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The Bottom Line

- Business -

WHAT'S NEW – TAX CHANGES FROM 1 JULY 2023

The ending of temporary full expensing (which allowed until 30 June 2023 an immediate deduction for the cost of an eligible depreciating asset for businesses with an aggregated turnover of less than $5 billion), but the instant asset write-off threshold is proposed to be $20,000 for small businesses (see below);

- The ending of loss carry back (which allowed until 30 June 2023 companies to carry back tax losses back as far as the 2018–19 income year);
- the expansion of the third-party reporting system to include short-term accommodation transactions and taxi and ride-sourcing services;
- in Victoria, businesses with national payrolls more than $10 million a year will pay an additional surcharge (to address Victoria's COVID-19 debt) on Victorian taxable wages. The surcharge is 0.5%, increasing to 1% for businesses with national payrolls of more than $100 million. This additional surcharge will apply for 10 years until 30 June 2033.

Increased thresholds/rates

A new tax year (2023–24) started on 1 July 2023. Although the personal income tax rates haven't changed (the Stage 3 income tax cuts don't start until 1 July 2024), various other amounts and rates have increased for 2023–24. These are listed below.

Item	Threshold/rate for 2023–24
CGT improvement threshold	$174,465
Division 7A benchmark interest rate	8.27%
Car limit (depreciation)	$68,108
Car expenses – cents per kilometre method (individuals and individuals in partnership only)	85 cents per kilometre

Reasonable meal expenses – employee truck driver	Breakfast: $28.75 Lunch: $32.80 Dinner: $56.60
Reasonable meal expenses – other employees	See Taxation Determination TD 2023/3
Overtime meal allowance – reasonable amount	$35.65
Superannuation guarantee rate	11%
Superannuation guarantee maximum contribution base	$62,270 per quarter

Instant asset write-off

Temporary full expensing ended on 30 June 2023. However, small businesses (aggregated annual turnover of less than $10 million) can access the instant asset write-off. This allows a small business to deduct in full the cost of a depreciating asset if its cost is less than the relevant threshold which, for the 2023–24 income year, is proposed to be $20,000.

The asset must be first used (or installed ready for use) between 1 July 2023 and 30 June 2024.

The temporary $20,000 threshold was announced as part of the Federal Budget 2023–24 in May 2023, although it is yet to be legislated.

GDP adjustment for 2023–24

The GST and PAYG instalment amounts are usually adjusted every year by the 'GDP adjustment factor'.

For 2023–24, the GDP adjustment factor is 6%. For 2022–23, the GDP adjustment factor was 2%.

Bonus deduction for energy efficiency

A 20% bonus deduction will be available to businesses with aggregated annual turnover of less than $50 million which incur deductible expenditure that supports electrification and more efficient use of energy. This will include expenditure on assets that upgrade to more energy-efficient electrical goods.

The bonus deduction will not apply to electric vehicles, renewable electricity generation assets, capital works and assets that are not connected to the electricity grid and use of fossil fuels.

Up to $100,000 of total expenditure will be eligible for the incentive with a maximum bonus of $20,000 per business.

Eligible assets or upgrades will need to be first used, or installed ready for use, between 1 July 2023 and 30 June 2024.

Penalties

The value of a penalty unit has increased from $275 to $313 where the relevant offence is committed, or relevant act or omission occurs, on or after 1 July 2023.

AAT and Court fees

If you are thinking of challenging an assessment or other ATO decision and it ends up before the AAT or the Federal Court, you may be interested to know that the AAT and Federal Court fees increased on 1 July 2023. For example, the standard AAT application fee increased from $952 to $1,082. The fee is $581 (up from $511) if applying to the Small Business Taxation Division.

A lower fee of $107 (up from $94) is payable if the amount of tax in dispute is less than $5,000, or if applying to review a refusal to extend the time to lodge an objection or a refusal to release your business from paying a tax debt.

IT'S TAX TIME AGAIN!

Your business' income tax return for the 2022–23 income year must be lodged by 31 October 2023, unless you have a substituted accounting period. If your business' tax return is lodged through a registered tax agent, the due date for lodgment is likely to be later than 31 October, possibly even as late as May 2024.

Lodging a tax return

Are you a sole trader?

- Even if your income is below the tax-free threshold of $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 (note that any salary or wage from the partnership is treated as a share of the partnership income), 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 (if any) 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 its allowable deductions).
- The trustee is required to lodge a trust income tax return.
- As a beneficiary of the trust, you report on your individual tax return any income you receive from the trust.

Are you a company?

- If you operate your business through a company, you need to lodge a company income tax return.
- The company reports its taxable income, tax offsets and credits, PAYG instalments and the amount of tax it is liable to pay on that income or the amount that is refundable.

The company's income is separate from your personal income.

Tax losses

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

If your business makes a tax loss, you may be able to:

- offset the loss in the same income year against other assessable income;
- carry forward the loss and claim it as a business deduction in a later income year; or
- carry the loss back to an earlier income year (but not before 2018–19) in which the business has an income tax liability and receive a tax offset – loss carry back was available only to companies until 2022–23 and ceased to be available from 2023–24.

If your business has made more than one tax loss in a year, you will need to consider each tax loss separately.

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

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

If you don't meet at least one of the four tests, you can defer the loss or carry it forward to a future income year. For example, you can offset it when you next make a profit.

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

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 for only 4 years from that income year.

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 (known as 'personal services income' or **PSI**) will be attributed to you unless:

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

The company or trust will be carrying on a PSB if at least one of a number of tests are satisfied. These are:

- *the results 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 2 unrelated clients who contract your services as a direct result of advertising or making a 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 or 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 need to obtain a PSB determination from the ATO.

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 or occupancy expenses such as mortgage interest or rent.

Tip! The PSI rules are complicated so talk to your tax adviser if you provide your services through a company or trust.

Home office

A lot more people are working from home following a shift in workplace arrangement as a result of the COVID-19 pandemic. If you operate your business from a home office, you can deduct the expenses of running that office. Note there can be CGT consequences from using your home to carry on a business.

Expenses you may be able 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 purposes.

Running expenses

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, from 1 July 2022, the ATO allows these expenses to be claimed using a fixed rate of 67 cents for each hour worked from home (it was 80 cents per hour for 2021–22 under a different method, the temporary 'shortcut method').

Running expenses for these purposes are energy expenses, internet expenses, mobile and home phone expenses and stationery and computer consumables expenses (separate deductions need to be claimed for any other running expenses and depreciation).

From 1 March 2023, you must keep a record of the actual time spent working from home. From 1 July 2022 to 28 February 2023, you may instead keep a record that is representative of the actual hours worked. Records also need to be retained to demonstrate you incurred the relevant expenditure. In this respect, the ATO will accept one bill per item (being energy, internet, fixed or mobile telephone and stationery and computer consumables). If the bill is not in your name, additional evidence such as a credit card statement is required to show that you incurred the expenditure.

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.

Tip! If you have a home office, talk to your tax adviser about how to calculate your deduction and the records you must keep.

Company tax rate

The standard company tax rate is 30%.

The tax rate for the 2022-23 tax year for companies whose aggregated annual turnover is under $50 million (called “base rate entities”) is 25%. This is also the rate for 2023-24 and later tax years.

If more than 80% of a company’s assessable income is “base rate entity passive income” (eg dividends, rent, interest, royalties and net capital gains), the company will be taxed at the standard 30% rate.

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’ turnover is less than $5 million (this is less than the general $10 million small business entity threshold). The offset is not available to an individual acting in their capacity as a trustee.

The offset for the 2022–23 income year (and for the 2023–24 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 net small business income. The offset is capped at $1,000.

Taxable payments annual report

Businesses that pay contractors or sub-contractors for certain services may need to lodge a taxable payments annual report (**TPAR**) with the ATO. The services are:

- building and construction services;
- cleaning services;
- courier or road freight services;
- IT services; and
- security, investigation, or surveillance services.

The TPAR for 2022–23 should have been lodged by 28 August 2023.

The reporting system has been extended from 1 July 2023 to include the supply of taxi and ride sharing services and short-term accommodation.

FROM THE ATO

Claiming tax deductions

A business can generally claim a tax deduction for most expenses it incurs, as long as:

- the expense relates directly to earning the business's assessable income;
- only the business-use portion of an expense that has a mix of business and private use is claimed;
- the business has records to substantiate the claims.

A business can claim deductions for:

- day-to-day operating expenses, such as office stationery and wages – wages are deductible only if the business complies with PAYG withholding and reporting obligations;
- capital expenses, such as machinery and equipment, which typically have a long-term benefit. They can be depreciated over the term of the asset's life.
- alternatively, the business may be able to claim an immediate deduction through temporary full expensing.

Business expenses may include motor vehicle, travel, legal, digital product and home-based business expenses, and items related to protecting staff from COVID-19 at work such as hand sanitiser and sneeze or cough guards.

A business can claim deductions for superannuation contributions made on behalf of employees.

Keep in mind, some expenses are not deductible, such as private expenses, entertainment expenses, traffic fines and expenses that relate to earning tax-free income.

It's a good idea to keep complete records of expenses throughout the income year (instead of a representative period) to give more flexibility.

ATO example

The ATO has published on its website an example involving a sole trader called Rubi who is an IT consultant.

As part of her work, she travels to deliver seminars and workshops. Rubi follows the 3 golden rules for claiming a tax deduction when she travels for business purposes.

- The expense must be for her business, not for private use.
- If the expense is for a mix of business and private use, she can only claim the portion that is used for her business.
- She must have the records to prove it.

Rubi uses the *myDeductions* tool to store receipts of all her airfares, accommodation, public transport costs, ride-sharing fares, car hire fees and other costs such as fuel, tolls and car parking. She also records her meal costs if she's away overnight.

Rubi also keeps a travel diary to note which expenses were for business purposes and which expenses were private, such as sight-seeing. The cost of her recent tour of the Tower of London is not included in her deductions. There are some expenses Rubi can't claim, such as entertainment, traffic fines and expenses related to earning non-assessable income.

As an employer, Rubi meets her superannuation and employer obligations by reporting her employees' salaries or wages and paying any tax withheld amounts on time. This allows her to deduct the salaries, wages and superannuation contributions she's paid during the year.

By the time Rubi is ready to lodge her tax return, her tax agent has everything they need to verify her deductions.

Technology investment boost

Businesses with an aggregated annual turnover of less than $50 million can claim an additional 20% tax deduction for 2022–23 to support their digital operations and digitise their operations. The bonus deduction is capped at $20,000.

The expenditure must:

- already be deductible for your business under taxation law; and
- have been incurred between 7:30 pm AEDT on 29 March 2022 and 30 June 2023.

If the expenditure is on a depreciating asset, the asset must have been first used or installed ready for use for a taxable purpose by 30 June 2023. That rule does not apply to expenses incurred in the development of in-house software allocated to a software development pool.

Repair and improvement costs for depreciating assets are also eligible for the bonus deduction, provided they were incurred during the relevant time period.

Eligible expenditure may include, but is not limited to, business expenditure on:

- digital enabling items – computer and telecommunications hardware and equipment, software, internet costs, systems and services that form and facilitate the use of computer networks;
- digital media and marketing – audio and visual content that can be created, accessed, stored or viewed on digital devices, including web page design;
- e-commerce – goods or services supporting digitally ordered or platform-enabled online transactions, portable payment devices, digital inventory management, subscriptions to cloud-based services and advice on digital operations or digitising operations, such as advice about digital tools to support business continuity and growth; and
- cyber security – cyber security systems, backup management and monitoring services.

Where the expense is partly for private purposes, the bonus deduction can be applied only to the business-related portion.

If your business is registered for GST and the expenditure is not GST-free, the bonus deduction is calculated on the GST-exclusive amount where the entity is eligible to claim a GST credit, or includes any GST that cannot be claimed as a GST credit incurred in carrying on the business.

The following expenses *are not eligible* for the bonus deduction:

- salary and wages;
- capital works costs;
- financing costs;
- training or education costs (these may be eligible for the skills and training boost); and
- expenses that form part of your trading stock costs.

Small business skills and training boost

Businesses with an aggregated annual turnover of less than $50 million can claim an additional 20% tax deduction for 2022–23 and 2023–24 for external training courses delivered to employees by registered training providers.

The expenditure must be:

- for the provision of training to employees of your business, either in-person in Australia, or online;
- charged, directly or indirectly, by a registered external training provider that is not you or an associate of yours;
- already deductible for your business under a taxation law;
- incurred within a specified period (between 7:30 pm AEDT on 29 March 2022 and 30 June 2024).

Training expenses can include incidental costs related to the provision of training, provided they are charged by the registered training provider, such as the cost of books or equipment needed for the course.

Where the training is a component of a larger program or course of training, the enrolment or arrangement relating to the relevant expenditure must be made or entered into at or after 7:30 pm AEDT on 29 March 2022.

If your business is registered for GST and the training is not GST-free, the bonus deduction is calculated on the GST exclusive amount where the entity is eligible to claim a GST credit, or includes any GST that cannot be claimed as a GST credit in carrying on the business.

Where deductions are to be claimed over time such as for capital deductions, the bonus deduction is calculated as 20% of the full amount of the eligible expenditure. It can be claimed upfront in the first income year in which the bonus deduction is available.

You *cannot claim* expenditure for:

- training of non-employee business owners such as sole traders, partners in a partnership or independent contractors; and
- costs added on an invoice by an intermediary on top of the cost of training, such as commissions or fees, as they are not charged directly or indirectly by the registered training provider.

Digital games developers

If your company develops digital games, it may be able to claim the digital games tax offset (DGTO). This is a refundable tax offset that allows eligible Australian companies that develop digital games to claim 30% of their total qualifying Australian development expenditure (QADE).

To be eligible to claim the DGTO you must:

- obtain a certificate from the Minister for the Arts stating your company's eligibility for the DGTO and total QADE;
- be an Australian resident company with an ABN, or a foreign resident company with an ABN and a permanent establishment in Australia.

QADE must be at least $500,000 and be incurred on or after 1 July 2022. There is a $20 million cap per company, per income year – this cap also extends to a group of companies that are connected or affiliated.

Once you've obtained a certificate from the Minister for the Arts, you can claim the DGTO in your 2023 company tax return on the calculation statement at label E – Refundable tax offsets.

Consolidated groups should ensure the sum of all the DGTO amounts being claimed does not exceed $20 million.

Changes to fuel tax credit rates

Our fuel tax credit calculator helps you to apply the correct fuel tax credit rates when preparing your BAS.

Fuel tax credit rates change regularly, so make sure you're using the correct rates for the relevant dates on which you acquired fuel.

On 1 July 2023, the fuel tax credit rate for heavy vehicles (such as buses, coaches and trucks) for travelling on public roads decreased because of the increase in the road user charge.

On 1 August 2023, fuel tax credit rates increased in line with the fuel excise indexation. All fuel tax credit claimants need to apply the new rates for fuel acquired from 1 August.

To make it easier, if your business claims less than $10,000 in the year you can use the rate that applies at the end of your BAS period to work out your claim.

There are time limits on correcting errors and mistakes.

The ATO provides a fuel tax credit calculator on its website. Or talk to your tax adviser.

KEY TAX DATES

Date	Obligation
21 Sep 2023	August monthly BAS due
3 Oct 2023*	Finalisation due date by payers of PAYG withholding payments reporting through STP for closely held payees
23 Oct 2023**	September monthly BAS due Payment of annual PAYG instalment for 2022–23
30 Oct 2023**	September quarter BAS due Payment of first PAYG instalment for 2023–24 by quarterly payers
31 Oct 2023	2022–23 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 2023	October monthly BAS due

*Next business day as the due date (30 September) falls on a Saturday (and 2 October is a public holiday in a number of States and Territories).

**Next business day as the due dates (21 and 28 October) fall on a Saturday.

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.

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