Executive summary

The Australian Taxation Office (ATO) has released a new data matching program to collect data from the Department of Home Affairs (DHA) (formally the Department of Immigration and Border Protection). The data collected regarding the visa holders, visa sponsors and migration agent populations is to be used in their risk detection efforts to ensure compliance with tax and superannuation obligations.

Information will be gathered for visas granted in the period 1 July 2017 to 30 June 2020, targeting over 20 million visa holders. In comparison, the last program announced in 2015 targeted approximately 1 million individuals. This continues the trend of extensive data gathering and analysis by the ATO in order to rapidly identify employer errors and omissions.

Key issues

The program has been developed to assist the ATO to effectively detect and deal with compliance risks within the visa holding population with the view of 'investigating and taking steps to mitigate fraud against public revenue'.

The ATO will be obtaining information for active visa holders from the DHA. This will include visa applications, travel movements, names and addresses and other details of visa holders, sponsors and migration agents for the 1 July 2017 to 30 June 2020 Australian financial years.

These records will be electronically matched with ATO data to identify non-compliance with registration, lodgement, reporting and payment obligations under taxation and superannuation laws; in particular:

- income tax returns and business activity statements
- pay as you go (PAYG) withholding, fringe benefits tax and superannuation guarantee.

First collection of data under this program will be quarter one (1 July 2017 to 30 September 2017) of the 2017-18 financial year. The collection will continue progressively on a quarterly basis. The ATO will retain the data for three years given visas frequently cover periods longer than a single financial year.

Before any administrative action is taken, taxpayers will be provided with the opportunity to verify the accuracy of the information obtained by the ATO. The ATO acknowledge there may be instances where the data mismatch is explainable. Taxpayers will generally be given at least 28 days to respond before administrative action is taken.
**Next steps**

Is your business satisfied that there is a process in place to manage the tax risks associated with your visa holders (e.g. your business travellers, expatriates, commuters etc.)?

Employers should consider conducting their own internal audit of all their visa holders (including business travellers) ahead of the ATO investigations. This should include reviewing policies and procedures in place to monitor temporary visa holders. Businesses should also review the effectiveness of employment taxes management and reporting for their visa holder population which could include PAYG withholding, superannuation, fringe benefits tax, workers compensation insurance and payroll tax obligations.

Where gaps are found, voluntary disclosures of tax reporting and payment obligations should be considered.

Although the ATO is targeting those engaging in fraudulent behaviour, this is a timely reminder for all employers who employ visa holders of the growing importance of coordinated compliance activity and the necessity for sound record keeping.

If you have any queries please call your EY advisor. We will be pleased to have a more detailed discussion on how these issues impact your business.