Murray Business Solutions

CPA

Monthly Client Update

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New work from home record keeping requirements

Are you one of the five million Australians who claim work from home deductions? If so, stricter record-keeping rules may now apply.

About this newsletter

Welcome to Murray Business Solution's client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. Should you require further information on any of the topics covered, please contact us via the details below.

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For this financial year and moving forward, there are now only two methods to calculate your work from home claim:

1. Revised fixed rate method (with new rules applying)
2. Actual costs method (unchanged).

The actual costs method has never been all that popular because you need to keep records of every expense incurred and depreciating asset

continued overleaf

New work from home record keeping requirements cont

purchased, as well as evidence to show the work-related use of the expenses and depreciating assets. By way of example, to claim electricity expenses, the ATO suggests that you need to find out the cost per unit of power used, the average amount of units used per hour (power consumption per kilowatt hour for each appliance) and the number of hours the appliance was used for work-related purposes.

For this reason, the fixed rate method has been preferred (or in recent years the COVID shortcut method where you could simply claim 80 cents for each hour worked from home. Note however that the COVID method is no longer available).

The fixed rate method has now been revised. The revised fixed-rate method increases your claim from 52 cents to 67 cents per-hour. However, this rate now includes internet, phone, stationery and computer consumables. Therefore, you can't claim these expenses separately in addition to your home office fixed-rate deduction. Cleaning expenses and depreciation on office furniture are no longer included in the fixed rate. Therefore, you can now claim these expenses separately.

- The record-keeping requirements under the revised fix rate method are now more onerous, also. You now need to keep a record of actual hours worked from home. The ATO will accept a record in any form, but it suggests either: timesheets, rosters, logs of time spent accessing systems, time-tracking apps, or a diary. The ATO will no longer accept estimates, or a four-week representative diary.
- This new, strict record-keeping requirement applies from 1 March 2023. For the period before it (1 July 2022 to 28 February 2023) the ATO will accept a four-week representative diary.
- Further, under the revised fixed rate method, you will now also need to provide at least one document for each type of expense to demonstrate that you actually incurred that expense. For example, if you receive electricity bills quarterly, you will need to keep one of those quarterly bills as a record to represent that year's electricity expenses.

If you have any questions around these stricter rules, and how they may impact you, reach out to us.

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

FBT and car logbooks

With the end of the FBT year approaching, are your car logbooks in order?

The operating cost method is used by many employers to calculate their car FBT liability. This method is particularly effective where the business use of the vehicle is high. Keeping a logbook is essential to use the operating cost method.

Employees need to prepare a logbook for any vehicle that you provide them with where there is an element of private use. The logbook period is for 12-weeks, which must be representative of typical usage. For example, a period where an employee is taking a block of annual leave is not representative.

Where employees share a vehicle during a year, each employee will need to prepare a logbook to substantiate their respective business use percentage.

Logbooks are valid for five FBT years (including the year the logbook is prepared), provided there is no significant change in the vehicle's business use. Once the five-year period expires, a new logbook will need to be kept if you wish to continue using the operating cost method. Therefore, if a logbook was last prepared in 2017/18, a new logbook is required for this FBT year (2022/23).

As noted, a new logbook will need to be prepared where there is a significant change in the business use of a vehicle. Indeed, it is in an employer's interests for a new logbook to be prepared where the business use of the vehicle increases, as this will result in a decreased FBT liability.

With just weeks to go in the FBT year, if a new logbook is required to be kept, but has not yet been...don't panic! The 12-week period can overlap two FBT years provided it includes at least part of the relevant year.

The logbook must contain:

- when the logbook period begins and ends
- the odometer readings at the start and end of the logbook period
- the total number of kilometres travelled during the logbook period
- the number of kilometres travelled for each journey. If you make two or more journeys in a row on the same day, you can record them as a single journey
- the business use percentage for the logbook period
- the make, model, engine capacity and registration number of the car.

For each journey, record the:

- reason for the journey (such as a description of the business reason or whether it was for private use). Note that a generic description of a journey, such as "business use", is not adequate
- start and end date of the journey
- odometer readings at the start and end of the journey, and
- kilometres travelled.

These entries should be made contemporaneously, as soon as possible after each trip.

It's a common misconception among employers with commercial vehicles such as dual-cab utes that they are automatically exempt from FBT and therefore there is no requirement to maintain a logbook. This is generally only the case where the private use is negligible.

If you are uncertain about your FBT logbook obligations, contact us.

Legislating the purpose of superannuation

On 20 February 2023, Treasury released a consultation paper on legislating the purpose of superannuation. This is an idea that has been around since 2016 when the former Coalition government contemplated doing the same thing.

The government says that legislating an objective of superannuation will provide stability and confidence to policy makers, regulators, industry, and the community, that future changes to superannuation policy should be aligned with the purpose of the superannuation system. It will also ensure members and funds have a shared understanding of the purpose of superannuation throughout both the accumulation and retirement phases.

The consultation paper puts forward the following proposed objective, seeking feedback on it:

> *The objective of superannuation is to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way.*

To be clear, the purpose of legislating such an objective is to guide future policy makers – any changes they make in the superannuation space should align with the legislated, agreed objective. For example, if the Coalition returned to government, its 2022 federal election proposal to allow first-home owners to tap into their superannuation for a deposit may run counter to the legislated objective and perhaps should not be pursued or supported by Parliament. Also arguably running counter to the legislative objective would have been the COVID measure allowing individuals to access $20,000 of their superannuation savings, subject to certain conditions. That being said, the objective is not being hardwired into the Constitution, so it would be possible for a future government to disregard the objective if it saw fit.

On the other hand, reining in tax breaks for individuals with for example $3 million or more in their super accounts may align with the objective because it may be arguable that the amount of super in their account is significantly more than is needed for a "dignified retirement".

The other point to be made around this proposal is that it is not aimed at abolishing current, existing laws that may not strictly align with the new objective. Most notably, this involves superannuation conditions of release that are not aimed at preserving savings to deliver income for a dignified retirement, including:

- being temporarily or permanently incapacitated
- suffering severe financial hardship, such as being unable to meet immediate family living expenses where you have been receiving government income support payments for a continuous period of 26 weeks and had been receiving that support at the time you applied for early release
- compassionate grounds
- having a terminal medical condition, or
- taking part in the first home super saver scheme.

Unrestricted non-preserved benefits don't require a condition of release to be met and may be paid at any time. They include, for example, benefits for which a member has previously satisfied a condition of release and decided to keep the money in the super fund. Certain employer termination payments (ETPs) received by the fund before 1 July 2004 may also be included in this category of benefits. ■

Crystalising capital losses

It's been a particularly difficult 12 months for investors.

On the superannuation front, we now have two major reports assessing how super accounts fared in the 2022 calendar year. SuperRatings issued its average balanced return recently and found it was minus 4.8%. Late last year, ChantWest undertook a similar exercise – reporting a figure of minus 4.6%. There have been four negative years since 2000. In 2002, there was an identical return of minus 4.8%, and in the horror 2008 GFC year, the average super fund fell 20%.

Regarding property, CoreLogic's capital city index declined 8.8% from its May 2022 peak to December, down 7.1% in calendar year terms, being the worst calendar year result in 42 years.

It's important however to be mindful that these losses are merely paper losses. That is, these losses are only realised, and locked in, if:

- in the case of property or shares, you sell the asset, or
- in the case of superannuation, by selling assets or withdrawing super when investment balances are down.

If you retain the asset, you may be able to ride things out and hopefully the market bounces back. For example, the average return for the average balanced fund since 2000 is 6.1% (a period that takes into account the aforementioned 20% downturn during the GFC) – that's $30,500 a year for every $500,000 you can get into super. Things should improve!

If you determine that an asset has little potential for future growth and decide to sell and happen to make a capital loss – there is a silver lining from a tax standpoint! You can deduct capital losses from your capital gains to reduce CGT liability. Capital losses must be used at the first opportunity. If you have any capital losses in the current year, or unused capital losses from previous years, you must use these losses to reduce any capital gains in the current year, and use the earliest losses first.

Of course, tax is not the only consideration when weighing up whether to retain or dispose of a CGT asset. Talk to your advisors before selling. ■

Super teething issues

Last year 9,700 individuals applied for compassionate release of super for dental treatment expenses, and 82% were approved. Out of those approved, 9% were for a dependent child's dental treatment, which could include braces. What is the pathway for access?

While normally superannuation must be preserved for retirement, there are limited exceptions. One of these is compassionate grounds. An individual must apply to the ATO for a determination that an amount of the person's preserved benefits or restricted non-preserved benefits in their fund be released on compassionate grounds due to the individual lacking the financial capacity:

a. to pay for medical treatment (defined as life-threatening illnesses or to alleviate acute or chronic pain or mental disturbance or medical transport for the person or a dependant)

b. to enable payments to prevent foreclosure by a mortgagee or the exercise of an express or statutory power of sale over the family home

c. to pay for home and vehicle modifications to accommodate the special needs of a severely disabled person or dependant

d. to pay for expenses associated with the person's palliative care, death, funeral or burial, or

e. to meet expenses in other cases where the release is consistent with items (a) to (e).

Where one of these conditions is met, the benefit must be released as a single lump sum not exceeding the amount that is determined by the ATO to be reasonably required, based on the nature of the hardship and the person's financial capacity. The ATO must provide a copy of its written determination to both the individual applicant and the trustee of their superannuation fund.

Turning back to dental treatment, point **(a)** is the relevant release condition. The applicant will need to demonstrate that they are suffering acute or chronic pain such that they require dental treatment to alleviate that pain, and that they are lacking the financial capacity to pay for that treatment. From an evidentiary perspective, an applicant would almost certainly need to furnish the ATO with correspondence from a dentist that speaks to the above, and also evidence of their financial position.

The 'acute or chronic pain' requirement means that cosmetic procedures such as teeth whitening, dental veneers, dental bonding, dental implants, dental bridges, dental crowns/tooth caps, orthodontics, and white tooth fillings are all unlikely to qualify.

There is no lifetime limit on the number of applications that you can make. For example, if you had three children who all required braces, then potentially you could tap into your super for each child's procedure. Before making an application, individuals should consider:

- alternative funding sources, such as loans
- the impact on your retirement savings, noting the compounding nature of superannuation investments. Each time you dip into your super, you're killing off the power of compound interest. Instead of braces costing $7,000 or more, compounding interest means that it may be several multiples of this by the time you retire. ■

PAYG instalment variations

The ATO is encouraging accountants to educate clients around varying PAYG instalments – this can potentially assist cashflow.

To recap, PAYG (pay-as-you-go) instalments allow business taxpayers to make regular prepayments towards the tax on their business and investment income. This is in contrast to salary and wages earners who already make prepayments by having tax withheld from their income each time they are paid.

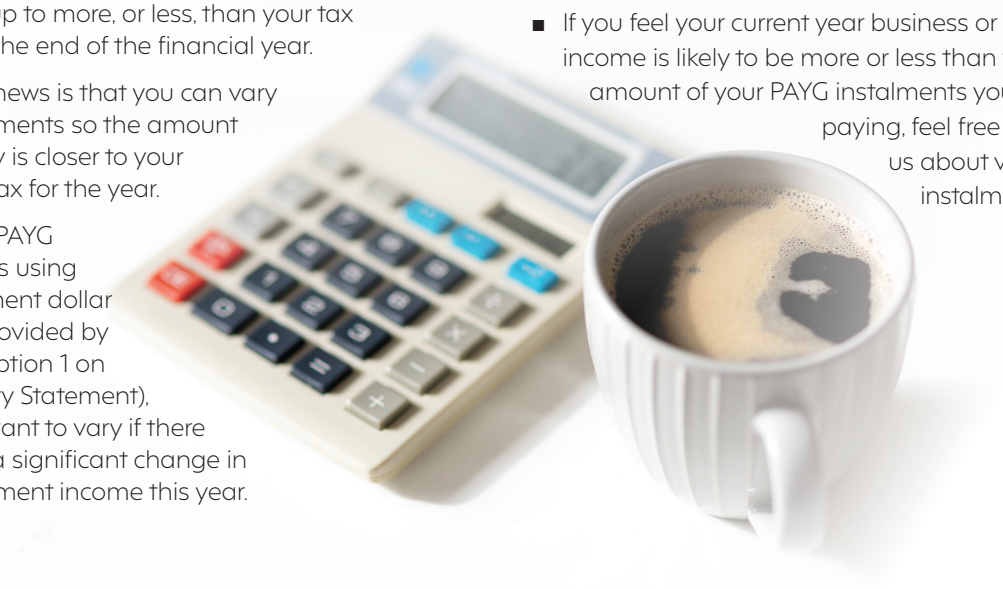
Business taxpayers, including individuals who are contractors for PAYG withholding purposes, will automatically be entered into the PAYG instalments system if they earn over the entry threshold in business and investment income in their latest lodged tax return. These thresholds currently stand at:

- ***Individuals (including sole traders and trusts)*** – your instalment income from your latest tax return was $4,000 or more, and the tax payable on your latest notice of assessment was $1,000 or more, and you have estimated (notional) tax of $500 or more.
- ***Companies and super funds –*** have instalment income from their latest tax return of $2 million or more, or have estimated (notional) tax of $500 or more, or are the head company of a consolidated group.

If your or your business's financial situation has changed, your expected tax liability may also change. This means your current PAYG instalments may add up to more, or less, than your tax liability at the end of the financial year.

The good news is that you can vary your instalments so the amount you prepay is closer to your expected tax for the year.

If you pay PAYG instalments using the instalment dollar amount provided by the ATO (option 1 on your Activity Statement), you may want to vary if there has been a significant change in your instalment income this year.

If you calculate your PAYG instalments using the instalment rate (option 2 on your activity statement):

- You do not need to vary simply because your income has changed – the payment you calculate will go up and down in line with your income.
- You would usually only vary if the taxable proportion of your income has changed – for example, if your income has fallen significantly but your deductions for running costs have stayed the same.
- There are however dangers in varying. If you vary your instalments downwards and you underestimate your eventual income for the year, you could be left with a substantial tax bill when you lodge your tax return at the end of the year. Also, when the ATO receives your tax return, they compare your actual instalments to the total tax payable on your instalment income for the income year. If your varied instalments are less than 85% of your total tax payable, you may have to pay a general interest charge on the difference, in addition to paying the shortfall. Depending on the circumstances there may also be penalties.
- If you are not sure, it is best to not vary your instalments. Any overpaid instalments will be refunded to you after you lodge your tax return.
- If you feel your current year business or investment income is likely to be more or less than the dollar amount of your PAYG instalments you are paying, feel free to chat to us about varying your instalments. ■