

SEPTEMBER

2022

**LWK** Pty Limited  
ACN 121 288 373

A member of  
**Nexia**  
International

*Chartered Accountants*

*Business Advisers and Consultants*

# The Bottom Line

## - Individual -

### What' new? – Income tax thresholds

Various income tax threshold amounts, and rates increased for the 2022–23 income year. These are listed below.

Item	Threshold/rate for 2022–23
CGT improvements	\$162,899
Div 7A benchmark interest rate	4.77%
Car limit (depreciation)	\$64,741
Car expenses – cents per kilometre method	78 cents/km
Reasonable meal expenses – employee truck drivers	Breakfast – \$26.80
	Lunch – \$30.60
	Dinner – \$52.75
Reasonable meal expenses – other employees	See Taxation Determination TD 2022/10
Overtime meal allowance – reasonable amount	\$33.25
Invalid and invalid carer offset (IICTO)	\$2,943
Maximum adjusted taxable income where IICTO cuts out	\$12,054

### Low and Middle Income tax offset

Don't forget that the Low- and Middle-Income tax offset (**LMITO**) is no longer available from the current income year (2022–23). The income year just ended (2021–22) was the last year for which LMITO was available, and the maximum amount was increased by \$420 to \$1,500. The maximum amount is available where the individual's taxable income ranges between \$48,001 and \$90,000 (inclusive). Above \$90,000, the LMITO phases out at the rate of 3 cents in the dollar until taxable income reaches \$125,000.

There is no need to claim this offset in your income tax return. The ATO applies it automatically to eligible taxpayers. Note that the LMITO is available only to reduce the amount of an individual's income tax liability. It is not a refundable amount and cannot be used to reduce any Medicare levy payable.

## Medicare levy surcharge and private health insurance tax offset

The income thresholds for Medicare levy surcharge and private health insurance (**PHI**) tax offset purposes (which have been frozen until 30 June 2023) are set out in the table below.

	No surcharge & maximum PHI tax offset	Tier 1	Tier 2	Tier 3
Singles	\$90,000 or less	\$90,001 – \$105,000	\$105,001 – \$140,000	\$140,000 or more
Families*	\$180,000 or less	\$180,001 – \$210,000	\$210,001 – \$280,000	\$280,001 or more

\* The family income threshold is increased by \$1,500 for each dependent child after the first child.

The Medicare levy surcharge is 1% for Tier 1 taxpayers, 1.25% for Tier 2 taxpayers and 1.5% for Tier 3 taxpayers.

The PHI tax offset percentage is highest for Tier 1 taxpayers and lowest for Tier 3 taxpayers. The percentage also varies depending on the ages of the persons covered by the relevant health insurance policy. There are 3 age brackets – under 65, 65 to 69 and 70 or above.

## HELP debt

The 2022–23 repayment rates and thresholds if you have a study or training loan, such as a Higher Education Loan Program (**HELP**), VET Student Loan (**VSL**) or Trade Support Loan (**TSL**) debt, are set out in the table below.

Repayment income	Repayment rate
Below \$48,361	Nil
\$48,361 – \$55,836	1.00%
\$55,837 – \$59,186	2.00%
\$59,187 – \$62,738	2.50%
\$62,739 – \$66,502	3.00%
\$66,503 – \$70,492	3.50%

\$70,493 – \$74,722	4.00%
\$74,723 – \$79,206	4.50%
\$79,207 – \$83,958	5.00%
\$83,959 – \$88,996	5.50%
\$88,997 – \$94,336	6.00%
\$94,337 – \$99,996	6.50%
\$99,997 – \$105,996	7.00%
\$105,997 – \$112,355	7.50%
\$112,356 – \$119,097	8.00%
\$119,098 – \$126,243	8.50%
\$126,244 – \$133,818	9.00%
\$133,819 – \$141,847	9.50%
\$141,848 and above	10%

### GDP adjustment for 2022–23

The GST and PAYG instalment amounts are usually adjusted every year by the ‘GDP adjustment factor’. This is either calculated on the basis of changes in the GDP (gross domestic product) over a 2-year period or is a percentage set by law.

For 2020–21 and 2021–22, the GDP adjustment factor was reduced by legislative amendment to nil. For 2022–23, the GDP adjustment factor has been reduced by legislative amendment to 2% (instead of the usual 10% uplift).

### Employee share schemes

The cessation of employment as a taxing point for ESS interests that are subject to deferred taxation has been removed with effect from 1 July 2022.

## Super and ETP thresholds

The superannuation and ETP (employment termination payment) thresholds for the 2022–23 income year are listed below.

	2022–23
Concessional contributions cap for individuals aged under 75 years*	\$27,500
Concessional contributions cap for individuals aged 75+ years	Only mandated employer contributions including superannuation guarantee contributions
Non-concessional contributions cap*	\$110,000
CGT cap amount	\$1,650,000
Low rate cap amount/ETP cap amount	\$230,000
Untaxed plan cap amount	\$1,650,000
ETP life benefit cap amount	\$230,000
ETP life benefit whole of income cap amount	\$180,000
ETP death benefit cap amount	\$230,000
Genuine redundancy/early retirement scheme payment	
- tax-free base limit	\$11,591
- each completed year of service	\$5,797
Co-contribution lower income threshold	\$42,016
Co-contribution upper income threshold	\$57,016

\* The work test for salary sacrificed contributions and non-concessional contributions by persons aged under 75 years was abolished from 1 July 2022.

## Pensions and annuities – minimum drawdown amounts

The 50% reduction in the minimum drawdown amounts has been extended to the 2022–23 financial year. These are the minimum annual payments required for account-based pensions and annuities, allocated pensions and annuities and market-linked pensions and annuities.

Age	Minimum drawdown (indicative only)
Under 65	2%
65–74	2.5%
75–79	3%
80–84	3.5%
85–89	4.5%
90–94	5.5%
95+	7%

If you receive more than the minimum drawdown amount, you can re-contribute these amounts if you are eligible to make superannuation contributions (subject to other rules or limits such as contributions caps).

### Superannuation changes from 1 July 2022

A number of superannuation changes took effect on 1 July 2022, including:

- employees earning less than \$450 a month are now entitled to superannuation guarantee support from their employers;
- the rate of superannuation guarantee increased from 10% to 10.5%;
- the work test for non-concessional and salary sacrificed super contributions for persons aged 67–74 years has been removed (the work test still applies for those aged 67–74 years claiming a deduction for personal super contributions);
- the bring forward rule for non-concessional contributions has been extended to persons aged 67–74 years;
- the eligibility age for making downsizer contributions has been reduced from 65 to 60 years;
- the maximum amount of voluntary superannuation contributions that can be released under the First Home Super Saver Scheme has been increased from \$30,000 to \$50,000.

### COVID-19 early release of superannuation

If you accessed your superannuation early in response to the COVID-19 pandemic, you can choose to re-contribute those amounts by 30 June 2030 without them counting towards your non-concessional contributions cap. The choice must be made in the approved form and given to your superannuation fund before you make the re-contribution.

Superannuation accessed early is tax-free (treated as non-assessable non-exempt income).

## Tax time again!

The due date for lodging your income tax return for the 2021–22 income year is 31 October. However, if you use a registered tax agent to lodge your return, the due date for lodgment is likely to be later than 31 October, possibly even as late as May next year.

If you don't use a registered tax agent, you risk delays to your tax refund (if any) if you lodge your tax return before your income statement is marked as 'Tax ready', i.e. pre-filled with pertinent information from employers, banks, government agencies and health funds.

The ATO has said that waiting for it to upload information 'means people don't have to roll the dice when they lodge, and it's less likely an amendment will need to be made later, which could result in a tax debt'. If necessary, errors or omissions in your tax return can be fixed through the ATO online amendment process through myGov.

### Lodging a tax return

#### *Are you a sole trader?*

- Even if your taxable income is below the tax-free threshold (\$18,200), you still need to lodge a tax return.
- Do you pay PAYG instalments? Lodge your activity statements and pay all your PAYG instalments before you lodge your tax return so your income tax assessment takes into account the instalments you've paid throughout the year.

#### *Are you a partnership?*

If you operate your business in a partnership:

- the partnership lodges the partnership tax return, reporting the partnership's net income or loss (assessable income less allowable deductions).

As an individual partner, you report on your individual tax return:

- your share of any partnership net income or loss
- any other assessable income, such as salary and wages, dividends and rental income.

The partnership doesn't pay income tax on the income it earns. Instead, you and each of the partners pay tax on the share of net partnership income you receive.

#### *Are you a trust?*

- If you operate your business through a trust, the trust reports its net income or loss (this is the trust's assessable income less allowable deductions).
- The trustee is required to lodge a trust tax return.
- As a trust beneficiary, you report on your individual tax return your share of the trust's net income based on your share of the income of the trust to which you are presently entitled from the trust.

### Tax losses

A tax loss is when the total deductions you can claim, excluding gifts, donations and personal superannuation contributions, exceed your total income for an income year.

If you make a tax loss, you may be able to:

- offset the loss in the same income year against other assessable income; or
- carry forward the loss and claim it as a business deduction in a later year (note that only companies can carry a loss back to offset against profits of an earlier income year – sole traders cannot do that).

The rules for record-keeping still apply in relation to business losses. You need to keep records for 5 years for most transactions. However, if you fully deduct a tax loss in a single income year, you need to keep records only for 4 years from that income year.

### Non-commercial loss rules

If you're a sole trader or in a partnership and want to utilise a tax loss, first check if the business activity meets at least one of the tests under the non-commercial loss rules. (Those rules do not apply to losses made by primary producers and professional artists whose income from other sources is less than \$40,000.)

The tests are in general terms:

- *the assessable income test* – this is satisfied if the business activity generates at least \$20,000 a year (or would reasonably be estimated to generate at least \$20,000 if the activity were carried on for the whole year);
- *the profits test* – this is satisfied if the business activity has made a profit in at least 3 of the last 5 tax years, including the current year (in the case of a partnership, the test looks at the individual partner's share of partnership income and deductions);
- *the real property test* – this is satisfied if the total value of real property used on a continuing basis in carrying on the business activity is at least \$500,000;
- *the other assets test* – this is satisfied if the total value of other assets (e.g. depreciating assets, trading stock and intellectual property) used on a continuing basis in carrying on the business activity is at least \$100,000.

If you meet one of the tests, then you can offset the loss against your other assessable income (such as salary or investment income) in the same income year.

If you don't meet the tests, you can carry the loss forward to future years. For example, you can offset it when you next make a profit. You may also be entitled to an exercise of the Commissioner's discretion to use the loss, depending on your circumstances.

Non-commercial losses made by an individual with an adjusted taxable income exceeding \$250,000 are quarantined.

**Tip!** The non-commercial loss rules are complicated. Talk to your tax adviser if you have any doubts about whether a business activity satisfies any of the tests.

### Personal services income

If you operate your business through a company or a trust, income earned by the company or trust from the provision of your personal services (personal services income or PSI) will be attributed to you unless:

- the company or trust is conducting a personal services business (PSB); or
- the PSI was promptly paid to you as salary or wages.

The company or trust will be conducting a PSB if at least one of four tests are satisfied. These are:

- *the results test* (the most important test) – this is based on common law criteria for characterising an independent contractor (in contrast to an employee/employer relationship);

- *the unrelated clients test* – this requires the PSI to be earned from at least two unrelated clients who contract your services as a direct result of an advertisement or other public offer of your services;
- *the employment test* – this requires at least 20% (by market value) of your work to be performed by employees;
- *the business premises test* – this requires you to use business premises that meet certain conditions (e.g. you have exclusive use of the premises and the premises must be physically separate from any premises you use for private purposes).

If 80% or more of your PSI (with certain exceptions) is income from one client (or the client and their associate(s)) and the results test is not met, the company or trust will only be able to be treated as conducting a PSB if it obtains a PSB determination from the ATO.

If a company or trust is not conducting a PSB and the PSI was not promptly paid to you as salary or wages, the PSI is attributed to you, the company or trust has PAYG withholding obligations and there are limitations on certain deductions. The company or trust cannot deduct amounts that relate to gaining or producing your PSI, unless you could have deducted the amount as an individual or the company or trust received the PSI in the course of conducting a PSB.

Even if you don't use a company or trust to derive your PSI, there are limitations on the deductions that you may claim against your PSI. For example, you may not be able to deduct certain home office expenses, for example, occupancy expenses such as mortgage interest or rent.

**Tip!** The PSI rules are complicated, especially if you provide your services through a company or trust. Talk to your tax adviser if you have any questions.

### Home office

A lot more people are working from home because of the COVID-19 pandemic. If you operate your business from a home office, you may be able to deduct the expenses of running that office. A home office is a room in your home that is used exclusively (or almost exclusively) for business activities.

Expenses you can claim a deduction for include:

- *occupancy expenses* – these include rent, mortgage interest, water rates, land taxes and house insurance premiums. Occupancy expenses are usually calculated by apportioning the expenses between the home office and the rest of the property on a floor area basis;
- *running expenses* – these are the increased costs from using your home for your business, including electricity or gas charges for heating, cooling and lighting, cleaning costs and the decline in value and the cost of repairs of deprecating assets such as furniture, furnishings and equipment; and
- *work related phone and internet expenses*, including the decline in value of the handset – an apportionment will be required if the phone or computer is not used exclusively for work.

If you are entitled to claim occupancy expenses in relation to your home, you may have a capital gains tax (CGT) liability when you sell your home, due to the possible partial loss of



the main residence exemption. The CGT issue arises when you are entitled to claim occupancy expenses, not whether you actually do claim them.

If you work from home but don't have a home office as such, you can still claim deductions for 'running expenses'. To simplify matters, the ATO allowed a rate of 80 cents per hour for running expenses incurred in the 2021–22 income year. Of course, you can still make a claim based on your actual running expenses if it produces a larger deduction. But remember that those expenses will need to be apportioned between work and private use and substantiation of the expenses you have incurred will be required.

### Small business tax offset

If you are a sole trader, an individual who is a partner in a business partnership or an individual who is a beneficiary of a trust that carries on a business, you may qualify for the small business tax offset if the business' aggregated turnover is less than \$5 million (yes, \$5 million and not the general \$10 million small business aggregated turnover threshold). The offset is not available to an individual acting as a trustee.

The offset for the 2021–22 income year (and also for the 2022–23 income year) is equal to 16% of the income tax payable on the sole trader's or other individual's taxable income that qualifies as their net small business income.

The offset is capped at \$1,000.

### COVID-19 payments

If you received a COVID-19 disaster payment during 2021–22, because state or territory health orders prevented you from working in your usual employment:

- that payment is exempt from income tax; and
- you do not include the payment in your tax return.

If you received a pandemic leave disaster payment during 2021–22, you must include it in your tax return as income. These payments were made to eligible individuals who were unable to earn income because either:

- they had to self-isolate or quarantine at home; or
- they were caring for someone with COVID-19.

### Deductions for work-related quarantining

Expenses for accommodation, food and drink are normally private in nature and not deductible. However, you can claim a deduction for accommodation, food, drink and incidental expenses you incur if you are 'travelling on work' during COVID-19 and must quarantine.

You cannot claim a deduction for quarantine expenses you incur when you:

- travel to or from a work location and need to quarantine; or
- need to quarantine for another purpose (for example, returning from a private holiday), even if you can work from the quarantine location.

The fact you were working or are able to work from a quarantine location doesn't mean you meet the definition of 'travelling on work'.

If you incur expenses for both work purposes and private purposes, you will need to apportion your expenses. You can only claim the expenses that relate to your work activities.

### Deductions for COVID-19 tests

You can claim a deduction for costs you incurred for COVID-19 test expenses provided the test was undertaken for a work-related purpose, and the purpose of the test was to determine whether you could attend or remain at a place of work. The test can be any test in the Australian Register of Therapeutic Goods, such as a polymerase chain reaction (**PCR**) test or rapid antigen test (**RAT**).

To claim a deduction, you must have records to prove that:

- you incurred the cost (usually a receipt); and
- the cost of the test was incurred in gaining or producing your assessable income
- the purpose of the test was to determine whether you could attend or remain at a place of work.

You can also claim a deduction for the cost of a COVID-19 test if you required the test to undertake travel away from your home overnight for work purposes.

You should claim only the work-related portion of your expense on COVID-19 tests. For example, if you buy a multipack of 5 COVID-19 tests and you use 2 for work purposes and the other 3 for non-work purposes – such as for other family members or for leisure activities – you may claim only  $\frac{2}{5}$  (40%) of the expense.

You can't claim a deduction for the cost of a COVID-19 test if:

- you used the test for private purposes, for example to test your children before they returned to school;
- you worked from home and did not intend to attend your workplace; or
- your employer provided the test or you were reimbursed for the cost of the test.

You can't claim the cost of travelling, or of parking, to get a COVID-19 test.

## From the ATO

### SMSF – appointing an auditor

If you have a self-managed superannuation fund (**SMSF**), you need to appoint an approved SMSF auditor at least 45 days before the due date for lodging the 2021–22 SMSF annual return. The lodgment dates are:

- 31 October 2022 – new registrant SMSFs and SMSFs with one or more annual returns overdue on 30 June 2022 (unless they have been granted a deferral);
- 15 January 2023 – SMSFs that were taxable large or medium entities in 2021–22;
- 28 February 2023 – all other self-preparing SMSFs (unless the ATO has directed the SMSF to lodge on a different date).

The role of an approved SMSF auditor is to review the SMSF's financial statements and accounts, and to assess its compliance with superannuation laws.

The auditor must be registered with ASIC and independent of the SMSF. You can find a list of approved SMSF auditors on the ASIC website.

The ATO recommends that you start the process of appointing an auditor early as approved SMSF auditors can be busy.

### Foreign owners of residential property

If you are a foreign owner of residential property in Australia, you are required to pay an annual vacancy fee if your property is not residentially occupied or rented out for 183 or more days (6 months) in a year. A year for these purposes (a vacancy year) is each successive period of 12 months starting on the occupation day for the property during which you have continuously held an interest in the dwelling. A vacancy year is not a calendar year or a financial year.

The vacancy fee return must be lodged if you:

- made a foreign investment application for residential property after 7:30pm AEST on 9 May 2017;
- purchased under a New Dwelling Exemption Certificate that a developer applied for after 7:30pm AEST on 9 May 2017.

The vacancy fee may also apply if you failed to submit a foreign investment application but purchased a residential property before 9 May 2017.

You do not have to lodge a vacancy fee return until a dwelling has been constructed on the land. When multiple dwellings are constructed on the land, a vacancy fee return must be lodged for each new dwelling constructed.

You must lodge a return even when the dwelling has been occupied or made available for rent. If it is owned by 2 or more people as joint tenants, only one return has to be lodged. However, if it is owned by 2 or more people as tenants in common, each foreign owner must lodge a vacancy fee return.

A vacancy fee return must be lodged with the ATO within 30 days after the end of each vacancy year.

If any of the following occur during a vacancy year, you will not have to lodge a vacancy fee return:

- you sold the property or it was otherwise legally transferred (including on the death of the owner);
- you are no longer a foreign person.

### The latest scam

The ATO is concerned about a high volume of SMS scams pretending to be from the ATO.

These scams tell you that you're owed an income tax repayment and ask you to click a hyperlink and complete a form.

Clicking the link takes you to a fake ATO webpage that asks for your personal identifying information, including your credit card details.

The real ATO will never send you an SMS with a link to log in to their online services and will never ask for your credit card details.

If you're ever unsure whether an SMS or email is really from the ATO, don't reply. Phone the ATO on **1800 008 540** to check.

*Tip!* Check out the ACCC's [Scamwatch](#) website for helpful tips and resources.

### Fraudulent GST refunds halted

The ATO has reported that the Serious Financial Crime Taskforce has undertaken further enforcement action in respect of 40,000 individuals suspected of being involved in a major GST fraud involving fake businesses to claim false refunds. Search warrants were executed in relation to 5 suspected offenders located in Sydney as part of Operation Protego. This follows earlier action where raids were executed against 19 individuals.

The ATO wants anyone who has given their myGov details to a criminal to contact the ATO so it can assist to protect the individual's identity from being used to commit further crimes in their name. Any individual who believes their identity has been compromised should contact the ATO on **1800 467 033**.

The ATO noted that social media has played a key role in promoting this type of GST fraud, with reports of people offering to buy and sell myGov details in order to access these refunds. Since investigations were commenced in May 2022, the ATO said it has stopped over \$1 billion in fraudulent refunds from issuing.

### Property owner digs himself into a hole

A South Australian taxpayer has received a criminal conviction and been fined \$1,500 with orders to pay \$699.30 in reparation after providing false documents to an ATO auditor about deductions for his rental property.

The ATO commenced an audit into the taxpayer's 2018 tax return after noticing deductions for gardening repairs and maintenance for his rental property were unusually high. When the ATO asked him to supply details about the expenses, the taxpayer provided photos of some tax invoices relating to hire of a skip bin and the removal of some dead trees.

But when the ATO contacted the business that provided those services, it found some discrepancies – the cost of hiring the skip bin was \$210 and not \$1,090 as claimed by the taxpayer.

The taxpayer was charged with two counts of incorrectly keeping records with the intention of deceiving or misleading a Commonwealth public official.

### Taxation statistics 2019–20

The ATO has published on its website various taxation statistics for 2019–20. We have picked out some of the more interesting ones.

The top 10 occupations (by average taxable income) are (in order): surgeon, anaesthetist, internal medicine specialist, financial dealer, psychiatrist, other medical practitioner, judicial or other legal professional, mining engineer, engineering manager and financial investment advisor or manager.

The top postcode (by average taxable income) for individuals is in Perth – 6011. The rest of the top 10 is dominated by Sydney postcodes: 2027, 2023, 2030, 2088, 2110, 2025, 2063, 2028. The one remaining postcode in the top 10 is in Melbourne (number 5 in the list) – 3142.

### *Taxable income and tax*

- *Average taxable income* – \$63,882 (male \$74,559, female \$52,798)
- *Average net tax* – \$19,790 (male \$23,938, female \$15,079).
- *Median taxable income* for 2019–20 was \$48,381 (male \$56,746, female \$41,724).
- *Median net tax* – \$11,330 (male \$14,185, female \$8,697).

### *Deductions*

Deduction item	2019–2020		
	Individuals (no.)	Average (\$)	Median (\$)
Work-related expenses	9,395,149	2,303	1,092
Other expenses included in managing your tax affairs	5,911,137	333	180
Gifts or donations	4,337,321	887	130

When it comes to gifts or donations, WA had the highest average claim – approximately \$1,800 per person. NSW is next in the list at just under \$1,000 per person, followed by the ACT, Victoria, Tasmania, Queensland, South Australia and the Northern Territory.

### *Rental properties*

Property interests (no*)	2019–20		
	Net rent loss (no)	Net rent neutral/profit (no)	Total individuals (no)
1	856,436	736,447	1,592,883
2	227,742	190,895	418,637
3	67,753	61,637	129,390
4	23,709	23,056	46,765
5	9,647	9,624	19,271
6 or more	9,858	10,037	19,895
<b>Total</b>	<b>1,195,145</b>	<b>1,031,696</b>	<b>2,226,841</b>

\*Property interests implies solely or jointly owned properties, including those bought or sold during the year.

## Key tax dates



Date	Obligation
21 Sept 2022	August monthly BAS due
30 Sep 2022	Finalisation due date by payers of PAYG withholding payments reporting through STP for closely held payees
21 Oct 2022	September monthly BAS due Payment of annual PAYG instalment for 2021–22
28 Oct 2022	September quarter BAS due Payment of first PAYG instalment for 2022–23 by quarterly payers
31 Oct 2022	2021–22 income tax return due
	PAYG withholding annual reports due (no ABN withholding; interest, dividend and royalty payments paid to foreign residents; and payments to foreign residents)
21 Nov 2022	October monthly BAS due

**Note!** Talk to your tax agent to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by COVID-19 or a natural disaster.

### Disclaimer

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