

client alert | explanatory memorandum

April 2024

CURRENCY:

This issue of **Client Alert** takes into account developments up to and including 20 March 2024.

Revised stage 3 tax cuts now law

With the revised stage 3 tax cuts now law, now is a good time to understand how these changes will affect you and how to plan your taxes for the future more effectively. Depending on how much you earn, these revised tax cuts will save you between \$26 and \$71 per week. Similar changes will also apply to foreign residents and working holiday makers.

Now that the revised stage 3 tax cuts have passed all stages of Parliament and received Royal Assent, the new rates will apply from 1 July 2024. While this means the revised rates won't apply for the current financial year, it's prudent to understand the changes to be able to plan for the future more effectively. Depending on an individual's annual income, the changes will affect them differently.

This article will look at how the revised income tax rates will affect individuals who earn:

- \$67,600, which is the median income extrapolated from the latest Australian Bureau of Statistics (ABS) data;
- \$98,176, which is the average income extrapolated from the latest average weekly ordinary time earnings (AWOTE) data; and
- \$180,000.

For the 2023–2024 income year (that is, the current year), an individual who earns \$67,600 will be expected to pay around \$12,437 in income tax. With the new tax rates coming in for the 2024–2025 income year, assuming the individual earns the same amount, they will be paying \$11,068 in income tax – a tax saving of around \$1,369 for the year, or around \$26 per week.

An individual who earns \$98,176 annually will have an income tax bill of around \$22,374 for the 2023–2024 income year. However, this will drop to \$20,240 when the new rates come into force for the 2024–2025 year, leading to a tax saving of around \$2,133 for the year, or \$41 per week.

Similarly, an individual who earns \$180,000 will expect to see a tax saving of \$3,729 for the year, or \$71 per week; they will pay income tax of \$51,667 for 2023–2024 versus \$47,938 in 2024–2025.

These revised tax cut changes will also flow through to the income tax rates for foreign residents and working holiday makers.

For foreign residents, the changes are as follows.

2023–2024		2024–2025	
Income band	Income tax	Income band	Income tax
\$0 to \$120,000	32.5%	\$0 to \$135,000	30%
\$120,001 to \$180,000	\$39,000 + 37% of excess over \$120,000	\$135,000 to \$190,000	\$40,500 + 37% of excess over \$135,000
\$180,001+	\$61,200 + 45% of excess over \$180,000	\$190,001+	\$60,850 + 45% of excess over \$190,000

For working holiday makers, the changes are as follows.

2023–2024		2024–2025	
Income band	Income tax	Income band	Income tax
\$0 to \$45,000	15%	\$0 to \$45,000	15%
\$45,001 to \$120,000	\$6,750 + 32.5% of excess over \$45,000	\$45,001 to \$135,000	\$6,750 + 30% of excess over \$45,000
\$120,001 to \$180,000	\$31,125 + 37% of excess over \$120,000	\$135,001 to \$190,000	\$33,750 + 37% of excess over \$135,000
\$180,001+	\$53,325 + 45% of excess of \$180,000	\$190,001+	\$54,100 + 45% of excess of \$190,000

It should be remembered these revised tax cuts were introduced as a cost-of-living relief measure by the government to put more money back in the pockets of Australian workers so they can deal with recent skyrocketing inflation. However, by giving a proportional tax cut to working holiday makers and foreign residents the government is banking on more spending from that segment which will boost the economy overall.

To provide further help to lower income earners, and in association with the revised income tax cuts, the government has also lifted low-income Medicare levy thresholds for eligible singles, families, seniors and pensioners to apply for the 2023–2024 income year (the current income year) meaning more low-income earners can avoid paying the Medicare levy of 2% on top of their tax, or will pay a reduced amount of levy.

Source: www.pm.gov.au/media/albanese-governments-cost-living-tax-cuts-roll-out-july-1

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr7140%22>

Refresher on deductibility of self-education expenses

The ATO has updated its ruling on the tax deductibility of work-related self-education expenses. There are no changes to the ATO's approach to self-education expenses in the consolidated ruling. Generally, self-education expenses are deductible if they enhance existing skills or lead to an income increase for the individual.

The ATO has released a ruling which consolidates and updates its previous rulings (now withdrawn) on its view of the tax deductibility of self-education expenses under s 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997). The ruling does not address the repeal of s 82A of the ITAA 1997, a section which limited the amount of expenses otherwise deductible, or outgoings necessarily incurred by a business. However, with this consolidated ruling's release, now is the perfect time for a recap on the current rules for deductibility of self-education.

Under this newly released ruling, self-education expenses include courses at an education institution (whether leading to a formal qualification or not), courses provided by a professional organisation or an industry organisation, attendance at work-related conference or seminars, self-paced learning and study tours (whether within Australia or overseas).

According to the ATO, self-education expenses are tax deductible if one or both of the following apply and none of the exclusions apply:

- The individual's income-earning activities are based on the exercise of a skill, or some specific knowledge, and self-education enables the individual to maintain or improve that skill or knowledge – this is a question of fact to be determined by all the facts and circumstances of each individual case. For example, if the self-education is too general in terms of current income-earning activities, the necessary connection between the self-education expense and income-earning activity is unlikely to exist.
- The self-education objectively leads to, or is likely to lead to, an increase in the individual's income from their current income-earning activities in the future – the factors that the courts/tribunals have determined as relevant include real opportunities of promotion, and education that is likely to lead to a higher pay grade, bonus or increase in income.

Exclusions to the deductibility of self-education expenses include:

- New employment or new income-earning activity – an individual cannot deduct self-education expenses if the education is undertaken or designed to obtain employment, obtain new employment, or open up a new income-earning activity (whether in a business or in current employment).
- Not currently undertaking income-earning activities to derive assessable income – a deduction will not be available if an individual was not undertaking income-earning activities to derive assessable income (either by employment, carrying on a business or by other means) at the time the self-education expense was incurred. In instances where an individual ceases their income-earning activities part-way through completing deductible self-education, only the expenses incurred while undertaking income-earning activities will be deductible (that is, a deduction cannot be claimed for the entire course).
- A deduction cannot be claimed for any government assistance received in the form of rebatable benefits (eg Youth Allowance, Austudy and ABSTUDY).

For self-education expenses that are only partly deductible, apportionment is required. According to the ATO, where the self-education expense has distinct and severable parts and some are for an income-producing purpose and others are for some other purpose, the individual must apportion the expense according to its particular purpose. However, where the self-education expense is a single outlay that serves both income-earning and some other purpose, the apportionment should be made on a fair and reasonable basis which will depend on the individual facts and circumstances.

With the return of international conferences for various occupations, the deductibility of expenses such as accommodation, meals and course fees related to self-education is once again coming into play at tax time.

*Source: www.ato.gov.au/law/view/view.htm?docid=%22TXR%2FTR20243%2FNAT%2FATO%2F00001%22
www.ato.gov.au/individuals-and-families/income-deductions-offsets-and-records/deductions-you-can-claim/education-training-and-seminars/self-education-expenses*

ATO scrutinising novated leases

The ATO will once again be running its data matching program on novated leases in 2024, covering the 2023–2024 to 2025–2026 income years. This program first commenced in 2021, collecting data from the 2018–2019 income year. In the latest iteration of the program, it's estimated that approximately 240,000 individuals will be affected each financial year, and the data matching will allow the ATO to identify and address taxation risks such as employers claiming GST credits incorrectly for paying the GST on the purchase of a vehicle, risks related to FBT compliance, and employees incorrectly claiming motor vehicle related tax deductions.

The ATO has released details of one of its first data matching programs for 2024, on novated leases. According to the ATO, this type of program has been running since June 2021 and has broadly achieved its goals in the previous years by identifying candidates for review and audit in terms of registration of lodgment obligations.

For the current program, which will cover the 2023–2024 to 2025–2026 income years, novated lease data will be collected from various fleet and leasing groups, including McMillian Shakespeare Group, Smartgroup Corporation, SG Fleet Group, Eclipx Group, LeasePlan, Toyota Fleet Management, LeasePLUS and Orix Australia.

Specifically, the data items collected from providers will consist of:

- lessee/employee identification details – unique identifier, name, addresses, date of birth, contact numbers and email addresses;
- employer identifying details – unique identifier, trading/legal name of employer, Australian business number (ABN), addresses, contact name, contact number and email addresses; and
- lease transaction details – identifier for lease transaction, lease start/end/expected end date, lease termination date, number plate of the vehicle, type of vehicle (new or used), category of vehicle (sedan, wagon, utility, etc), lease price per month including GST, items packaged with the vehicle lease, expenses packaged with the vehicle lease (fuel, servicing, etc), bank account details for the lessee (name, account number, BSB, etc).

It is estimated that 240,000 individuals will be affected by the latest data matching program each financial year. The ATO notes that the program will allow it to identify and address taxation risks such as employers claiming GST credits incorrectly for paying the GST on the purchase of a vehicle, risks related to FBT compliance, and employees incorrectly claiming motor vehicle related tax deductions.

The data from this type of program is also used by the ATO to provide tailored advice and guidance through online messaging prompts when people are completing their tax return; for novated leases data matching

specifically, this relates to labels D1 (work-related car expenses) and D2 (work-related travel expenses). Messaging will appear for taxpayers identified in the prior financial year's data matching, and will inform the taxpayer that motor vehicle expenses under a novated lease arrangement are not tax-deductible.

In addition, after lodgment, the data will be used by the ATO for targeted prompter campaigns to capture any taxpayers with novated leases who have claimed work-related expenses on their tax returns. According to the ATO, in 2022 its "low touch" prevention strategy for taxpayers with novated leases resulted in a net decrease in the number of claims at label D1 of individual returns by 41% in self-preparers and by 17% in clients of tax agents, compared to the control group.

The data will be collected annually by the ATO, usually following the end of each March; however, it will also collect data periodically due to the large number of providers currently in the program. The collected data will be retained for five years from receipt of the final instalment of verified data files from the providers. The ATO notes that this five-year period is required, as discrepancy matching requires the comparison of subsequent lodgments against the data extending over multiple financial years.

Source: www.ato.gov.au/about-ato/commitments-and-reporting/in-detail/privacy-and-information-gathering/how-we-use-data-matching/novated-leases-2018-19-to-2025-26-data-matching-program-protocol/novated-leases-data-matching-program

Paying super on expanded government paid parental leave

The Treasurer has announced that the Federal Government will pay superannuation on paid parental leave from 1 July 2025. The intention is that the superannuation will be administered by the ATO, meaning that employers will not have to process these payments on the government's behalf. Further details of this measure, including cost, will be released in the Federal Budget due to be handed down in May 2024.

The Treasurer has said that this reform builds on the government's work to "modernise" paid parental leave and expand the payment to cover a full six months by 2026. The expansion to Australia's Paid Parental Leave Scheme in the *Paid Parental Leave Amendment (More Support for Working Families) Bill 2023* has been passed by both houses as of 18 March 2024, and will give families an additional six weeks of paid parental leave in total. Families will have access to an extra two weeks of leave (for 22 weeks total) from 1 July 2024. The paid parental leave period then will increase to 24 weeks from July 2025 and 26 weeks from July 2026.

Employers will continue to be involved in the administration of payments if an employee elects to take eight or more weeks of their entitlement consecutively. For any shorter periods, Services Australia will pay the individual directly.

The expansion of the scheme builds on changes which commenced in July 2023 to give more families access to the parental leave payment, including through a more generous \$350,000 family income test.

Source: www.servicesaustralia.gov.au/parental-leave-pay

<https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/paying-super-government-paid-parental-leave-enhance>

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr7102%22>

Small Business Superannuation Clearing House and SMSF bank account validation

To safeguard retirement savings held in self managed superannuation funds (SMSFs) from fraud and misconduct, the ATO is rolling out new security features. One new feature consists of checking for a match between an employee's SMSF bank account details and the SMSF record when electronic payments are made via the Small Business Superannuation Clearing House (SBSCH). Where there is a mismatch, the SBSCH cannot accept payments to an employee's SMSF until the error is resolved.

Briefly, the SBSCH is a free, online superannuation payments service that small businesses can use to pay their super contributions in one transaction. It's designed to simplify the process of making super contributions on behalf of employees. The service is available to small businesses with 19 or fewer employees, or businesses with an annual aggregated turnover of less than \$10 million.

The SBSCH is part of ATO Online Services and allows employers to meet their super guarantee obligations easily. To use the clearing house, employers can make a single electronic payment to the SBSCH, which then distributes the funds to each employee's super fund or SMSF. This service helps reduce the time and paperwork associated with making super contributions for multiple employees across different super funds.

The rollout of the new security feature, from 15 March 2024, will check whether an employee's SMSF bank account details match their SMSF records. Where there's a mismatch, or where an employee has not listed their bank account details, the employer will receive an "invalid super fund bank details" error on the SBSCH

payment instruction. According to the ATO, where this error occurs, the SBSCH cannot accept payments to an employee's SMSF until the issue is resolved.

To resolve this error, the ATO recommends employers check with employees that their SMSF bank account details exactly match those listed on the SMSF records. If those details are incorrect, or if there are no details listed, the employee should approach the trustee of the fund or a tax professional associated with the fund to update the information through ATO Online Services. Employees with SMSFs are encouraged to ensure that fund details are correct ahead of the change to avoid any delays in their super.

When the discrepancy is resolved, employers will be able to update the employee's SMSF bank details in SBSCH and submit payment instructions. To avoid delays for other employees, the ATO notes that SBSCH payment instructions can still be submitted for employees with valid super fund details ahead of resolution of any individual discrepancy.

This security feature is just one of many that the ATO has been rolling out late last year and early this year to safeguard retirement savings held in SMSFs from fraud and misconduct. For example, the ATO commenced sending rollover alerts to members of SMSFs when a super fund uses the SMSF verification service to verify a fund's details with the intention to roll super benefits into an SMSF. This can alert members of SMSFs to an unauthorised rollover so they can act to stop it in its tracks.

Other alerts for SMSF changes have also been implemented by the ATO to tackle fraudulent use of taxpayer details to register new SMSFs. These fraudulently registered SMSFs are often then used to commit further offences, such as illegal early release payments of super. Taxpayers who are alerted by the ATO in relation to a change made to an existing SMSF should contact either the trustees or the tax professional associated with the fund to verify the change in the first instance. Where it is subsequently determined that the change was made incorrectly or was not unauthorised, taxpayers are encouraged to contact the ATO immediately.

Source: www.ato.gov.au/businesses-and-organisations/super-for-employers/paying-super-contributions/how-to-pay-super/small-business-superannuation-clearing-house

www.ato.gov.au/businesses-and-organisations/small-business-newsroom/upcoming-changes-in-the-small-business-super-clearing-house

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