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Recovering from a natural disaster: what you need to know about tax

As Australia experiences another summer of unpredictable weather patterns, it's essential to be prepared for the unexpected – natural disasters like fires, floods, earthquakes and cyclones can turn your world upside down. While you're focused on rebuilding and recovery, tax may be the last thing on your mind, but understanding the implications of assistance payments and insurance payouts can help you make informed decisions.

When you receive an insurance payout after a disaster, whether it's taxable depends on the type of asset involved:

- *Your home:* If the insurance payout is for your main residence, it's generally not taxable.
- *Personal assets:* Payouts for personal items like household goods, furniture and private vehicles are generally not taxable.
- *Rental properties and income-producing assets:* If the insurance payout relates to a property used to produce income, it may have tax implications. For instance, if part of your home was used for a business, such as a home office, the insurance payout might affect your capital gains tax (CGT) calculations.
- *High-value personal assets and collectables:* Special rules apply to personal assets over $10,000 and collectables over $500. If the payout exceeds the original cost, it might be taxable.
- *Business assets:* For business owners, insurance payouts for damaged or destroyed business assets (like equipment or inventory) are usually taxable and need to be reported as income.

If you're planning to repair or rebuild your home, or if you decide to sell your property after a disaster, here's what you need to know:

- *Main residence CGT exemption:* If you rebuild your home, move back in as soon as practicable and live there for at least three months before selling, the property can remain exempt from CGT. This exemption also applies if you sell the land without rebuilding, provided the destroyed property was your main residence before the disaster.
- *Engaging contractors:* It's important to ensure that any builders or contractors you hire are licensed and genuine. Check their Australian Business Number (ABN) and request written quotes and contracts to protect your rights.

The Australian and state and territory governments offer various disaster assistance payments, such as the Disaster Recovery Allowance (DRA), which provide temporary income support to those affected by disasters. These payments are generally not taxable, but it's important to understand the relevant eligibility criteria and application processes, and check with the specific agency providing the assistance or with your tax professional to confirm the tax status of any payments you receive.

Changes coming for buy now pay later services

If you're one of the millions of Australians who use buy now pay later (BNPL) services, important changes are coming that will give you stronger consumer protections from 10 June 2025. BNPL services will soon be regulated more like traditional credit products such as credit cards. Previously, BNPL services weren't regulated under the National Consumer Credit Act, leaving a gap in consumer protection. But, under new laws passed in late 2024, all BNPL providers will need to hold an Australian credit licence and comply with consumer protection requirements.

This means your BNPL provider will need to:

- hold a credit licence or have applied for one by 10 June 2025;
- be a member of the Australian Financial Complaints Authority (AFCA);
- follow responsible lending practices; and

- meet other consumer protection requirements.

The new framework recognises that BNPL services are generally lower-risk than traditional credit products. Most BNPL arrangements will be regulated as “low cost credit contracts”, with modified requirements that balance consumer protection with the unique features of BNPL services.

From 10 June 2025, you can verify if your BNPL provider is properly licensed using the Australian Securities and Investments Commission’s (ASIC's) Professional Registers Search.

These reforms aim to strike a balance between protecting consumers and maintaining the innovation and competition that BNPL services bring to the credit market. Stay informed about these changes to make the most of your BNPL services while keeping your finances healthy.

ATO launches its small business focus areas for 2025

Understanding the ATO's focus areas for 2025 is essential to ensuring your business remains compliant and successful. The ATO has outlined specific areas of concern to help you avoid common pitfalls and manage your tax obligations effectively.

Business income is not personal income

It's important to understand that your business's money and assets are not your personal funds. This distinction is vital for maintaining accurate financial records and avoiding penalties. The ATO is particularly vigilant about businesses using company funds for personal expenses without proper documentation. Familiarise yourself with Division 7A rules to prevent common errors, such as failing to declare interest on loans or not meeting repayment deadlines.

Deductions and concessions

Claiming deductions and concessions accurately is another key focus. The ATO sees frequent errors in the application of small business CGT concessions and non-commercial business losses. Ensure you're eligible for any concessions you claim and that all criteria are met. Misreporting can lead to amended assessments, repayments and potential penalties.

Operating within the system

The ATO is committed to ensuring all businesses operate within the legal tax framework. Risky behaviours such as not declaring all income, over-claiming expenses or using business funds for personal gain are under scrutiny. Poor record-keeping and cash flow management can also attract attention. The ATO encourages businesses to develop strong compliance habits from the outset to avoid these pitfalls.

If the ATO identifies issues within your business, they may contact you or your tax professional for clarification. Depending on the severity, this could involve pre-issue contacts, direct communication or moving your business to more frequent reporting periods. In cases of deliberate noncompliance, firmer actions such as audits, penalties and even legal sanctions may be applied.

ATO warns about GST refund fraud: check your arrangements

The ATO-led Serious Financial Crime Taskforce (SFCT) has issued a warning to businesses against trying to cheat the tax and super system by committing GST fraud. While seeking ways to optimise your tax position is legitimate, it's important to steer clear of arrangements that could lead you into fraudulent territory. The recent warning highlights the dangers of related-party structuring arrangements that exploit GST rules, noting that getting caught can result in significant penalties.

The schemes of concern involve complex arrangements between related parties, creating artificial transactions to claim high-value GST refunds. This can include false invoicing, misaligned GST accounting methods and duplicating GST credit claims for non-existent transactions.

While some business owners may unknowingly get involved in these practices, believing them to be legitimate tax strategies, the reality is that these arrangements are fraudulent. The SFCT is actively working to identify and prosecute those involved in such schemes.

The ATO has issued several reminders to help businesses avoid involvement in fraudulent activities:

- Registering for an Australian Business Number (ABN) and applying for GST refunds when you’re ineligible is fraud.
- The ATO does not offer loans or administer COVID disaster payments.
- If you're not operating a business, you don't need an ABN or to lodge a business activity statement (BAS).
- Backdating business registrations to apply for refunds is a red flag.
- False declarations can affect eligibility for other government payments.
- Sharing your myGov credentials can lead to identity theft.

If you suspect you’ve unintentionally become involved in a GST fraud scheme, it’s vital to act swiftly. The ATO encourages voluntary disclosures, which can lead to reduced penalties. Corrective actions include revising activity statements, cancelling fraudulent ABN registrations and setting up repayment arrangements.

How tax works in Australia's superannuation system

Australia's super system plays a vital role in ensuring financial security for individuals in retirement. However, how superannuation is taxed can appear complex.

In Australia, superannuation is taxed at three main points: contributions, investment earnings and withdrawals. This structure is known as a TTE (taxed, taxed, exempt) system: contributions to the superannuation fund are *taxed* and the investment earnings within the fund are also *taxed*, but withdrawals made during retirement are generally *exempt* from tax. That is, in Australia's system:

- Contributions, including those made by employers under the super guarantee (SG) and voluntary concessional contributions, are taxed at a concessional rate of 15%. This is lower than the rates that apply to most other forms of income, providing a tax advantage.
- Earnings generated from fund investments during the accumulation phase are also taxed at a flat rate of 15%. This is beneficial because it's lower than the tax rates that typically apply to investment income earned outside of superannuation.
- Withdrawals made during retirement are generally tax-free. This is intended to enhance the appeal of building super savings over your working life, ensuring you have a tax-effective income stream in retirement.

Australia's approach to taxing superannuation is somewhat unique compared to many other countries, which often use an EET (exempt, exempt, taxed) model: contributions to the retirement fund are *exempt* from tax and the earnings within the fund are also *exempt*, but withdrawals made during retirement are *taxed*.

Taxing only at the point of withdrawal, as in an EET system, means individuals don't need to worry about tax on contributions or on investment earnings within their super fund during their working life, but must pay the tax once they retire and access their savings.

The Australian model was designed to generate government revenue sooner, with the concessional tax rates on superannuation contributions and earnings intended to encourage people to save consistently throughout their working life. The steady flow of tax revenue from contributions and earnings helps provide a more predictable and stable source of funding for government budgets over time. Australia's TTE system also offers benefits from immediate tax concessions on your super contributions, which can reduce your current taxable income and provide immediate financial relief.

The tax-free status of withdrawals in retirement makes Australian super an attractive savings vehicle and simplifies financial planning in retirement. This can make it easier for retirees to manage their finances without worrying about tax liabilities on their retirement income.

Super legacy pensions: regulations offer window to exit

For legacy lifetime, life expectancy and market-linked superannuation income stream products that generally commenced prior to 20 September 2007, the shackles have finally been released but care is still required.

Regulations that came into effect on 7 December 2024 allow thousands of self managed super fund (SMSF) members to exit legacy income streams at any stage until 7 December 2029.

Before the introduction of the amending regulations, these legacy products – also known as non-commutable products – couldn't be converted to a lump sum, effectively trapping pensioners in their SMSF.

Legacy products were originally introduced to offer retirees a guaranteed income for life or for a set term. This was good in some ways, but very restrictive strategically as the products could not respond to changing individual circumstances, market conditions and other legislative reforms.

During the five-year grace period that the amending regulations offer, retirees can exit these income streams without the previous heavy penalties and with the options of fully withdrawing their funds or moving them into a new income stream or an accumulation account.

There is further good news: the new reserve rules last indefinitely – not just for five years. However, it may be prudent to not to jump in yet if a person's legacy pension was established for social security purposes. A new legislative instrument will ensure these pensions receive the proper treatment under the social security law.

If a person has already made some reserve allocations in 2024–2025 under the "old" rules, *both* the old and new rules will actually apply this year depending on when they made the allocation. But it's important not to assume everything allocated in 2024–2025 is covered under the new rules!

Note also that SMSF members with a legacy pension may need to give the amending regulations consideration ahead of the proposed Division 296 rules from 1 July 2025. This is because Division 296 may count certain reserve allocations as part of the member's superannuation earnings under the proposed additional 15% tax for super account balances above $3 million.