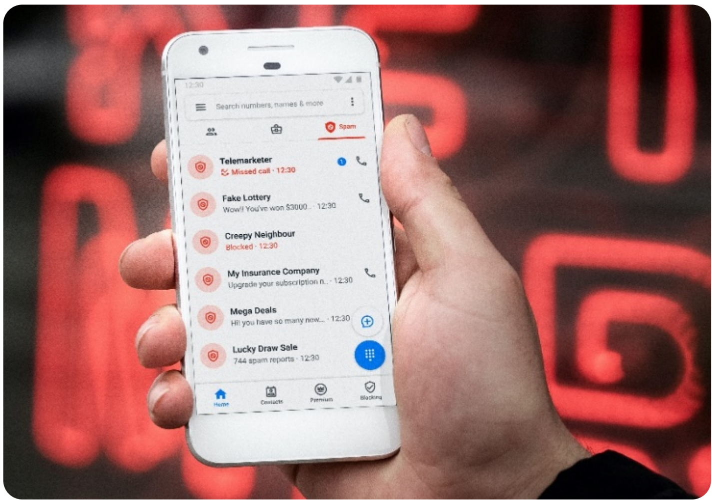
TAXMATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

SUMMER 2023



Warning Signs Of A Tax Scam

Scammers are constantly looking for new and subversive ways to trick people into giving them their money.

Impersonating trusted organisations has become a common feature of scams being sent (email, phone, or text).

Unfortunately, even the Australian Taxation Office (ATO) is not safe from impersonation by fraudsters.

Social Media Scams

An alert released in January warns taxpayers to be vigilant about fake social media accounts impersonating employees, senior staff & the ATO staff.

These fake accounts ask users that interact with the ATO to send them a direct message so they can help with their enquiry. The people behind these fake accounts are trying to steal your personal information, including phone numbers, email addresses and bank account information.

The best way to verify that it's really the ATO is to:

- check how many people follow the account. The ATO's verified Facebook and LinkedIn accounts have over 200,000 followers, and their Twitter account has over 65,000 followers.
- check activity on the accounts. The ATO's official social media channels have been operating for around 10 years – if it's a newly created account, or only has a few posts, it's not them.
- look for the grey tick next to the username (@ato_gov_au) on Twitter and the blue tick next to their name (Australian Taxation Office) on Facebook.
- make sure any email addresses provided to you end with '.gov.au'.

How To Identify A Scam

In the lead-up to the end of the financial year, be especially vigilant of potential tax scams lurking around you. (cont. p2)

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Some of the common features of a scam (depending on the type) are described below.

PHONE

- Scammers may use technology to show real ATO or Australian phone numbers in the caller ID or call log

TRUTH: When the ATO actually calls you, the number shows as No Caller ID.

- Scammers may tell you that your tax file number (TFN) has been cancelled or suspended due to money laundering or other criminal activity

TRUTH: TFNs are not cancelled by the ATO

- Scammers may refuse to allow you to speak with a trusted adviser or your regular tax agent

TRUTH: The ATO will never prevent you from speaking with your trusted adviser/agent

- Scammers may request payment being made through retail gift cards, vouchers, cardless cash ATM withdrawals, cryptocurrency, offshore wire or even by paying money into a personal bank account.

TRUTH: The ATO does not accept payment through vouchers, retail gift cards, cardless cash ATM withdrawals, cryptocurrency, or offshore wire transfers. The ATO will only ask for tax debt to be paid into a bank account held by the Reserve Bank of Australia.

- Scammers may request that you pay a fee to receive a tax refund. They will usually ask you to pay the fee using your credit card and then steal your credit card details.

TRUTH: The ATO will never ask you to pay a fee to receive your refund.

EMAIL/SMS

- Scammers may ask you to provide your personal identifying and financial institution details through a return SMS or email to receive a refund.

TRUTH: The ATO may use SMS or email to ask you to contact them, but they will never send an unsolicited message asking you to return personal identifying information through these channels.

- Scammers may request that you click on a link in an SMS or email to log on to an online service, creating a fake log on page that captures your credentials.

TRUTH: The ATO never sends an email or SMS with a link to log in.

- Scammers may ask you to click on a link in an SMS or email to download forms or attachments (with the aim of installing malicious software on your computer to gain access to your data).

TRUTH: You must be careful when downloading attachments or clicking on links, even if the message seems to come from someone you

When Is Income Recognised?

Arthur Murray Dance School was a landmark decision regarding tax precedent, which affects how pre-paid income derived from a contract is taxed when it straddles several tax years.

In Sydney, the Arthur Murray Dance School provided lessons to its clientele after being paid for the service (payment up-front). This is not an uncommon practice in many membership/pre-paid subscription-based services.

For example, take a dancer who pays for a year's worth of lessons up-front, in June. The school is given $1,200 for the year, and the student receives $100 worth of dance lessons each month from July to June of the following year. The question is then, when is Mr Murray to declare the $1,200 - is it in June when the money was received, or is it in the following year when he provides the dance lessons?

The Australian Tax Office believed that the income should be declared when the money was paid initially. However, Mr Murray challenged the decision in court, arguing that if the lessons weren't provided, the money would need to be returned; thus, he was only holding it in trust until he provided the lessons.

In deciding Arthur Murray, the Court found that amounts received in advance for dancing lessons were not derived until the lessons were actually given. The payments were only considered assessable income after they had been earned by giving the lesson.

This has become known as the *Arthur Murray Principle* and can sometimes be applied to other types of pre-paid income, such as:

- Pre-paid Advertising
- Prepaid Web Service fees
- Prepaid Gym Memberships
- Construction Contracts

that are paid up-front with the services to be provided over the following 12-month period.

There are rules that need to be followed if you wish to follow this principle, however. The money must still be at risk to you - you can't tell someone they can't receive a refund on a full-year gym membership, and then expect to defer the tax on that income.

There are also instances where you will be taxed on the money when it is received. The main types of income this generally applies to are wages, interest and rents received.

If you, for example, receive two years of rent upfront, it is taxable at the time of receiving it. If however, you are paid wages on the 1st of July for a period that ended on the 30th of June, you will not be taxed until the following year.

This rule of income extends to businesses where the ATO believes that their income is akin to earning wages, such as accountants, solicitors and other professionals that earn all of their income from their own personal services.

If you're unsure how these principles may apply to you, do not hesitate to contact us.

Offsetting Business Losses In The Current Year

A non-commercial business loss is a loss you incur, either as a sole trader or in partnership, from a business activity unrelated to your primary source of income. This type of business activity could be a hobby or lifestyle benefit.

There are separate non-commercial loss rules for sole traders and partnerships.

Sole Traders

If you are a sole trader, you need to consider the following non-commercial loss rules to work out if your loss can be offset or needs to be deferred:

- ✓ Are You In Business?
  Your activity must be 'in business' to claim a loss, determined by if it has commenced business activity

- ✓ Similar Business Activities
  If you are carrying on more than one business activity and they are similar, you may group them together when considering the non-commercial loss rules. If you are running multiple business activities that are not similar, you must apply the non-commercial loss rules separately to each activity.

- ✓ Excepted Activity
  If your loss-making business is in primary production or in professional arts (the ATO calls these 'excepted business activities'), and your assessable income from other sources is less than $40,000 (excluding any net capital gain), you can offset your losses from your other income.

- ✓ Less than $250,000 Income Requirement
  The total of your taxable income, reportable fringe benefits, reportable super contributions and total net investment losses must be less than $250,000 for you to be eligible to offset your losses in the current year.

Pass the Four Tests

If you meet the income requirement and pass any of the four tests, you can offset your business losses against your other income in the relevant year, the four tests are:

Assessable Income Test | **Profits Test** | **Real Property Test** | **Other Assets Test**

Commissioners Discretion

If you do not meet the income requirement or any of the four tests, you can apply for the Commissioner's discretion to allow the claim. The Commissioner will only exercise the discretion in limited circumstances if:

- there are special circumstances outside your control that have prevented you from passing one of the four tests, or
- because of the nature of the business, there is a lead time before your business can pass one of the four tests or make a profit.

Partnerships

If you are a partner in a partnership, you — as an individual — may offset your share of a partnership loss against your other income, subject to the non-commercial loss rules.

Income Requirement

The non-commercial losses income requirements are applied to the individual partners the same as to an individual.

Assessable Income Test

If you are a member of a partnership and all the other partners are individuals, the assessable income of the whole partnership must be at least $20,000 before the individual members can deduct losses. Assessable income earned by an individual member from business activities outside of the partnership can only be considered by that member. Partnership members who are companies and trusts must have their share of the assessable income excluded. If a partnership carries on more than one business activity, the income and deductions must be accounted for separately for each unless they are similar activities.

Profits Test

If you are carrying on a business activity in a partnership, you will be able to claim a loss if your income from the activity has been greater than your tax deductions for the activity for at least three out of the past five years (including the current year) and you meet the income requirement. This calculation must consider both your income from the partnership and any income you may have earned in your own right from that activity.

Real Property Test

If you are a member of a partnership and all the other partners are individuals, the value of the real property used in the partnership business must be at least $500,000 before the individual members can deduct losses. Any real property owned by partnership members that are companies or trusts must be excluded, as well as any property owned by the individual partners in their own right.

Other Assets Test

If you are a member of a partnership and all the other partners are individuals, the value of the other assets of the whole partnership must be at least $100,000 before the individual members can deduct losses. The value of any assets owned by partners who are companies or trusts, or individuals who own the assets in their own right are excluded from this determination.

When calculating a business loss for the current year, make sure you have accurately calculated the expenses you have incurred before you confirm a loss. Check that:

- your expenses are related to your business activity
- you have correctly apportioned your expenses between business and private use
- you haven't claimed any private expenses
- you have correctly claimed your expenses and haven't accidentally overstated them.

If you don't meet any of the non-commercial business loss requirements, you can defer the loss or carry it forward to future years.

The area around business losses, offsetting and carrying-forward losses can be confusing. For assistance with your business's particulars for the 2022-23 financial year, why not speak to one of our experts?

Tax Treatment Of Common Fringe Benefits In A Business

As a part of your employees' employment contracts, do they receive benefits such as a car space, gym membership or even a car to drive?

These are what's known as fringe benefits, which is a 'payment' to an employee that takes a different form to salary or wages. This incurs a specific kind of tax separate from income tax known as fringe benefits tax, which is based on the taxable value of the fringe benefits provided. FBT applies even if the benefit is provided by a third party under an arrangement with the employer.

Knowing what is and what isn't deemed a fringe benefit will assist you in working out what you might provide to your employees as a benefit for working with you.

Examples Of Items That Are Fringe Benefits

- Allowing an employee to use a work car for private purposes
- Giving an employee a discounted loan
- Paying an employee's gym membership
- Providing entertainment by way of free tickets to concerts
- Reimbursing an expense incurred by an employee, such as school fees
- Giving benefits under a salary sacrifice arrangement with an employee.

Examples Of Items That Are Not Fringe Benefits

The following are not fringe benefits:

- Salary and wages
- Shares purchased under approved employee share acquisition schemes
- Employer contributions to complying super funds
- Employment termination payments (including, for example, the gift or sale at a discount of a company car to an employee on termination)
- Payment of amounts deemed to be dividends under Division 7A
- Benefits provided to volunteers and contractors
- Exempt benefits such as certain benefits provided by religious institutions to their religious practitioners.

Employees don't have to worry about paying the tax on these items, but it is an area of concern that employers need to be careful of. Employers must self-assess their FBT liability for the FBT year (which ends 31 March) and lodge an FBT return.

Employers can generally claim an income tax deduction for the cost of providing fringe benefits and for the FBT they pay. However, there are ways in which you may be able to reduce your liability when it comes to FBT.

These methods could include:

- providing benefits that are income tax deductible
  - If your employee is given a benefit that they could otherwise have claimed themselves.
- using employee contributions
  - If your employees contribute to the cost of the FBT themselves through a cash payment to the provider of the benefit, the taxable value of the fringe benefit can be reduced by that amount
- by providing a cash bonus
  - If you provide your employee with a cash bonus instead of a benefit you won't have to pay FBT, and the employee will pay income tax on the amount.
- providing benefits that are exempt from FBT.

What Benefits Are Exempt?

- From 1 July 2022, employers do not pay FBT on eligible electric cars and associated car expenses.
- If your employee has a disability, you are a small business or you are an exempt employer, you do not have to pay FBT for providing an employee with car parking.
- There is no FBT if an employee is using a vehicle, you have provided that is an eligible vehicle (according to the ATO) and that their private use of the vehicle is limited.
- Portable electronic devices that are mainly used for work purposes are exempt from FBT (applicable to one item per FBT year). These can include mobile phones, laptops, tablet computers, calculators, portable printers, or portable GPS navigation receivers.
- Specific work-related items are exempt from FBT where they are mainly used for work purposes. These include computer software, protective clothing, briefcases, and tools of trade.

It's advisable to consult with a tax agent (such as us) if you need to amend or lodge a FBT return (as we are equipped with the tools and skills to negotiate what can be a tricky area filled with complexities and traps).

Now is the best time to speak with us about your FBT liability, what you might need to include in your return and more. Start a conversation with us today.

The A To Z Of Why Paying Tax Is Important

The truth is, we all despise paying taxes. Some people will even go to great lengths to avoid it. After all, if you earn $200,000 for the year and pay no tax on it, surely you will end up richer than the taxpayer - right?

Actually, it's wrong. What you will have is a short-term high involving a much better lifestyle in the short term. In the long term, you will be much worse off by not paying taxes.

Take the previous example involving a $200,000/year income, where two people named Aaron and Zak, are both running similar businesses and earning similar money. Let us assume that they are both running a laundromat, with a lot of the earnings from the laundromat being in cash form. In this case, they can declare the cash or break the law and simply take it.

Aaron declares the full $200,000. He has a wife, and they share the income earned as $100,000 each. They both put $20,000 into their super to help fund their retirement. This does leave them with a taxable income of $80,000 each. The tax on $80,000 is approximately $18,000, meaning they will pay $36,000 in tax. This will leave them with $124,000 in disposable money. They will also have an extra $34,000 in their super (after the fund has paid the 15% tax).

Zak, on the other hand, is not a fan of paying taxes, believing that they do not receive anything from it. He is also married, declares a minimal income and pays no tax. He does not put anything into super. He has the full $200,000 of disposable income at his fingertips, putting him $76,000 ahead of Aaron each year.

While Zak sounds like he has a better deal than Aaron, this is without considering that he is breaking the law (which will have consequences).

Consider, for example, a major life choice - purchasing a house.

Aaron can get a mortgage to purchase a home due to reporting his and his wife's annual income.

Zak, however, must keep renting as the Australian Tax Office would likely conduct an asset betterment audit (as there is no feasible way for him to afford it on such a low-declared income). However, he can continue to live a high life in the short term

In ten years, Aaron will likely have enough equity in his house to buy an investment property, and in twenty years, will likely own his own home. Aaron's super is currently at a million dollars, and his rental property is paying for itself.

We know that Zak will realise that his decisions are taking him down a slippery slope between the ten and twenty-year mark. At this point in time, a decision will be made that the only way he will ever be able to retire is if he can build up some assets (which can only happen if he declares his income and pays tax). However, he will still be ten to twenty years behind Aaron (despite his enjoyment of his short-term frivolities).

If either man decided to sell their business, the purchaser would ask for tax returns and accounts for the businesses. Which one will sell for more?

The money Aaron sells his business for is all tax-free under the Small Business Concesons, and the extra value will be far more than the tax he had paid.

If you are going into business to help build a lifestyle, a family legacy and wealth, paying taxes is essential.

Aaron was paying only 21% tax on his $200,000 declared income, and that allowed him to build assets and gave him a business that could be sold. Zac's strategy gave him a great present-day lifestyle but nothing for the future.

Don't get the wrong impression of this article - we still want you to pay the minimal amount of tax possible. But not at the expense of your long-term financial interests.

If you have concerns about your tax, whether it is personal, business or both, let us be of service to you.

How Do You Use Cryptocurrency?

Cryptocurrency is a speculative asset, prone to market fluctuations and public opinion. Using it for investment purposes is not without risk, and those who choose to do so must also consider the tax implications of their investment.

Whether you have made a profit or a loss with your crypto, it must be reported. The tax treatment of your cryptocurrency will differ depending on how you have used the asset, and even how you reported it previously.

Personal Use

A crypto asset is a personal use asset if you keep or use it mainly for personal use. The most common situation of personal use of crypto assets is to buy items for personal use or consumption.

A capital gain on the disposal of a crypto asset is disregarded if both:

- it is a personal use asset
- you acquire it for less than $10,000.

A capital gain on a personal use asset is not disregarded if it cost you more than $10,000 to acquire the asset.

You disregard all capital losses you make on personal use assets, including crypto assets, for CGT purposes.

Investors

An investor of cryptocurrency is someone who has purchased it with the intention of it becoming an investment.

Any cryptocurrency events need to be reported on your taxable income. This is because cryptocurrency is generally classified as a CGT asset.

For example, if you acquire a crypto asset as an investment, transactions such as disposal or exchange, or swap are a CGT event, and you may make a:

- capital gain
- capital loss, which can reduce the capital gains you make.

The complex tax treatment that cryptocurrency receives means that it can become a complicated and confusing item on your tax return. To ensure you are compliant and correctly classifying your usage, speak with a professional adviser today.

If you hold the crypto asset as an investment, it will not be exempt from CGT as a personal use asset.

Before you calculate CGT on your crypto assets, you will need to:

- check you have records for your crypto assets and crypto transactions
- convert the value of the crypto assets into Australian dollars.

You need to keep details for each crypto asset as they are separate CGT assets.

Traders

If you are buying or selling cryptocurrency regularly, this will be considered taxable income as you are considered to be receiving an income from this process. Any capital losses or gains need to be reported as income or losses.

Businesses

Businesses that are transacting in crypto assets may need to account for them as trading stock or ordinary income (that is, on the revenue account rather than as investment capital gains or losses). In these circumstances, the cost of acquiring crypto assets and the proceeds from disposing of them is ordinary income or a deductible expense depending on the nature of the transaction.