client alert | explanatory memorandum

August 2019

CURRENCY:

This issue of **Client Alert** takes into account developments up to and including 19 July 2019.

ATO will inform certain tax agent clients their information is "Tax ready"

If tax agent clients' employers report through Single Touch Payroll (STP) and the clients are linked to ATO online services through myGov, the ATO will send them a myGov Inbox message to let them know:

- their end of year payment summary (income statement) has been marked by their employer as "Tax ready" and can be used in their tax return;
- if they have more than one job, their other employers may still need to provide them with a payment summary;
- they need to include all income in their tax return;
- they can access their income statement in ATO online services through myGov, or the tax agent can give them the information;
- they do not need to give the tax agent their personal myGov login details to access their information.
- If tax agent clients do not already have myGov accounts, the ATO says agents should let them know they do not need one for the agent to lodge their tax return. Tax agents can access their employment data and lodge for them once their information is "Tax ready".

Source: https://www.ato.gov.au/Tax-professionals/Newsroom/Your-practice/Informing-your-clients-their-information-is--Tax-ready-/

Top mistakes to avoid this tax time: ATO

The ATO has revealed some of the most common mistakes people make at tax time. Assistant Commissioner Karen Foat said that errors range from honest mistakes to people deliberately over-claiming to increase their refund.

The ATO says the top four mistakes to avoid are:

- lodging before all prefill data is available or failing to report all income. Ms Foat said "we know from previous years that the early birds who lodge in the first weeks of July are far more likely to make mistakes or submit incomplete data";
- claiming the wrong thing - work-related expenses is one area where people commonly make mistakes. To help taxpayers work out what they can claim, the ATO has developed 30 occupation guides for specific occupations;
- forgetting to keep receipts; and
- claiming for something never paid for – The Assistant Commissioner said the ATO often sees people "making claims at the record-keeping limit, thinking that the ATO will never question a claim if we don't require receipts. But you still need to have spent the money yourself and be able to show us how you've worked out your claim".

Source: https://www.ato.gov.au/Media-centre/Media-releases/How-to-nail-your-return/

Pension deeming rates cut from 1 July 2019

The Government has announced that it will lower the social security deeming rate from 1.75% to 1.0% for financial investments up to $51,800 for single pensioners and $86,200 for pensioner couples. The upper deeming rate of 3.25% will be cut to 3.0% for balances over these amounts.

The Minister for Families and Social Services, Senator Anne Ruston, said the changes would benefit about 630,000 age pensioners and almost 350,000 people receiving other payments. Under the new rates, age pensioners whose income is assessed using deeming will receive up to $40.50 a fortnight for couples ($1053 extra a year) and $31 a fortnight for singles ($804 extra a year), Senator Ruston said.

The deeming rate changes will also benefit people receiving other income tested payments including the Disability Support Pension and Carer Payment, and income support allowances and supplements such as the Parenting Payment and Newstart.

The Minister made a determination – the *Social Security (Deeming Threshold Rates) Determination 2019* – to give effect to the announcement. The Determination is effective from 1 July 2019. Retrospective commencement of the Determination means the reduced below threshold rate of 1% and the above threshold rate of 3% will apply to income from financial investments from 1 July 2019. As a result, any increase that may apply to the rate at which individuals receive social security and veterans' affairs pensions and allowances will apply from this date.

Level of financial assets		**Deeming rate - 1 July 2019**	
Single ($)	**Couple ($)**	**Current**	**New rate**
0 – 51,800	0 – 86,200	1.75%	1%
51,801+	86,201+	3.25%	3%

Despite concerns from some industry groups that the deeming rate cuts didn't go far enough, the Minister's Determination states that "consultation for this Determination is not necessary" as it is of a "machinery nature". "Existing arrangements are not substantially altered; the Determination does not change the operation of the deeming provisions. Rather, deeming rates are being changed, informed by returns available in the market for financial investments."

Date of effect

The reduced deeming rates have been backdated to 1 July 2019. Any additional pension payment will flow through into pensioners' bank accounts from the end of September 2019 in line with the regular indexation of the pension.

Source: https://ministers.dss.gov.au/media-releases/5006

Personal tax cuts Bill passed without amendment, now law

The *Treasury Laws Amendment (Tax Relief So Working Australians Keep More Of Their Money) Bill 2019* was introduced on 2 July 2019 and then passed all stages without amendment and received Royal Assent on 5 July 2019 as Act No 52 of 2019. The Bill fully implements the personal tax cuts measures announced in this year's 2019-20 Federal Budget. While Labor has consistently argued against the Stage 3 tax cuts that would apply from 1 July 2024 (see table below), it agreed to pass the Bill but said it will review Stage 3 closer to the next election.

The Bill amends the income tax law to:

- increase the base and maximum amounts of the low and middle income tax offset (LMITO) to $255 (up from $200) and $1,080 (up from $530), respectively, for the 2018-19, 2019-20, 2020-21 and 2021-22 income years:
  - The LMITO is increased from a maximum amount of $530 to $1,080 per annum and the base amount is increased from $200 to $255 per annum.
  - Taxpayers with a taxable income that does not exceed $37,000 will receive a LMITO of up to $255.
  - Taxpayers with a taxable income that exceeds $37,000 but is not more than $48,000 will receive $255, plus an amount equal to 7.5% to the maximum offset of $1,080.
  - Taxpayers with a taxable income that exceeds $48,000 but is not more than $90,000 will be eligible for the maximum LMITO of $1,080.
  - Taxpayers with a taxable income that exceeds $90,000 but is not more than $126,000 will be eligible for a LMITO of $1,080, less an amount equal to 3% of the excess.
- increase the amount of the low income tax offset (LITO) from 2022-23;
- reduce the tax payable by individuals in 2022-23 and later income years by increasing income tax rate thresholds and in 2024-25 and later income years by lowering income tax rates:
  - For the 2022-23 income year and later income years, the Bill increases the amount of taxable income subject to the 19% rate to include taxable income between $18,201 and $45,000 (rather than the current $41,000).
  - For the 2024-25 income year and later income years, the Bill reduces the second personal rate of income tax to 30% (from 32.5%). This would leave just three tax rates – 19%, 30% and 45%.
  - Foreign resident and holiday maker (backpacker) rates also change accordingly.

With the changes, Australian resident individuals (and certain trustees) with taxable income that does not exceed $126,000 would be entitled to the LMITO for the 2018-19, 2019-20, 2020-21 and 2021-22 income years.

For 2022-23 and later income years, individuals with taxable income that does not exceed $66,667 (as well as certain trustees taxed on behalf of individuals) would be entitled to the new LITO.

Schedule 1 to the Bill enhances the current LMITO by increasing the base offset from $200 to $255 and the maximum benefit from $530 to $1,080 for the 2018-19, 2019-20, 2020-21 and 2021-22 income years.

Schedule 1 also increases the amount of the LITO from $645 to $700 from 2022-23. Schedule 2 to the Bill increases the top threshold of the 19% tax bracket from $41,000 to $45,000 from 1 July 2022, and reduces the 32.5% rate to 30% from 1 July 2024.

Date of effect

The changes to the LMITO apply in the 2018-19, 2019-20, 2020-21 and 2021-22 income years. The changes to income tax thresholds, as well as to the LITO, apply to the 2022-23 income year and later income years. The changes to income tax rates apply to the 2024-25 income year and later income years.

Rates and threshold tables

The following table reflects the Government's changes:

Tax rates and income thresholds				
Rate	**2017-18**	**2018-19 to 2021-22**	**2022-23 to 2023-24**	**From 1.7.2024**
Nil	$0 - $18,200	$0 - $18,200	$0 - $18,200	$0 - $18,200
19%	$18,201 - $37,000	$18,201 - $37,000	$18,201 - **$45,000**	$18,201 - $45,000
30%				$45,001 - **$200,000**
32.5%	$37,001 - $87,000	$37,001 - $90,000	$**45,001** - $120,000	
37%	$87,001 - $180,000	$90,001 - $180,000	$120,001 - $180,000	
45%	$180,001 +	$180,001 +	$180,001 +	**$200,001** +
LMITO	-	Up to $1,080	-	
LITO	Up to $445	Up to $445	Up to $700	Up to $700

The Treasurer said that, starting immediately, low and middle income earners with an income up to $126,000 will receive up to $1,080 in LMITO, or $2,160 for dual income couples, with the increased tax relief to apply from the 2018-19 income year.

As a result of the amendments, the Treasurer said around 94% of Australian taxpayers are projected to face a marginal tax rate of 30% or less in 2024-25.

Foreign residents

For 2018-19 to 2021-22, the tax rates for foreign residents are:

- $0 - $90,000 - 32.5%;
- $90,001 - $180,000 - 37%;
- $180,001+ - 45%.

For 2022-23 and 2023-24, the tax rates for foreign residents are:

- $0 - $120,000 - 32.5%;
- $120,001 - $180,000 - 37%;
- $180,001+ - 45%.

For 2024-25 and later income years, the tax rates for foreign residents are:

- $0 - 200,000 – 30%;
- $200,001+ - 45%.

Working holidaymakers

For 2022-23 and 2023-24, the rates of tax for working holiday makers are:

- $0 - $45,000 – 15%;
- $45,001 - $120,000 - 32.5%;
- $120,001 - $180,000 – 37%;
- $180,001+ - 45%.

For 2024-25 and later income years, the rates of tax for working holiday makers are:

- $0 - $45,000 – 15%;
- $45,001 - $200,000 – 30%;
- $200,001+ - 45%.

ATO statement on administration of the low and middle income tax offset (LMITO)

In the 2019-20 Federal Budget, the Government announced its intention to change and build on the Personal Income Tax Plan. The ATO says these changes, including tax rate and threshold changes and low income tax offset changes, are now law following the passage through Parliament without amendment and Royal Assent on 5 July of the *Treasury Laws Amendment (Tax Relief So Working Australians Keep More Of Their Money) Bill 2019*.

The ATO announced on 5 July 2019 that it is implementing the necessary system changes so taxpayers that have already lodged their 2018-19 tax returns will receive any increase to the low and middle income tax offset (LMITO) they are entitled to. Any tax refund will be deposited in the taxpayers nominated bank account.

Assessments for returns already lodged are expected to start to issue from Friday 12 July and into the following week, which is in line with the normal processing of refunds for this time of year, the ATO said. Those who are yet to lodge their tax return will have any offset they are entitled to taken into account during the normal processing of their return.

The amount of the offset taxpayers may be entitled to, and the amount of any refund, will differ for everyone depending on individual circumstances such as income level and how much tax was paid throughout the year.

Source: https://www.ato.gov.au/Media-centre/Media-releases/Statement-on-administration-of-the-low-and-middle-income-tax-offset/

STP reporting irregularities: ATO contacting businesses

The ATO has advised tax agents that it is currently emailing Single Touch Payroll (STP) enabled employers who have either:

- ceased reporting for over 45 days; or
- have submitted employees under multiple payroll or BMS IDs.

Some of these businesses may be tax agent clients.

These reporting irregularities may cause their employees to see incorrect, incomplete or multiple entries in their income statements.

The ATO also advises tax agents that for their business clients who have been contacted by the ATO:

- agents should encourage them to check that their data is accurate; and
- agents should remind them that they must finalise their employees' end of year payroll information before 31 July - even if employees have ceased working for them or they have dropped below the threshold for reporting.

Source: https://www.ato.gov.au/Tax-professionals/Newsroom/Your-practice/Contacting-your-clients-about-STP-reporting-irregularities/

Employees guide for work expenses: ATO

The ATO has released an employees' guide for work expenses to help employees decide whether their expenses are deductible, and what records they need to keep to substantiate them.

The Guide says that not all expenses associated with employment are deductible and explains:

- how to determine if an expense is deductible against an employment income;
- how to apportion expenses if they are only partly deductible;
- how to work out whether an employee can claim a deduction in the year incurred the expense or whether he or she needs to claim a deduction for a decline in value over a number of years; and
- what records an employee needs to keep.

The Guide also debunks some myths about work expense deductions.

Source: https://www.ato.gov.au/law/view/view.htm?docid=%22SAV%2FEGWE%2F00001%22

FBT, taxi travel and ride sourcing – ATO clarifies

The ATO has clarified a number of issues around FBT and taxi travel.

For businesses, taxi travel by an employee is an exempt benefit if the travel is a single trip beginning or ending at the employee's place of work. The ATO says taxi travel can also be an exempt benefit if it is a result of sickness or injury and the whole or part of the journey is directly between:

- the employee's place of work;
- the employee's place of residence;
- any other place that it is necessary, or appropriate, for the employee to go as a result of the sickness or injury.

For Not-For-Profits, depending on the type of NFP organisation, certain benefits they provide to employees may receive concessional treatment from FBT. However, some benefits may be exempt from FBT altogether. For example, taxi travel by an employee is an exempt benefit if it's a single trip that begins or ends at the employee's place of work. It will also be exempt if it's the result of sickness or injury, as above.

The exemptions for businesses and NFPs are limited to travel undertaken in a vehicle that is licensed to operate as a taxi by the relevant State or Territory. The ATO says they do not extend to travel undertaken in a ride-sourcing vehicle or other vehicle for hire that do not hold such a licence.

Source: https://www.ato.gov.au/Business/Business-bulletins-newsroom/Employer-information/FBT-and-taxi-travel/

New ATO data-matching program: overseas movement data and HELP debt

In a Gazette notice on 5 July 2019, the ATO said it will acquire overseas movement data from the Department of Home Affairs (DHA) for individuals with an existing HELP, VSL or TSL debt. The data matching program will be conducted for the 2019-20, 2020-21 and 2021-22 financial years.

Those living and working overseas with a Higher Education Loan Program (HELP), Vocational Education and Training Student Loan (VSL) and/or Trade Support Loans (TSL) are required to:

- update their contact details and submit an overseas travel notification if they have an intention to, or already reside overseas, for 183 days or more in any 12 months;
- lodge their worldwide income or a non-lodgment advice.

The ATO says the data-matching program will identify HELP, VSL and TSL debtors to whom the HELP, VSL and TSL overseas obligations apply. The ATO will assess their status against ATO records and other data it holds to identify debtors that may not be meeting their registration, lodgment and/or payment obligations.

The data items that will be obtained are:

- identifying particulars for the HELP, VSL and TSL debtor population (name, date of birth, ATO/DHA identifiers);
- DHA overseas movement details (Passport number, passport country of issue, offshore status, departure and return dates) held on DHA system.

The HELP, VSL and TSL debtor population affected by this data collection is expected to involve approximately three million individuals each financial year.

Source: https://www.legislation.gov.au/Details/C2019G00590

GST on low value goods – "very successful initiative", says ATO

The ATO says it has now collected over $250 million in additional GST since the GST on low value goods measure began on 1 July 2018, outstripping forecasts by $180 million.

The legislation requires overseas businesses to charge Australian GST on their sales of low value goods to consumers in Australia. Over 1,000 overseas businesses have registered for GST, which includes all the known major suppliers and international platforms, the ATO said. This includes platforms that are collecting GST when these goods are sold through them – reducing the number of individual businesses that need to register.

According to the ATO, "GST collections on low value imported goods have exceeded initial expectations thanks to strong partnerships with the international business community and high levels of compliance". The measure resulted in $81 million of GST being raised in the first quarter, which surpasses the $70 million projected for the full year. These figures reflect a very strong overall level of compliance and the ATO says it is confident that the system is working well.

As businesses do not need to register unless they meet the A$75,000 GST turnover requirements, most small independent operators do not need to register and have not been affected by this measure.

Source: https://www.ato.gov.au/Media-centre/Articles/GST-on-low-value-goods-measure-continues-to-exceed-expectations/

Super downsizer contributions reach $1 billion: Minister

The Assistant Treasurer, Michael Sukkar, has announced that older Australians downsizing from their family homes have contributed $1 billion to their superannuation funds. He said key recent data shows:

- 4,246 individuals have utilised the downsizer measure;
- 55% of contributions have been made by females and 45% from males;
- individuals from every state and territory have made downsizer contributions with the top three states being, NSW (31%), Vic (26%) and Qld (24%).

The downsizer measure, which commenced on 1 July 2018, allows older Australians choosing to sell their home and downsize or move from homes that no longer meet their needs, to contribute the proceeds from the sale of their home into superannuation up to $300,000.

Key features of the measure

- From 1 July 2018, people who are 65 years old or older and who meet the eligibility requirements (see below), may be able to choose to make a downsizer contribution into their superannuation of up to $300,000 from the proceeds of selling their home.
- The downsizer contribution is not a non-concessional contribution and will not count towards their contributions caps. The downsizer contribution can still be made even if a person has a total super balance greater than $1.6 million.
- The downsizer contribution will not affect a person's total super balance until their total super balance is re-calculated to include all their contributions, including their downsizer contributions, on 30 June at the end of the financial year.
- The downsizer contribution will count towards a person's transfer balance cap, currently set at $1.6 million.
- A person can only make downsizing contributions for the sale of one home. They can't access it again for the sale of a second home.
- Downsizer contributions are not tax deductible and will be taken into account for determining eligibility for the Age Pension.
- If a person sells their home, is eligible and chooses to make a downsizer contribution, there is no requirement for them to purchase another home.

Eligibility criteria

A person will be eligible to make a downsizer contribution to super if they can answer yes to all of the following:

- they are 65 years old or older at the time they make a downsizer contribution (there is no maximum age limit);
- the amount they are contributing is from the proceeds of selling their home where the contract of sale exchanged on or after 1 July 2018;
- their home was owned by them or their spouse for 10 years or more prior to the sale – the ownership period is generally calculated from the date of settlement of purchase to the date of settlement of sale;
- their home is in Australia and is not a caravan, houseboat or other mobile home;
- the proceeds (capital gain or loss) from the sale of the home are either exempt or partially exempt from CGT under the main residence exemption, or would be entitled to such an exemption if the home was a CGT rather than a pre-CGT (acquired before 20 September 1985) asset;
- the person has provided their super fund with the downsizer contribution into super form either before or at the time of making their downsizer contribution;
- the person makes their downsizer contribution within 90 days of receiving the proceeds of sale, which is usually at the date of settlement;
- the person has not previously made a downsizer contribution to their super from the sale of another home.

Source: http://mss.ministers.treasury.gov.au/media-release/004-2019/

Reasonable travel and overtime meal allowance amounts for 2019-20

Taxation Determination TD 2019/11, issued on 3 July 2019, sets out the amounts the Commissioner treats as reasonable for the 2019-20 income year in relation to employee claims for:

- overtime meal expenses – the reasonable amount is $31.25;
- domestic travel expenses. Reasonable amounts are given for three salary levels for: (i) short-stay accommodation in commercial establishments like hotels, motels and serviced apartments; (ii) meals (breakfast, lunch and dinner). Separate reasonable amounts are given for truck drivers (see below); and (iii) deductible expenses incidental to travel;
- overseas travel expenses. Reasonable amounts are provided for three salary levels for: (i) meals (breakfast, lunch and dinner); and (ii) deductible expenses incidental to travel. These reasonable amounts are shown for cost groups to which a country has been allocated. Where travel is to a country that is not listed, the employee can use the reasonable amount for Cost Group 1 in the table for the relevant salary range.

Truck drivers - meal expenses

For employee truck drivers who receive a travel allowance and are required to sleep (take their major rest break) away from home, TD 2019/11 provides separate meal expense amounts for breakfast ($25.20), lunch ($28.75) and dinner ($49.60). These amounts cannot be aggregated into a single daily amount because some of these meals may not have been consumed in the course of work travel. Further, amounts cannot be moved from one meal to another (eg, if the full amount for lunch is not spent). TD 2019/11 states that truck drivers can use their work diary to demonstrate when meal breaks are taken.

Date of effect

The Determination applies to the 2019-20 income year only.

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