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Practice Update

April 2024

How to claim working from home expenses

Taxpayers who have been working from home this financial year, and who consequently incurred work-related expenses, have two ways to calculate their work from home deduction:

- the actual cost method; or
- the fixed rate method.

Using the fixed rate method, taxpayers 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 their tax return, although taxpayers can separately claim any depreciating assets, such as office furniture or technology.

Taxpayers need to have the right records, and the record-keeping requirements differ for the fixed rate method and the actual cost method.

Reminder of March 2024 Quarter Superannuation Guarantee ('SG')

Employers are reminded that employee super contributions for the 1 January 2024 to 31 March 2024 quarter must be received by the relevant super funds by 28 April 2024 (which is a Sunday), in order to avoid being liable to pay the SG charge.

Using the ATO's small business benchmarks

The ATO has updated its small business benchmarks for 2021-22. These benchmarks help taxpayers compare their business turnover and expenses with other small businesses in the same industry.

Taxpayers can access the benchmarks on the ATO's website, and then calculate their benchmark using the **ATO app** 'Business performance check' tool.

For example, consider Deb who runs a pizza shop as a sole trader. She would like to track her business against other pizza shop businesses, and see how she can improve.

Deb downloads the **ATO app** and opens the 'Business performance check' tool. She uses this tool to work out the **cost of sales to turnover benchmark** for her pizza shop. It is within the higher end of the range and above the average for pizza shop businesses.

Deb works out her main supply costs. She then negotiates a better deal to reduce her business expenses and improve profit.

Quarterly TBAR lodgment reminder

SMSFs must report certain events that affect any member's transfer balance account ('TBA') quarterly using transfer balance account reporting ('TBAR'). These events must be reported even if the member's total superannuation balance is less than \$1 million.

SMSF trustees must report and lodge within 28 days after the end of the quarter in which the event occurs, although they are not required to lodge if no TBA event occurred during the quarter.

For example, if an SMSF had a TBA event in the quarter ending 31 March 2024, the trustee of the SMSF must lodge a TBAR by 28 April 2024.

If an SMSF does not lodge a TBAR by the required date, the member's TBA may be adversely affected. The member may need to commute any amounts in excess of their transfer balance cap and pay more in excess transfer balance tax.

Prepare for upcoming lodgments of SMSF annual returns

SMSFs need to appoint an auditor no later than 45 days before they lodge their SMSF annual return ('SAR').

In preparation for lodgment of the SAR, SMSF trustees also need to:

- complete a market valuation of all the SMSF's assets;
- prepare the SMSF's financial statements; and
- provide signed copies of documents to their auditor, so the auditor can determine the SMSF's financial position and its compliance with superannuation laws.

If an SMSF's SAR is more than two week's overdue, and the SMSF trustee has not contacted the ATO, the ATO will change the status of the SMSF on **Super Fund Lookup** to 'Regulation details removed', and this status will remain until any overdue lodgments are brought up to date.

Taxpayer who lived and worked overseas found to be tax resident

The Administrative Appeals Tribunal ('AAT') recently held that a taxpayer was a tax resident of Australia, even though he was mostly living and working overseas during the relevant period.

The taxpayer was born in Vietnam and obtained Australian citizenship in 1978. He was living and working in Dubai, United Arab Emirates from 2015 until 2020.

The taxpayer spent less than two months in Australia for each of the 2017 to 2020 income years visiting his family.

The AAT nevertheless held that he was a tax resident of Australia for each of the 2016 to 2020 income years, as he *"maintained an intention to return to Australia and an attitude that Australia remained his home"*.

The AAT noted in this regard that the taxpayer:

- ◆ left his wife and three daughters in the family home in Australia while he worked in Dubai, continued to fully support his family financially, and chose to spend each of his leave periods with his family in Australia;
- ◆ maintained his vehicle registrations and Australian drivers licence so he could use the vehicles upon his return to Australia;
- ◆ intended to retire in Australia;
- ◆ failed to demonstrate any connection with Dubai outside of his employment; and
- ◆ maintained his private health insurance.

Earning income for personal effort

Taxpayers should remember that, if over half their income is from a contract for their personal effort or skills, then their income is classified as personal services income ('PSI').

Taxpayers can receive PSI in almost any industry, trade or profession, e.g., as a financial professional, IT consultant, construction worker or medical practitioner.

Taxpayers who earn PSI while running a business (e.g., as a contractor) need to work out if they were a personal services business ('PSB') in the year that they received the PSI, as this will affect the deductions they can claim.

Taxpayers can self-assess as being a PSB if they:

- ◆ meet the 'results test' for at least 75% of their PSI, or
- ◆ meet one of the other PSB tests (i.e., the unrelated clients test, the employment test, or the business premises test), **and** less than 80% of their PSI is from the same entity and its associates.

Taxpayers who self-assess as a PSB still need to report their PSI in their income tax return and keep certain records.

Please note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.