TaxWise® Business News

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Stage 3 personal income tax cuts redesigned

The changes to the Stage 3 personal income tax cuts — to take effect on 1 July 2024 — announced by the Government earlier this year are now law. Broadly the changes amend the previously legislated tax cuts to:

- reduce the 19% marginal tax rate for taxable incomes up to $45,000 to 16%;
- reduce the 32.5% marginal tax rate for taxable incomes from more than $45,000 to less than $135,000 to 30%;
- increase the threshold above which the 37% tax rate applies from $120,000 to $135,000 (this rate was previously legislated to be abolished);
- increase the threshold above which the 45% tax rate applies from $180,000 to $190,000 (previously legislated to be $200,000).

The tax-free threshold of $18,200 is unchanged.
The table below sets out the tax rates that will now apply from 1 July 2024.

Taxable income	Tax payable
$0 – $18,200	Nil
$18,201 – $45,000	Nil + 16% of excess over $18,200
$45,001 – $135,000	$4,288 + 30% of excess over $45,000
$135,001 – $190,000	$31,288 + 37% of excess over $135,000
$190,001+	$51,638 + 45% of excess over $190,000

From the ATO

Claiming working from home expenses

If you have been working from home this income year, you will probably have some work-related expenses you can claim.
There are two ways to calculate a working from home deduction — the fixed rate method and the actual cost method.
If you use the *fixed rate method*, you can claim a rate of 67 cents per hour worked at home.
This amount covers additional running expenses, including electricity and gas, phone and internet usage, stationery and computer consumables. A deduction for these costs cannot be claimed elsewhere in your tax return.
You can, however, separately claim the decline in value for any depreciating assets, like office furniture or technology.
You must have the right records.
For the *fixed rate method*, this includes a record of:

- the total number of hours worked from home (for the entire income year);
- the additional running expenses covered by the rate per hour that you incurred (for example, phone bill, electricity bill);
- any depreciating assets (and how much of your use of that asset was work-related).

For the *actual cost method*, you will need a record of:

- your hours worked from home (whether that be the total hours, or a continuous four-week period representing the usual pattern of work, if your hours are consistent throughout the income year);
- your additional running expenses (for example, phone bills, electricity bills);
- how the deduction was calculated.

Is your business eligible for concessions?

As a small business owner, you may be eligible for concessions on the amount of tax you pay. This depends on your business structure, your industry and your annual turnover.
If you have an aggregated turnover of less than:

- $2 million, you may be able to access the small business CGT concessions;
- $5 million, you may be able to access the small business income tax offset;
- $10 million, you may be able to access the small business restructure roll-over.

You will generally need to keep records for five years to prove any claims you make. You can choose how you keep these records, but you may find electronic record keeping easier and more convenient.

Check your PAYG instalments

Now is a good time to check that your business' PAYG instalments still reflect the expected end-of-year tax liability.

If your business' circumstances have changed and you think you will pay too much (or too little) in instalments for the year, the instalments can be varied on the next activity statement (due on 28 April 2024 if you pay quarterly). Instalments can be varied multiple times throughout the year. The varied amount or rate will apply for the remaining instalments for the income year or until another variation is made.

If your varied instalments are less than 85% of your total tax payable, you may have to pay a general interest charge on the difference, in addition to paying the shortfall. Depending on the circumstances there may also be penalties.

If you are not sure, it is best to not vary your instalments. Any overpaid instalments will be refunded to you after you lodge your tax return.

If your business is affected by COVID-19 or a natural disaster, the ATO has said it will not apply penalties or charge interest to varied instalments if you have made your best attempt to estimate your end of year tax liability.

If an amount or rate is varied online, activity statements and instalment notices will be issued electronically and not in paper form. You will need to consider this when deciding how to lodge, revise and vary future activity statements and instalment amounts.

Tip!

145 financial can help you with your activity statements and tax returns.

Can you claim the small business skills and training boost?

If you are paying for your employees' external training, you could be eligible to claim the skills and training boost.

Businesses with an aggregated annual turnover of less than $50 million are potentially eligible for the small business skills and training boost. The boost provides an additional 20% bonus tax deduction for eligible expenditure incurred on training new and existing employees.

If eligible, you can claim a deduction on expenditure for external training courses delivered to your employees, either in person in Australia or online. The training must be provided by a registered external training provider.

The skills and training boost is available until 30 June 2024, so you still have time.

You cannot claim expenditure for training you undertake yourself as a business owner, such as where you are a sole trader, partner in a partnership or independent contractor.

For example, if you are a gardener operating as a sole trader, and you and your employee begin turf management training, you cannot claim the bonus deduction for the expenditure on training for yourself, but you can claim it for your employee's training.

EV home charging rates

The ATO allows a cents-per-kilometre methodology for calculating electricity costs where an electric vehicle (**EV**) is charged at an employee's home.

The employer can choose to use this methodology instead of determining the actual cost of the electricity. The choice is per vehicle and applies for the whole income or FBT year. However, it can change from year to year.

The methodology does not apply to plug-in hybrid vehicles, electric motorcycles or electric scooters.

Cents-per-kilometre

The 'EV home charging rate' is 4.2 cents per km. This rate is multiplied by the total number of relevant kilometres travelled by the EV in the income year or FBT year in question.

Where EV charging costs are also incurred at commercial charging stations and the home charging percentage can be accurately determined, the total number of relevant kilometres must be adjusted. If the home charging percentage cannot be accurately determined, you can choose to use either the EV home charging rate and disregard the commercial charging station cost, or the commercial charging station cost and not apply the EV home charging methodology.

Record keeping and transitional approach for 2022–23 and 2023–24

If you are an employer and you choose to apply the EV home charging rate for FBT purposes, a valid logbook must be maintained if the operating cost method is used.

To satisfy the record keeping requirements for income tax purposes:

- a valid logbook is needed to use the logbook method of calculating work-related car expenses. For other vehicles, the ATO recommends a logbook to demonstrate work-related use of the vehicle; and

- one electricity bill for the residential premises in the income year is needed (to show that electricity costs have been incurred).

However, if you have not maintained odometer records as at the start of the 2022–23 or 2023–24 FBT or income year, the ATO will allow a reasonable estimate to be used based on service records, logbooks or other available information.

How to nail your record keeping

Good record keeping helps you manage your business and cash flow, and ensures you get the right outcome with your business' tax return.

The following tips can help you get it right. They are based on common record keeping errors seen by the ATO.

- Keep accurate records of all cash and electronic transactions.
- Reconcile cash and EFTPOS sales regularly (by ensuring payments recorded internally match external records) and enter the amounts into your main business' accounting software system. Depending on your business, this may be daily, weekly or monthly.
- Check for mistakes if things do not add up.
- For expenses that are for business and private use, work out and record the business portion accurately.
- If you have used trading stock for private purposes, remember to account for the stock as if you have sold it and include the value in your business' assessable income to ensure your cost of sales figures are accurate (if you are a sole trader). There may be FBT or Division 7A implications if you run your business through a company or a trust.
- Ensure you have sufficient records to substantiate business expenses claimed as tax deductions.
- Do not use estimates to prepare your tax returns and business activity statements (BAS). Ensure you have complete and accurate records to substantiate the information you include in them.
- You generally need to keep most records for 5 years from when you prepared or obtained the record, or completed the transaction or related acts, whichever is later. For example, if your business buys a plot of land, you need to keep the record for 5 years after the land is acquired. However, if you then decide to build a new building on the land and that takes two more years, you will need to keep the relevant records for at least 7 years.
- You should also keep records long enough to cover the end of the period of review.
- If your business incurs a tax loss — or a capital loss that can be offset against capital gains — remember you need to keep records related to how you determined and worked out that loss for 5 years or the end of the period of review for the income year when the loss is fully deducted, whichever is later.
- If you are paying contractors to provide certain services on your behalf, remember to keep accurate and detailed records. This way, you can easily prepare your total payments to each contractor at the end of the year to help you complete your taxable payments annual report (TPAR).
- If you are claiming GST credits, set aside your GST in a separate ledger account to make your record keeping and calculations easier.
- If you had PAYG amounts withheld from payments to your business (for example, because of a voluntary agreement or labour hire arrangement), ensure your payer gives you a PAYG payment summary. You may need it to substantiate any PAYG credits you later claim in your tax return.

Digital record keeping

There are advantages to keeping business records digitally. If, for example, your business uses a commercially-available software package, it may help the business to:

- keep track of business income, expenses and assets as well as calculate depreciation;
- streamline its accounting practices and save time so you can focus on the business;
- automatically calculate wages, tax, superannuation and other amounts for activity statement and other purposes;
- meet Single Touch Payroll (**STP**) reporting obligations;
- back up records using cloud storage to keep records safe from flood, fire or theft.

If your business uses cloud storage, either through accounting software or a separate service provider, for example, Google Drive, Microsoft OneDrive or Dropbox, you should ensure:

- the record storage meets the record keeping requirements;
- you download a complete copy of any records stored in the cloud before you change software provider and lose access to them.

eInvoicing storage

Regardless of your business' eInvoicing software or system, you are responsible for determining the best option for storing business transaction data. You should:

- ensure that the process meets the record keeping requirements;
- discuss the options with the software provider;
- talk to your business adviser, if necessary.

Tip!

Not sure what records you should keep and how long you should keep them for? Talk to 145 financial.

Payments in respect of software and IP rights

The ATO has released a revised draft ruling on whether an amount paid under a software arrangement is a royalty. The draft ruling focuses on payments for the use of, or right to use, copyright.

The ATO lists some arrangements where an amount paid as consideration will be treated as a royalty. They include:

- granting the right to use intellectual property (IP), irrespective of whether that right is exercised;
- using an IP right;
- supplying know-how in relation to an IP right referred to in (a) or (b) above; and
- the sale by a distributor of hardware with embedded software, where the distributor is granted or uses rights in the IP of the software.

Payments that are not considered to be royalties include:

- payments for granting a right to distribute copies of a computer program, without the use of, or right to use, the copyright or another IP right;
- payments for transferring all rights relating to the copyright in software; and
- payments for acquiring hardware with embedded software, where the distributor does not use, and is not granted the right to use, any copyright or other IP right in the software.

Do you use AI?

Do you use artificial intelligence (**AI**) to unlock devices, provide customer support or for virtual assistance in your business?

You should understand the potential challenges when working with an AI system and how to manage them. New guidance from the Australian Signals Directorate's Australian Cyber Security Centre (**ASD's ACSC**) on [Engaging with Artificial Intelligence] can help you use AI securely in your business.

The publication, co-sealed by the international intelligence community, includes important advice on how your business can interact with AI securely.

The ASD's ACSC outlines steps you can take to securely use AI in your operations:

- apply advice about engaging with AI alongside the Essential Eight framework to help secure your AI system;
- know the constraints of your AI system and train your staff to use it securely;
- know how the AI system will affect your organisation's privacy and data protection obligations;
- consider if any AI services used in your organisation or supply chain are secure-by-design;
- have suitably qualified staff to ensure your digital system is set up and maintained securely.

Understanding Division 7A – avoid common errors

There are multiple ways in which owners may access private company money, such as through salary and wages, dividends or complying Division 7A loans. Division 7A is an area where the ATO sees many errors, across both the basics and more complex aspects.
Broadly, under Division 7A, certain loans and payments by private companies to shareholders (and associates of those shareholders) are taken to be unfranked dividends. An unpaid present entitlement may also be taken to be an unfranked

dividend. A loan will not be taken to be an unfranked dividend if it meets certain minimum rate and maximum term criteria.
The ATO has reminded taxpayers that they need to:

- keep adequate records;
- properly account for and report payments and use of company assets by shareholders and associates; and
- comply with rules around Division 7A loans.

It's essential that you understand Division 7A to:

- make informed decisions when receiving private company money and using private company assets;
- avoid unexpected and undesirable tax consequences.

Tip!
The rules around Division 7A are complex. Talk to 145 financial if you operate your business through a company (including if using a trust structure) and you intend to receive money from the company or use assets of the company.

Financial crime

Financial crime is not victimless and has a serious economic impact on the community. It also has significant direct impacts on individuals and businesses. Examples can include:

- cyber criminals who steal people's life savings or identities;
- companies that are deliberately liquidated, wound up or abandoned (referred to as illegal phoenix activity) before they can pay creditors such as the ATO, honest businesses or subcontractors; and
- organised criminals who orchestrate illicit tobacco growing operations, robbing the community of millions in revenue and taking business from legitimate retailers.

It is estimated that financial crime costs Australia up to $60 billion each year. Examples of financial crime include:

- tax evasion (blameworthy act or omission by the taxpayer);
- tax fraud (taxpayer making a false statement to the ATO about their tax or being recklessly careless about whether what they state is true or false);
- other offences like money laundering or identity theft.

Like any crime, financial crimes are diverse in nature, scale and the amount of harm they cause. They are often structured in ways that combine legal and illegal transactions and payments, trying to make it difficult to unravel the full extent of the illegal activities.
Whether financial crime threats originate in Australia or offshore, they are usually enabled by facilitators and technology. For example, rapidly evolving technology and platforms help cyber criminals access information and sensitive data, making it easier for them to commit crimes against individuals, businesses and the government.

Indications of financial crime

When people commit financial crimes, they typically misrepresent or conceal the true nature of their transactions, assets or ownership of entities. Some of the indicators the ATO looks for include:

- use of nominees or straw directors;
- unexplained wealth or wealth that is at odds with their reported income;
- giving false or misleading statements to the ATO;
- mischaracterising the true nature of transactions;
- understating income;
- inflating or claiming deductions to which they are not entitled;
- keeping two sets of books or financial statements;
- failing to keep records or intentionally destroying financial records;
- concealing money or the source of money;
- making payments in cash;
- using fictitious names or names of unauthorised third parties;
- failing to lodge income tax returns or business activity statements (BAS);
- failing to pay tax debts when they are due;
- withholding information from a tax professional or the ATO; and
- ignoring legal advice or guidance from the ATO.

Tax evasion or fraud

Tax evasion involves some blameworthy act or omission by the taxpayer.
Tax fraud is more serious and involves the taxpayer making a false statement to the ATO about their tax or being recklessly careless about whether what they state is true or false.
Examples of fraud or evasion include:

- recklessly claiming deductions to which the taxpayer was not entitled;
- withholding information from the ATO or failing to keep records;
- submitting false, backdated or altered documents;
- paying wages in cash and not reporting the wages paid to the ATO;
- not remitting GST, PAYG withholding or superannuation guarantee charges to the ATO;
- making false statements; and
- disguising expenses intended for personal benefit as business expenses.

Where there is enough evidence to suggest a person has acted knowingly or recklessly to dishonestly get a payment or refund from the ATO, the ATO consider referring the person for criminal investigation and prosecution.

How the ATO tackles financial crime

The ATO is a key participant in many taskforces and coordination groups. The shared goal is to identify and dismantle financial crime in Australia. Some of the ATO's key partnerships include:

- Criminal Assets Confiscation Taskforce (CACT);
- National Anti-Gangs Squad (NAGS); and
- ATO-led joint agency Serious Financial Crime Taskforce (SFCT).

Internationally, the ATO works through alliances such as the Joint Chiefs of Global Tax Enforcement (J5), to crack criminal enterprises wide open.

The ATO's partnerships allow it to share intelligence and information, bringing the most serious offenders of financial crime to account.

FBT issues

FBT return time

The fringe benefits tax (**FBT**) year runs from 1 April to 31 March. You should be preparing to lodge an FBT return for the FBT year ended 31 March 2024 if:

- your business is liable to pay FBT on fringe benefits provided to employees; and/or
- your business has paid FBT instalments through its activity statements (e.g. a BAS).

The FBT return is normally due on 25 May, but as that falls on a Saturday this year, the return is instead due on Monday 27 May.

You must lodge all activity statements for the FBT year ended 31 March 2024, including the March quarter, before lodging the FBT return. The FBT return will not be processed until all the activity statements are lodged.

If you use a registered tax agent to prepare and lodge the FBT return, then the due date for lodgment is 25 June 2024. That is also the due date for the balancing payment for FBT for employers using tax agents who lodge FBT returns electronically.

If you are lodging your business' FBT return through a tax agent for the first time, contact them before 21 May 2024. The agent needs to add your business to their FBT client list by this date so that your business will be eligible for the extended June lodgment and payment date.

The ATO states that most electronic lodgments are processed within 14 days and most paper lodgments are processed within 50 business days. If you are due a refund, it will be processed within 28 days.

If your business is registered for FBT but you do not need to lodge a return, you should send the ATO a *Fringe benefits tax – notice of non-lodgment* (NAT 3094). This will prevent the ATO from seeking a return from you at a later date. Send the notice by the time the FBT return would normally be due.

Extension of time

If you need an extension of time to lodge the FBT return, you can contact the ATO on **13 28 66**. But if you use a tax agent to lodge the return, contact them.

If you are having difficulty paying on time, contact the ATO before the due date to discuss your circumstances.

Paying FBT

When you lodge the annual FBT return, you offset the instalments paid during the year against the actual FBT liability. If the instalments are less than the FBT liability, you pay the shortfall. If the instalments are more than the FBT liability, the ATO will refund the excess.

If you have to pay FBT of $3,000 or more for the year, you must pay quarterly FBT instalments in the next year.

What's new in FBT?

Changes to employee declarations

The make and model of the car are no longer required for the following employee declarations:

- remote area holiday transport;
- overseas employment holiday transport;
- relocation transport;
- employment interview or selection test;
- work-related medical examinations, medical screenings, preventative health care or counselling or migrant language training.

Changes to FBT record keeping

From 1 April 2024 (i.e. the FBT year ending 31 March 2025), employers have a choice in certain situations to use existing records in place of statutory evidentiary documents, such as travel diaries or employee declarations. This will apply only if the ATO has made a determination by legislative instrument that applies to the employer that specifies the kind of alternative documents or records.

So far, the new arrangements will apply in relation to:

- travel diaries;
- otherwise deductible benefits;
- the private use of vehicles other than cars;
- car travel to certain work-related activities;
- car travel to an employment interview or selection test;
- living-away-from-home — maintaining an Australian home;
- fly-in fly-out employees;
- overseas employment holiday transport;
- remote area holiday transport;
- relocation transport; and
- temporary accommodation relating to relocation.

Tip!

If your business provides fringe benefits to employees, talk to 145 financial about your record keeping requirements.

Key tax dates

Date	Obligation
29 Apr 2024*	March 2024 quarterly BAS due
	Pay March 2024 quarterly PAYG instalment
	Employee superannuation guarantee contributions due
21 May 2024	April 2024 monthly BAS due
27 May 2024*	2023–24 FBT return due
28 May 2024	March 2024 SG statement due (if required)
21 June 2024	May 2024 monthly BAS due
30 June 2024	End of 2023–24 financial year
1 July 2024	Start of 2024–25 financial year Stage 3 personal income tax cuts (as redesigned)
29 July 2024	June 2024 quarterly BAS due
	Pay June 2024 quarterly PAYG instalment
14 Aug 2024	PAYG withholding annual report due if not reporting through Single Touch Payroll (STP)
28 Aug 2024	June quarter SG statement due Taxable payments annual report due

*This is the next business day as the due date falls on a Saturday or Sunday.

Note! Talk to 145 financial 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 a natural disaster.