change how those amounts need to be reported.

Employers need to take note that STP Phase 2 changes require your input. Carefully review your payroll reporting codes to ensure accurate data submission to the ATO through STP.

You will now start to see BAS data pre-filling by the ATO.It's important to cross-check the pre-filled information with your payroll records to prove the correct data has been submitted to the ATO and ensure correct withholdings are remitted. Any anomalies you identify may highlight errors in your system configuration.

Don't forget that when an employee leaves a job, information must be provided in the employer's STP Phase 2 report, including the employment cessation date and the correct code indicating why the employee left. Details of termination payments must also be reported to the ATO.

$20,000 instant asset write-off for small business: beware timing

Legislation is currently before Federal Parliament that proposes to allow a deduction of $20,000 (up from $1,000) for the instant asset write-off of depreciating assets acquired by small business entities in the period from 1 July 2023.These new rules were previously announced by the Federal Government in its May 2023 Federal Budget.

In the period from March 2020, as part of tax relief measures arising out of the COVID-19 pandemic, temporary full expensing of certain depreciation assets allowed many businesses to write off the entire cost of certain assets. The latest Bill proposes that from 1 July 2023, under simplified depreciation rules, depreciating assets costing less than $20,000 (excluding GST), may be immediately deducted, where the asset is first used or ready for use in the year ending 30 June 2024. Note that depreciating assets that are first used or installed ready for use for a taxable purpose on or after 1 July 2024 will be subject to the $1,000 threshold.

The $20,000 threshold will apply on a per-asset basis, so small businesses will be able to instantly write off multiple assets.

The instant asset write-off rules are available to entities that meet the definition of "small business entity" and where the entity carries on a business with an aggregate turnover of less than $10 million. Connected entities to a small business taxpayer may also need to be considered to qualify for a deduction under the $20,000 instant asset write-off.

Depreciating assets that cost $20,000 or more are allocated to a small business entity general small business pool and can then be deducted at the rates of 15% in the year the asset is allocated to the pool and 30% in subsequent years.

If the balance of a small business entity's general small business pool is less than $20,000 at the end of the income year ending 30 June 2024, the small business entity will be able to claim a deduction for the entire balance of the pool.

JobKeeper assessment: Treasury report released

Treasury has released the *Independent Evaluation of the JobKeeper Payment Final Report*. The report considers both the impact and processes of JobKeeper. The evaluation assesses the effectiveness of JobKeeper in achieving its objectives, and records lessons learned from the design and implementation of JobKeeper, with a view to informing future policy responses.

JobKeeper was a central pillar of the policy response in Australia to the COVID-19 pandemic. It was a wage subsidy and income support program announced on 30 March 2020, as the third instalment in a series of economic support packages introduced in the space of three weeks. Modifications to policy design, including changes to eligibility criteria and the payment rate and structure, were made following a three-month review. JobKeeper remained in place until 28 March 2021.

The report finds that JobKeeper provided certainty during a crisis, and its take-up was high. It provided support to around four million employees – almost one-third of Australia's pre-pandemic employment population – and around one million businesses. Credible estimates suggest that JobKeeper preserved between roughly 300,000 and 800,000 jobs.

With a total cost of $88.8 billion, JobKeeper was the one of the largest fiscal and labour market interventions in Australia's history. The initial six months of the program cost approximately $70 billion. The first and second three-month extensions cost around $13 billion and $6 billion respectively.

JobKeeper was implemented with incredible speed and was well managed, the report finds. The incidence of fraud was low, and in particular lower than for other ATO-administered programs and taxes such as the cashflow boost, GST tax receipts and large corporate groups income tax.

However, the report says, narrow recipient eligibility and exclusions reduced the effectiveness of JobKeeper and had negative economic consequences.

Exclusions based on employee characteristics such as being a short-term casual or temporary migrant worker compromised the efficacy of JobKeeper and "led to worse outcomes". In particular, the exclusion of short-term migrants from JobKeeper likely reduced the productive capacity of the Australian economy and constrained recovery in some sectors.

The report states that transparency requirements should be built into policy design to "build public trust and enable appropriate scrutiny of public expenditures". JobKeeper did not include in its design a public registry or disclosure requirement for entities that received the payment.

JobKeeper was a policy designed for an extraordinary situation. While it was justified during the pandemic, such a policy should be reserved for a macroeconomic crisis and is not appropriate for industry or region-specific shocks or downturns in Australia, the report says.