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TAX NEWS

June 2023



Tax Savings for the Taking!



It's that time of year when we all look at what last minute things we can do to maximise tax savings.

In the wise words of the late Kerry Packer to a Senate estimates committee, "Of course I am minimising my tax. And if anybody in this country doesn't minimise their tax, they want their heads read." Here's our top tips:

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Tax savings for you

There are some simple things you can do to reduce your personal tax:

- **Claim the cost of working from home** - If you work from home some days, keep a diary of the hours you have worked at home to claim the 67 cents per hour shortcut rate. Other methods apply for home based businesses and where your expenses are higher and claimed separately.
- **Costs connected to your job** - If you spent money related to your work that was not reimbursed by your employer – e.g., meals while you were away overnight, etc. - you can generally claim these (make sure you have receipts). Check the ATO's industry specific guides on what's reasonable to claim.
- **Donations reduce your tax** - If you are likely to have a big tax bill this year from gains you have made, consider a larger than usual donation to a deductible gift recipient (DGR) charity before 30 June.
- **Top up your super** – You can claim a deduction for contributions you personally make to super from after-tax income up to \$27,500 per annum (assuming you have not reached your transfer balance cap). You need to lodge a notice of intent to claim with your super fund. See below for super strategies.
- **Pay in advance** - While paying in advance for deductible expenses doesn't save you cash, if you need to reduce your tax bill, you can pay some deductible expenses for next year by 30 June and take the tax deduction this year.
- **Studying for work** – Self education expenses that are related to the work you do are often tax deductible, although there are some parameters around this. So, if you have been taking short courses to improve your knowledge, you can often claim the cost of the course and some other related expenses. Just be aware that study costs to obtain new work or to start a new business are not covered. The study needs to be related to how you earn your income now.
- **Building and managing your investments** – The costs of earning interest, share dividends and income from your investments is generally deductible. This includes the account fees for investment accounts, interest on loans for investments you earn income from, the cost of investment seminars if they are directly related to investments you have made (not intending to make), fees for investment advice relating to existing investments, ongoing investment management fees, and specialist journals and subscriptions related to your investments. But, brokerage fees, an initial investment plan, transaction fees, etc are not generally deductible.

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Tax Time Targets for Individuals

Key tax time targets include:

- Rental property income and expenses
- Income and 'gifts' from online content creation (OnlyFans, YouTube, TikTok etc.,)
- Cryptocurrency gains
- Gig economy workers (not declaring income)
- Foreign income (not declared)
- Work from home expenses (inaccurately claimed)
- And as always, work related expenses (overclaimed).

Increasingly sophisticated data matching programs mean that the ATO is more likely to notice if you have failed to declare income from the sale of assets, income earned through platforms, and made a gain on crypto transactions.

You can offset your assessable income against any allowable deductions you can claim. To be tax deductible, an expense must be directly related to how you earn your income. When it comes to expenses, if you are claiming for items not normally associated with your industry, claim the same amount or same items each year (cut and paste claims), or claim amounts outside of the norm, then it is likely the ATO will take a closer look.

Getting rental properties right

If you are earning income from an investment property, you can claim deductions for your expenses. These expenses fit into two categories; what you can claim now, and what is claimed over time.

You can claim interest on loans, council rates, repairs and maintenance, and depreciating assets costing \$300 or less, in the year that you paid for them. Other items, like structural

improvements, ovens, adding fences and retaining walls, are depreciated over time.

Rental properties are a major target for the ATO this year:

- **Rental income** – Declare all rental income (including short term stays, renting out a room in your house, insurance payouts, rental bonds retained).
- **Rental expenses** – Rental expenses can only be claimed for the portion of time that the property was rented or genuinely available for rent. If, for example, you did not make the property available for rent while you were renovating it, you cannot claim the cost of the expenses over this period. Sometime the ATO will argue that a property is not genuinely available for rent even if it is advertised as being available. This can be relevant for properties in locations where there is very little demand during certain times of the year.
- **Interest and redraws** – If you have refinanced or redrawn on your rental property loan for personal expenses like holidays or a car, this will impact on the interest you can claim.
- **Sale of assets** – If you earned income from a residential property (renting out a room or the whole house), then it's likely you will pay capital gains tax on any gain you make on the sale of the property. However, if the property was your home for a period of time, you might be able to claim a full or partial exemption from CGT. In some cases it will be necessary to obtain a valuation of the property at the time it is first used to produce income if it has previously only been used as your main residence.

Tax savings for your business

Bring forward the purchase of assets

If there are large assets your business needs to buy (or upgrade), you have until 30 June 2023 to use the temporary full expensing rules. These rules enable businesses with an aggregated turnover of up to \$5bn to fully deduct the cost of the asset upfront rather than being claimed over the asset's life, regardless of the cost of the asset.

The temporary full expensing rules are of benefit if your business would like to reduce the tax it pays in 2022-23, and the purchase of the asset is not going to put a strain on cashflow. If the business does not have tax to pay, and you utilise the rules, this will often give rise to a tax loss that can be carried forward to future years, although companies have access to some loss carry back rules for the 2022-23 year.

Timing is important. The asset needs to be "first held and ready for use" by the 30 June 2023 deadline to qualify for an immediate deduction in the 2023 tax return. Just having a contract in place won't qualify if you have not taken possession of the asset.

If you are buying a work vehicle which is classified as a car and is mainly designed to carry passengers then remember that there are rules which limit the deductions that can be claimed if the cost of the car is above the car limit (\$64,741 in 2022-23).

From 1 July 2023 until 30 June 2024, small businesses with an aggregated turnover below \$10m will be able to immediately deduct assets costing less than \$20,000 in the year of purchase using the instant asset write off. For other businesses, assets will be depreciated using the general depreciation rules over time.

Declare dividends to pay any outstanding shareholder loan accounts

If your company has advanced funds to a shareholder or related party, paid expenses or allowed a shareholder or other related party to use assets owned by the company, then this can be treated as a taxable dividend. The regulators expect that top-up tax (if any applies) should be paid by shareholders at their marginal tax rate once they have access to these profits. This is unless a complying loan agreement is in place.

If you have any shareholder loan accounts from prior years that were placed under complying loan agreements, the minimum loan repayments for the 2022-23 income year need to be made by 30 June 2023. It may be necessary for the company to declare dividends before 30 June 2023 to make these loan repayments.

Commit to directors' fees and employee bonuses

Any expected directors' fees and employee bonuses may be deductible for the 2022-23 financial year if you have 'definitely committed' to the payment of a quantified amount by 30 June 2023, even if the fee or bonus is paid to the employee or director after 30 June 2023 (within a reasonable time). You would generally be definitely committed to the payment by year-end if the directors pass a properly authorised resolution to make the payment by year-end. The employer should also notify the employee of their entitlement to the payment or bonus before year-end.

Write-off bad debts

You can claim a bad debt as a deduction if the income is brought to account as assessable income and you have given up all attempts to recover the debt. It needs to be written-off your debtors' ledger by 30 June. If you don't maintain a debtors' ledger, a director's minute confirming the write-off is a good idea.

Review your asset register and scrap any obsolete plant

Check to see if obsolete plant and equipment is sitting on your depreciation schedule. Rather than depreciating a small amount each year, if the plant has become obsolete, scrap it and write it off before 30 June. Small business entities can choose to pool their assets and claim one deduction for each pool. This means you only have to do one calculation for the pool rather than for each asset.

Bring forward repairs, consumables, trade gifts or donations

To claim a deduction for the 2022-23 financial year, consider paying for any required repairs, replenishing consumable supplies, trade gifts or donations before 30 June.

Pay June quarter employee super contributions now

Pay June quarter super contributions this financial year if you want to claim a tax deduction in the current year. The next quarterly superannuation guarantee payment is due on 28 July 2023. However, some employers choose to make the payment early to bring forward the tax deduction instead of waiting another 12 months.

Realise any capital losses and reduce gains

Neutralise the tax effect of any capital gains you have made during the year by realising any capital losses – that is, sell the asset and lock in the capital loss. These need to be genuine transactions to be effective for tax purposes.

Raise management fees between entities by June 30

Where management fees are charged between related entities, make sure that the charges have been raised by 30 June. Where management charges are made, make sure they are commercially reasonable and documentation is in place to support the transactions. If any transactions are undertaken with international related parties then the transfer pricing rules need to be considered and the ATO's documentation expectations will be much greater. This is an area under increased scrutiny.

Super savings and strategies

Tax deductions for topping up super

You can make up to \$27,500 in concessional contributions each year assuming your super balance has not reached its limit. If the contributions made by your employer or under a salary sacrifice agreement have not reached this \$27,500 limit, you can make a personal contribution and claim a tax deduction for the contribution. It's a great way to top up your super and reduce your tax.

For those aged between 67 and 74, you will need to meet the 'work test' to contribute personal concessional contributions and claim a deduction - you must have worked at least 40 hours within 30 consecutive days in a financial year before your super fund can accept voluntary contributions from you.

To be able to claim the tax deduction for these contributions, the contribution needs to be with the super fund before 30 June (watch out for processing times). You will also need to lodge a **Notice of intent to claim or vary a deduction for personal super contributions** with your super fund before you lodge your tax return to advise them of the amount you intend to claim as a deduction.

Bringing forward unused contribution caps

If your total super balance is below \$500,000, and you have not reached your cap in the previous four years, you might be able to carry forward any unused contributions and make a larger tax deductible contribution this year. For example, if your total concessional contributions in the 2021-22 financial year were \$10,000, you can 'carry forward' the unused \$17,500 into this financial year, make a higher personal contribution and take the tax deduction. This is a helpful way to reduce your tax liability particularly if you have made a capital gain.

If you have never used your contribution cap, for example you have recently become a resident or have returned from overseas, you can also bolster your superannuation by contributing the five years' worth of

concessional contributions in one year (assuming you have not reached your balance cap).

Doubling the benefit for SMSFs

For self managed superannuation funds, a quirk in the way concessional contributions are reported means that a concessional contribution can be made in June, but not allocated to the member until 28 days later in July. The practical effect is that a member can make a contribution of up to \$55,000 this financial year (2 x the \$27,500 cap - assuming you have not used your cap) and take the full tax deduction, but the fund recognises the contribution in two amounts; one amount in June and the second allocated to the member from the SMSF's reserve in July. This strategy is particularly helpful for the self-employed who need to boost their superannuation and reduce their tax liability in a particular year.

Top up your partner's super

With a cap on how much you can transfer into a tax-free retirement account, it makes sense to even out how much super each person holds to maximise the tax savings for a couple.

If your spouse's assessable income is less than \$37,000, make a contribution of \$3,000 or more on their behalf and you can take a tax offset of up to \$540.

Another way of topping up your spouse super is super splitting. If your spouse has not retired and below their preservation age, you can roll over up to 85% of a financial year's taxed splitable contributions to their account.

Thinking of retiring? Wait until 1 July

From 1 July 2023, indexation will increase the general transfer balance cap, the amount you can transfer into a tax-free retirement account, by \$200,000 to \$1.9m.

For those contemplating retiring very soon, by waiting until after 1 July 2023 before starting a retirement income stream, you will have access to this additional \$200,000 cap of tax-free superannuation savings.

It's important to speak to your financial adviser before taking any action on superannuation strategies.



Protecting against risk: Is it a business expense? Really?

For a few years now, very generous provisions have been in place that allow business to claim the cost of assets used in the business in the year of purchase instead of having to deduct them over time. But, this has led to some serious problems where some products have been promoted as being tax deductible without proper consideration being given to the way the tax rules operate.

Artwork is one example.

If your business buys an artwork to display in areas of your office where it would be viewed by clients, then assuming it is used in connection with your business and is likely to decline in value, the business can generally claim depreciation deductions for tax purposes. Depending on the situation, it might be possible to claim an immediate deduction. If, however, the artwork is displayed in a home office then the risk of the ATO querying this is much higher.

If the artwork is an investment piece and you expect it to appreciate in value, then it's unlikely to be a depreciating asset and would not normally qualify for an immediate deduction.

Another scenario is a boat used for "marketing purposes". If your business buys a boat, claims the cost of the boat and the expenses, the ATO will expect to see the benefit to your business of this and will be checking to see if the boat has been used privately by employees or shareholders (yes, they do look at your social media). If there is private usage of the boat then this can give rise to a range of complex tax issues. For example, this could trigger an FBT liability or a deemed unfranked dividend under the rules in Division 7A. It gets very messy.

In general, the ATO is likely to review any expense where the cost outweighs the likely value to the business of acquiring it, particularly for assets that people are likely to want for their own pleasure.

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Avoiding penalties

The ATO can apply a penalty if you fail to declare income in your tax return that results in a tax shortfall. Penalties start at 25% of the tax liability owing and then escalate quickly if you were reckless (50%), or intentionally tried to evade tax (75%). Then, if they are really unhappy with you, they can increase the penalty base amount by 20%. There are also penalties that can apply if there is no shortfall but you didn't take reasonable care, were reckless, or intentionally disregarded your obligations. Penalties of up to 75% of the tax liability can also apply if you don't lodge your tax return and the ATO takes a position on what they believe you owe - tax is still owing even if you don't lodge your return.

If you are an Australian resident for tax purposes (and not classified as a temporary resident), you are taxed on your worldwide assessable income - salary, wages, director or consulting fees, some allowances, bonuses, commissions, interest, pensions, rental and other investment income, and if you are a content creator, gifts and other income. For those with income from overseas, if you have paid tax on that income overseas, you will need to declare the income on your tax return but you might be eligible to reduce your Australian tax bill by the tax you have already paid overseas.

The ATO is upfront about what their tax time targets are so if you ignore the warnings then it's less likely they will consider any omission an honest mistake. A bit like watching those border control shows when someone claims that they had no idea that seafood is considered a food and should have been declared.



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