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# In the Loop

**MARCH/APRIL 2016**

## **OFFICE CLOSURE**

We will be **closed** for the following public holidays:

- **Easter period closing 5:15pm Thursday 24 March and reopening on Wednesday 30 March 2016.**
- **ANZAC day on Monday 25 April 2016.**



## **IN THIS ISSUE:**

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### **An important message**

While every effort has been made to provide valuable, useful information in this publication, this firm and any related suppliers or associated companies accept no responsibility or any form of liability from reliance upon or use of its contents. Any suggestions should be considered carefully within your own particular circumstances, as they are intended as general information only.

## News from our office

### 2015 Christmas Party

In almost 40 degree heat the Kilara team slip, slopped, slapped and armed with plenty of h2o braved the very hot conditions to spend the day kayaking on the Murray River with the help of Murray River Canoe Hire. Our team leader Jan Douglas had her work cut out for her keeping the troops in line. This was a first time experience for many of the group and everyone thoroughly enjoyed themselves.

Those who chose not to kayak spent the time enjoying the exhibition at MAMA (Murray Art Museum Albury) and from all accounts this was a fantastic experience.

After the kayaking and art gallery the team enjoyed a very lovely bar-b-que at Noriel Park in Albury.



## 60 Years of Marriage

Kilara would like to congratulate client's Len and Bev Wilson on their 60th wedding anniversary.

The couple enjoyed their special celebration with a special lunch at the Corowa Golf Club.

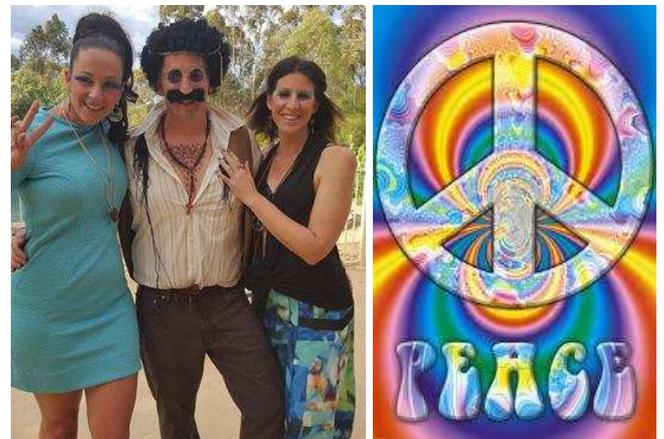
## Karly Wins Wangaratta Gift

Karly Tafft recently competed in the 2016 Wangaratta Gift. In warm conditions Karly had a very successful day winning not only the Women's 120m Gift, but also the women's 400m. This is a fantastic achievement for Karly who trains very hard.



## Living in the 70's

Andrew Holmes, wife Rosetta and sister Sarla dressed to impress at a "Living in the 70's" party in February.



## GOOD BYE AND GOOD LUCK

It is with much regret that we say goodbye to Matthew Noll. Matthew has taken up a position at Trinity Anglican College in Thurgoona. Matthew first came to Kilara in 2007 as a work experience student and started a traineeship as an accountant in 2010 and then completed his degree in 2013. Matthew is going to be very sorely missed and we wish him all the very best in this new chapter of his life.

## Exciting Changes are coming!

On 15 March 2016 Kilara Group hosted a Cloud based accounting information seminar at the Oddfellows Hall in Corowa.

The night touched on information topics such as Cloud based accounting, use of Xero and Figured, spotlight reporting, MyFirm App and packages that could be tailored to suit each individual client's needs.

### So what is this thing called the cloud?

Think about when you use internet banking. Every time you access this data, you're using the cloud. The cloud is a platform to make data and software accessible online anytime, anywhere, from any device. Your hard drive is no longer the central hub.

### Why the cloud and accounting software are the perfect match.

You can use cloud-based software from any device with an internet connection. Online accounting means small business owners stay connected to their data and their accountants. The software can integrate with a whole ecosystem of add-ons.

Kilara would like to thank the many clients that came along to the seminar.



## Backup Your Cloud Accounting Files

There's a lot to be said for putting your accounts in the cloud. You can work on your books at home just as easily as in the shop or office, you and your accountant can see exactly the same figures at any time, you get the benefits of software improvements throughout the year rather than having to wait for the next annual release, and the provider most likely does a better job of looking after security and backup than you could.

You should still regularly export all your data in a format that can be imported into a different system, in the event you wish to change software, or in the (unlikely) event your software provider fails. This can also happen with desktop software, so it is not just a cloud-based issue.

## XERO

### Exporting

Xero does support the [export of accounting data](#) in various formats, for example the chart of accounts, contacts, general ledger data, invoices, bills and so on can be exported as CSV or Excel files

### Importing / converting to another package

Whether you're starting from scratch or converting from another package [Xero](#) has a solution. From as simply as just being able to import 12 months of bank statements and being able to bulk code them for a cash based solution to importing a previous accounting solution, there is a way to help.

There are enablement & conversions teams that will take all the hard work out of full package conversions or you can organise it yourself following the import instructions & using CSV files.

Contact our office for if you would like more information on Xero.

### Switching providers

Most providers offer or support some kind of data import service if you want to switch from one provider to another. But that assumes your data is accessible, and that might not be the case if your current provider has run into strife.

In the absence of a systematic approach to keeping an up-to-date copy of your financial data and ensuring that copy is usable elsewhere, you're making a fairly serious bet when you pick a cloud accounting system.

*\*Business IT Article 22 January*



## NSW Small Business Grant for New Employees in Newly Created Jobs.

The Small Business Grant is designed to encourage small businesses that do not pay payroll tax to employ new full-time, part-time and casual workers, and expand their business in NSW.

Businesses that increase the number of NSW Full-Time Equivalent (NSW FTE) employees will receive a grant for each additional NSW employee in a new position at the anniversary date of employment.

A business' NSW FTE employees is the total paid hours worked by all NSW employees (i.e. full-time, part-time and casual) during a week divided by the average hours worked by a full-time employee.

### Payment of the grant

The grant is a 1 off payment per new position and is paid by Electronic Funds Transfer when a claim is made.

For full-time employees, the grant amount is \$2,000.

### Application for registration

Employers are required to register their business and the employment of a person in a position that is a new job. When registering a new job, employers are required to advise the number of NSW FTE employees immediately before the position was filled.

Registration for the grant can be made within 60 days after the employment starts.

### Eligible businesses

To be eligible for the grant your business:

- must have an active Australian Business Number (ABN)
- Is not liable to pay payroll tax for a financial year, if any part of that financial year falls within the grant period.

### Eligible employment

The employment of a person is eligible for the grant if:

- the person is employed in a position that is a new job
- the employment commences on or after 1 July 2015 and before 1 July 2019
- the employment is maintained for a period of 12-months

- your number of NSW FTE employees, prior to creating a new position increases and is maintained over a 12-month period
- The services of the employee are performed wholly or mainly in NSW.

### New job

A new job is created if the number of your NSW FTE employee's increases and the number is maintained over a 12-month period from the creation of the new position.

The Chief Commissioner may refuse to pay the grant if your NSW FTE employees decrease for more than 30 days during the 12-month period.

### Minimum employment period

To be eligible for the grant, the minimum employment period is 12-months starting on the date the employment is claimed to commence. Employment is maintained if there is always a person employed in the position.

A vacancy in a position can be disregarded if the number of days the position was vacant does not exceed a total of 30 days.

The grant may be paid if the 30 days are exceeded but only if the Chief Commissioner is satisfied that the length of the vacancy is beyond the employer's control. In this case the grant will be paid on a pro-rata basis.

In the case of part-time or casual employees, the grant amount will be pro-rated based on FTE hours of employment.

<http://www.osr.nsw.gov.au/grants/sbg>

## Tax Office Launches Property Crackdown

The ATO is watching, including SMSF Trustees, more closely to ensure they are meeting their obligations in relation to property transactions.

The ATO has launched a program to obtain details of all tax payers property transactions from as far back as 1985 to match against information they already hold to ensure taxpayers are correctly meeting all tax and other obligations in relation to property dwellings.

Among the haul of information the ATO is set to obtain over the next few months are

- the names of landlords
- lease periods

- dates of property transfers
- names of transferors and
- transferees and valuation details

**IMPORTANT** – Please advise your Accountant of all property transactions to ensure that your tax return is correct.

*\*SMSF Advisor – News Wrap*



## Car Deduction Changes for Individuals, Sole Traders and Partnerships

The government has simplified the car expense deductions for 2015–16 and future income years. From 1 July 2015, the one-third of actual expenses method and 12% of original value method have been abolished.

The two methods available from 1 July 2015 are:

- cents per kilometre method (with some changes)
- logbook method (with no change to its rules)

### Cents per kilometre method

The cents per kilometre method is available for use with some changes. Separate rates based on the size of the engine are no longer available from 1 July 2015. Under the revised method, individuals use 66 cents per kilometre for all motor vehicles for the 2015–16 income years. The Commissioner of Taxation will determine the rate for future income years.

Your claim is based on 66 cents per kilometre for 2015–16 income year-

- You can claim a maximum of 5,000 business kilometres per car

- You don't need written evidence but you need to be able to show how you worked out your business kilometres (for example, by producing diary records of work-related trips).

Where you and another joint owner use the car for separate income-producing purposes, you can both claim up to a maximum of 5,000 kilometres.

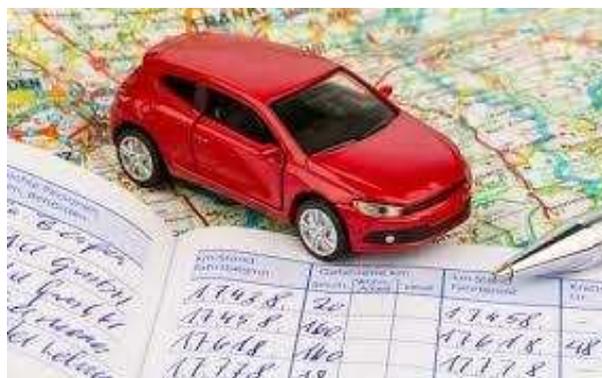
### Logbook method

- Your claim is based on the business-use percentage of the expenses for the car.
- Expenses include running costs and decline in value but not capital costs, such as the purchase price of your car, the principal on any money borrowed to buy it and any improvement costs.
- To work out your business-use percentage, you need a logbook and the odometer readings for the logbook period. The logbook period is a minimum continuous period of 12 weeks.
- You can claim fuel and oil costs based on either your actual receipts or you can estimate the expenses based on odometer records that show readings from the start and the end of the period you had the car during the year.
- You need written evidence for all other expenses for the car.

### Recommendation

If you have a high value/ high cost car we recommend you complete a 12 week log book. Please call our office to discuss your options with Kilara.

<https://www.ato.gov.au/Individuals/Income-and-deductions/Deductions-you-can-claim/Vehicle-and-travel-expenses/Car-expenses/>



## Family Tax Benefit – 2015

It's not too late to lodge your lump sum claim for your family tax benefit for 2015. Once your 2015 Income Tax return has been lodged, you have up until 30 June 2016 to lodge your claims (previously you had two years!). Be aware that if you lodge/lodged your Income Tax return after 31 October, 2015, the Department of Human Services has to make a special request to the Australian Taxation Office to have your income confirmed. This is resulting in substantial delays in the processing of the FTB reconciliations. If you think you may be eligible for Family Tax Benefit for the 2015 year please call Beverly Harvey of our office to discuss how to make your claim. \* Please note that as of 1 January 2016, to be eligible for the School Kids Bonus for the 2015 year, combined parental income must be below \$100,000.00.

## Youth Allowance

Starting Uni can be tough, both for students and parents. However, it can be made a little easier financially, if your son or daughter qualifies for Youth Allowance.

The two **main** ways our clients qualify for Youth Allowance are:

1. As an independent – by earning 75% of the National Youth Training Wage (currently \$22,908) in an 18 month period since leaving school (must have left school at least 18 months prior) **AND** have to live away from home to study **AND** by coming from a remote or regional area of Australia (check Department of Human Services website for designated areas) **AND** combined parental income must be under \$150,000; or
2. As a dependent – If the combined parental income is below \$51,027 a student can receive full rate of payment, currently at \$433.20 per fortnight. If combined parental income is greater than \$51,027 then a student can receive a reduced rate of payment until the cut off threshold is met. The threshold varies depending on the family situation and an assets test may apply.

Applying for Youth Allowance can be overwhelming, with many questions proving

difficult to answer. If you have a son or daughter attending university and would like to know more about Youth Allowance, or whether they may or may not be eligible, please call our office.

\*Students may be eligible for relocation & start up scholarships as well as rent assistance.



## Changes to the Assets Threshold for Age Pensions from 1 January 2017.

From the 1st of January 2017 the assets test for Age Pensioners will be lowered. To receive a full age pension your assets (not including your family home) must be below \$375,000 combined for couples or below \$250,000 for singles, for those who are home-owners. For non-home owners the threshold is \$575,000 for couples & \$450,000 for singles. Once you reach these limits Pensioners will be subject to a new taper rate of \$3 for every \$1,000 above the new assets test free areas, meaning the pension payment will be reduced by this amount per fortnight. If you are concerned about this or would like to discuss how these new thresholds may affect you, please contact our office.

## Travelling with your Age Pension

Did you know that if you're planning on leaving Australia your Age Pension could be affected?

You can generally be paid Age Pension for the whole time you're outside Australia, regardless of whether you leave temporarily or live in another country.

However, the amount you receive may change at certain points based on how long you have been away and your personal circumstances.

You should tell Human Services you're leaving Australia if you:

- are going to live in another country
- are leaving Australia for more than six weeks
- are paid under the terms of an international social security agreement, or
- Have returned to live in Australia within the last two years and you started being paid Age Pension during this period.

Otherwise you do not need to tell Human Services you're leaving Australia.

Human Services will automatically be advised by Australia's immigration department when you leave Australia and when you return.

If you have a Centrelink myGov account you can go online and tell Human Services about your travel plans and get tailored information on how your payments or concession cards could be affected.

If you don't have a myGov account, you can create one at [my.gov.au](http://my.gov.au). We urge you to contact our office prior to doing this.

Find out more information at

<http://www.humanservices.gov.au/paymentsoverseas>



## Employee or Independent Contractors

In law, a person is an employee if their engagement fits within the tests set out in a number of Court decisions. There are various tests/factors to consider. The Australian Industrial Relations Commission judgment in *Abdallah v Viewdaze t/a Malta Travel* sets out a comprehensive list of the factors that the Courts generally consider in a dispute of this type. There are checklists on the ATO website which list some of these factors, however you should be mindful that these ATO checklists are relevant for Taxation and Superannuation purposes and are **not** comprehensive or specific to employment law.

A **few** of the factors to be considered are:

- Whether the contractor is 'in business for themselves (such as separate premises and advertising their services to the world at large) is an indicator.
- Payment on a results basis suggests a contractor arrangement.
- Payment on an hourly rate suggests an employment relationship.
- Requirement to attend personally (cannot delegate) indicates an employment relationship.
- Payment of Workcover insurance premiums indicates an employment relationship, but is not conclusive.
- Withholding of PAYG taxation indicates an employment relationship.
- Payment of superannuation indicates an employment relationship, but is not conclusive.
- Invoices for work undertaken indicate a contractor arrangement.
- Appearance to the rest of the world is an indicator.

These are indicators **only**, and the individual circumstances of each client/business must be taken into account. There are many instances where factors that may be important in other industries or business will not be determinative in the specific circumstances of on client or business.



## Shearers as Independent Contractors

Commonly we have clients who wish to pay their shearers on a 'contractor' basis, rather than an employee basis.

Often the shearers themselves want to be paid as 'contractors' because it is beneficial tax-wise to be paid as a contractor rather than an employee. Arrangements of these types may breach the sham contracting provisions of the Fair Work Act and be otherwise against the law.

There is no automatic assumption that a shearer is an employee or a contractor. Business should not assume that because they call it an 'independent contractor arrangement' that it will be treated that way by the Court. To quote Justice Grey in *Re Porter; ex parte Transport Worker's Union of Australia*:

*"the parties cannot create something which has every feature of a rooster, but call it a duck and insist that everybody else recognise it as a duck."*

A Court will look at all the circumstances and then make a decision.

You should consider the Terms of the Pastoral Award and some other matters that you should be aware of when considering how to engage shearers.

### The Pastoral Award

1. **The Pastoral Award** gives a good indication of the normal industry practice for shearers. The terms of that Award indicate that some factors which might otherwise indicate employment or contractorship will be neutral in an assessment of the circumstances of a shearing worker.

a. Clause 44 of the Pastoral Award 2010 reads: *"Employees engaged for work in a shed, other than Woolclassers and Shearing shed experts, will be engaged on a casual basis in one or more of the following categories:*

• *Shearer;*

- i. Other clauses in the Award distinguish between ongoing employees (farm labourers) and shearers. Unlike other farm labourers, shearers are not engaged continually throughout the year, but are hired for casual periods of a few weeks.
- ii. The Award recognizes that a worker (such as a shearer) who changes location and workplace

periodically is still an employee. The Award also indicates that short term engagements with many employers over the span of a year are to be expected.

iii. The pattern of work of an employee will vary and will look more like numerous casual engagements. Therefore a farmer/business owner hiring a "contractor" whose work pattern is similar to that of an employee will have difficulty in arguing that the worker is not an employee on the basis of pattern of engagement.

iv. Consequently factors that may be relevant for taxation purposes (such as the amount of work coming from a single source) won't have any bearing on determining if a contractor arrangement exists for the purposes of employment law.

b. Clause 10.4 (b) reads:

*"Shearers, Crutchers and Woolpressers will be engaged as casual pieceworkers and paid in accordance with the piecework rates prescribed by this award."*

i. Shearers are paid 'piece work' rates under the Award.

ii. Whether the worker is paid by the hour or by result will not have a bearing on determining that a contractor arrangement exists given the Award's method of calculating wages on a results basis.

[MA000035](#)



### Other indicators

2. **Personal attendance.** Many business owners will say "but I want X to do the work, not to get someone else to do the work". This is a good indicator that what you have is an employment relationship and not an independent contractor arrangement.

3. **Superannuation:** various legislation governs who pays superannuation and in what circumstances. In some cases, superannuation

must be paid **even** for individuals who are otherwise contractors. Therefore, this factor is **not** a good indicator in the absence of other indications.

**4. Whether the contractor is “in business”** – we give 2 different examples to illustrate this point:

2 (1989) 34 IR 179.

a. A person operating a business, who provides labour (generally more than their own), equipment or services, you would generally anticipate that such a person would have business outgoings (wages, equipment maintenance costs, administration costs etc) and there would be a saleable asset(s) created. They would usually advertise their services to “the world at large”, and generally we would expect to see the business approached by clients/customers rather than the reverse. This is the type of contractor/business that would generally be accepted as an independent contractor for the purposes of employment law.

b. A person who has decided to run a business providing their own labour without anything further. There is no saleable asset created. They don’t advertise to the world at large. They may approach or be approached by businesses to “work”. Unless this person is in a trade, profession or calling (such as a plumber, psychologist, IT expert just to give a few examples), this is the type of situation in which any person of entity engaging the “contractor” risks a future accusation of sham contracting. Comparing these 2 scenarios illustrates what is meant by “in business” as it applies to determining if an independent contractor arrangement exists.

We expect that many shearers will fall into the second category, as they are offering their own labour alone, are not creating a saleable entity and don’t have any significant equipment or assets. Please note that small items of equipment (shears) or trained dogs would not usually be considered significant in terms of an assessment of the arrangement. We note that the industry practice in this regard is also identified in the Pastoral Award at clause 29, which includes allowances for the provision of saddles/horses and dogs.

On a side note: sometimes individuals use a proprietary limited company to ensure the “contractor” arrangement stands up to scrutiny. You should be aware that in circumstances like those described in scenario 2 above, the Independent Contractors Act will apply, and the contractor can apply to have the contract set

aside for unfairness for various reasons including if the contractor is paid less than Award entitlements.

**5. ABNs and tax invoices.** Many people express the view to us that an ABN or the provision of tax invoices is conclusive proof of a contractor arrangement. This is not so. ABNs and tax invoices are relevant for taxation purposes, but are only one part of the puzzle in determining whether a worker is an independent contractor or an employee. If it looks like a duck....

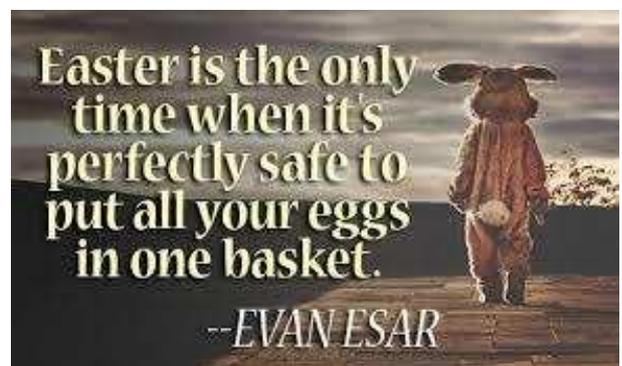
### Warning

Clients need to be very wary before engaging shearers as ‘contractors’. Breach of the sham contracting provisions of the Fair Work Act carries a hefty 60 penalty units (currently \$10,200 for a person involved in the contravention, higher for corporations).

Business owners should not think that because it is a small sum of money or a brief engagement that they will be fine. In 2014 the Federal Circuit Court imposed a penalty of \$57,024 on an employer company as well as \$9,504 on the sole director for sham contracting and underpayment of wages. The employee had worked 6 days! Business owners must consider whether the advantages outweigh the disadvantages when deciding to hire ‘independent contractors’ as opposed to employees. It does not matter if the business/farm has engaged workers as ‘contractors’ in the past without a problem. There is always the risk that the Fair Work Commission will investigate (and prosecute offenders)!

**We urge you to obtain legal advice before taking on an independent contractor.**

<http://www.charlesmorganassociates.com/>



## Do you have enough to retire?

There are so many things that need to be taken into consideration when you are thinking about whether or not you have enough to retire.

You will need to think about what your expenses will be and the kind of lifestyle you would like to have.

Of course there are many factors that you cannot possibly predict. There is no way for you to know how long you might live, what your health care expenses will be, or how your investments will perform in your retirement.

However, despite all of this uncertainty, there are a lot of things you can do to get a much clearer idea about how far your superannuation will take you. A good place to start is by discussing your situation with a professional. The sooner you start talking about whether or not your superannuation is adequate, the better positioned you will be to improve your retirement savings.

Contact our Kilara Financial Solutions team to discuss your options.

AFSL No 244530



## Wishing you a Happy Easter

Malcolm, Andrew, Neil and all staff at Kilara would like to wish all their clients and families a very happy and safe Easter period.

## RECIPE

### EASTER EGG COOKIES



#### Ingredients

250g butter  
120g (2/3 cup) brown sugar  
125ml (1/2 cup) condensed milk  
1 teaspoon vanilla bean paste  
300g (2 cups) Self raising flour  
150g (1 cup) plain flour  
100g dark chocolate or milk chocolate chopped  
100g chopped roasted macadamias  
3 x 125g pkts Cadbury mini eggs  
150g dark chocolate melted

#### Method

**Step 1-**Preheat oven to 180C/160C fan forced. Line three large oven trays with GLAD Bake & Cooking Paper.

**Step 2-**Beat butter in the small bowl of an electric mixer until soft. Add sugar and beat until light and creamy. Add condensed milk and beat until light and fluffy. Beat in vanilla.

**Step 3-**Transfer the mixture to a large bowl. Using a large metal spoon, fold in combined flours, chocolate and nuts, if using. Mix well.

**Step 4-**Roll rounded tablespoons of mixture into balls and place on prepared trays, leaving a little room for spreading. Flatten slightly. Bake for 12 minutes or until pale golden. Quickly and gently press 3 mini eggs into each biscuit, while the biscuits are still warm. Leave the biscuits to cool completely on the trays.

**Step 5-**Drizzle the cookies with melted chocolate and leave to cool, then serve. Store biscuits in an airtight container between sheets of GLAD Bake & Cooking Paper.

[www.taste.co](http://www.taste.co)

*The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.*