

## PERSONAL TAX CHANGES NOW LAW



The Government's complete package of individual tax adjustments that were announced in the 2019-20 Federal Budget, have passed parliament and are now law.

On 4 July 2019, the Treasury Laws Amendment (Tax Relief So Working Australians Keep More Of Their Money) Bill 2019 passed all stages of parliament without amendment. This was shortly followed by the Royal Assent on 5 July 2019. This passed into law all three stages of the personal tax changes.

The first stage is to increase the low and middle-income tax offset (LMITO) and this comes into operation immediately. From 2018-19 to 2021-22, the non-refundable LMITO will increase from a maximum amount of \$530 to \$1,080 per annum. The minimum amount will increase from \$200 to \$255. This will be received by taxpayers as a lump sum payment after the lodgement of their income tax return, with the first effect being for the year ended 30 June 2019. The LMITO is temporary and will expire in the 2021-22 financial year.

The second stage is to increase the low-income tax offset (LITO). From 1 July 2022 when the LMITO ends, the Government will increase the LITO from \$645 to \$700. Taxpayers earning up to \$37,000 will be entitled to the maximum LITO of \$700.

The third stage are changes to the personal income tax thresholds. From 1 July 2022, the top threshold of the 19% personal income tax bracket will increase from \$41,000 to \$45,000. This was increased last year from \$37,000 to \$41,000. From 1 July 2024, the marginal tax rate will be reduced from 32.5% to 30%. This will change in order to more closely align the middle tax bracket of the personal income tax system with corporate tax rates.



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# SINGLE TOUCH PAYROLL EXEMPTIONS

Single Touch Payroll (STP) reporting has been extended to include all businesses from 1 July 2019 and there are exemptions that employers need to be aware of.

## FINANCIAL EXEMPTIONS:

Businesses may be exempt from reporting through STP for one or more financial years, or exempt from reporting certain payments. Insolvency practitioners for employers that are required to report through STP are not required to report through STP on their behalf in 2018-19. Administrators of long service leave or redundancy schemes, who don't use STP enabled payroll software to manage payments to members, are exempt from reporting those payments through STP for the 2018-19 and 2019-20 financial years. Employees' tax and super information will still need to be reported through STP. Those who have a withholding payer number, because they are registered for PAYG withholding and are not entitled to an ABN, are exempt from STP reporting for the 2018-19 and 2019-20 financial years.

There is no need to apply for exemptions or notify the ATO, although supporting records should be kept. Employers that are exempt from STP reporting for a particular financial year will need to start STP reporting in the following year or apply for another exemption. With the exemption from STP in place, employers must continue to comply with their existing PAYG withholding obligations.

## EMPLOYEE EXEMPTIONS:

Some employers may be exempt from reporting payments made to employees through STP for the 2018-19 financial year. Payments made by employers with 19 or less employees to closely held payees, such as directors and family members, are exempt from STP until 1 July 2020. Payments made to foreign employees will be exempt for the 2018-19 financial year if all of the following apply:

- The employee is employed by an offshore entity.
- The employee is seconded to Australia.
- All or part of the employee's base salary and other remuneration is paid by an offshore entity, and;
- A shadow payroll arrangement for the employee is maintained.

You will need to report any employee that does not meet all the criteria listed above. For the financial year commencing 1 July 2019, the ATO is considering concessional reporting arrangements for these types of employees.

# RESTRUCTURE ROLLOVER FOR SMALL BUSINESSES

As a business grows, it is possible that the original structure no longer satisfies the needs of the business and restructuring is necessary.

Typically when a business is sold, you would have to pay income tax due to transferring assets. However, when a business is restructuring, the ownership of assets remains unchanged, qualifying the business to receive the Small Business Restructure Rollover from the ATO. This allows for the transfer of active assets from one entity to one or more separate entities without incurring an income tax liability.

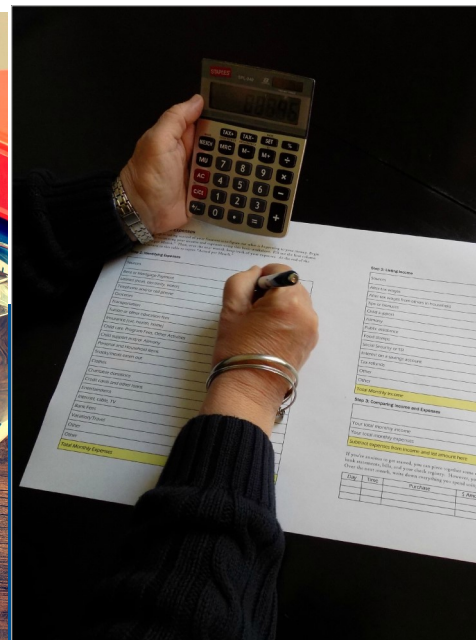
A business may be eligible for the small business restructure rollover provided that:

- The change is a genuine restructure as opposed to an artificial or inappropriately tax-driven scheme.
- There is no change to ultimate economic ownership in the sense that the economic owners of an asset are not changed or transferred, including if there is more than one owner of that asset

Businesses should note that there may be potential liabilities such as stamp duty or goods

and services tax (GST) consequences to consider prior to restructuring.

The commissioner's remedial power has repealed laws that incurred tax consequences on depreciating assets during a business restructure. When transferring depreciating assets, like cars during a business restructure, the commissioner's remedial power will automatically apply. There is nothing businesses need to do differently to qualify for this tax exemption.



## DISCLOSING PERSONAL LIVING EXPENSES

During an audit, the ATO requests information to help identify unreported cash income when looking at household expenditure.

When making an assessment in the course of examining an individual's tax affairs, the ATO follow assessment guidelines that are presented in the form of questionnaire worksheets.

These worksheets require taxpayers to provide particular details about the living expenses of their household. An individual may also be

required to provide information to determine if they need to make adjustments to their business and record-keeping practices.

The questionnaire worksheet outlines what the tax office looks at when examining personal living expenses. The worksheets can be used at any time by individuals to:

- Compare their household income to expenses and assess if their declared income is enough to support their lifestyle.
- Review their record keeping.
- Make adjustments to their reported income.

- Consider whether making a voluntary disclosure is necessary.

Discrepancies in tax returns that have been discovered by individuals can be adjusted through voluntary disclosure. Making a voluntary disclosure will enable correction of tax affairs without admitting liability. Individuals would still have to pay any tax owed, interest and penalties applied. Taxpayers that voluntarily inform the ATO of mistakes before an audit may be eligible for reduced penalties.

# ARE YOU ELIGIBLE FOR THE **SUPER DOWNSIZER SCHEME?**



## WHAT IS THE DOWNSIZER SCHEME?

Downsizer contributions can provide a way to boost your super balance for those who may not have saved enough to fund their retirement. As they are tax-free, downsizer contributions can be a good opportunity to top up already existing savings. They are non-concessional contributions, however they do not count towards your contributions caps and can still be made for those who have a super balance greater than \$1.6 million. While there are a number of benefits to the scheme, it is necessary to keep in mind that the contributions are not tax-deductible.

No work test applies to be eligible for downsizer contributions. The work test requires that taxpayers aged 65-74 who wish to make voluntary contributions must be employed for at least 40 hours within a 30-day period. By removing this requirement, older Australians who no longer work significant hours will still be able to add large sums to their super.

## ELIGIBILITY

To be eligible to make a downsizer contribution to your super, you must meet a number of requirements. These include:

- You are over 65 (there is no maximum age limit).
- The amount that you are contributing is taken from the proceeds of selling your home, where the contract of sale was exchanged on or after 1 July 2018.
- Contributions are made within 90 days of receiving the proceeds of a sale.
- The sold property must have been owned for at least 10 years and must have been your main place of residence at some point in time.
- The property must be in Australia and excludes houseboats, caravans and mobile homes.
- The proceeds from the sale of the home are exempt or partially exempt from capital gains tax (CGT) under the main residence exemption.
- You have not previously made a super downsizer contribution from the sale of another home. However, if the home that was sold was only owned by one spouse, then the other spouse that did not have an ownership interest may also make a downsizer contribution if they meet all of the other eligibility requirements.

Further rules may apply to various situations, and contributions that do not meet the downsizer contribution eligibility requirements may incur penalties from the ATO. For more information and advice on other implications to the super downsizer scheme that may affect you, consult your professional advisor.

The superannuation downsizer scheme is finishing up its first year after coming into effect on 1 July 2018.

Under the scheme, eligible individuals that are 65 years and older may be able to make a contribution into their superannuation of up to \$300,000 from the proceeds of selling their family home.

## WHAT DISQUALIFIES **YOU AS A TRUSTEE**

**Before becoming a trustee of an SMSF, you need to be aware of the responsibilities that it entails.**

SMSFs are closely regulated by the ATO and have rules that dictate who is legally allowed to run them. While anyone 18 years old or over can be a trustee or director of an SMSF, they must not be under a legal disability such as mental incapacity, or a disqualified person.

The ATO can take action to disqualify an SMSF trustee. The most common reason is for illegal early access breaches. There are other ways a person may become disqualified and some may not even realise they have been. Continuing to act as an SMSF trustee or director of the corporate trustee while disqualified is an offence, and further penalties may apply.

Typical things that can disqualify an individual are:

- Having been convicted of an offence involving dishonesty.
- Being subject to a civil penalty order under the super laws.
- Being insolvent under administration (including being an undischarged bankrupt).
- Having been disqualified by a court or regulator (for example, by the ATO or APRA).

The ATO has a disqualified trustees register to see if an individual has previously been disqualified. The register provides information and easy search options to help determine whether a potential trustee has been disqualified. It is updated quarterly and includes all individuals who have been disqualified since 2012, the year that the information was first published electronically.

There are two options a fund can take when a trustee has been disqualified. The first is to roll over the disqualified person's member benefits to a large (APRA) superannuation fund, such as an industry or public offer fund. The second is to convert the SMSF into a Small APRA Fund (SAF) by appointing an APRA approved trustee.

Trustees or directors of a corporate trustee run the fund and make decisions that affect the retirement interests of each fund member, including themselves. It is in the members' best interests to remain aware of which trustees are or may be disqualified and how a trustee may become disqualified.

# HOW THE 'PROTECTING YOUR SUPERANNUATION' LAWS WILL AFFECT YOU

The Treasury Laws Amendment (Protecting your Superannuation Package) Bill 2019 received the Royal Assent on 12 March 2019 and will come into effect from 1 July 2019.

This bill is apart of the Government's package of reforms that were announced in the 2018-19 Federal Budget.

The new legislation is designed to protect Australians' superannuation savings by ensuring that their super balance isn't negatively affected by unnecessary fees on insurance policies. Individuals are encouraged to check their super balance before the reforms commence and familiarise themselves with the changes that may affect them.

## INSURANCE:

The new laws will remove the need to pay exit fees from all superannuation accounts. Trustees that are currently charging exit fees will need to review the current fee structure in order to implement any necessary disclosure and product changes. This will ensure that exit fees will not be charged on or after the 1 July 2019, the date these changes will commence.

While the policy changes are intended to protect consumers, there may be alarming consequences for those who may not realise their account is inactive and assume that their insurance cover will continue. All superannuation trustees and members will need to review these changes to ensure they are meeting all necessary obligations. If further help is needed about how the changes will impact you, consult your financial advisor.



## SUPER CHANGES TO PROTECT EMPLOYEES' ENTITLEMENTS

Several revisions from the Treasury Laws Amendment (2018 Measures No.4) Bill 2018 took effect from 1 April 2019 to step up employee entitlements.

These measures are designed to help reduce the super guarantee (SG) gap, protect employees' super entitlements and strengthen the ATO's ability to recover unpaid super.

Changes to disclosure laws will now allow the ATO to disclose information to employees about an employers' failure to meet SG obligations. This will also allow for the ATO to reveal their processes involved in retrieving these amounts.

Additionally, a free voluntary online education course is now available to help employers understand and meet SG obligations. Education directions permit the ATO to instruct employers who don't meet their SG obligations to complete the online education course, which includes an assessment element.

The revisions have strengthened debt collection mechanisms, making it easier for the ATO to identify and correct mistakes. They are now able to:

- Specifically direct employers to pay unpaid SG.
- Hold business owners liable for amounts owing through enhanced director penalties.
- Apply for a court order to compel an employer to comply with a security deposit requirement.

Individuals are encouraged to notify the ATO of non-complying employers. If your employer is approachable, you could consider making them aware of the online course and its benefits prior to the ATO contacting them and directing them to complete it.





## ARE YOU ELIGIBLE FOR THE **SMALL BUSINESS INCOME TAX OFFSET?**

The small business income tax offset can reduce the tax that an eligible business pays by up to \$1,000 each year.

Also known as the unincorporated small business tax discount, the offset is calculated on the proportion of tax payable on your business income. The rate of the offset is 8% up to the end of the 2019-20 income year. It will increase to 13% for the 2020-21 income year, and again to 16% for 2021-22 and onwards. The maximum offset you can receive is \$1,000.

To be eligible, you must be carrying on a small business as a sole trader, or have a share of net small business income from a partnership or trust. The business must have an aggregated turnover of \$5 million or less for the 2016-17 income year onwards.

### **SOLE TRADERS:**

Your net small business income is used to determine your income tax offset. It is calculated by the sum of your assessable income from carrying on your business, not including any deductions. Where your net small business income is a loss, it is treated as zero and you are not entitled to the offset. Eligible income and deductions you must include in your net small business income are:

- Farm management deposits claimed as a deduction.
- Net foreign business income relating to your sole trading business.
- Other income or deductions such as interest or dividends obtained in the course of your business.

You cannot include certain income and deductions in working out your net small business income, such as:

- Farm Net capital gains made from carrying on your business.
- Salary and wages.
- Interest and dividends unless it's related to a business activity.

### **PARTNERSHIPS AND TRUST DISTRIBUTIONS**

Having a share of net small business income distributed from a partnership or trust that is a small business entity can make you eligible for a tax offset. You may also be eligible if you are a partner or beneficiary of a small business partnership or trust, or if you have assessable income that includes a share or distribution of net income from that partnership or trust. A statement of distribution or advice from the partnership or trustee will document your share of net small business income. While your share can't be a loss, it can be zero for you to claim the offset.

The ATO calculates the tax offset using the information that you provide in your income tax return, which is then shown on your notice of assessment. To assist those completing their tax return using myTax, the ATO provides a small business income tax offset calculator. This assesses the income amounts that are to be used to work out the tax offset and informs the taxpayer where to include the information in their tax return.

# MAXIMISING YOUR TAX DEDUCTIONS AS A HOME-BASED BUSINESS



**The Small business owners may be able to claim deductions for the costs of using their home as a principal place of business when filing their income tax return.**

Tax deductions may be claimed for the business portion of household expenses, however, it can be difficult to ensure you are claiming expenses you are entitled to. How you operate the business out of your home will determine the types of expenses that may be claimed. Your business structure will also affect your entitlements and obligations when claiming deductions on home-based business expenses.

Individuals that operate a business as a sole trader or partnership are entitled to claim a deduction for the costs of conducting business from home. There are two types of expenses that can be claimed, running expenses or occupancy expenses. Typically, those that are eligible to claim occupancy expenses can also claim running expenses.

Running expenses refer to the increased costs of using your home's facilities for the running of your business, including:

- Repairs to your business equipment.
- Heating, cooling and lighting a room.
- Cleaning.
- Phone and internet.
- Depreciation of business furniture and equipment.

To calculate the running expenses of your home-based business, you must ensure that you exclude your private living costs and that you have records to show how you calculated the expense.

Occupancy expenses are those that you pay to own or rent your home, including:

- Mortgage interest or rent.
- Land taxes.
- Council rates.
- Insurance.

Occupancy expenses are calculated based on the floor area of your home that is used for the business and the portion of the year that it was used.

Small business owners should note that capital gains tax (CGT) payments may be required for periods when your home was used for business. However, CGT won't apply if you operated your business from a rented home, didn't have an area specifically set aside for your business activities or the business was run through a company or trust.

Records that need to be kept include written evidence, tax invoices and receipts, and should substantiate your claims for all home-based business expenses.



## INTRODUCING MYGOVID AND RAM

**AUSKey will be retired in March 2020 to make way for the new online services systems the ATO is developing, "MyGovID" and Relationship Authorisation Manager (RAM).**

MyGovID is an authentication service that will allow individuals to prove who they are online. This system will work by establishing your identity once online and then using your myGovID credentials to access government services you need. MyGovID will feature facial recognition, ability to scan identity documents and options to add or remove multiple devices.

Relationship Authorisation Manager (RAM) is an authorisation service that allows you to link your myGovID to an ABN, managing authorisations across government services for businesses and their staff. RAM gives you the ability to add multiple businesses, access the business portal on behalf of multiple businesses, modify authorisations, customise and delegate the level of business authorisation for employees and nominate who can act on behalf of your practice.

MyGovID and RAM are currently available in a public beta. Eligible businesses can access the ATO Business Portal and it will soon be available through online services for agents. AUSKey can still be used to access online ATO services while myGovID and RAM are being developed.

The ATO advises that in preparation for the changes you check your ABN details are up-to-date in the Australian Business Register (ABR).

# WHAT IS SBSCH?

The Small Business Superannuation Clearing House (SBSCH) is a free service you can use to make super guarantee (SG) contributions.

Businesses with 19 or fewer employees or an annual aggregated turnover of less than \$10 million are eligible to use this service. Your business can pay required SG contributions as a single electronic payment to the SBSCH, the payments will then be distributed to each employee's super fund.

The SBSCH allows you to pay using The SuperStream method, with money and data being sent electronically. It also enables you to nominate a regular contribution amount for an employee, make all super contributions in one transaction, access your transaction history and ensures all your SG obligations are met as soon as your payment and instructions are accepted by the SBSCH.

You can access SBSCH through the Business Portal (BP) if you are a business with an ABN, or ATO Online Services using myGov if you are a business or sole trader with an ABN or withholding payer number (WPN) but no BP account.



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Kevin will be speaking at our next Western Region Business Club on Wednesday the 23rd of October at Whitten Oval.

If you are interested in attending please follow the link below for more information and to find out how you can register.

<https://www.collinsco.com.au/networking/western-region-business-club-kevin-bartlett>

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