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Federal Budget update

Personal tax rates and offsets for 2023–2024 and beyond

With no announced changes in the Federal Budget to personal tax rates and offsets for the 2023–2024 income year and beyond, now is the time to do some tax planning for the current and future years. For the 2022–2023 and 2023–2024 income years, the rates and income thresholds that have applied since the 2021–2022 income year will continue to apply.

The already legislated Stage 3 tax cuts will reduce the 32.5% marginal tax rate to 30%, leading to one big tax bracket between $45,000 and $200,000, along with the abolishment of the 37% tax bracket from the 2024–2025 income year. The original aim of these changes (under the previous government) was to align the middle tax bracket of the personal income tax system with corporate tax rates.

However, some individuals may find themselves paying more tax for the 2022–2023 income year due to the end of the low and middle income tax offset (LMITO). The LMITO applied to individuals with taxable income of less than $126,000.

For the 2022–2023 income year and onwards, only the low income tax offset (LITO) will apply. The maximum amount of the offset is $700 and will apply to individuals with taxable incomes of less than $37,500. Taxpayers earning more than $66,667 are not eligible for the LITO.

It should also be noted that the Stage 3 tax cuts not only apply to Australian residents, but also to foreign residents and working holiday makers from the 2024–2025 income year.

What's in the Budget for small businesses

For small businesses, the government has proposed to temporarily increase the instant asset write-off threshold from 1 July 2023 to 30 June 2024. In previous years, the temporary full expensing effectively replaced the instant asset write-off regime. This allowed eligible businesses to immediately deduct the business portion of an asset's cost with no general limit, although specific cost limits on certain assets, such as cars, applied.

With the end of temporary full expensing, eligible small businesses with an aggregated annual turnover of less than $10 million will be able to immediately deduct the full cost of eligible assets costing less than $20,000 that are first used or installed ready for use between 1 July 2023 and 30 June 2024. The $20,000 limit will apply on a per asset basis, so small businesses can instantly write off multiple assets.

Assets valued at $20,000 or more (which cannot be immediately deducted) can continue to be placed into the small business simplified depreciation pool and depreciated at 15% in the first income year and 30% each income year thereafter. In addition, the "lock-out" rule that prevents small businesses from re-entering the simplified depreciation regime for five years if they opt-out will continue to be suspended until 30 June 2024.

The government has also announced a lodgment penalty amnesty program for small businesses (with an aggregate turnover of less than $10 million). The amnesty will remit failure-to-lodge (FTL) penalties for outstanding tax statements lodged in the period from 1 June 2023 to 31 December 2023 that had original due dates between 1 December 2019 to 29 February 2022.

ATO target areas for tax time 2023

Tax time 2023 is fast approaching and as with previous years, the ATO has provided some insights to the areas it will be focusing on consisting of rental property deductions, work-related expenses, and capital gains tax. Specifically, the ATO will be targeting loan interest expenses, working from home deductions, and possible capital gains tax where a main residence is also used for income producing purposes. Overall this tax time, the ATO expects fewer individuals to receive refunds or to receive smaller refunds, and more individuals perhaps with tax debts.

A recent ATO review indicated that nine out of 10 rental property owners are getting their returns wrong, so it is no surprise that this area remains as one of the main tax time targets. Common mistakes of taxpayers include rental income not being reported, overclaiming expenses, or claiming improvements to private properties. However, this tax time, the ATO is particularly focused on interest expenses.

Further, the ATO reminds taxpayers of the recent commencement of the residential investment property loan data matching program that spans the income years of 2021–2022 to 2025–2026. Data such as amounts of interest charged and loan repayments from various financial institutions will be used to identify discrepancies in returns lodged.

The other focus area the ATO will be enforcing is work-related expenses. There have been changes to the methods to work out working from home deductions from 1 July 2022. From that date, you can either choose the actual cost method or the fixed rate method, with the 80 cents per hour "shortcut" method no longer available. To use either of the available methods, you'll need to keep appropriate records, including the total number of hours worked from home.

The ATO's last area of focus for tax time 2023 is CGT. In addition to the usual disposal of assets such as shares, crypto-assets, managed investments and properties, the ATO will be looking at situations where a main residence or part of a main residence is used to produce income and is then subsequently sold. This applies where you have rented out all or part of your main residence through traditional means or through the sharing economy (using Airbnb, Stayz, etc), or where a business is run from home.

ATO ride-sourcing data-matching program extended

Continuing its theme of closing the tax gap of individuals for budget repair, the ATO has notified the public of the extension of an existing data-matching program on ride-sourcing. The program was previously designed to run from the 2015–2016 to the 2021–2022 financial years, capturing information from individuals engaged in providing ride-sourcing services (through platforms such as Uber); this has now been extended to apply to the 2022–2023 financial year.

It is estimated that records relating to approximately 200,000 individuals will be obtained.

The data obtained will be used to identify and address incorrect reporting of income in terms of income tax returns and activity statements. It will also be used to identify instances where individuals fail to meet registration or lodgment obligations (eg GST).

In addition to potential compliance activities, the ATO will use the program to promote voluntary compliance, understand behaviours and compliance profiles of individuals and businesses providing ride sourcing services and obtain a holistic view of taxpayers' income.

This particular data-matching program will not be extended beyond the 2022–2023 financial year, given the introduction of the Sharing Economy Reporting Regime, which will require operators of various electronic distribution platforms to indefinitely report identification and payment information to the ATO for data-matching purposes from 1 July 2023 for ride-sourcing and short-term accommodation, and from 1 July 2024 for all other reportable transactions.

Single Touch Payroll Phase 2: avoid common mistakes

Single Touch Payroll (STP) was introduced as a way for employers to send super and tax information directly to the ATO through the use of STP-enabled software solutions. STP Phase 2 is now in full swing, having commenced on 1 January 2022. It requires more detail on the amounts reported through STP; for example, salary sacrificed amounts must be reported separately. Under STP Phase 2, the ATO also receives information directly from super funds. When employers make a super payment to their employees' chosen or default funds, the funds will send this information to the ATO so it can be matched with the STP information from the employers to ensure that the correct entitlements are being paid.

The ATO has now identified common STP Phase 2 mistakes to avoid for employers currently entering into the system.

In relation to pay codes, the ATO has noticed that some employers have failed to set up the codes correctly and to ensure that payments including allowances, paid leave and overtime are itemised separately. Another issue the ATO has noticed is employers selecting "not reportable" or "do not report to the ATO" incorrectly. Generally, all amounts paid to employees should be reported, and the "not reportable" or "do not report to the ATO" options should only be selected for travel allowances below the ATO's reasonable amount thresholds, overtime meal allowances below the ATO's reasonable amount reimbursements, and post-tax deductions (except for those separately identified).

Employers that transitioned to STP Phase 2 part-way through the financial year need to ensure that continuity of YTD reporting is maintained unless the replacing payroll IDs method is used. This varies with the different software solutions used; some will transition to the amounts automatically, while others may require manual input of YTD amounts. The ATO suggests comparing the first STP Phase 2 report with the last STP Phase 1 report to assist in maintaining the correct figures.

As tax time approaches, the ATO also emphasises the importance of having the correct employee information such as names, tax file numbers and dates of birth transitioned into STP Phase 2. Employers also need to report accurate information about their employees' employment basis (eg full-time, part-time or casual) each time the payroll is run.

Specifically, the ATO has identified a common issue where the employer omits the cessation date and reason for leaving when an employee's employment ends. In general, employers should be reporting a cessation date and reason for an employee when there are also payments that are connected to termination (eg employment termination payments, unused leave termination, lump sums). This information will flow through to Services Australia and help streamline interactions with the employee.

Under STP Phase 2, employers are also required to report a country code when payments are made to employees who derive foreign employment income, are inbound assignees to Australia or are working holiday makers. The country refers to the home country of the individual, and differs depending on the type of income. The ATO has noticed employers using the code "na" to denote "not applicable" in these instances; however, "na" has been assigned as the country code for Namibia and should not be used unless the employee is either working overseas in Namibia or is from Namibia.

Victoria to phase out duty on commercial and industrial property

The Victorian Government has announced that transfer duty (formerly "stamp duty") will be phased out for commercial and industrial properties from 1 July 2024. Instead, an annual 1% tax on the unimproved value of such property (the annual property tax) will be introduced. This was announced as part of the State Budget handed down on 23 May 2023.

In short, under the Victorian measures the first time a parcel of commercial or industrial land is transferred after 1 July 2024, the transferee will still have to pay transfer duty, either:

- as a lump sum; or
- over 10 years, in annual instalments and at interest.

Ten years after the transfer of that property, the annual property tax will apply, locking that property into the new system (apparently, regardless of whether the transfer duty was paid as a lump sum or in annual instalments). This means subsequent transfers of that property will not trigger a transfer duty liability, but will instead be subject to the annual property tax.

The annual property tax will not impact industrial and commercial property acquired before 1 July 2024, but only once such property is transferred (and therefore permanently entered into the new regime).

Employers to pay super at same time as wages

The government has announced that from 1 July 2026, employers will be required to pay their employees' super at the same time as their salary and wages (ie payday super). The three-year lead time is to give businesses, super funds, payroll providers and other parts of the superannuation system sufficient time to prepare for the change.

According to ATO estimates, in 2019–2020, around $3.4 billion worth of super went unpaid. While the onus to chase up unpaid super currently lies with the employee, this is made all the more difficult by the employer only having to show the amount of super they are liable to pay, not the actual amount paid. Currently, employers are only required to pay super for eligible employees on a quarterly basis, meaning that many employees realise far too late that they have not been paid the correct amount of super.

The government hopes that the simple payday super change will make it easier for employees to keep track of their super payments, making it harder for disreputable employers to exploit this loophole.

Treasurer Jim Chalmers MP has noted that more frequent super payments will make employers' payroll management smoother with fewer liabilities building up on their books, while also benefitting employees. It is projected that a 25-year-old median income earner currently receiving their super quarterly and wages fortnightly could be around $6,000 or 1.5% better off at retirement just with this small change.

It should be noted that legislation related to these measures has not yet been released, let alone passed Parliament. Therefore, these measures are not yet law, but given the broad political support in wake of the announcements, it is likely that these proposals will be introduced as soon as various consultation concludes.