

# Client Information Bulletin



May 2024

## CONTENTS

- 1 Stage 3 personal income tax cuts redesigned
- 2 From the ATO
- 3 Starting a franchise
- 4 Understanding Division 7A – avoid common errors
- 5 Franking offset holding rule — LIFO method
- 6 Superannuation/SMSFs
- 7 FBT issues
- 8 Key tax dates



## 1. Stage 3 personal income tax cuts redesigned

The table below sets out the tax rates that will now apply from 1 July 2024 as previously advised and mentioned during the Federal Budget delivered by Jim Chalmers on 14 May 2024. Please refer to the link below for our Budget summary and accompanying detailed analysis.

[No.101: Full Detailed Federal Budget Report 2024/2025 - Blaze Acumen](#)

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



## 2. From the ATO

### *Is your business eligible for concessions?*

As a small business owner, you may be eligible for concessions on the amount of tax you pay. This depends on your business structure, your industry and your annual turnover.

If you have an aggregated turnover of less than:

- \$2 million, you may be able to access the small business CGT concessions;
- \$5 million, you may be able to access the small business income tax offset;
- \$10 million, you may be able to access the small business restructure roll-over.

You will generally need to keep records for five years to prove any claims you make. You can choose how you keep these records, but you may find electronic record keeping easier and more convenient.

#### **Tip!**

Talk to your Blaze Acumen adviser to learn about all the tax concessions available to small business owners.

### *Check your PAYG instalments*

Now is a good time to check that your PAYG instalments still reflect your expected end-of-year tax liability.

If your business' circumstances have changed and you think you will pay too much (or too little) in instalments for the year, the instalments can be varied on the next activity statement (due on 28 May 2024). Instalments can be varied multiple times throughout the year. The varied amount or rate will apply for the remaining instalments for the income year or until another variation is made.

If your varied instalments are less than 85% of your total tax payable, you may have to pay a general interest charge on the difference, in addition to paying the shortfall. Depending on the circumstances there may also be penalties.

If you are not sure, it is best to not vary your instalments. Any overpaid instalments will be refunded to you after you lodge your tax return.

If your business is affected by COVID-19 or a natural disaster, the ATO has said it will not apply penalties or charge interest to varied instalments if you have made your best attempt to estimate your end of year tax liability.

If an amount or rate is varied online, activity statements and instalment notices will be issued electronically and not in paper form. You will need to consider this when deciding how to lodge, revise and vary future activity statements and instalment amounts.

### Tip!

Your Blaze Acumen adviser can help you with your activity statements and tax returns.

## Claiming working from home expenses

If you have been working from home this income year, you will probably have some work-related expenses you can claim.

There are two ways to calculate a working from home deduction — the fixed rate method and the actual cost method.

If you use the *fixed rate method*, you 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 your tax return.

You can, however, separately claim the decline in value for any depreciating assets, like office furniture or technology.

You must have the right records.

For the *fixed rate method*, this includes a record of:

- the total number of hours worked from home (for the entire income year);
- the additional running expenses covered by the rate per hour that you incurred (for example, phone bill, electricity bill);
- any depreciating assets (and how much of your use of that asset was work-related).

For the *actual cost method*, you will need a record of:

- your hours worked from home (whether that be the total hours, or a continuous four-week period representing the usual pattern of work, if your hours are consistent throughout the income year);
- your additional running expenses (for example, phone bills, electricity bills);
- how the deduction was calculated.

## EV home charging rates

Do you use an electric vehicle (**EV**) for work? If you do, you may be able to use the ATO's cents-per-kilometre rate for calculating electricity costs when you charge the EV at home. You can use this method instead of determining the actual cost of the electricity.

This cents-per-kilometre method can also be used for fringe benefits tax (**FBT**) purposes if you provide an EV to an employee who charges it at home.

The choice is per vehicle and applies for the whole income or FBT year. However, it can change from year to year.

Particular points to note are:

- The 'EV home charging rate' is 4.2 cents per km. This rate is multiplied by the total number of work-related kilometres travelled by the EV in the income year or FBT year in question.
- Employers can use this rate from 1 April 2022 for FBT reporting purposes.
- Sole traders and employees can use this rate from 1 July 2022 for income tax purposes, when using the logbook method.
- If you use the EV home charging rate, you cannot include commercial charging station costs unless you can accurately determine the percentage of the vehicle's total charge based on the type of charging location.

- This cents-per-kilometre method applies to zero emission electric cars only. Plug-in hybrid vehicles, electric motorcycles or electric scooters are excluded.

## **Record keeping and transitional approach for 2022–23 and 2023–2024**

If 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, you need 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 (to show that electricity costs have been incurred).

However, if you have not maintained odometer records 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.

## **Can you claim the small business skills and training boost?**

If you are paying for your employees' external training, you could be eligible to claim the skills and training boost.

Businesses with an aggregated annual turnover of less than \$50 million are potentially eligible for the small business skills and training boost. The boost provides an additional 20% bonus tax deduction for eligible expenditure incurred on training new and existing employees.

If eligible, you can claim a deduction on expenditure for external training courses delivered to your employees, either in person in Australia or online. The training must be provided by a registered external training provider.

The skills and training boost is available until 30 June 2024, so you still have time.

You cannot claim expenditure for training you undertake yourself as a business owner, such as where you are a sole trader, partner in a partnership or independent contractor.

For example, if you are a gardener operating as a sole trader, and you and your employee begin turf management training, you cannot claim the bonus deduction for the expenditure on training for yourself, but you can claim it for your employee's training.

### **Tip!**

Talk to your Blaze Acumen adviser to see if you are eligible for the skills and training boost.

## **Payments in respect of software and IP rights**

The ATO has released a revised draft ruling on whether an amount paid under a software arrangement is a royalty. The draft ruling focuses on payments for the use of, or right to use, copyright.

The ATO lists some arrangements where an amount paid as consideration will be treated as a royalty. They include:

- granting the right to use intellectual property (IP), irrespective of whether that right is exercised;
- using an IP right;
- supplying know-how in relation to an IP right referred to in (a) or (b) above; and
- the sale by a distributor of hardware with embedded software, where the distributor is granted or uses rights in the IP of the software.

Payments that are not considered to be royalties include:

- payments for granting a right to distribute copies of a computer program, without the use of, or right to use, the copyright or another IP right;
- payments for transferring all rights relating to the copyright in software; and
- payments for acquiring hardware with embedded software, where the distributor does not use, and is not granted the right to use, any copyright or other IP right in the software.

### **3. Starting a franchise**

With franchising, the franchisor grants a right to the franchisee to:

- use a business brand name or trademark; and
- produce or distribute their product or service

The franchisor and each franchisee have their own Australian Business Number (**ABN**).

The franchisee incurs franchise-specific payments made to their franchisor in addition to other general business expenses. Some of these payments are deductible and others are capital in nature and not deductible.

#### ***Common franchise fees***

Common franchise fees are:

- franchise establishment fees — the franchise establishment fee or transfer fee forms part of the cost base for your franchise licence, which is a capital asset. Because these fees are a capital investment in your business, they are not tax deductible;
- franchise renewal fees — if your franchise renewal fees form part of your cost base, they will not be deductible. Any franchise renewal fees not included in your cost base may be deductible as a business expense and are subject to the prepayment rules.

An example of where you would not include a franchise renewal fee in your cost base is where it is for a relatively short period (for example, 5 years), and you would be left with no franchise if you did not pay the renewal fee.

#### ***Royalties, interest and other payments to the franchisor***

An agreement to buy a franchise often includes ongoing royalty payments, interest payments or levies to the franchisor. These payments typically cover head office expenses, such as administration, advertising and technical support.

Royalty payments, interest payments and levies to the franchisor can be claimed as an expense on your annual tax return. This is because they are an ongoing expense in running your business.

#### ***Royalty and interest payments to non-residents***

Generally, when you make royalty and interest payments to non-resident franchisors, you are required to withhold a flat rate of:

- 30% from the gross amount of a royalty payment; and
- 10% from the gross amount of an interest payment.

However, where there is a tax treaty agreement with the non-resident's country of residence, you apply the withholding rate per the relevant tax treaty.

You pay and report the amounts you withhold from interest and royalty payments in your business activity statement (**BAS**) for the relevant reporting period.

You report the total annual amount of royalty and interest payments, and amounts withheld, in the *PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report*.

If you are required to withhold tax from a royalty or interest payment to a non-resident, you can claim a deduction for it only if you have withheld tax from the payment and paid the withheld amount to the ATO.

### Training fees

You can claim a tax deduction for fees you pay to the franchisor for ongoing training for employees in their roles.

### GST

If the franchisor is registered for goods and services tax (**GST**), payments you make to the franchisor may include a GST component.

If you are registered for GST, you may be able to claim a GST credit in your BAS for the GST amount included in:

- the initial franchise fee;
- franchise renewal fees;
- franchise service fees or royalties;
- advertising fees;
- transfer fees;
- training fees.

### Transferring or terminating a franchise

If you transfer a franchise to another party or end your franchise agreement, there may be capital gains tax (**CGT**) and GST consequences.

When you transfer or end your franchise agreement, you will need to calculate your CGT and include that in your annual tax return.

The sale of an existing franchise by a franchisee may qualify as a GST-free sale of a going concern.

#### Tip!

If your business is considering starting a franchise, or if you are already a franchisee and you are thinking about selling the franchise, contact your Blaze Acumen adviser to discuss all the tax implications.



## 4. Understanding Division 7A – avoid common errors

There are multiple ways in which owners may access private company money, such as through salary and wages, dividends or complying Division 7A loans. Division 7A is an area where the ATO sees many errors, across both the basics and more complex aspects.

Broadly, under Division 7A, certain loans and payments by private companies to shareholders (and associates of those shareholders) are taken to be unfranked dividends. An unpaid present entitlement may also be taken to be an unfranked dividend. A loan will not be taken to be an unfranked dividend if it meets certain minimum rate and maximum term criteria.

The ATO has reminded taxpayers that they need to:

- keep adequate records;
- properly account for and report payments and use of company assets by shareholders and associates; and
- comply with rules around Division 7A loans.

It's essential that you understand Division 7A to:

- make informed decisions when receiving private company money and using private company assets;
- avoid unexpected and undesirable tax consequences.

### **Tip!**

The rules around Division 7A are complex. Talk to your Blaze Acumen adviser if you operate your business through a company (including if using a trust structure) and you intend to receive money from the company or use assets of the company.

## 5. Franking offset holding rule — LIFO method

Do you own shares? If you do, then you may be entitled to a franking offset in relation to franked dividends you receive. The effect that dividends are not taxed twice (in the hands of the company and the shareholder) is known as imputation.

To be entitled to a franking offset, a shareholder must satisfy certain integrity rules. One of these is the holding period requirement. Basically, this requires the shareholder to hold the relevant shares for at least 45 days.

Where a person buys substantially identical shares in a company over time, it can get complicated. So, the last-in first-out (LIFO) method is used to determine which shares (or interests in shares) are subject to testing for the purposes of the holding period requirement.

The LIFO method groups together the primary securities and related securities you hold in a company. The holding period requirement applies to this group. Once the group is established, any shares in the group that you sell are taken to be sold on a last-in first-out basis.

If (after applying the LIFO method) the shares or interest in shares were not held at risk for a continuous period of at least 45 days during the relevant qualification period, the taxpayer will not be entitled to the relevant franking credits.

The effect of the LIFO method is to prevent taxpayers from manipulating the period in which they hold shares in a company at risk.

The ATO has provided a simple example showing how the LIFO method works.

### **Example: buying and selling multiple parcels of shares**

Jenny purchased and sold shares in a company. On:

- 3 October 2023, she purchased parcel 1 of 10,000 shares;
- 13 October 2023, she purchased parcel 2 of 10,000 shares;
- 16 January 2024, she made her first sale of shares (2,000 shares);
- 5 March 2024, she purchased parcel 3 of 10,000 shares;
- 15 March 2024, she purchased parcel 4 of 10,000 shares;
- 26 March 2024, she made her second sale of shares (6,000 shares);
- 4 April 2024, it was the ex-dividend date for the company's ordinary dividend;
- 8 April 2024, she purchased parcel 5 of 25,000 shares;
- 12 April 2024, she made her third sale of shares (25,000 shares).

To use the LIFO method, Jenny goes through the following steps.

*Step 1:* Jenny determines the group of shares on hand as of the ex-dividend date. The pre-ex-dividend date sales are grouped and matched on a last-in, first-out basis. She matches the:

- first sale with parcel 2, leaving her with 8,000 parcel 2 shares on hand (10,000 minus 2,000);
- second sale with parcel 4, leaving her with 4,000 parcel 4 shares on hand (10,000 minus 6,000).

The group on hand as at the ex-dividend date is 32,000 shares. This is made up of:

- 4,000 shares on hand from parcel 4;
- 10,000 shares from parcel 3;
- 8,000 shares on hand from parcel 2;
- 10,000 shares from parcel 1.

*Step 2:* Jenny applies the LIFO method to the third sale of shares (sold after the ex-dividend date).

Jenny meets the holding period requirement in relation to the ordinary dividend paid on the parcel 2 shares as Jenny held this parcel of shares for more than 45 days.

She matches the third sale against (in order):

- parcel 4 (4,000 shares);
- parcel 3 (10,000 shares);
- parcel 2 (8,000 shares).

Jenny acquired parcel 5 after the ex-dividend date and is not entitled to the dividend or franking credits on these shares. So, the parcel 5 shares are not part of the group of shares against which the sale 3 shares need to be matched for the purposes of the LIFO requirement.

The result is that Jenny does not meet the holding period requirement in relation to the franked dividend and therefore a franking credit entitlement is not available for parcel 4 shares (4,000 shares) and parcel 3 shares (10,000 shares). Jenny meets the holding period requirement for parcel 1 and the balance of parcel 2 as these parcels were held for more than 45 days, applying the LIFO method.



**Result**

Unless other integrity rules apply, Jenny can claim the franking credits attached to the ordinary dividend paid on 18,000 shares (10,000 shares from parcel 1 and 8,000 from parcel 2). As Jenny does not meet the holding period requirement for the other 14,000 shares (10,000 shares from parcel 3 and 4,000 shares from parcel 4), she is not a qualified person in relation to the franked, ordinary dividend paid on these shares.

**Tip!**

The franking credit integrity rules are complicated. Talk to your Blaze Acumen adviser before buying and selling shares.



## **6. Superannuation/SMSFs**

### **Quarterly TBAR lodgement reminder**

If you had/will have a transfer balance account event this quarter, you must lodge a TBAR by 28 July 2024.

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

You must report and lodge within 28 days after the end of the quarter in which the event occurs. You are not required to lodge a TBAR if no TBA event occurred during the quarter.

You should always refer to event-based reporting for SMSFs and the TBAR instructions when preparing your TBAR.

You can lodge your TBAR through Online services for business or your tax agent can do it for you through their online services.

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



## 7. FBT issues

### *FBT return time*

The fringe benefits tax (**FBT**) year runs from 1 April to 31 March. You should be preparing to lodge an FBT return for the FBT year ended 31 March 2024 if:

- your business is liable to pay FBT on fringe benefits provided to employees; and/or
- your business has paid FBT instalments through its activity statements (e.g. a BAS).

The FBT return is normally due on 25 May however if lodging via Blaze Acumen it will be due 25 June 2024.

You must have lodged all activity statements for the FBT year ended 31 March 2024, including the March quarter, before lodging the FBT return. The FBT return will not be processed until all the activity statements are lodged.

If you are lodging your business' FBT return through Blaze Acumen for the first time, contact us before 21 May 2024. We need to add your business to our FBT client list by this date so that your business will be eligible for the extended June lodgment and payment date.

The ATO states that most electronic lodgments are processed within 14 days and most paper lodgments are processed within 50 business days. If you are due a refund, it will be processed within 28 days.

If your business is registered for FBT but you do not need to lodge a return, you should send the ATO a *Fringe benefits tax – notice of non-lodgment* (NAT 3094). This will prevent the ATO from seeking a return from you at a later date. Send the notice by the time the FBT return would normally be due.

### *Paying FBT*

When you lodge the annual FBT return, you offset the instalments paid during the year against the actual FBT liability. If the instalments are less than the FBT liability, you pay the shortfall. If the instalments are more than the FBT liability, the ATO will refund the excess.

If you have to pay FBT of \$3,000 or more for the year, you must pay quarterly FBT instalments in the next year.

## **What's new in FBT?**

### **Changes to employee declarations**

The make and model of the car are no longer required for the following employee declarations:

- remote area holiday transport;
- overseas employment holiday transport;
- relocation transport;
- employment interview or selection test;
- work-related medical examinations, medical screenings, preventative health care or counselling or migrant language training.

### **Changes to FBT Record Keeping**

If you have employees and provide fringe benefits, from 1 April 2024 for certain benefits, you can choose to:

- rely on alternative records (as determined by the ATO by legislative instrument);
- keep and retain the records in the current approved form – a travel diary or some employee declarations for FBT record keeping purposes; or
- use a combination of both methods for each employee for each benefit.

Where you choose to use the alternative records option, you must have the minimum information required at the time of lodging your FBT return for the FBT year (or by 21 May following the end of the FBT year if you do not have to lodge a return). The ATO will accept these records as a substitute for a travel diary or certain employee declarations.

There is no limit on the number of records that may, together, meet the information requirements.

The option to use alternative records is available on a benefit-by-benefit basis.

An employer may choose to use alternative records for some benefits of one type, even if they choose to rely on records in the approved form for other benefits of that same type.

The alternative record option is available in relation to:

- travel diaries;
- otherwise deductible benefits;
- the private use of vehicles other than cars;
- car travel to certain work-related activities;
- car travel to an employment interview or selection test;
- living-away-from-home — maintaining an Australian home;
- fly-in fly-out/drive-in drive-out employees;
- overseas employment holiday transport;
- remote area holiday transport;
- relocation transport; and
- temporary accommodation relating to relocation.



## 8. Key tax dates

Date	Obligation
<b>21 May 2024</b>	April 2024 monthly BAS due Lodge and pay annual FBT return (if your business lodges it directly)
<b>27 May 2024*</b>	2023-24 FBT return due if <u>not</u> lodging view Blaze Acumen
<b>28 May 2024</b>	March 2024 SG charge statement due (if required)
<b>21 June 2024</b>	May 2024 monthly BAS due
<b>25 June 2024</b>	2023-24 FBT return due if lodging via Blaze Acumen
<b>30 June 2024</b>	End of 2023-24 financial year
<b>1 July 2024</b>	Start of 2024-25 financial year Stage 3 personal income tax cuts (as redesigned)
<b>29 July 2024*</b>	June 2024 quarterly BAS due
<b>14 Aug 2024</b>	PAYG withholding annual report due if not reporting through Single Touch Payroll (STP)
<b>28 Aug 2024</b>	June quarter SG statement due Taxable payments annual report due

\*Next business day applies

**Note!** Talk to your Blaze Acumen tax agent to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by COVID-19 or a natural disaster.

### DISCLAIMER

The content of this newsletter does not constitute specific advice. Readers are encouraged to consult their Blaze Acumen tax adviser for advice on specific matters.