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# Practice Update

Please read this update  
and contact this office  
if you have any queries

**OCTOBER - DECEMBER 2024**

## Tax and tinsel Q&As



*Can you avoid giving the Australian Tax Office a gift this Christmas?*

### The top Christmas party questions

#### What can I do to make the staff Christmas party tax deductible or tax-free?

Not have one? Ok, seriously, it's likely that you will pay tax one way or another; it's just a question of how. If you structure your celebrations to avoid fringe benefits tax (FBT), then you normally can't claim a tax deduction for the expense or goods and services tax (GST) credits.

#### No FBT

If you host your Christmas party in the office on a working day, then FBT is unlikely to apply to the food and drink. Taxi travel that starts or finishes at an employee's place of work is also exempt from FBT - helpful if you have a few team members that need to be loaded into a taxi after overindulging in Christmas cheer.

If you host your Christmas party outside of the office and keep the cost per head under \$300 (the

FBT minor benefit limit) then FBT often won't apply to the cost of entertaining your employees.

But, if you do not incur FBT, you cannot claim GST credits or a tax deduction for the Christmas party expense.

#### Tax deductible

If your business hosts slightly more extravagant parties away from the business premises and the cost goes above the \$300 per person minor benefit limit, you will pay FBT, but you can also claim a tax deduction and GST credits for the cost of the event.

#### Are the costs of client gifts deductible?

It depends on the gift and why you're giving it. If you send a client a gift, the gift is tax deductible if you have an expectation that the business will benefit; it's marketing. While this seems like a mercenary way to look at Christmas giving, it is the business giving the gift, not you personally. This assumes that the gift is not a gift of entertainment like golf, or restaurants, which would not be deductible.

#### What about gifts for staff? Are they tax deductible?

The key to Christmas presents for your team is to keep the gift spontaneous, ad hoc, and from a tax perspective, below the \$300 FBT minor benefit limit. So, no ongoing gym memberships or giving the same person several of the same gift that adds

up to \$300 or more unless you want to give a gift to the ATO at the same time. But you can give gifts at different times throughout the year without triggering FBT as these are counted separately for the minor benefit limit.

A cash bonus will be treated as income in much the same way as salary and wages.

**I like to catch up with clients for lunch or a drink (or two) at Christmas. These expenses are deductible, right?**

Regardless of whether it's for Christmas or at any other time of the year, the cost of entertaining your clients – food, drink or other entertainment – is not deductible. The ATO is keen to ensure that taxpayers are not picking up part of the cost of your long lunches or special events while you're bonding with clients.

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### **Reminder of December 2024 Quarter Superannuation Guarantee ('SG')**

Employers are reminded that employee superannuation contributions for the quarter ending 31 December 2024 must be received by the relevant super funds by 28 January 2025. If the correct amount of SG is not paid by an employer on time, they will be liable to pay the SG charge, which includes a penalty and interest component.

The SG rate is 11.5% for the 2025 income year.

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### **What's ahead in 2025?**



**The last few years have been a rollercoaster ride of instability. 2025 holds hope, but not a guarantee, of greater stability and certainty. We explore some of the key changes and challenges.**

#### **An election**

Welcome to political advertising slipping into your social media, voicemail, and television viewing - most likely with messages from the opposition asking if you are better off, and from the incumbents telling you all the reasons why you are.

The 2025-26 Federal Budget has been brought forward to 25 March 2025. This suggests an election will be held in either March or May 2025 but no later than 17 May 2025.

## **Legislation in limbo**

### **Cheques out but cash remains king**

While Australians have moved to digital payment methods, the Government has been careful to maintain cash as a payment method.

Around 1.5 million Australians use cash to make more than 80% of their in-person payments. Cash also provides an easily accessible back-up to digital payments in times of natural disaster or digital outage.

According to the most recent data, up to 94% of businesses continue to accept cash.

The Government has stated that they will mandate that businesses must accept cash when selling essential items, with appropriate exemptions for small businesses.

Currently, businesses don't have to accept cash – business can specify the terms and conditions that they will supply goods and services.

The issue of card surcharges often comes up when a business adds a surcharge rather than recognising this cost of doing business in their pricing. A business can charge a surcharge for paying by card, but the surcharge must not be more than what it costs the business to use that payment type.

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### **Taxpayer's claims for various 'home business' expenses rejected**

In a recent decision, the AAT rejected in full a taxpayer's claims for *"several classes or categories of deductions."*

For the relevant period of 1 July 2021 to 30 June 2022, the taxpayer was (according to his employer) a 'technical architect'.

However, the taxpayer also claimed he worked from home 6am to 11pm seven days a week, 365 days of the year (as he was 'always on call'), and his income tax return for the 2022 financial year claimed a wide range of deductions, totalling approximately \$40,000.

The AAT separately considered each category of deductions claimed and rejected each in turn.

In relation to his home office 'occupancy expenses' (e.g., for home insurance, council rates, waste disposal, water rates, and repairs), the AAT noted that the 'home office' rooms (comprising floorspace occupying 31% of the dwelling's total floor area) were not physically separate from the remainder of the dwelling, which the taxpayer shared with four other members of his family.

Home office running expenses (e.g., gas, power and internet) were disallowed on the grounds that the taxpayer had *"not properly established an entitlement to such deductions or otherwise appropriately apportioned them between private or work-related activities."*

The AAT found his 100% claim for the internet, on the basis that the other members of the household did not use the internet connection, *"very difficult to accept"*.

In relation to plant and equipment expenses, the evidence was *"largely non-existent."*

In relation to consumable expenses, the AAT noted that they appeared to be for goods or services of a private or domestic nature (including medications, toilet paper, milk, tea, sugar and insect spray).

The AAT also rejected the taxpayer's claim for *"payments made to his spouse for tax management, office cleaning and document management/storage"*, noting that the services provided were generally of a private or domestic nature, and that the rendering of invoices by the spouse *"has a degree of artificiality to it"*.

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## Lodging and paying business activity statements ('BASs')

The ATO is reminding taxpayers that it is important to lodge BASs and pay in full and on time to avoid penalties and interest charges.

The BAS's are generally due within 28 days of the end of the quarter (December quarter is the exception), but taxpayers may receive an extra:

- ◆ four weeks if they lodge through a registered tax or BAS agent; or
- ◆ two weeks if they lodge online.

The cost of managing tax affairs is tax deductible for taxpayers, and a registered agent's help will allow them to focus on running their business.

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## FBT on plug-in hybrid electric vehicles

From 1 April 2025, a plug-in hybrid electric vehicle ('PHEV') will not be considered a zero or low emissions vehicle under fringe benefits tax ('FBT') law and will not be eligible for the electric car FBT exemption. However, an employer can continue to apply the electric car exemption if:

- use of the PHEV was exempt from FBT before 1 April 2025; and
- they have a financially binding commitment to continue providing private use of the vehicle to an employee or their associate on and after 1 April 2025 (note that any optional

extension of the agreement is **not** considered binding).

If there is a change to a pre-existing commitment on or after 1 April 2025, the FBT exemption for the PHEV will no longer apply from the date of that new commitment.

An employer is not entitled to an exemption from FBT after 1 April 2025 if there was no binding financial commitment to provide the car to a particular employee in place before then.

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## Eligibility for compassionate release of superannuation

The ATO has been responsible for the administration of the early release of superannuation on compassionate grounds since 1 July 2018.

It will only approve a release of superannuation on compassionate grounds if the applicant meets all the conditions set out in the regulations, including that the applicant has no other means to pay the expenses.

The five main grounds of eligibility are:

- ◆ medical treatment or transport (i.e., to treat a life-threatening illness or injury, or alleviate acute or chronic pain or mental illness) for the applicant or their dependant;
- ◆ accommodating a disability for the applicant or their dependant;
- ◆ palliative care for a terminal illness for the applicant or their dependant;
- ◆ funeral expenses for a dependant of the applicant; or
- ◆ preventing foreclosure or forced sale of the applicant's home.

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## AAT rejects taxpayer's claims for work-related expenses

In a recent decision, a taxpayer's claims for various work-related expenses were rejected by the AAT.

The taxpayer was employed as a traffic controller in the 2020 income year. In his income tax return for that year, he claimed \$9,800 in work-related deductions, including for car expenses (using the cents per km method), travel expenses, clothing expenses and self-education expenses, as well as supplemental deductions.

The ATO disallowed all of the deductions, and the taxpayer then appealed to the AAT.

The AAT agreed that all of the taxpayer's claims for work-related expenses should be disallowed, largely because the taxpayer failed to substantiate

these expenses, whether by way of receipts/bank statements or any other form of evidence.

Also, in relation to the claim for car expenses, the AAT noted that the taxpayer had been using company vehicles at least some of the time.

The AAT also noted that there had generally been *"no attempt to apportion work use against private use. . . Even if I could satisfy myself of some apportionment, the amount would likely be so insignificant that it would not result in any real deduction in taxable income."*

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## Avoid a tax time shock

Individual taxpayers can take the following steps right now to ensure the correct amount of tax is being put aside throughout the year:

- ❑ let their employer know if they have a study or training support loan, such as a HECS or HELP debt;
- ❑ check they are only claiming the tax-free threshold from one employer;
- ❑ consider whether the Medicare Levy Surcharge may affect them this financial year (i.e., whether they have the appropriate private health insurance);
- ❑ check their income tier is correct for their private health insurance rebate; and
- ❑ consider voluntarily entering PAYG instalments and pre-paying tax throughout the year to avoid a large tax bill at tax time for investment or business income.

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## myGovID is now myID

The digital identity app 'myGovID' has changed its name to 'myID'. While the name has changed, the login and security will not change.

Taxpayers who have already set up their myGovID and use it to access government online services will not need to do anything when the app changes to myID. They will still have:

- the same details — there is no need to set up a new myID. Their login details (including email address) and identity strength remain the same;
- continued use — once available their existing app should automatically update to myID or they can manually update it from the APP Store or Google Play; and
- access to services — they can still use the app to securely access government online services.

The new name aims to reduce the confusion between myGovID and myGov.

## ATO security safeguards for victims of fraud recently enhanced

Where a taxpayer has been the victim of identity, tax or super fraud, the ATO may apply security safeguards to their account to prevent further harm. This may require the impacted taxpayer to contact the ATO each time they need to access their information and cause inconvenience for the taxpayer as well as their tax agents.

The ATO has recently enhanced processes to improve ongoing access to ATO online services. Impacted taxpayers must contact the ATO for initial access and then set a **Strong** online access strength.

To set a **Strong** online access strength, taxpayers need to:

- ◆ set up their myID to a **Strong** identity strength using their Australian passport;
- ◆ connect their myID to their myGov account;
- ◆ sign in to myGov with their myID; and
- ◆ go to ATO online services.

Once set, taxpayers no longer need to contact the ATO every time they access their information.

Impacted taxpayers must continue to use their **Strong** myID whenever they access ATO online services, or account access will be restricted to maintain ongoing protection of client information.

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## Valuing fund assets for SMSFs

One of the many responsibilities SMSF trustees have every income year is valuing their fund's assets at market value.

The market value of an asset is the amount that a willing buyer and seller would agree to in an arm's-length transaction. These valuations will be used when preparing the fund's accounts, statements and SMSF annual return ('SAR').

Asset valuations will be reviewed by an approved SMSF auditor as part of the annual audit prior to lodgement of the SAR. The auditor will check that assets have been valued correctly and assess and document whether the basis for the valuations is appropriate given the nature of the asset. The auditor is not responsible for valuing fund assets.

Taxpayers should ensure that they have their valuations done before going to the auditor.

It is the responsibility of the SMSF trustee to provide objective and supportable evidence to their auditor for the valuation of the fund's assets, including all relevant documents requested to prevent delays in auditing the fund. Failure to do

so could result in a potential late lodgement of their annual return or a contravention if mistakes have been made.

SMSF trustees should start researching now to find what type of evidence they need to support the valuation as this can take time. For some asset types valuations must be undertaken by a qualified independent valuer.

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### ATO's notices of data-matching programs

The ATO will acquire **officeholder data** from ASIC and other bodies for the 2024 to 2027 income years, including name, address, date of birth, ABN, contact details, organisation details and officeholder details.

The ATO estimates that records relating to more than 11 million individuals will be obtained.

The ATO will acquire **property management data** from property management software companies for the 2019 to 2026 income years, including property owner identification details, property details, and property transaction details.

The ATO estimates that records relating to approximately 2.3 million individuals will be obtained each financial year.

The ATO will acquire **lifestyle assets data** from insurance providers for the 2024 to 2026 income years.

Insurance policy data will be collected for the following classes of assets, where the asset value is equal to or exceeds the nominated thresholds.

Asset class	Minimum asset value threshold
Caravans, motorhomes	\$65,000
Motor vehicles	\$65,000
Thoroughbred horses	\$65,000
Fine art	\$100,000 per item
Marine vessels	\$100,000
Aircraft	\$150,000

The data items include client identification details (names, addresses, contact details, dates of birth and ABN) and policy details (including total value insured, description and purchase price of the property insured).

The ATO estimates that the total number of policy records obtained will be approximately 650,000 to 800,000 each financial year, and that approximately 250,000 to 350,000 matched records will relate to individuals.

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### Staff News



We have had quite the year of milestones this year! Congratulations to Carmel Fiamingo who recently celebrated her 20-year anniversary with ML Partners. Thanks for your dedication and positive influence on the team Carmel!



Sadly, we farewell Clarissa Barra today. Clarissa has been an integral part of the Financial Planning team for over 3 years and will be missed by us all. We wish Clarissa well as she starts on new adventures!

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## **Merry Christmas from us all at ML Partners**

Peter, John and the team at ML would like to wish you all a very Merry Christmas and to thank you all for your continued support through what was another very busy year! We look forward to working with you again in 2025.

Please note that our offices will close at 1pm on Friday 20<sup>th</sup> December 2024 and reopen at 8.30am on Monday 6<sup>th</sup> January 2025.

### **Quote of the month**

“No act of kindness, no matter how small, is ever wasted.” - Aesop



Please note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.