



THE UPDATED FEDERAL BUDGET 2022–23

The Treasurer, the Hon Dr Jim Chalmers MP, handed down his (and the Albanese Government's) first Budget on 25 October 2022.

There were few tax measures in the Budget. What measures there were mostly affect multinationals. You can read about the tax measures further below.

Final Budget Outcome for 2021–22

The underlying cash balance (deficit) for 2021–22 was \$32.0 billion (1.4% of GDP). The Final Budget Outcome for 2021–22 represents a reduction in the underlying cash balance of \$47.9 billion compared with that estimated in the Federal Budget 2022–23 released on 29 March 2022. This was a result of higher receipts of \$27.7 billion and lower payments of \$20.1 billion.

Gross debt was \$895.3 billion (39.0% of GDP) at the end of 2021–22, \$10.7 billion lower than estimated in the Federal Budget 2022–23 in March. Net debt was \$515.6 billion (22.5% of GDP), \$115.8 billion lower than estimated.

What's the Government's plan?

In the Government's own words, the Budget is intended to:

- ◆ 'provide responsible cost-of-living relief that delivers an economic dividend' — this includes making child care more affordable for more than 1.2 million families, cutting the cost of medicines for around 3.6 million Australians, expanding the Paid Parental Leave scheme to reach 26 weeks in 2026, delivering more affordable housing, and getting wages moving again (by 'making it easier for employees and businesses to come together and reach agreement on wages and conditions');
- ◆ 'build a stronger, more resilient and more modern economy' by lifting 'the speed limit on the economy by better utilising Australians' talents, building their skills, broadening Australia's economic base and creating the industries of the future'; and
- ◆ 'begin the hard task of budget repair to pay for what is important' — as a first step, the Budget makes significant savings from 'redirecting spending to priorities, unwinding wasteful spending to support budget repair, better aligning infrastructure investment with market capacity, and improving the fairness and integrity of the tax system'.

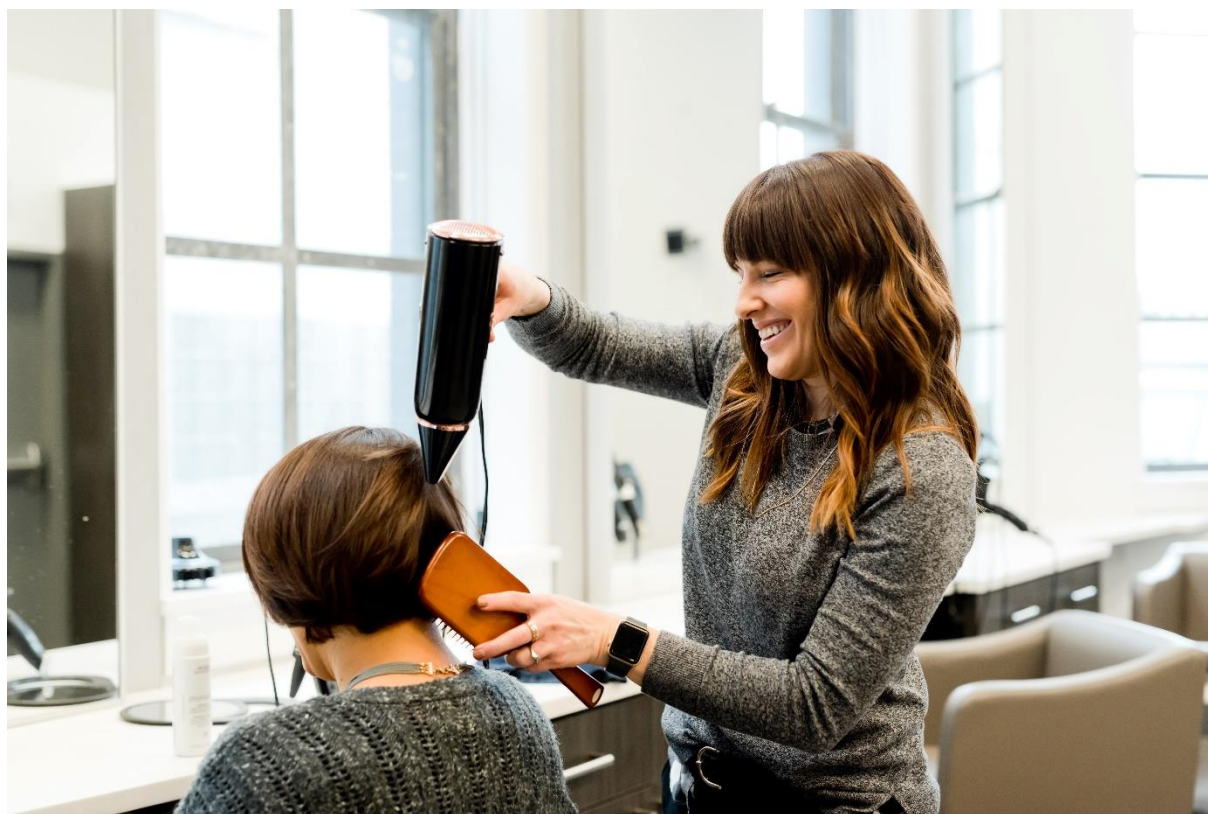
The Government expects to save \$22 billion in spending reductions and reprioritising expenditure, \$3.7 billion from improving the integrity of the tax system and \$952.8 million through action to enforce the payment of tax by multinationals.

Specific measure

Specific spending measures announced in the Budget include:

- ◆ \$4.6 billion to increase Child Care Subsidy rates to make early childhood education and child care more affordable for eligible families;
- ◆ \$531.6 million to expand the Paid Parental Leave Scheme — the number of weeks available to families will increase from 20 weeks to 26 weeks by 1 July 2026;
- ◆ \$350 million to build 10,000 homes under a new Housing Accord, which sets an 'aspirational target' of 1 million new, well-located homes over 5 years from mid-2024;
- ◆ \$324.6 million over 4 years for the Help to Buy scheme, which will give eligible home buyers an equity contribution to buy a home with a smaller deposit and mortgage;
- ◆ an additional \$491.8 million over 4 years on 20,000 new government supported university places for under-represented people, prioritising areas of skills shortages such as teaching, nursing and engineering;
- ◆ \$270.8 million over 2 years to prioritise construction and new equipment at primary and secondary schools;

- ◆ \$1.4 billion over 4 years to expand and amend Pharmaceutical Benefits Scheme (**PBS**) listings to include new medicines, such as treatments for COVID-19 and cancer;
- ◆ \$787 million over 4 years on reducing PBS patient co-payments from \$42.50 to \$30 on 1 January 2023 (an ongoing annual cost of \$233.4 million);
- ◆ \$235 million over 4 years for urgent care clinics that will provide an option for 24/7 care outside hospital emergency departments;
- ◆ \$2.4 billion to extend full-fibre access to 1.5 million additional premises, including over 600,000 in regional Australia;
- ◆ \$1.9 billion to support the transition of regional industries to net zero emissions;
- ◆ \$3 billion to meet disaster recovery costs from this year's floods;
- ◆ \$262.6 million to establish and support the proposed National Anti-Corruption Commission.



Helping small business

The Government will provide \$15.1 million over two calendar years from 1 January 2023 to 31 December 2024 to extend the Small Business Debt Helpline and the NewAccess for Small Business Owners programs to support the financial and mental wellbeing of small business owners.

This measure will redirect partial funding from the Australian Small Business and Family Enterprise Ombudsman component of the measure in the Federal Budget 2022–23 in March titled Small Business Support Package, and savings identified as part of the Spending Audit.

Increased penalties

The Government will increase penalties for breaches of competition and consumer law to deter conduct that stifles competition and increases costs to consumers. Maximum penalties for corporations will increase from \$10 million to \$50 million per breach, and from 10% of annual turnover to 30% of turnover (whichever is greater) during the period the breach took place.

Pensioners

Pensioners will receive a one-off credit of \$4,000 to their work bonus income bank, to support those who want to work or work more hours, without losing their pension. In addition, the Government will increase the income threshold for the Commonwealth Seniors Health Card from \$61,284 to \$90,000 for singles and from \$98,054 to \$144,000 (combined) for couples.

The Government will not proceed with the Pension Supplement changes announced in the Mid-Year Economic and Fiscal Outlook (**MYEFO**) 2016–17 in relation to permanent departures overseas and temporary absences.

Want to read more?

More information can be found in the Budget papers at budget.gov.au.



BUDGET TAX MEASURES

The tax measures announced for the first time in the Budget are outlined below.

Intangible depreciating assets

The Government will not proceed with the measure to allow taxpayers to self-assess the effective life of intangible depreciating assets, previously announced in the Federal Budget 2021–22. This measure was due to apply to assets acquired on or after 1 July 2023.

This means that the effective life of intangible depreciating assets, such as patents, registered designs, copyrights and in-house software, will continue to be set by legislation.

Share buy-backs

The Government will improve the integrity of the tax system by aligning the tax treatment of off-market share buy-backs undertaken by listed public companies with the treatment of on-market share buy-backs.

This measure will result in no amount of the purchase price received from these particular off-market share buy-backs being treated as a dividend.

This measure will apply from the time of the announcement on Budget night (7:30pm AEDT on 25 October 2022).

Thin capitalisation changes

The Government will strengthen Australia's thin capitalisation rules to address risks to the corporate tax base arising from the use of excessive debt deductions. This measure will apply to income years commencing on or after 1 July 2023.

The current thin capitalisation regime limits debt deductions up to the maximum of three different tests: a safe harbour (debt to asset ratio) test; an arm's length debt test; and a worldwide gearing (debt to equity ratio) test. The Government will replace the safe harbour and worldwide gearing tests with earnings-based tests to limit debt deductions in line with an entity's activities (profits).

This measure includes changes to:

- ◆ limit an entity's debt-related deductions to 30% of profits (using EBITDA — earnings before interest, taxes, depreciation, and amortisation — as the measure of profit). This new earnings-based test will replace the safe harbour test;
- ◆ allow deductions denied under the entity-level EBITDA test (interest expense amounts exceeding the 30% EBITDA ratio) to be carried forward and claimed in a subsequent income year (up to 15 years);
- ◆ allow an entity in a group to claim debt-related deductions up to the level of the worldwide group's net interest expense as a share of earnings (which may exceed the 30% EBITDA ratio). This new earnings-based group ratio will replace the worldwide gearing ratio;
- ◆ retain an arm's length debt test as a substitute test which will apply only to an entity's external (third party) debt, disallowing deductions for related party debt under this test.

The changes will apply to multinational entities operating in Australia and any inward or outward investor, in line with the existing thin capitalisation regime. Financial entities will continue to be subject to the existing thin capitalisation rules.

Other multinational tax integrity measures

The Government will introduce:

- ◆ an anti-avoidance rule to prevent significant global entities (entities with global revenue of at least \$1 billion) from claiming tax deductions for payments made (on or after 1 July 2023) directly or indirectly to related parties in relation to intangibles held in low- or no-tax jurisdictions (a jurisdiction with a tax rate of less than 15% or a tax preferential patent box regime without sufficient economic substance); and

- ◆ reporting requirements for relevant companies to enhance the tax information they disclose to the public, for income years commencing from 1 July 2023.

Under the new reporting requirements:

- ◆ significant global entities will be required to prepare for public release certain tax information on a country by country (CbC) basis and a statement on their approach to taxation;
- ◆ Australian public companies (listed and unlisted) will be required to disclose information on the number of subsidiaries and their country of tax domicile; and
- ◆ tenderers for Australian Government contracts worth more than \$200,000 will be required to disclose their country of tax domicile (by supplying their ultimate head entity's country of tax residence).



ATO tax avoidance taskforces

The Government will extend the existing ATO's Shadow Economy Program for a further 3 years from 1 July 2023. This will enable the ATO to continue a strong and co-ordinated response to target shadow economy activity, protect revenue and level the playing field for those businesses that are following the rules.

The Government has also boosted funding for the ATO's Tax Avoidance Taskforce by around \$200 million per year over 4 years from 1 July 2022, in addition to extending this Taskforce for a further year from 1 July 2025. This will support the ATO to pursue new

priority areas of observed business tax risks, complementing the ongoing focus on multinational enterprises and large public and private businesses.

These measures are estimated to increase receipts by \$4.9 billion and increase payments by \$1.785 billion over the 4 years from 2022–23.

The Government will also provide \$80.3 million to the ATO to extend the Personal Income Taxation Compliance Program for 2 years from 1 July 2023.

Legacy measures dropped

The Government has reviewed and will not proceed with the following legacy tax and superannuation measures that were announced but not legislated by the previous Government:

- ◆ the MYEFO 2013–14 measure that proposed to amend the debt/equity tax rules;
- ◆ the Federal Budget 2016–17 measure that proposed changes to the taxation of financial arrangements (**TOFA**) rules (a delayed start date was announced in the Federal Budget 2018–19);
- ◆ the Federal Budget 2016–17 measure that proposed changes to the taxation of asset-backed financing arrangements;
- ◆ the Federal Budget 2016–17 measure that proposed to introduce a new tax and regulatory framework for limited partnership collective investment vehicles;
- ◆ the Federal Budget 2018–19 measure that proposed to change the annual audit requirement for certain self-managed superannuation funds (**SMSFs**);
- ◆ the Federal Budget 2018–19 measure that proposed to introduce a limit of \$10,000 for cash payments made to businesses for goods and services;
- ◆ the Federal Budget 2018–19 measure that proposed to introduce a requirement for retirement income product providers to report standardised metrics in product disclosure statements; and
- ◆ the MYEFO 2021–22 measure that proposed establishing a deductible gift recipient category for providers of pastoral care and analogous well-being services in schools.

Legacy measures – start dates deferred

The Government will defer the start dates of the following legacy tax and superannuation measures to allow sufficient time for policies to be legislated and implemented:

- ◆ the MYEFO 2019–20 measure proposing a sharing economy reporting regime will be deferred from:

- ◆ 1 July 2022 to 1 July 2023 for transactions relating to the supply of ride sourcing and short-term accommodation; and
- ◆ 1 July 2023 to 1 July 2024 for all other reportable transactions (including but not limited to asset sharing, food delivery and tasking-based services);
- ◆ the Federal Budget 2021–22 measure proposing to relax the residency requirements for SMSFs and APRA-regulated small superannuation funds will be deferred from 1 July 2022 to the income year commencing on or after the date the enabling legislation receives Royal Assent; and
- ◆ the Federal Budget 2021–22 measure making technical amendments to the TOFA rules will be deferred from 1 July 2022 to the income year commencing on or after the date the enabling legislation receives Royal Assent.

Other measures

The Government announced a number of non-business related measures:

- ◆ the maximum financial penalties for breaches relating to residential land under the foreign investment framework will double on 1 January 2023 (fees for all applications made under the foreign investment framework doubled on 29 July 2022);
- ◆ the value of a penalty unit will increase from \$222 to \$275 for offences committed on or after 1 January 2023;
- ◆ the minimum eligibility age for making super downsizer contributions will be lowered from 60 to 55 (this measure was announced before the Budget and is contained in a bill currently before Parliament);
- ◆ donations made from 1 July 2022 to 30 June 2025 to Australians for Indigenous Constitutional Recognition will be tax deductible; and
- ◆ the listing of Australian Women Donors Network as an entity eligible to receive tax deductible donations (as a DGR) will be extended for 5 years, for gifts made from 9 March 2023 to 8 March 2028.



Personal tax rates – no changes

There were no changes in the Budget to personal income tax rates. This means that the Government:

- ◆ has committed (for the time being) with the Stage 3 income tax cuts that are already legislated to come into effect from the 2024–25 income year (from 1 July 2024); and
- ◆ did not extend the Low and Middle Income tax offset (**LMITO**) (which ended on 30 June 2022) to the 2022–23 income year – this means that taxpayers earning up to \$126,000 will pay more tax this year than for 2021–22 (an additional \$1,500 if taxable income is between \$48,000 and \$90,000).

Tip! Talk to your tax adviser about any of the Budget measures that might affect your business.

WHAT'S NEW?

COVID-related grants

Payments made before 1 July 2022 to businesses affected by the COVID-19 pandemic under various State and Territory programs are not taxable. At the end of August, the Government added a number of Victorian and ACT programs to the scheme. This means that payments under these additional programs are non-assessable non-exempt income (tax-free). The Victorian programs are:

- ◆ Business Costs Assistance Program Four – Construction;
- ◆ Licenced Hospitality Venue Fund 2021 – Top Up Payments;
- ◆ Business Costs Assistance Program Round Two – Top Up;
- ◆ Business Costs Assistance Program Round Three;
- ◆ Business Costs Assistance Program Round Four;
- ◆ Business Costs Assistance Program Round Five;
- ◆ Impacted Public Events Support Program Round Two;
- ◆ Live Performance Support Program (Presenters) Round Two;
- ◆ Live Performance Support Program (Suppliers) Round Two;
- ◆ Commercial Landlord Hardship Fund 3.

The additional ACT program is ACT HOMEFRONT 3.



FROM THE ATO

Director ID – time is running out

Time is running out for directors of companies in Australia to apply for their director identification number (director ID), with the 30 November deadline less than a month away.

A director ID is required for the director or alternate director of:

- ◆ a company, registered Australian body, or registered foreign company under the *Corporations Act 2001*;
- ◆ an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act)*.

To check if a director ID is required, you can search *ABN Lookup* with the ABN or business name. If an ASIC Registration — ACN or ARBN or ARSN or ARFN — is showing against the record, the director of the company will need to apply for a director ID.

Directors under the CATSI Act have a different timeframe in which to apply.

All CATSI Act directors can apply for a director ID now and must apply by 30 November 2023. New directors must apply for their director ID prior to appointment from 1 November 2022.

To apply

The fastest way to apply for a director ID is online, using the myGovID app to log in to the Australian Business Registry Services (ABRS) [website](#). It's free to apply and directors must apply themselves to verify their identity. A myGovID with at least a Standard identity strength is required.

In addition to your myGovID, you will need:

- ◆ a tax file number (TFN);
- ◆ the residential address as held by the ATO; and
- ◆ information from 2 documents to verify your identity.

Documents that can be used include:

- ◆ bank account details;
- ◆ an ATO notice of assessment;
- ◆ APRA fund account details;
- ◆ a dividend statement;
- ◆ a Centrelink payment summary; and
- ◆ a PAYG payment summary (this is different from an income statement or PAYG instalment activity statement).

Business income and expenses

If you are running a business, most income received by the business is assessable for income tax purposes. The total gross amount is referred to as 'assessable income'.

You need to report assessable income in your business' tax return. It includes:

- ◆ cash income and income from online transactions;

- ◆ commissions and investment earnings;
- ◆ recovered bad debts for which your business previously claimed a tax deduction;
- ◆ most government payments;
- ◆ capital gains and losses;
- ◆ increases in the value of trading stock;
- ◆ stock taken for personal use; and
- ◆ payments from an insurance claim related to your business.

Make sure to also check what income you can exclude – for example, some COVID-19 government support payments are not assessable if you meet the eligibility criteria.

Remember you can reduce your business's taxable income by claiming business tax deductions, as long as:

- ◆ the expense directly relates to earning your business' assessable income;
- ◆ you claim only the business-use portion if the expense is for a mix of business and private use; and
- ◆ you have records to substantiate your claims.

Expenses may include:

- ◆ motor vehicle and travel expenses;
- ◆ items related to protecting staff from COVID-19;
- ◆ employee superannuation contributions; and
- ◆ payments you make to workers (including their wages) as long as you've complied with the Pay as you go (**PAYG**) withholding and reporting obligations for each payment.

Tip! Your tax adviser can help you with your tax.



Using a motor vehicle for business?

Here are 4 things to keep in mind when claiming motor vehicle expenses — such as fuel, oil, servicing and registration — for your business.

If you operate your business as a sole trader or partnership (where at least one partner is an individual), the method you must use to calculate your deduction depends on the type of vehicle. For cars, you must use either the cents per kilometre or logbook method. For all other vehicles, you must use the actual costs method, where you claim the actual costs of expenses you incurred based on receipts.

If you use the logbook or actual costs method, remember you can only claim the business-use portion of your motor vehicle expenses.

If you operate your business through a company or trust, you must use the actual costs method to work out the deductions you are entitled to, regardless of the type of motor vehicle you use.

If you use the logbook or actual costs method, you can claim depreciation or decline in value only for the business-use portion of the motor vehicle. The maximum you can claim as a deduction for the depreciation of your car is \$64,741 for the 2022–23 income year or the cost of the vehicle (whichever is less). You may be eligible to claim depreciation under the temporary full expensing rules.

Tip! Talk to your tax adviser about the best way to calculate the deductions and the record-keeping requirements.

How's your record keeping?

The ATO has reminded businesses about the importance of keeping correct records. For one thing, good record-keeping makes things easier at tax time.

When it comes to record-keeping, there are 5 rules. You need to:

- ◆ keep all records related to starting, running, changing, and selling or closing your business that are relevant to your tax and superannuation affairs;
- ◆ store records safely to prevent damage and protect information from being changed (you must not change relevant information in records);
- ◆ keep most records for 5 years (for example, you need to keep records of losses for up to 5 years after you've fully claimed the loss);
- ◆ be able to show the ATO your records if they ask for them; and
- ◆ ensure your records are in English or easily converted to English.

Tip! Talk to your tax adviser about what records to keep and how to keep them.

Using business stock for private purposes?

If you are a sole trader or a partner in a partnership and take goods from your business for your private use, make sure you accurately record this in your stock on hand.

Accessing your trading stock for private use is fine from a tax perspective, but you need to account for the stock correctly:

- ◆ each time you use it (as you would if you sold it); and
- ◆ at the end of each income year.

If you do not adjust the actual cost of goods sold to reflect the goods you used for private consumption, you could be incorrectly claiming expenses you're not entitled to.

A good plan is to set up regular reconciliation processes to help you keep track of each time you take stock for private use. Keep a record which shows:

- ◆ the date;
- ◆ a description of what was taken;
- ◆ the reason stock was taken; and

- ◆ the cost or market value of the item (excluding GST).

At the end of the income year, any goods taken for your own use should not be accounted for as stock on hand.

Certain businesses can use the amounts that the ATO will accept as estimates of the value of goods taken from trading stock for private use. The ATO recently published the accepted estimates for 2022–23. They are reproduced below.

| Type of business | Amount (excluding GST) for adult/child over 16 | Amount (excluding GST) for child aged 4-16 |
|---|--|--|
| Bakery | \$1,360 | \$680 |
| Butcher | \$990 | \$495 |
| Restaurant/café (licensed) | \$4,830 | \$1,950 |
| Restaurant/café (unlicensed) | \$3,900 | \$1,950 |
| Caterer | \$4,120 | \$2,060 |
| Delicatessen | \$3,900 | \$1,950 |
| Fruiterer/greengrocer | \$1,010 | \$505 |
| Takeaway food shop | \$4,030 | \$2,015 |
| Mixed business (includes milk bar, general store and convenience store) | \$4,870 | \$2,435 |

Entertaining your employees?

With summer and Christmas just around the corner, you may be planning a party or similar event (e.g. a bowls day) for your employees.

The ATO has reminded employers to make sure they consider the fringe benefits tax (**FBT**) implications of the party or other event.

These will depend on:

- ◆ the amount you spend on each employee;
- ◆ when and where the event is held;
- ◆ the value and type of gifts you provide; and
- ◆ who attends – is it just employees, or are partners, clients or suppliers also invited?

Don't forget to keep all records relating to the entertainment-related fringe benefits you provide, including how you worked out the taxable value of benefits.

Tip! Talk to your tax adviser to discuss any FBT implications.



Superannuation for holiday work

From 1 July 2022, you need to pay superannuation guarantee (SG) for employees at the rate of 10.5%, regardless of how much you pay them. This is because the former \$450-per-month income threshold for SG eligibility has been removed.

Take Jane for instance. She is a 22-year-old employee working a short-term job at a restaurant over the holiday season. She works 23 hours in a month, earning \$430 before tax.

In the past, holiday employees such as Jane would not be paid superannuation as they earned below the \$450 income threshold. Now, Jane will be eligible for superannuation paid on her ordinary time earnings at the rate of 10.5%.

This change doesn't affect other eligibility requirements for SG. Workers who are aged under 18 years still need to work more than 30 hours in a week to be eligible.

For example, Anish is a 17-year-old employee working a job at a hotel over the holiday season. Anish works 32 hours in a week at the hotel and earns \$800 before tax. He also works 5 hours at his local café, earning \$150.

As Anish worked more than 30 hours in one week at the hotel, his employer will need to pay superannuation on the \$800 he earned.

As Anish works less than 30 hours a week at the café, he is not entitled to superannuation from this employer. Likewise, Anish is not entitled to superannuation for any weeks he works less than 30 hours at the hotel.

Check your payroll and accounting systems are up to date so you are correctly calculating your employees' SG payments.

Get new workers onboard faster

Did you know your employees can complete a tax file number (**TFN**) declaration through ATO online services? This is an easy way for them to provide you and the ATO with the required information. If your new employee has a myGov account linked to the ATO, once they are logged in they can:

- ◆ access ATO online services;
- ◆ go to the 'Employment' menu;
- ◆ select 'New employment' and complete the form.

Your employees will need your ABN to complete the form. When they submit it, their TFN declaration details are sent straight to the ATO, so you don't have to. The form will then enable them to print and give you the summary of their tax details. You'll need the summary so you can input the data into your system.

If your payroll software can link to the online commencement forms, it will automatically receive your new employees' information from the ATO, saving you time spent entering the information manually. Check with your software provider to find out if they offer this service.

The New employment form can also be used to collect a range of information. Employees can use it to authorise variations to the amount you withhold from their pay for tax or the Medicare levy, or to advise you of their choice of superannuation fund. They can also use it to update their tax circumstances with you, for example, if:

- ◆ their residency status has changed;
- ◆ they no longer have a government study and training loan; or
- ◆ they are claiming the tax-free threshold from another employer.

You can continue to use your current processes when preferred, including providing a paper TFN declaration where the employee can't create a myGov account or doesn't have access to the internet.



Stapled superannuation funds for employers

A stapled superannuation fund is an existing superannuation account linked, or 'stapled', to an individual employee so it follows them as they change jobs.

Stapled funds avoid the need to open a new superannuation account every time an employee starts a new job, thus reducing account fees. Note that if choice of superannuation fund obligations are not met, additional penalties may apply.

You need to request stapled superannuation fund details for your business' new employees when:

- ◆ you need to make superannuation guarantee (SG) payments for that employee;
- ◆ they are eligible to choose a superannuation fund but don't, including contractors for whom you pay mainly for their labour but who are employees for SG purposes.

You may need to request stapled superannuation fund details for some employees who aren't eligible to choose their own superannuation fund. This includes employees who are:

- ◆ temporary residents; or

- ◆ covered by an enterprise agreement or workplace determination made before 1 January 2021.

For employees who started working for your business on or after 1 November 2021 and have not provided a valid choice of superannuation fund, you should make contributions into:

- ◆ the employee's stapled superannuation fund; or
- ◆ the employer nominated account (if the ATO advises you that they do not have a stapled superannuation fund).

If an employee later nominates their choice of superannuation fund, you have 2 months to start paying contributions into that fund.

Steps to requesting stapled superannuation fund details

Before you can request stapled superannuation fund details, you need to have offered all eligible employees a choice of superannuation fund.

You or your authorised representatives can request stapled superannuation fund details using ATO online services. Check and update the access levels of your authorised representatives in ATO online services. (Your tax adviser may also be able to make a request on your behalf.)

You must also establish an employment relationship. You can request your employee's stapled superannuation fund details after you submit a TFN declaration or Single Touch Payroll (**STP**) pay event, which identifies that you have an employment relationship or link to your employee.

Choice shortfall penalty

You may have to pay the choice shortfall penalty, which is the additional SG charge (SGC), if you contributed to your default fund without making a stapled superannuation fund request.

To avoid the choice shortfall penalty, make sure you:

- ◆ request the stapled superannuation fund details for your employee as soon as possible if they have not provided you with their choice of fund;
- ◆ pay the employee's full SG contribution to the stapled superannuation fund we return to you in the request; and
- ◆ pay the contribution to the stapled superannuation fund by the quarterly due date.

Tip! Your tax adviser may be able to help your business meet its superannuation obligations.



SUCCESSFUL PROSECUTIONS

Brothers busted for fake document scheme

Two brothers (YB and AB) who ran an accounting firm (Halifax Business Consulting) have received criminal convictions for a scheme to falsify Commonwealth documents, including business activity statements (BAS) and notices of assessment (NOA), in order to obtain bank loans for their business and a number of clients.

The ATO uncovered the scheme after auditing another matter and launching a subsequent investigation that saw search warrants executed at Halifax's office and an employee's home.

The ATO found evidence that the brothers had paid employees and others to create false BAS and NOAs that inflated sales or earnings, which would then be passed off as genuine to banks and other lenders. In several cases, they had commissioned the firm's graphic designer (Mr V) to alter documents at their request.

The brothers would make handwritten amendments to the documents – sometimes doubling their clients' actual earnings – before sending them on to Mr V to digitally manipulate. Mr V went to great lengths to make the documents look legitimate. In one email, he reminded his boss (YB) to provide only one of the doctored documents by facsimile or hard copy, to avoid someone noticing he had edited the original document's security stamp.

Mr V was convicted for the part he played in the offending. He was sentenced to a 12-month Community Correction Order requiring him to complete 200 hours of unpaid community work.

YB was convicted and sentenced to 10 months imprisonment while his brother (AB) was convicted and sentenced to 6 months imprisonment. Both were released immediately on a \$1,000 recognisance release order requiring them to be of good behaviour for 18-months.

Restaurateur served with jail term

A McLaren Vale restaurateur (Mr R) has been sentenced to 5 years and 3 months imprisonment after being found guilty of fraudulently obtaining \$613,262 in GST refunds and attempting to obtain a further \$210,333 that was stopped by the ATO.

Between September 2016 and November 2017, Mr R submitted 19 false business activity statements (**BAS**), which considerably overstated the total sales and acquisitions of the restaurant and gift shop business that he operated with his wife.

Several documents provided by Mr R throughout the audit contained inconsistencies, including a sales summary from a point-of-sale (**POS**) system that was created in Microsoft Word, and a POS report claiming to cover the dates of 1 June to 31 June, despite there being only 30 days in June.

During the ATO's audit, Mr R also supplied a forged medical document advising his wife was receiving treatment for cancer. The ATO later checked with the doctor listed on the document, who confirmed she didn't write the letter and wasn't treating anyone by that name.

In sentencing, Her Honour Judge Kudelka described Mr R's offending as 'persistent and deliberate', and that his false claims about his wife's health were 'despicable'. Mr R was sentenced to 5 years, 3 months and 2 days imprisonment, with a non-parole period of 3 years. He has also been ordered to pay \$599,122 in reparations.

5 years jail for serial GST fraudster

A Queensland woman (Ms B) has been sentenced to 5 years imprisonment, with a non-parole period of 20 months, for attempting to fraudulently obtain more than \$650,000 in GST refunds, as well as other offences.

Ms B used ABNs that weren't linked to active businesses to submit a series of false claims for GST input tax credits.

While some of Ms B's earlier claims were paid, ATO audits found she could supply no evidence to prove she was running a business. As a result, the ATO disallowed her claims and cancelled her GST registration.

Despite this Ms B repeatedly reactivated her GST registration and continued to make a series of fictitious claims. On each occasion, ATO checks confirmed she could not provide

any supporting documentation that she was actually running a business, and each time her claim was disallowed.

In total, Ms B obtained a financial benefit of over \$150,000 and attempted to claim a further \$500,000.

Tip! If you know or suspect phoenix, tax evasion or shadow economy activity, the ATO would like you to report to it by completing the tip-off form on the ATO website or phoning them on 1800 060 062.



Key tax dates

| Date | Obligation |
|--------------|--|
| 21 Nov 2022 | October monthly BAS due date |
| 28 Nov 2022 | Lodge SG statement and pay September quarterly SGC (if required) |
| 1 Dec 2022 | Full self-assessment companies — pay 2021–22 income tax |
| 21 Dec 2022 | Lodge and pay November monthly BAS |
| 21 Jan 2023* | Lodge and pay December monthly BAS |
| 28 Jan 2023* | Superannuation guarantee payment due date for December quarter |
| 31 Jan 2023 | Closely held trust — lodge December quarterly TFN report |
| 21 Feb 2023 | Lodge and pay January monthly BAS |
| 28 Feb 2023 | <ul style="list-style-type: none"> Lodge and pay December quarterly BAS Pay second quarterly PAYG instalment for 2022–23 Lodge annual GST return (if no tax return due) Lodge SG statement and pay December quarterly SGC (if required) Lodge and pay SMSF annual return for new SMSFs (unless otherwise advised) |

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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