



## WHAT HAS THE GOVERNMENT BEEN UP TO?

### Stage 3 Income tax cuts redesigned

It is only February, yet we have already seen a significant tax development that will affect the majority of Australians — the Government's decision to 'redesign' the Stage 3 income tax cuts.

The table below sets out the redesigned personal income tax rates and thresholds that are now proposed to apply from 1 July 2024.

| Taxable income        | Tax payable                             |
|-----------------------|---|
| \$0 – \$18,200        | Nil                                     |
| \$18,201 – \$45,000   | Nil + 16% of excess over \$18,200       |
| \$45,001 – \$135,000  | \$4,288 + 30% of excess over \$45,000   |
| \$135,001 – \$190,000 | \$31,288 + 37% of excess over \$135,000 |
| \$190,001+            | \$51,638 + 45% of excess over \$190,000 |

The following table sets out the tax rates and thresholds that would have applied if the Stage 3 tax cuts had gone ahead as originally legislated.

| Taxable income       | Tax payable                             |
|----------------------|---|
| \$0 – \$18,200       | Nil                                     |
| \$18,201 – \$45,000  | Nil + 19% of excess over \$18,200       |
| \$45,001 – \$200,000 | \$5,092 + 30% of excess over \$45,000   |
| \$200,001+           | \$51,592 + 45% of excess over \$200,000 |

This means that:

- Taxpayers whose taxable income exceeds \$18,200 but does not exceed \$45,000 will now receive a tax cut – they would not have under the legislated Stage 3 tax cuts.
- Taxpayers whose taxable income exceeds \$45,000 but is less than \$146,486 will receive a larger tax cut than they would have received under the legislated Stage 3 cuts.
- Taxpayers whose taxable income is \$146,486 or higher will receive a smaller tax cut than they would have received under the legislated Stage 3 cuts.

The tax-free threshold (\$18,200) will remain unchanged so taxpayers whose taxable income does not exceed \$18,200 will not benefit from the redesigned Stage 3 tax cuts.

## GST amendments

### *Attribution of input tax credits to earlier periods*

The Parliament is considering an amendment to the GST legislation (contained in Division 1 of Part 2 of Schedule 6 to the (Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023) that relates to the situation where a GST return for a tax period did not take into account a claim for input tax credits; for example, because they were overlooked. A 2021 High Court decision confirmed that, in such cases, there could not be an amended GST return as the claim strictly ceases to be attributable to that tax period and is instead attributable to the first tax period for which the taxpayer lodges a return that takes it into account.

The amendment restores the ATO's 'administrative practice' of allowing taxpayers to lodge an amended GST return to take into account the earlier unclaimed input tax credits.

### *General attribution rules for creditable acquisitions*

Another legislative amendment proposes to make changes to the attribution rules for acquisitions to allow the ATO to determine the tax period to which an input tax credit for a creditable acquisition is attributable.

If the ATO makes such a determination, a taxpayer ceases to be entitled to the input tax credit only if it has not been taken into account in an assessment within four years after they were required to lodge the GST return for the relevant tax period.

The amendments have retrospective effect for tax periods that start on or after 1 July 2012.

### *Income tax deduction for GST paid by reverse charge*

Currently, GST payable by way of reverse charge is not deductible for income tax purposes. Another amendment being considered by the Parliament (contained in Division 3 of Part 2 of Schedule 6 to the (Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023) will allow a taxpayer to deduct the amount of GST payable by way of reverse charge, to the extent that:

- the GST amount is greater than any input tax credits or reduced input tax credits to which they are entitled; and
- the general rules about claiming income tax deductions are satisfied.

**Tip!** Your tax adviser can explain the relevance of these legislative amendments to your business.





## FROM THE ATO

### Employee or independent contractor?

A ruling issued by the ATO in December last year explains when an individual is an 'employee' for PAYG withholding (**PAYGW**) purposes.

In 2022, the High Court handed down two important 'worker classification' decisions, i.e. about how to decide if an individual is an employee or an independent contractor. The ATO's ruling considers the cases and comes to various conclusions:

- for PAYGW purposes, the term 'employee' has its ordinary meaning;
- whether a worker is an 'employee' of an entity under the term's ordinary meaning is a question of fact to be determined by reference to the legal rights and obligations that constitute the relationship between the parties;
- if the parties have comprehensively committed the terms of their relationship to a written contract (and its validity is not challenged or its terms are not varied or waived), it is the legal rights and obligations in the contract alone that are relevant in determining if the worker is an employee or an independent contractor;

- the traditional factors that determine whether a worker is an employee or independent contractor (e.g. control, specified result, risk and delegation) are still relevant, but only in respect of the legal rights and obligations between the parties;
- a 'useful approach' for establishing whether a worker is an employee is to consider whether the worker is working in the entity's business, based on the construction of the terms of the contract.

### *ATO's compliance approach*

The ATO has also published its compliance approach for businesses that engage workers and classify them as either employees or independent contractors. Specifically, it includes a risk framework for 'worker classification' arrangements, based on the actions taken by the parties when entering into such arrangements. The risk framework comprises four risk zones, ranging from very low risk (white) to high risk (red).

**Tip!** Talk to your tax adviser if you are uncertain if an individual providing services to your business is an employee or an independent contractor. The tax and superannuation implications can be significant if you get it wrong.

### *Are your ABN details up to date?*

When did you last check your Australian Business Number (**ABN**) details on the Australian Business Register (**ABR**)? If you're not sure, it's time to check your details are correct.

Emergency services and government agencies use ABN details to identify businesses in areas affected by emergencies. Checking that both your physical business address and postal address are listed and up to date is important.

Other ABN details include authorised contacts, contact details and business activities.

If your details are incorrect, you may miss out on important help, information or opportunities like financial grants.

The fastest way to update your ABN details is through ABR online services (using your myGovID).

If you're no longer using your ABN, you need to cancel it. The ATO actively reviews ABN entitlement and may cancel your ABN if there are no signs of business activity.

**Tip!** Although it's your responsibility to keep your ABN details up to date, your tax adviser can do it for you.

## Taxable payments annual report

If your business pays contractors to provide certain services, you may need to lodge a Taxable Payments Annual Report (**TPAR**) by 28 August each year.

From 22 March, the ATO will apply penalties to businesses that:

- have not lodged their TPAR from 2023 or previous years;
- have received three reminder letters about their overdue TPAR.

Last year, the ATO issued penalties of approximately \$18 million to more than 11,000 businesses.

If you do not need to lodge a TPAR, you can submit a non-lodgment advice (**NLA**) form. If you no longer pay contractors, you can also use this form to indicate that you won't need to lodge a TPAR in the future.

## Contractor details

For each contractor you pay, you must include the following details in your TPAR:

- the ABN, if known (if a contractor's ABN changed during the year, include each ABN for that contractor);
- the contractor's name (business name or individual's name) and address;
- the total amounts for the financial year of:
  - the gross amount paid, including GST, and any tax withheld;
  - the total GST you paid them; and
  - the total tax withheld where an ABN was not quoted.

When you receive an invoice:

- check that the ABN on the invoice matches the ABN on your record for that contractor;
- ensure you create a new contractor record, if necessary.

You can check that your contractor's details (including ABN, name and GST registration) are correct by using *ABN Lookup* or the ATO app.

## Lodging the TPAR

Use business software if:

- it is SBR-enabled software;
- your business can create a TPAR data file to the required Taxable payments annual reporting specifications. Lodge through Online services for business using the file transfer function.

If you do not have business software, use Online services for business. You need an ABN and a secure credential myGovID and Relationship Authorisation Manager (RAM).

**Tip!** Your tax adviser or BAS agent can help you with your TPAR lodgment obligations.

### Applying for a substituted accounting period (SAP)

An entity's accounting period is ordinarily the 12-month period ending on 30 June. However, the ATO can allow you to adopt an alternative annual accounting period, known as a 'SAP'.

Use the Application for a substituted accounting period form (NAT 5087) to:

- apply for a SAP; or
- revert to a standard accounting period ending 30 June.

When you apply, you must provide:

- a reason for requesting a SAP; and
- supporting evidence.

A SAP application should be lodged at least 28 days before the earlier of:

- the due date for lodgment of the income tax return for the current accounting period; and
- the due date for lodgment of the tax return for the proposed new accounting period.

Retrospective or out of date applications may be accepted in limited circumstances.

You can lodge your application either via Online services for business or by post:

Australian Taxation Office  
PO Box 3000  
Penrith NSW 2740

### *When a SAP may be granted*

SAPS are granted where the entity can demonstrate its circumstances take the case out of the ordinary run. These circumstances may include:

- needing to synchronise your balance dates with the controlling entity of your economic group or the entity that holds the majority of your membership interests;
- wanting to align your balance date with the income tax consolidated group you have just exited, because your accounting systems are already set up to meet the former income tax consolidated group's reporting requirements and it will be too costly to adjust your systems to a new balance date;
- an ongoing event, industry practice, business driver or other ongoing circumstance that makes 30 June impractical as a basis to calculate taxable income. This would include difficulties with ascertaining inventory for stock valuations, and having multiple financial reporting requirements (for example, a franchise to a franchisee).

Circumstances generally not outside the ordinary run include:

- strata or owners corporations wishing to align their balance date with their audit date;
- companies wishing to align their balance date with a change of company financial year election sent to ASIC.

It is highly unlikely that an individual would be granted a SAP.

Subsidiary members of income tax consolidated groups do not need to apply for a SAP as they do not have income tax reporting obligations.

### *Transitional accounting period*

Where an entity is allowed to adopt a SAP, a change to the end date of its accounting period results in a transitional period of more or less than 12 months. The application form automatically calculates the end of the transitional period.

For entities that adopt a SAP for their first lodgment of an income tax return, the transitional period:

- begins on the date the entity commenced trading; and
- ends on the first occurrence of the SAP balance date.

The transitional period for a new entity must be 12 months or less.

For existing entities that have lodged previous income tax returns, the length of the transitional period is determined by a table published by the ATO ([https://www.ato.gov.au/law/view/sgif/psr/ps07\\_021c.gif](https://www.ato.gov.au/law/view/sgif/psr/ps07_021c.gif)).

## Depreciating assets – composite parts

Have you ever looked at a depreciating asset held by your business and wondered if it is a single asset or whether it comprises a number of separate assets? The ATO has issued a ruling on this topic.

The ATO defines a 'composite item' as an item made up of several components that are capable of separate existence. It is a question of fact and degree whether a particular composite item is itself a depreciating asset, or whether one or more of its components are separate assets.

The ATO provides a series of 'guiding principles' to assist in identifying the relevant depreciating asset. They also provide some useful examples covering assets such as industrial storage racking, a desktop computer package, a mainframe computer, a local area network and a car global positioning system.

## EV home charging rates

The ATO allows a cents-per-kilometre methodology for calculating electricity costs where an electric vehicle (**EV**) is charged at an employee's or individual's (e.g. sole trader's) home.

The employer or individual can choose to use this methodology instead of determining the actual cost of the electricity. The choice is per vehicle and applies for the whole income or FBT year. However, it can be changed from year to year.

The methodology does not apply to plug-in hybrid vehicles, electric motorcycles or electric scooters.



## Cents-per-kilometre

The 'EV home charging rate' is 4.2 cents per km. This rate is multiplied by the total number of relevant kilometres travelled by the electric vehicle in the year in question.

Where EV charging costs are also incurred at commercial charging stations and the home charging percentage can be accurately determined, the total number of relevant kilometres must be adjusted. If the home charging percentage cannot be accurately determined, you can choose to either use the EV home charging rate and disregard the commercial charging station cost, or use the commercial charging station cost and not apply the EV home charging methodology.

### *Record keeping and transitional approach for 2022–23 and 2023–24*

If you are an employer and you choose to apply the EV home charging rate for FBT purposes, a valid logbook must be maintained if the operating cost method is used.

To satisfy the record-keeping requirements for income tax purposes, the individual needs to have:

- a valid logbook to use the logbook method of calculating work-related car expenses. For other vehicles, the ATO recommends a logbook to demonstrate work-related use of the vehicle; and
- one electricity bill for the residential premises in the income year (i.e. to show that electricity costs have been incurred).

However, if odometer records have not been maintained as at the start of the 2022–23 or 2023–24 FBT or income year, the ATO will allow a reasonable estimate to be used based on service records, logbooks or other available information.

### **Sharing economy reporting regime**

Under the Sharing Economy Reporting Regime (**SERR**), Electronic Distribution Platform (**EDP**) operators must report certain transactions made through their platform.

The rules generally apply from 1 July 2024, but they have already commenced for transactions for the supply of:

- taxi travel and ride-sourcing; and
- short-term accommodation (the ATO considers this to be for a period of 90 consecutive days or less).

Transitional arrangements are in place to help eligible small EDP operators meet their SERR reporting obligations in the first two reporting periods (see below).

### *What is an EDP?*

Under SERR, an EDP is a service that:

- allows sellers to make supplies available to buyers (for example, guests booking accommodation, renting an asset like a handbag or lawnmower, or passengers booking car rides); and
- is delivered via electronic communication.

A seller is an entity that makes supplies via an EDP. A buyer is the end user of the supplies. An EDP can be, but is not limited to a website, an internet portal, a gateway, an application, an online store or marketplace.

Platforms are not an EDP if they provide only:

- carriage services that transmit electronic communications;
- access to payment systems or payment processing services;
- advertising that makes buyers aware of products and links them to a seller's website.

### *Example: ride-sourcing provider*

Saferider is a third-party ride sourcing platform that allows passengers to request rides from drivers.

Trisha wants to go to the CBD. She opens the Saferider app and types in her desired destination.

The app connects her with James, a Saferider driver in her area and provides her with the price for the service. Trisha accepts the ride with James through the app and the transaction and payment is processed through the platform.

Saferider is an EDP as the service allows sellers (the drivers) to supply ride-sourcing services to end-users (the passengers) via a smartphone application.

### *Example: service that does not allow entities to make supplies available to end-users*

Michelle wants a plumber to fix her kitchen sink. She uses a website called Fix It where she can request quotes for plumbing services.

Jim, a plumber, contacts Michelle and quotes a price, which Michelle accepts.

Fix It is not operating an EDP as its website only allows individuals to find a service provider. Transactions are not accepted through the website between the buyer and seller and any supply is agreed to outside of the platform.

### *Transactions reportable under SERR*

EDP operators must report to the ATO details about the provision of consideration for supplies made through their EDP that are connected with Australia.

This includes ride sourcing, short-term accommodation, hiring (not selling) of assets and services made available through the platform. Assets hired could include personal assets, storage or business space. Services could include food delivery, professional, performing tasks and activities.

EDP operators do not need to report details of all supplies made through their EDP. For example, the following supplies do not need to be reported:

- those not connected with Australia;
- where an amount of the payment for the supply must be withheld under the PAYG withholding rules, for example, salary and wages, payments to a service provider covered by a voluntary agreement to withhold and payments for supplies in enterprise-to-enterprise transactions where the supplier does not quote its ABN;
- only the title or ownership of goods or real property is exchanged; and
- certain financial supplies.

Where a supply is made through multiple EDPs, the operator of the first platform is not required to report details about the transaction in certain circumstances.

### *Example: connected with Australia*

Short Stay Marketplace Co is an EDP through which entities can make supplies of short-term accommodation.

Using this platform, Ezra contracts with Nina to book a three-night stay at a property owned by Nina in Melbourne for \$450. Short Stay Marketplace Co must report this transaction. It involves a supply that is made through the platform that is both for payment and connected with Australia (because the property is located in Australia).

If Nina owned property in Italy and Ezra booked a stay there, Short Stay Marketplace Co would not need to report that transaction as the supply of the accommodation would not be connected to Australia.

If Nina was an overseas resident, the supply of accommodation would still be connected to Australia even if the payment to the supplier was made into a bank account in Italy.

### *Large commercial properties used to provide short-term accommodation*

EDP operators do not need to report transactions involving the supply of short-term accommodation for a reporting period if the property is a 'substantial property' in relation to that reporting period.

A property is a substantial property if at least 2,000 transactions were made through their EDP for the property over the 12-month period ending on the last day of the reporting period.

If the property was listed on the platform for only part of the 12 months before the last day of a reporting period, the number of transactions is proportionally adjusted to reflect the shorter time the property was listed on the platform.

Each distinct address is considered a separate property. This means that all transactions made in relation to multiple rooms at a single address (such as in a commercial hotel) would be considered to be made in relation to a single property. When there are separate addresses within a building (such as apartments in a complex), each apartment is a separate property.

### *When to report under SERR*

The reporting periods under SERR are:

- 1 July to 31 December – the report must be submitted by 31 January of the following year;
- 1 January to 30 June – the report must be submitted by 31 July of that year.

The period in which you need to report a reportable transaction depends on when you pay the supplier. This matters for transactions where the booking, supply and payment by the operator of the EDP to the supplier occur over multiple reporting periods. Where this occurs, the operator of an EDP must report the transaction in the period when it pays the supplier.

Small operators of EDPs need not provide reports for the reporting periods from 1 July to 31 December 2023 and from 1 January to 30 June 2024 in certain circumstances. Alternatively, the operator of the platform may choose to lodge reports for those reporting periods, in which case they will be given an extension of time (to 29 February 2024 and 2 September 2024 respectively).

Penalties may apply for late or incorrect information provided.

**Tip!** Talk to your tax adviser if you think your business is affected by the SERR.

## R&D concerns

The ATO has concerns about certain R&D arrangements and has accordingly issued Taxpayer Alerts. The ATO is concerned about:

- R&D activities delivered by associated entities – in particular, where expenditure is incurred under an agreement with an associate of the R&D entity which itself conducts the R&D activities; and
- R&D activities conducted overseas for foreign related entities – in particular, where Australian-resident R&D entities claim a tax offset under for expenditure incurred on R&D activities conducted overseas.

**Tip!** If your business incurs expenditure on R&D activities and you wish to claim the R&D tax offset, talk to your tax adviser.

## Fuel tax credits

Fuel tax credit rates increased on 5 February. The fuel tax credit rate is indexed twice a year in February and August – based on the upward movement of the consumer price index (**CPI**).

As a small business owner, you can claim fuel tax credits for eligible fuel you acquired, manufactured or imported and use in your business.

Fuel tax credits give you a full or partial credit for the fuel tax (excise or customs duty) that is included in the price of fuel used in your:

- machinery;
- plant;
- equipment;
- heavy vehicles; and
- light vehicles travelling off public roads or on private roads.



### *Example*

The ATO has provided a useful example for small business owners.

Alex owns a landscaping business and uses a petrol-operated ride-on mower and whipper-snipper. She is eligible to claim fuel tax credits by being registered for both GST and fuel tax credits.

Alex uses the ATO's fuel tax credit calculator (<https://www.ato.gov.au/single-page-applications/calculatorsandtools?anchor=FTCCalc#FTCCalc/questions>) to help work out the fuel tax credit amount that she can claim on her business activity statement (**BAS**). The fuel tax credit calculator can also help with corrections or adjustments on her previous BASs.

Alex has kept records showing when the fuel was acquired to support her claims and she knows to keep her records for up to five years.



## KEY TAX DATES

| Date                | Obligation  |
|---------------------|---|
| <b>21 Feb 2024</b>  | January 2024 monthly BAS due  |
| <b>28 Feb 2024</b>  | December 2023 quarterly BAS due<br>Pay December 2023 quarterly instalment<br>Annual GST return due (if no income tax return due)<br>December 2023 SG charge statement due (if required)<br>SMSF 2022–23 annual return due (unless first return or late with return for the previous financial year) |
| <b>21 Mar 2024</b>  | February 2024 monthly BAS due   |
| <b>21 Apr 2024*</b> | March 2024 monthly BAS due  |
| <b>28 Apr 2024*</b> | March 2024 quarterly BAS due<br>Pay March 2024 quarterly instalment<br>Employee SG contributions due  |
| <b>21 May 2024</b>  | April 2024 monthly BAS due<br>Lodge annual FBT return (if your business lodges one)<br>Pay assessed FBT   |
| <b>28 May 2024</b>  | March 2024 SG charge statement due (if required)  |

\*Next business day applies instead

**Note!** Talk to us if you need to confirm the correct due dates for your own tax obligations.

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