

Important EOFY actions

Reducing your tax exposure, maximising the opportunities available to you, and reducing your risk of an audit by the regulators is in your best interests. With the end of the financial year fast approaching, this update will help you do exactly that.

We want to help you achieve the best result possible. If there is any additional information we can provide, or if we can assist you with your individual situation, please contact us today.

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What's new

Medicare levy low-income threshold

The Medicare levy low-income thresholds for singles, families, seniors and pensioners will increase from 1 July 2022. This means that you will be able to earn more before having to pay the 2% Medicare Levy.

Threshold	2021-22	2022-23
Singles	\$23,365	\$24,276
Family	\$39,402	\$40,939
Single seniors & pensioners	\$36,925	\$38,365
Family seniors & pensioners	\$51,401	\$53,406
Each dependent child or student (increase to family threshold)	\$3,619	\$3,760

Superannuation Guarantee increases to 11%

The Superannuation Guarantee (SG) rate will rise from 10.5% to 11% on 1 July 2023 and will continue to increase by 0.5% each year until it reaches 12% on 1 July 2025.

What this will mean to you depends on the terms of your employment agreement. If your employment agreement states you are paid on a 'total remuneration' basis (base plus SG and any other allowances), then your take home pay might be reduced by 0.5%. That is, a greater percentage of your total remuneration will be directed to your superannuation fund. For those paid a rate plus superannuation, then your take home pay will remain the same, but your superannuation balance will benefit from the increase. If you are used to annual increases, the 0.5% increase might simply be absorbed into your remuneration review.

Claiming working from home expenses

The ATO has updated the way you claim deductions for your home running expenses when you work from home.

There are now two methods to claim your working from home expenses:

- The recently revised fixed rate method, or
- The actual expense method.

67 cents per hour short-cut method

From 1 July 2022, a rate of 67 cents per hour applies to energy expenses (electricity and gas), internet expenses, mobile and home phone expenses, and stationery and computer consumables.

You can separately claim other costs, such as depreciation on computers or other running costs not referred to above.

What proof does the ATO need that I am working from home?

To use the fixed rate method, you will need a record of all of the hours you worked from home. **The ATO has warned that it will no longer accept estimates or a sample diary over a four week period.** For example, if you normally work from home on Mondays but one day you have an in-person meeting outside of your home, your diary should show that you did not work from home for at least a portion of that day.

Having said that, the ATO will allow taxpayers to keep a record representative of the total number of hours worked from home during the period from 1 July 2022 to 28 February 2023.

If you work from home outside of normal office hours, make sure your diary notes the hours that you worked.

You also need to keep a copy of at least one document for each running cost you have incurred during the year which is covered by the fixed rate method. This could include invoices, bills or credit card statements. Where bills are in the name of one member of a household but the cost is shared, each member of the household who contributes to the payment of that expense will be taken to have incurred it. For example, a husband and wife, or flatmates where they jointly contribute to costs.

Actual method

As the name suggests, you can claim the actual additional expenses you incur when you work from home (and reduce the claim by any personal use and use by other family members). However, you will need to ensure you have kept records of these expenses and the extent to which the expenses relate to your work.

Using this method, you can claim the work-related portion of:

- The decline in value of depreciating assets - for example, home office furniture (desk, chair) and furnishings, phones and computers, laptops or similar devices.
- Electricity and gas (energy expenses) for heating, cooling and lighting.
- Home and mobile phone, data and internet expenses.

- Stationery and computer consumables, such as printer ink and paper.
- Cleaning your dedicated home office.

Be careful with this method because the ATO is looking closely to ensure these expenses are directly related to how you earn your income. For example, you can't claim personal expenses such as coffee, tea and toilet paper even if you do use these items when you are at work. Nor can you claim occupancy expenses such as rent, mortgage interest, property insurance, and land taxes and rates unless your home is a place of business. It is unusual for an employee's home to be classified as a place of business.

4.2 cent electric car home charging rate

If you personally own or lease an electric car that's been used for work and use the logbook method to calculate deductible running costs, it can be challenging trying to work out the cost of electricity used in charging the vehicle at home.

From 1 July 2022, new draft ATO guidance seeks to address this challenge. Where you meet some basic eligibility conditions, you can now choose to calculate electricity costs by the EV home charging rate, which has been initially set at 4.20 cents per kilometre.

In order to use this method, you must have opening and closing odometer records for the vehicle. If you don't have the odometer record for 1 July 2022 you can use a reasonable estimate.

The guidelines do not apply to plug-in hybrid vehicles with an internal combustion engine.

Contractor or employee?

Following two landmark decisions handed down by the High Court, the ATO has issued a new draft ruling on determining whether you are an employee or independent contractor.

Ensuring that you are correctly classified as either an employee or contractor is important and can have significant ramifications for you. For example, employees (and some contractors deemed to be employees) are eligible for superannuation guarantee on their salary and wages. On the other hand, if you are an independent contractor, you may need to obtain an ABN to avoid the top rate of tax being withheld from the payments you receive.

In the new ruling, the ATO still looks at the totality of the relationship between the parties to determine the classification. What has changed in the new guidance as a result of the High Court decision is that the ATO has confirmed that where the parties have entered into a written contract,

the analysis of whether it is a contractor or employee relationship should focus on the terms of that contract to establish the nature of that relationship (rather than just the conduct of the parties).

Merely being labelled an independent contractor doesn't necessarily make it so if this is inconsistent with the rights and obligations under the contract. A genuine independent contractor will typically be:

- Autonomous rather than subservient in their decision-making;
- Financially self-reliant rather than economically dependent upon the business of another; and,
- Chasing profit (that is a return on risk) rather than simply a payment for the time, skill and effort provided.

Areas of ATO scrutiny

Rental properties

The ATO estimates there's an annual tax gap of around \$1 billion dollars because taxpayers are overclaiming rental property deductions. As a result, this area will be under close scrutiny.

Starting from the 2022 income year, the ATO has launched a new data matching program aimed at collecting residential investment loan information from a number of banks.

The ATO is particularly concerned with landlords overclaiming interest expenses where part of the residential rental property loan was used for private purposes. For example, when you refinance an existing rental property loan and use those additional borrowings for a private purpose, a portion of the interest relating to that loan is no longer deductible.

Other concerns from the ATO include rental income not being reported, especially when it involves short-term rental arrangements. This is why from 1 July 2023, a new reporting regime will require online platforms that enable short-term accommodation, such as AirBnB, to report their transactions to the ATO.

Another area that the ATO will often review is claims made for repairs and maintenance. A source of confusion is the difference between repairs and maintenance, and capital works. While repairs and maintenance can be claimed immediately, the deduction for capital works is generally spread over a number of years.

Repairs must relate directly to the wear and tear resulting from the property being rented out. This generally involves restoring the property back to its previous state - for example, replacing damaged palings of a fence. The following expenses will not qualify as deductible repairs, but are capital:

- Replacement of an entire asset (for example, a complete fence, a new hot water system, oven, replacing a shower curtain with a glass wall, etc.)
- Improvements and extensions.

'Only fans' and other content creators

The ATO has released a new guide on their expectations of content creators. If you earn income as a content creator then it's likely it will be assessed for tax purposes unless what you are doing is a genuine hobby with no expectation of generating a profit.

Assessable income includes not only money but appearance fees, goods you receive, cryptocurrency, or gifts from fans. And, this is where the problem lies for most content creators. Income in the form of money is easy to track and report. Non-monetary income in the form of goods is not so easy. Let's say a company sends you a handbag with a retail value of \$800. The bag is yours to keep. The Tax Office expects you to declare the market value of the bag as income and pay tax on that income. If you receive multiple items throughout the year, or larger inducements like a destination holiday, then this might create a cashflow problem when you need to pay real money to the Tax Office for a 'free' product.

The timing of when you receive income is also important for content creators. The tax rules consider that you have earned the income "as soon as it is applied or dealt with in any way on your behalf or as you direct". For example, if an amount is credited to an account that you hold with an online platform the amount could be taxed at that point in time, rather than when funds are transferred into a personal or business bank account.

Cryptocurrency in the headlines

The ATO has been very active lately dispelling myths about how cryptocurrency is taxed.

Determining the tax treatment of cryptocurrency can be complicated but if you dispose of an item of cryptocurrency and the value of the item has increased since you acquired it then the gain will normally be subject to tax. The main exception to this is where the cryptocurrency is acquired with the intention of using it to make private purchases in the short term and it is actually used for this purpose, in which case some exemptions relating to personal use assets might apply.

Some key things to remember when it comes to cryptocurrency are below:

- A CGT event occurs when disposing of cryptocurrency. This can include selling cryptocurrency for a fiat currency (e.g., \$AUD), exchanging one cryptocurrency for another, gifting it, trading it or using it to pay for goods or services.
- Each cryptocurrency is a separate asset for CGT purposes. When you dispose of one cryptocurrency to acquire another, you are disposing of one CGT asset and acquiring another CGT asset. This triggers a taxing event.
- Transferring cryptocurrency from one wallet to another is not considered a CGT disposal if you maintain ownership of the coin.
- The longer you hold cryptocurrency, the less likely it will be classified as a personal use asset.
- Record keeping is extremely important - you need receipts and details of the type of coin, purchase price, date and time of transactions in Australian dollars, records for any exchanges, digital wallet and keys, and what has been paid in commissions or brokerage fees, and records of tax agent, accountant and legal costs. The ATO regularly runs data matching projects, and they have access to the data from many crypto platforms and banks.

If you make a loss on cryptocurrency, you can only claim the loss as a deduction if you are in the business of trading.

The tax laws can be complex in this area and it's important to ensure that you get the right advice.

Donations of cryptocurrency

If you have donated cryptocurrency assets to charity, the rules for claiming a tax deduction can be slightly more complex. The starting point is to ensure that the entity you made the donation to is a deductible gift recipient (DGR). Without this DGR status, the donation cannot normally be claimed as a deduction (for example, donating crypto to an overseas based charity will not generally qualify). The second step is to establish whether the not-for-profit organisation is set up to accept cryptocurrency assets.

As cryptocurrency is treated as a type of property for the purposes of the deduction rules for gifts, this makes the process more complicated compared to situations where you make a cash donation. For example, it might trigger capital gains tax (CGT) because you are transferring an asset for no cost. In these cases, the ATO will look at the value of the crypto at the point you donated it, then assess you on any gain at the point of the transfer unless a specific CGT exemption applies (for example, a personal use asset with a cost of less than \$10,000).

Superannuation

Transfer balance cap increase

The transfer balance cap (TBC) limits how much money you can transfer into a tax-free retirement account. From 1 July 2023, the general TBC will increase from \$1.7 million to \$1.9 million but not everyone will benefit from the increase.

There isn't a single cap that applies to everyone. Instead, every individual will have their own personal TBC of between \$1.6 and \$1.9 million, depending on their circumstances.

If your superannuation is in accumulation phase before 1 July 2023, that is, you have not started taking an income stream (pension), then your cap will be the fully indexed amount of \$1.9m.

However, if you have started taking an income stream - you have retired or are transitioning to retirement - then your indexed TBC will be calculated proportionately based on the highest ever balance of your account between 1 July 2017 and 30 June 2023. This means you will have a personal transfer balance cap between \$1.6 million and \$1.9 million.