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ML Partners Pty Ltd
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Practice Update

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

DECEMBER 2025

Alternative providers to the SBSCH



Employers should start preparing for the permanent closure of the Small Business Superannuation Clearing House ('SBSCH') on 1 July 2026.

By acting now to find an alternative service, employers will:

- have an established process in place to pay super guarantee ('SG') for the March and June quarters (if they currently pay quarterly);
- reduce the risk of late payment of SG for the June 2026 quarter due date (28 July), as the SBSCH will be already closed;
- have more time to set up their business cash flow to enable frequent payments of SG; and
- have finalised payments and downloaded any reports from the SBSCH before it closes permanently.

Employers that are still using the SBSCH should be aware of the following key dates.

- ◆ **10 December 2025** — Super payments, along with instructions, must be received by 5.30 pm AEDT on this date. The ATO says payments received after this time will be processed from 2 January 2026.
- ◆ **28 January 2026** — December 2025 SG quarterly payments due date.
- ◆ **February to March 2026** — Employers should move to an alternative option to the SBSCH.
- ◆ **28 April 2026** — March 2026 SG quarterly payments due date.
- ◆ **30 June 2026** — Final day for employers to use the service, make any final payments and download reports.
- ◆ **1 July 2026** — SBSCH is no longer available.

Employers may already have other options readily available so they can exit from using the SBSCH ahead of time.

They should check their existing software and payroll packages, as they may already include super functions they can use to pay SG.

Otherwise, employers can look for options from super funds or digital service providers offering payroll services, software or commercial clearing houses.

Reminder of December 2025 Quarter Superannuation Guarantee ('SG')

As noted in the above article, employee super contributions for the quarter ending 31 December 2025 must be received by the relevant super funds by 28 January 2026.

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 12% for the 2026 income year (increased from 11.5% for the 2025 income year).

ATO's new approach to holiday home expenses



The ATO has announced that it will take a somewhat different approach in relation to expenses that are claimed in relation to holiday homes.

Broadly, the ATO now takes the view that, if a taxpayer's rental property is also their holiday home, certain deductions relating to holding it will be completely denied (rather than being apportioned).

Expenses relating to ownership and use of the holiday home (e.g., interest, rates and maintenance) will not be deductible, unless the holiday home is 'mainly' used to produce assessable income.

Whether a holiday home is used 'mainly' to produce assessable income will be determined based on a consideration of a number of factors.

However, this will generally not apply to expenses incurred in relation to holiday homes that are rental properties **before** 1 July 2026, if those expenses are incurred under an arrangement entered into prior to 12 November 2025.

ATO warns about barter credit tax scheme

The ATO is warning the community to steer clear of an emerging tax scheme involving barter credits — a type of alternative currency used in some business networks.

A tax scheme that involves artificially inflating deductions for donations of barter credits to deductible gift recipients ('DGRs') is on the rise. While it may seem enticing, promoters and taxpayers could face potentially significant consequences if they are involved.

The ATO is concerned that such schemes are being enabled by several barter exchanges that are allowing participants to access barter credits with a nominal face value that is much more than any payments actually made to the exchange. Participants then donate these barter credits to a DGR and claim a larger tax deduction than they are entitled to.

Those involved may have to repay the tax, plus face heavy penalties, interest and legal action.

Dual cab utes and FBT

The ATO wishes to dispel the 'common myth' that dual cab utes are automatically exempt from fringe benefits tax ('FBT'). If an employer provides dual cab utes to staff to complete their duties and the vehicle is available for personal use, then the benefit may be subject to FBT.

By understanding how their employees use their dual cab utes, employers can work out if FBT applies and meet their FBT obligations.

To qualify for an exemption, the dual cab ute must be an 'eligible vehicle'. That is, it must be designed to carry a load of one tonne or more, or more than eight passengers (including the driver), or a load under one tonne and not primarily designed for carrying passengers.

The dual cab ute must also only be used for limited private use (i.e., minor, infrequent and irregular), such as the occasional trip to the tip or helping a mate move house.

If an employee's personal use of the dual cab ute does not meet **both** of the above exemption conditions, then the employer will be liable for FBT.

ATO reminder: Business expenses that can (and cannot) be claimed

Taxpayers can claim a tax deduction for most business expenses, provided they meet the ATO's three 'golden rules':

- The expense must be for business use, not for private use.
- If the expense is for a mix of business and private use, they can only claim the portion that is used for business.
- They must have records to prove their claim.

The ATO also wants business taxpayers to remember that there are some expenses that they **cannot** claim, including entertainment expenses, traffic fines, and expenses that relate to earning non-assessable income.

ATO's focus on small business

The ATO is 'detecting and addressing' recurring errors in specific industries when businesses have a turnover between \$1 million and \$10 million.

These industries include **property and construction** (including builders, contractors and tradies), and **professional, scientific and technical services** (including engineering, design, IT and consulting professionals).

In these industries, the ATO continues to see recurring issues, including:

- ◆ omitted sales and income in BAS and tax returns, including income from related entities;
- ◆ overclaimed expenses and GST credits;
- ◆ private expenses incorrectly reported as business-related, or not properly apportioned between business and personal use;
- ◆ failure to register for GST when required;
- ◆ incorrect claims for the research and development (R&D) tax incentive offset, especially for activities that do not meet the eligibility criteria; and
- ◆ not seeking independent advice from a registered tax agent, particularly in head contractor/subcontractor arrangements.

By sharing the issues that it is seeing, the ATO hopes to help taxpayers running a small business in one of these (or other) industries to avoid common errors and get it right from the start.

New ATO Data-Matching Programs

The ATO acquires and uses data for pre-filing, detecting dishonest or fraudulent behaviour, and identifying areas where it can educate taxpayers to help them understand their tax obligations.

When data does not match, the ATO may contact tax agents and their clients to find out why.

Rental Income Data-Matching

Over the coming months, the ATO will be sending letters where its data indicates:

- tax returns including rental income may need to be lodged for specific years; or
- rental income should be included in previously lodged tax returns.

Offshore Merchant Data-Matching Program

The ATO will acquire merchant data from the big four Australian banks (ANZ, Commonwealth Bank, National Australia Bank and Westpac) for the 2025 to 2027 income years.

The ATO estimates that records relating to approximately 9,000 offshore merchants will be obtained each financial year.

SMSF non-compliance with release authorities

Release authorities are documents issued by the ATO to super funds, authorising the release of money from a member's super account to pay specific liabilities, including in relation to excess concessional contributions, excess non-concessional contributions, and Division 293 tax assessments.

The ATO is seeing a rise in SMSFs that receive a release authority and are either:

- ◆ not responding within 10 business days as required; or
- ◆ responding incorrectly (i.e., either not releasing the requested amount, or failing to submit a release authority statement back to the ATO, or both).

Failure to meet these obligations may result in significant penalties for the fund. SMSF trustees should make sure they have effective processes in place to respond to release authorities promptly and accurately.

GST held to apply to sales of subdivided lots

The Administrative Review Tribunal ('ART') recently held that some sales of subdivided farmland were subject to GST as they were made by the taxpayer in the course of carrying on an enterprise.

The taxpayer owned farmland near Adelaide. He entered into an agreement with a developer, under which the developer sought rezoning and development approvals, carried out development works, and marketed the subdivided lots.

The taxpayer progressively gave the developer access to the property as required and signed documents where necessary, including contracts for the sale of the subdivided lots. The taxpayer received 20% of the proceeds of sale progressively as sales of the subdivided lots were completed, with the developer receiving the remaining 80%.

The taxpayer argued that his role was passive, and that such rights as he had, and actions he took under the agreement with the developer, were of an administrative nature not amounting to a series of activities in the form of a business.

The ART disagreed, finding that the sales of the subdivided land were subject to GST as they were made in the course of carrying on an enterprise.

The ART noted that the taxpayer's activities "*exhibited some of the well-known indicia of a business.*"

Amongst other factors, the taxpayer's activities in facilitating the implementation of the development agreement "*had a degree of regularity and repetition*", including allowing access to the land progressively as required, an ongoing obligation not to encumber or sell the land during the project, and the continuous signing of sales contracts and monitoring of sales returns.

Employees incorrectly treated as independent contractors

The ATO is warning businesses that if they incorrectly treat an employee as an independent contractor, then they risk receiving penalties and charges, including:

- **PAYG withholding penalty** for failing to deduct tax from worker payments and send it to the ATO;

- **Super guarantee charge ('SGC')**, which is more than the super that would have been paid if the worker was classified correctly. SGC consists of a super guarantee shortfall amount, nominal interest, and an administration fee; and
- **Additional SG penalties**, including a penalty amount of up to 200% of the SGC.

'Sham contracting' may also contravene the *Fair Work Act 2009*. Courts can impose penalties against a business or person that incorrectly informs an employee that they are an independent contractor.

Correctly dealing with rental property repairs

Taxpayers who have had work done on their rental property should ensure the expense is categorised correctly to avoid errors when completing their tax return.

A deduction for 'repairs and maintenance' expenses can be claimed for work done to remedy, or prevent defects, damage or deterioration from using the property to earn income. These expenses can be claimed in the year they were incurred.

However, some 'capital' expenditure may not be immediately deductible, such as for 'initial repairs', 'capital works', 'improvements' and depreciating assets.

Initial repairs include fixing any pre-existing damage or deterioration that existed at the time of purchasing the property, even if the damage or deterioration was unknown to the taxpayer at the time of purchase.

Initial repairs are treated as part of the acquisition cost and included in the cost base of the property for CGT purposes, unless they are capital works or depreciating assets.

Capital works are structural improvements, alterations and extensions to the property, and can generally be claimed at 2.5% over 40 years.

Capital works deductions can only be claimed **after** the work has been completed, regardless of when the taxpayer pays the deposit and instalments.

Improvements or renovations that are structural are also capital works. Work that goes beyond remedying defects, damage or deterioration that

improves the function of the property is regarded as an improvement.

Repairs to an 'entirety' are capital and cannot be claimed as repairs. Repairs to an entirety generally involve the replacement or reconstruction of something separately identifiable as a capital item.

Depreciating assets are treated as follows:

- ◆ Deductions for 'new' assets must generally be claimed over time according to their effective life.
- ◆ Second-hand depreciating assets generally cannot be deducted.

Tips to help sole trader clients

The ATO is seeing sole traders make mistakes in the following areas:

- ❑ not reporting all income — this includes income earned outside their business (like a 'side hustle'), cash jobs, or payments in-kind/barter deals;
- ❑ overclaiming expenses — this includes claiming the portion of an expense related to personal use, or overstating the cost of goods sold and other business expenses;
- ❑ calculating business losses;
- ❑ incorrectly claiming and offsetting losses from non-commercial business activities against other income sources;
- ❑ misreporting personal services income ('PSI') to gain tax benefits;
- ❑ not registering for GST if they are in the taxi or ride-sourcing industry, or when they reach the GST threshold; and
- ❑ not keeping accurate and complete records.

ATO warning regarding private use of work vehicles and FBT

Employers that supply work vehicles to their employees need to check how the work vehicles are used and whether any exemptions apply to determine if they attract fringe benefits tax ('FBT').

FBT generally applies when a work vehicle is **made available** for private use, even if it is not

actually used. Private use includes any travel not directly related to the employee's job.

Exemptions may apply depending on the vehicle's specifications and the nature of the private use.

The most common issues the ATO sees include the following:

- incorrectly treating private use as business use;
- assuming dual cab utes are exempt from FBT — exemptions only apply if the vehicle is eligible for the specific FBT exemption and private use is limited;
- incorrectly classifying vehicles;
- poor record keeping that does not support the claims or the FBT calculations made; and
- not reporting or paying on time.

ART dismisses argument that medical expenses were deductible

In a recent decision, the Administrative Review Tribunal ('ART') held that a taxpayer could not claim a tax deduction for medical expenses incurred by him in relation to his total and permanent disability pension.

The taxpayer had been terminated from his employment due to total and permanent disablement ('TPD'). For the 2024 income year, his only income was a TPD pension.

The taxpayer wanted to claim a deduction for medical expenses to be incurred, estimated to be approximately \$100,000 in the 2024 income year.

The ART agreed with the ATO that the medical expenses were not deductible. The ART noted in this regard that the medical expenses were *"incurred by (the taxpayer) to better live with his medical condition, not incurred 'in' gaining or producing the TPD pension."* That is, *"the occasion of the Medical Expenses is to assist (the taxpayer) with his medical condition, not to gain or maintain his eligibility to the TPD pension."*

The ART also did not accept the taxpayer's argument that the medical expenses were not private or domestic in nature, as they were essentially personal in character.

Staff News

There has been a lot to celebrate and lots of changes at ML these past few months!



Congratulations to Rachael Booth who celebrated 25 years with ML Partners in September. Thank you for your hard work, dedication, and support over the years Rach.



Congratulations to Susan Catanzaro who has now clocked up 30 years at ML Partners! Suz is a valued member of the ML Team, who's dedication has paid off this year with her promotion to an assistant manager.

We temporarily fawelled Jessica Furlong who started her maternity leave in November. Congratulations to Jess & Brendan who are now the proud parents of a beautiful baby boy!



We would also like to extend a warm welcome to Shiralee Guistelli who joined the ML Team in September as our People & Culture Advisor based in the Ayr office.

Welcome also to Raj Thandu a Senior Accountant based in our Townsville office, who brings with him many years of experience in the accounting profession.

Welcome Shiralee & Raj!



On a sadder note, Julie Burke, our former Practice Manager will not be returning to ML in 2026. Julie has worked for ML intermittently for 30 years and is ready to travel and spend more time with her growing family. Julie's kindness, friendship and leadership will be missed by us all. We hope the new chapter brings you new meaning & much happiness Julie.



Dani Kaminski had lots to celebrate last month, as her years of study (while juggling work and family) has come to an end. Congratulations to Dani, who has now completed her CPA program and has some additional letters after her name!

Merry Christmas from the ML Team

Wishing you and your families a very Merry Christmas. We would like to thank you for your ongoing support during 2025 and look forward to assisting you with the challenges and rewards of the new year.

Our office will close at 1pm on Friday 19th December and will reopen on Monday 5th January 2026.

Quote of the month

“What is Christmas? It is tenderness for the past, courage for the present, hope for the future. It is a fervent wish that every cup may overflow with blessings rich and eternal, and that every path may lead to peace.” – Agnes M. Pharo



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.