

Tax update

MARCH 2022

Tax deductibility of Covid-19 test expenses

After much speculation, the Federal Government has announced that Covid-19 tests, including polymerase chain reaction (PCR) and rapid antigen tests (RATs), will be both tax-deductible and exempt from FBT, when they are purchased for work-related purposes.

This will require the introduction of specific new legislation to clarify that work-related Covid-19 test expenses incurred by individuals will be tax-deductible or FBT exempt when employers provide tests for their staff. This will apply whether an employee is required to attend the workplace or has the option to work remotely.

The government intends the changes to take effect from the start of the 2022 income year and they will apply permanently once enacted.

Super changes, full expensing 12-month extension now law

A plethora of superannuation law tweaks has been made (via legislative reforms), including:

- Removing the \$450 monthly super guarantee threshold.
- Reducing the eligibility age for making downsizer contributions from 65 to 60.
- Changes to facilitate removing the work test for those aged 67 to 75 for non-concessional and salary sacrificed contributions. The bring-forward rule will now be available for people under the age of 75 (rather than 67, as is currently the case).
- Increasing the maximum releasable amount under the First Home Super Saver Scheme from \$30,000 to \$50,000.
- Allowing super fund trustees to choose not to use the segregated assets method in some circumstances.

The government has also extended accelerated depreciation with legislation passing to allow current temporary full expensing measures to continue for another 12 months to 30 June 2023.

Temporary loss carry-back measure extended for 12 months

As announced in the 2020/2021 Federal Budget, legislation has now passed to allow eligible corporate entities (those with, among other things, an aggregated turnover of less than \$5 billion) a 12-month extension to claim a loss carry-back tax offset in the 2023 income year.

The temporary loss carry-back rules were initially implemented in 2020 to promote economic recovery by providing cash flow support to previously profitable companies that fell into a tax loss position because of the Covid-19 pandemic.

The law allows eligible companies to carry-back tax losses from 2020, 2021, 2022 and now the 2023 income years to previously taxed profits in the 2019 or later income years.

Companies that do not elect to carry back losses under this temporary (yet extended) measure are still eligible to carry losses forward as usual.

Keeping and maintaining SMSF records

The ATO has put SMSF trustees on notice that keeping and maintaining good records is one of their key responsibilities and legal obligations. Good record keeping enables trustees to ensure accurate and timely SMSF accounts, audits and income tax return lodgements.

The ATO has confirmed that, even if SMSF trustees rely on super or tax professionals to administer their SMSFs, each trustee remains personally responsible for good record keeping.

If trustees are unsure of their obligations, they can view [record-keeping videos](#) on the ATO website and complete an [approved education course](#) to improve their understanding and knowledge.

Statistical overview from 2020 SMSF lodgements

At 30 June 2021, SMSFs made up 25% of all super assets, at \$822 billion.

There were about 598,000 SMSFs with almost 1.115 million individual members. At 30 June 2020, on average, each SMSF had assets of just over \$1.3 million.

The ATO has reported that total contributions to all SMSFs in 2020 were about \$17.9 billion (a 4% increase from 2019).

ATO statistics show more than 25,000 SMSFs were established in 2021 (with average assets of \$391,000 on establishment) and, of the new SMSFs, 85% were founded with corporate rather than individual trustees.

New debt recovery shield proposed for small business

Small businesses will have the ability to apply to the Small Business Taxation Division of the Administrative Appeals Tribunal (AAT) for orders to stay (temporarily suspend) specific ATO debt recovery actions. Amending legislation will allow the AAT to make such an order only if the proceeding is brought under the AAT's Small Business Taxation Division.

The proposal, initially announced in the last Federal Budget, aims to give small business entities a cheaper, easier way to pause the effects of an ATO decision to recover a tax debt while their tax dispute is being considered.

Small employers and STP – the ATO gets serious

The ATO is now shifting from its previous engagement and communication focus on Single Touch Payroll (STP). In particular, it will start a failure-to-lodge penalty process for small business employers (those with 19 or fewer employees) who are yet to start STP reporting.

STP reporting has been mandatory for most small employers from the 2020 income year, with a final 'nudge letter' issued to about 700 small employers in late January 2022.

The ATO has advised that any remaining non-compliant small employers (that is, those not subject to reporting extensions or exemptions) will have been issued pre-penalty warning letters from 18 February 2022.

When an employer receives a pre-penalty warning letter, they have another 28 days to take action by either starting to lodge or contacting the ATO before a failure-to-lodge penalty is imposed.

If you have questions or require assistance with any issues raised in this tax update, please contact Advisory Partner.

Please note: Many comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their specific circumstances.