



Important EOFY actions

Reducing your tax exposure, maximising the opportunities available to you, and reducing your risk of an audit by the regulators is in your best interests. With tax time now upon us, this update will help you do exactly that:

- **In brief** - A summary of key changes and actions. *Page 2.*
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The new Government will deliver a Federal Budget in October 2022. We'll bring you more on any initiatives once the Budget has been delivered.

A number of clients have requested a strategic review of their business and structure to ensure that they are in the best possible position in the future. Let us know if you would like us to explore the options with you.

We want to help you achieve the best result. If there is any additional assistance we can provide, or if you would like us to review your situation, please call us on 02 4324 5544 or contact us by email at support@figtreegroup.com.au

Kind Regards

Figtree Group

In brief

Date	Changes and actions
1 July 2021	<ul style="list-style-type: none"> • Work related COVID-19 test expenses tax deductible
Pre-30 June 2022	<ul style="list-style-type: none"> • Pay superannuation to deduct contributions in the current financial year • Complete a stocktake where required (see <i>Do you need to do a stocktake?</i>) • Write-off bad debts and scrap any obsolete stock or plant and equipment • ATO recommences offsetting tax refunds or credits against old tax debts
30 June 2022	<ul style="list-style-type: none"> • ATO's 80 cent per hour work from home short-cut method to claim deductions ends • Last day of the 50% boosting apprenticeship wage subsidy
1 July 2022	<ul style="list-style-type: none"> • Super guarantee rate increases to 10.5% • \$450 super guarantee threshold removed • GST and PAYG uplift factors reduced to lower instalment amounts • Increase in low and middle income tax offset
14 July 2022 (on or before)	<ul style="list-style-type: none"> • Single touch payroll finalisation declarations need to be made (extensions can apply for closely held employees)
28 July 2022	<ul style="list-style-type: none"> • Quarterly super guarantee payment due (1 April – 30 June)
28 August 2022	<ul style="list-style-type: none"> • Taxable payments annual reports for payments to contractors due
28 September 2022	<ul style="list-style-type: none"> • Temporary 50% reduction in fuel excise ends
1 January 2023	<ul style="list-style-type: none"> • Penalties will apply for phase 2 single touch payroll errors
30 June 2023	<ul style="list-style-type: none"> • Temporary full expensing for depreciating assets scheduled to conclude
1 July 2023	<ul style="list-style-type: none"> • Super guarantee rate increase to 11%

What's new

Superannuation Guarantee increases to 10.5%

The Superannuation Guarantee (SG) rate will rise from 10% to 10.5% on 1 July 2022 and will then steadily increase by 0.5% each year until it reaches 12% on 1 July 2025.

If you have employees, what this will mean depends on your employment agreements. If the employment agreement states the employee is paid on a 'total remuneration' basis (base plus SG and any other allowances), then their take home pay might be reduced by 0.5%. That is, a greater percentage of their total remuneration will be directed to their superannuation fund. For employees paid a rate plus superannuation, then their take home pay will remain the same and the 0.5% increase will be added to their SG payments.

\$450 super guarantee threshold removed

From 1 July 2022, the \$450 threshold test will be removed and all employees aged 18 or over will need to be paid superannuation guarantee regardless of how much they earn. It is important to ensure that your payroll system accommodates this change so you do not inadvertently underpay superannuation.

For employees under the age of 18, super guarantee is only paid if the employee works more than 30 hours per week.

Lowering tax instalments for small business – PAYG

As you know, PAYG instalments are the regular prepayments made during the year of your tax on business and investment income. The actual amount owing is then reconciled at the end of the income year when the tax return is lodged.

Normally, GST and PAYG instalment amounts are adjusted using a GDP adjustment or uplift. For the 2022-23 income year, the Government has set this uplift factor at 2% instead of the 10% that would have applied. The 2% uplift rate will apply to small to medium enterprises eligible to use the relevant instalment methods for instalments for the 2022-23 income year:

- Up to \$10 million annual aggregated turnover for GST instalments, and
- \$50 million annual aggregated turnover for PAYG instalments

The effect of the change is that if you are using this PAYG instalment method, you will have more cash during the year to utilise. However, the actual amount of tax owing on the tax return will not change; just the amount you need to contribute during the year.

Deductibility of COVID-19 tests

If you have purchased RAT tests to determine whether you may attend or remain at work, a tax deduction is available for the cost you have incurred from 1 July 2021 (you will need evidence of the expense). As an example, if the RAT test cost \$20, someone on a marginal tax rate of 32.5% would receive a tax benefit of \$6.50.

The tax deduction does not apply if:

- You worked from home and did not intend to attend your workplace
- The test was used for private purposes (for example, to tests the kids before school).

For a business that provides RAT and PCR tests to their employees, this also means they are exempt from FBT from 1 July 2021 if those employees would have otherwise been able to claim a deduction had they personally incurred the cost of the test.

Tax offsets and relief for low and middle income earners

The Low and Middle Income Tax Offset (LMITO) has increased for the 2021-22 income year. The LMITO provides a tax reduction of up to \$1,500 for individuals with a taxable income of up to \$126,000. The LMITO reduces the tax owed and can only be reduced to zero – the excess is not paid as a refund.

The Medicare levy low-income thresholds for singles, families, and seniors and pensioners also increased from 1 July 2021 to take account of movements in the CPI so that low-income taxpayers generally continue to be exempt from paying the Medicare levy.

For business

Contractor or employee?

Many business owners assume that if they hire independent contractors they will not be responsible for PAYG withholding, superannuation guarantee, payroll tax and workers compensation obligations. However, each set of rules operates a bit differently and in some cases, genuine contractors can be treated as if they were employees. Also, correctly classifying the employment relationship can be difficult and there are significant penalties faced by businesses that get it wrong.

Two decisions handed down by the High Court recently clarify the way the courts determine whether a worker is an employee or an independent contractor. While the High Court has not disturbed the well-established practice of looking at the totality of the relationship in determining whether a worker is an employee, the Court decisions confirm that it is necessary to focus on the terms of the contract between the parties to establish the nature of the relationship.

In *CFMMEU v Personnel Contracting* and *ZG Operations Australia v Jamse*, the court placed a significant amount of weight on the terms of the written contract that the parties had entered into. The court took the approach that if the written agreement was not a sham and not in dispute, then the terms of the agreement could be relied on to determine the relationship. However, this does not mean that simply

calling a worker an independent contractor in an agreement classifies them as a contractor. In this case, a labour hire contractor was determined to be an employee despite the contract stating he was an independent contractor.

That is, if it walks like a duck and quacks like a duck, it's probably a duck, even if on paper, you call it a chicken.

For employers struggling to work out if they have correctly classified their contractors as employees, it is important to review the agreements to ensure that the "rights and obligations of the parties under that contract" are consistent with an independent contracting arrangement. Merely labelling a worker as an independent contractor is not enough if the rights and obligations under the agreement are not consistent with the label.

A genuine independent contractor who is providing personal services will typically be:

- Autonomous rather than subservient in their decision-making;
- Financially self-reliant rather than economically dependent upon the business of another; and,
- Chasing profit (that is a return on risk) rather than simply a payment for the time, skill and effort provided.

Every business that employs contractors should have a process in place to ensure the correct classification of employment arrangements and review those arrangements over time. Even when a worker is a genuine independent contractor this doesn't necessarily mean that the business won't have at least some employment-like obligations to meet. For example, some contractors are deemed to be employees for superannuation guarantee and payroll tax purposes.

Temporary full expensing concludes on 30 June 2023

Temporary full expensing enables your business to fully expense the cost of:

- New depreciable assets
- Improvements to existing eligible assets, and
- Second hand assets

in the first year of use.

This measure enables an asset's cost to be fully deductible upfront rather than being claimed over the asset's life, regardless of the cost of the asset. The last day to utilise the expensing measures is 30 June 2023 at which point, normal depreciation arrangements will apply.

Certain expenditure is excluded from this measure, such as improvements to land or buildings that are not treated as plant or as separate depreciating assets in their own right. Expenditure on these improvements would still normally be claimed at 2.5% or 4% per year.

The car limit will continue to place a cap on the deductions that can be claimed for luxury cars (\$60,733 in 2021-22 and \$64,741 in 2022-23).

Small business pooling

Small business entities (with aggregated annual turnover of less than \$10 million) using the simplified depreciation rules can deduct the full balance of their simplified depreciation general pool at the end of the income year while full expensing applies. The provisions which prevent small businesses from re-entering the simplified depreciation regime for five years if they voluntarily leave the system are suspended.

Opt-out rules

Taxpayers can choose not to apply the temporary full expensing rules to specific assets, although this choice is not currently available to small business entities that choose to apply the simplified depreciation rules for the relevant income year.

Tax treatment of disaster and pandemic relief payments, grants & loans

If you received a government grant or relief to help soften the blow of a disaster, the way these grants and loans are taxed might vary.

The following pandemic related grants can be tax-free if they are received in either the 2020-21 or 2021-22 income year by a business with an aggregated turnover of less than \$50 million:

ACT state grants

- COVID-19 Business Support Grant

- COVID-19 Tourism and Hospitality Support Grant

NSW state grants

- 2021 COVID-19 business grant
- 2021 COVID-19 JobSaver payment
- 2021 COVID-19 micro-business grant
- NSW Accommodation Support Grant
- Commercial Landlord Hardship Grant
- NSW Festival Relaunch Package
- NSW Performing Arts COVID Support Package
- NSW Performing Arts Relaunch Package
- 2022 Small Business Support Program

VIC state grants

- Alpine Business Fund
- Alpine Resorts Support Program (Streams 1, 2 and 3)
- Business Continuity Fund
- Business Costs Assistance Program Round Two
- Business Costs Assistance Program Round Two – July Extension
- Business Support Fund 3
- Impacted Public Events Support Program
- Independent Cinema Support Program
- Licensed Hospitality Venue Fund
- Licensed Hospitality Venue Fund 2021
- Licensed Hospitality Venue Fund 2021 – July Extension
- Live Performance Support Program
- Melbourne City Recovery Fund – Small business reactivation grants
- Outdoor Eating and Entertainment Package
- Small Business COVID Hardship Fund
- Sole Trader Support Fund

QLD state grants

- 2021 COVID-19 Business Support Grants

SA state grants

- COVID-19 Additional Business Support Grant
- COVID-19 Business Hardship Grant
- COVID-19 Business Support Grant – July 2021

- Sustainable Event Business Program

If the grant you received is not tax-free, you carry on a business and the payment relates to your continuing business activities, then it is likely to be included in your assessable income for income tax purposes unless a specific exemption applies. The position can sometimes be different where the payment was made to enable you to commence a new business or cease carrying on a business.

When it comes to GST treatment, the key issue is whether the grant is consideration for a supply. That is, was the business expected to deliver something for the grant? If not, GST does not apply.

Making it easier to utilise losses

New guidance from the ATO makes it easier for a sole trader that has made a business loss as a result of floods, fires or COVID-19 to apply the loss against income from other sources.

When a sole trader makes a loss from their business activities the non-commercial loss rules prevent the loss from being applied against income from other sources unless certain conditions are satisfied. If the taxpayer is not able to pass the 'normal' tests to utilise their business losses against other income there is an opportunity to seek the Commissioner's discretion to enable the losses to be used.

One of the situations where an individual can seek the Commissioner's discretion on the use of their tax losses is where the business activity was affected by special circumstances that were outside the control of the operators of the business.

In recent years, special circumstances such as flood, bushfire and COVID-19 may have led to individuals generating losses from their business activities and might have made it difficult for the individual to pass the non-commercial loss rules. A draft ATO guideline sets out a safe harbour position which allows taxpayers to utilise the losses as if the Commissioner had exercised discretion without needing to apply for this. The ATO intends that the safe harbour approach will apply for the 2020, 2021 and 2022 income years.

To qualify for the safe harbour, a business must meet all of the following conditions:

- Have adjusted taxable income of less than \$250,000;
- Make a loss from the business activity;
- The business activity was affected by one or more of the following events:
 - Flood (including where receiving ATO flood support);
 - Bushfire (including where the business qualified for an ATO bushfire lodgment and payment deferral);
 - or
 - A government-imposed lockdown, business closure and/or restriction due to COVID-19;
- The relevant event meant that the taxpayer was not able to carry on the business activity, or unable to carry it on to the same scale as was usual, or some or all of the customers of the business were not able to access the business activity, or access it in the same way as usual;
- Have not applied for a private ruling requesting the Commissioner exercise the 'special circumstances' discretion in relation to your business activity in the relevant income year; and
- The taxpayer has evidence to support that they are eligible for the safe harbour.

If you are not able to rely on the safe harbour approach, you can still potentially apply to the Commissioner to seek discretion in connection with the use of business losses against other income.

Areas of ATO scrutiny

Cryptocurrency in the headlines

The ATO has been very active lately dispelling myths about how cryptocurrency is taxed.

Determining the tax treatment of cryptocurrency can be complicated but if you dispose of an item of cryptocurrency and the value of the item has increased since you acquired it then the gain will normally be subject to tax. The main exception to this is where the cryptocurrency is acquired with the intention of using it to make private purchases in the short term and it is actually used for this purpose, in which case some exemptions relating to personal use assets might apply.

Some key things to remember when it comes to cryptocurrency are below:

- A CGT event occurs when disposing of cryptocurrency. This can include selling cryptocurrency for a fiat currency (e.g., \$AUD), exchanging one cryptocurrency for another, gifting it, trading it or using it to pay for goods or services.
- Each cryptocurrency is a separate asset for CGT purposes. When you dispose of one cryptocurrency to acquire another, you are disposing of one CGT asset and acquiring another CGT asset. This triggers a taxing event.
- Transferring cryptocurrency from one wallet to another is not considered a CGT disposal if you maintain ownership of the coin.
- The longer you hold cryptocurrency, the less likely it will be classified as a personal use asset.
- Record keeping is extremely important – you need receipts and details of the type of coin, purchase price, date and time of transactions in Australian dollars, records for any exchanges, digital wallet and keys, and what has been paid in commissions or brokerage fees, and records of tax agent, accountant and legal costs. The ATO regularly runs data matching projects, and they have access to the data from many crypto platforms and banks.

If you make a loss on cryptocurrency, you can only claim the loss as a deduction if you are in the business of trading.

If your business accepts cryptocurrency as payment for goods or services, these payments are treated in the same way as any other. That is, if your business is registered for GST, the price paid by the person paying in the digital currency should include GST. Likewise, if you purchase goods or services for use in your business then you should generally be able to claim GST credits on the transaction in your activity statement, even if you used digital currency to make the purchase.

It is also possible that someone could hold cryptocurrency as trading stock if it is held for the purpose of sale or exchange in the ordinary course of a business. Any gains from the trades are then taxed in the business's income tax return (or individual tax return for sole traders). CGT concessions and exemptions are not generally available in this case. If you are in the business of trading cryptocurrencies, that is, you

approach the trading in a business-like manner, then you can generally claim losses and other business expenses.

The tax laws can be complex in this area and it's important to ensure that you get the right advice.

Donations of cryptocurrency

If you have donated cryptocurrency assets to charity, the rules for claiming a tax deduction can be slightly more complex. The starting point is to ensure that the entity you made the donation to is a deductible gift recipient (DGR). Without this DGR status, the donation cannot normally be claimed as a deduction (for example, donating crypto to an overseas based charity will not generally qualify). The second step is to establish whether the not-for-profit organisation is set up to accept cryptocurrency assets.

As cryptocurrency is treated as a type of property for the purposes of the deduction rules for gifts, this makes the process more complicated compared to situations where you make a cash donation. For example, it might trigger capital gains tax (CGT) because you are transferring an asset for no cost. In these cases, the ATO will look at the value of the crypto at the point you donated it, then assess you on any gain at the point of the transfer unless a specific CGT exemption applies (for example, a personal use asset with a cost of less than \$10,000).

Work from home expenses

If you worked from home during lockdown and spent money on work related items that were not reimbursed by your employer, you might be able to claim some of these expenses as a deduction – but not everything you purchase can be claimed.

If you are claiming your expenses, there are three methods you can use:

- **The ATO's simplified 80 cents per hour short-cut method** – you can claim 80 cents for every hour you worked from home from 1 March 2020 to 30 June 2022. You will need to have evidence of hours worked like a timesheet or diary. The rate covers all of your expenses and you cannot claim individual items separately, such as office furniture or a computer.
- **Fixed rate 52 cents per hour method** – applies if you have set up a home office but are not running a business from home. You can claim 52 cents for every hour and covers the running expenses of your home. You can claim your phone, internet, or the decline in value of equipment separately.
- **Actual expenses method** – you can claim the actual expenses you incur (and reduce the claim by any personal use and use by other family members). You will need to ensure you have kept records such as receipts to use this method.

It's this last method, the actual method, the ATO is scrutinising because people using this method tend to lodge much higher claims in their tax return. The ATO has highlighted four ineligible expenses that are being claimed:

- Personal expenses such as coffee, tea and toilet paper
- Expenses related to a child's education, such as online learning courses or laptops
- Claiming large expenses up-front instead of claiming depreciation deductions over a number of years (unless it qualifies for an immediate deduction under the temporary full expensing rules), and

- Occupancy expenses such as rent, mortgage interest, property insurance, and land taxes and rates, that cannot generally be claimed by individuals working from home unless it qualifies as a home-based business.

Home based businesses

In general, if your business is a home-based business, you might be able to claim both occupancy and running expenses. However, occupancy costs are not automatically deductible just because you perform some work from home in connection with the business. Also remember that if occupancy costs can be claimed in relation to your home this could impact on the capital gains tax implications on sale of the property and you might not qualify for a full exemption under the main residence rules.

Financial housekeeping

Having trouble with tax debt?

If you are having trouble paying your tax liability, please let us know as soon as possible so we can negotiate a deferral or payment plan with the ATO on your behalf.

Reporting payments to contractors

The taxable payments reporting system requires businesses in certain industries to report payments they make to contractors (individual and total for the year) to the ATO. 'Payment' means any form of consideration including non-cash benefits and constructive payments. Taxable payments reporting is required for:

- Building and construction services
- Cleaning services
- Courier services
- Information technology (IT) services
- Road freight services
- Security, investigation or surveillance services
- Mixed services (providing one or more of the services listed above)

The annual report is due by 28 August 2022.

Before you roll-over your software...

Before rolling over your accounting software for the new financial year, make sure you:

- Prepare your financial year-end accounts. This way, any problems can be rectified and you have a 'clean slate' for the 2022-23 year. Once rolled over, the software cannot be amended.

- Do not perform a Payroll Year End function until you are sure that your STP finalisation declaration is correct and printed. Always perform a payroll back-up before you roll over the year.

Employee reporting

Single touch payroll

For payments to employees through single touch payroll, a finalisation declaration generally needs to be made by 14 July 2022. However, there are some exceptions to this.

If the entity has 20 or more employees and some of them are closely held employees, then the finalisation declaration for the closely held employees needs to be made by 30 September.

For entities with 19 or fewer employees and which only have closely held employees the finalisation declaration should be made by due date for lodgement of the tax return of the relevant employee.

Employees will be able to access their Income Statement through their myGov account.

Closely held payees

Payments to closely held payees can be reported through STP in one of three ways:

- Reporting actual payments in real time - reporting each payment to a closely held payee on or before each pay event (essentially using STP 'as normal').
- Reporting actual payments quarterly - lodging a quarterly STP statement detailing these payments for the quarter, with the statement due when the activity statement is due.
- Reporting a reasonable estimate quarterly - lodging a quarterly STP statement estimating reasonable year-to-date amounts paid to employees, with the statement due when the activity statement is due.

Small employers that have arm's length employees must report STP information on or before each payday regardless of the method that is chosen for reporting payments to closely held payees.

If your business has closely held employees, it will be important to plan throughout the year to prevent problems occurring at year end.

Reportable Fringe Benefits

Where you have provided fringe benefits to your employees in excess of \$2,000, you need to report the FBT grossed-up amount. This is referred to as a 'Reportable Fringe Benefit Amount' (RFBA).

Do you need to do a stocktake?

Businesses that buy and sell stock generally need to do a stocktake at the end of each financial year as the increase or decrease in the value of stock is included when calculating the taxable income of your business.

If your business has an aggregated turnover below \$50 million you can use the simplified trading stock rules. Under these rules, you can choose not to conduct a stocktake for tax purposes if the difference in value between the opening value of your trading stock and a reasonable estimate of the closing value of

trading stock at the end of the income year is less than \$5,000. You will need to record how you determined the value of trading stock on hand.

If you do need to complete a stocktake, you can choose one of three methods to value trading stock:

- **Cost price** – all costs connected with the stock including freight, customs duty, and if manufacturing, labour and materials, plus a portion of fixed and variable factory overheads, etc.
- **Market selling value** - the current value of the stock you sell in the normal course of business (but not at a reduced value when you are forced to sell it).
- **Replacement value** - the price of a substantially similar replacement item in a normal market on the last day of the income year.

A different basis can be chosen for each class of stock or for individual items within a particular class of stock. This provides an opportunity to minimise the trading stock adjustment at year-end. There is no need to use the same method every year; you can choose the most tax effective option each year. The most obvious example is where the stock can be valued below its purchase price because of market conditions or damage that has occurred to the stock. This should give rise to a deduction even though the loss has not yet been incurred.

Reduce your risks & minimise your tax

Top tax tips

1. Write-off bad debts

To be a bad debt, you need to have brought the income to account as assessable income and given up all attempts to recover the debt. It needs to be written off your debtors' ledger by 30 June. If you don't maintain a debtors' ledger, a director's minute confirming the write-off is a good idea.

2. Review your asset register and scrap any obsolete plant

Check to see if obsolete plant and equipment is sitting on your depreciation schedule. Rather than depreciating a small amount each year, if the plant has become obsolete, scrap it and write it off before 30 June. Small business entities can choose to pool their assets and claim one deduction for each pool. This means you only have to do one calculation for the pool rather than for each asset.

3. Bring forward repairs, consumables, trade gifts or donations

To claim a deduction for the 2021-22 financial year, consider paying for any required repairs, replenishing consumable supplies, trade gifts or donations before 30 June.

4. Pay June quarter employee super contributions now

Pay June quarter super contributions this financial year if you want to claim a tax deduction in the current year. The next quarterly superannuation guarantee payment is due on 28 July 2022. However, some employers choose to make the payment early to bring forward the tax deduction instead of waiting another 12 months.

Don't forget yourself. Superannuation can be a great way to get tax relief and still build your personal wealth. Your personal or company sponsored contributions need to be received by the fund before 30 June to be deductible.

5. Realise any capital losses and reduce gains

Neutralise the tax effect of any capital gains you have made during the year by realising any capital losses – that is, sell the asset and lock in the capital loss. These need to be genuine transactions to be effective for tax purposes.

6. Raise management fees between entities by June 30

Where management fees are charged between related entities, make sure that the charges have been raised by 30 June. Where management charges are made, make sure they are commercially reasonable and documentation is in place to support the transactions. If any transactions are undertaken with international related parties then the transfer pricing rules need to be considered and the ATO's documentation expectations will be much greater. This is an area under increased scrutiny.

What we need from you

This is a general list of what to have ready when we next meet with you:

- Accounts data file (MYOB, Quickbooks, access to Xero)
- Debtors & creditors reconciliation
- Stocktake if applicable (or if your business has an aggregated turnover of less than \$50m, consider using the simplified trading stock rules mentioned above)
- 30 June bank statements on all relevant loan documents
- Documents on new assets bought or sold, including the date you entered the contract and the date the asset was first used or installed ready for use
- Details of any grants or disaster loans received
- Details of any insurance payouts for your business or business premises
- Payroll reconciliation
- Superannuation reconciliation
- Cash book (if applicable)
- Details of any transactions involving cryptocurrency (e.g., Bitcoin)
- 30 June statements on any investment or operating accounts

And, if we are preparing your individual income tax return:

- Income Statement
- Tax statements of managed investment funds
- Interest income from banks and building societies
- Dividend statements for dividends received
- For share sales or purchases, the purchase and sale contract notes
- For real estate sales or purchases, the solicitor's correspondence for the purchase and sale
- Rental property statements from real estate agent and details of other expenditure incurred
- Work related expenses
- Self-education expenses

- Travel expenses
- Donations to charities
- Health insurance and rebate entitlement
- Family Tax Benefits received
- Commonwealth assistance notices
- IAS statements or details of PAYG Instalments paid
- Details of any transactions involving cryptocurrency (e.g., Bitcoin, NFTs)
- Details of any income derived from participating in the sharing economy (e.g., Uber driving, rent from AirBNB, jobs completed through Airtasker etc.,)