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Working from home expenses: new fixed rate

A new revised fixed-rate method for calculating working from home expenses will soon apply.

From 1 July 2022, employees who work from home can no longer use the 80 cents per hour “shortcut” method for claiming their related expenses. The revised fixed-rate method allows claiming 67 cents per hour, to cover energy expenses; internet, mobile and home phone usage, and stationery and computer consumables costs.

If you don’t wish to use the revised fixed-rate method for calculating your working from home claims, you can still use the actual costs method instead – this involves calculating and documenting in detail the actual expenses you incur.

To use the new revised fixed-rate method and claim a tax deduction of 67 cents for each hour of working from home, you must work from home while carrying out your employment duties or carrying on a business. Minimal tasks such as occasionally checking emails or taking phone calls while at home will not qualify as working from home.

Doing this work must involve incurring additional running expenses that your employer does not reimburse you for. And you must keep relevant records in respect of the whole time spent working from home and for the additional running expenses incurred – an estimate for the entire income year or an estimate based on the number of hours worked from home during a particular period and applied to the rest of the income year will not be accepted.

While the new revised fixed rate of 67c per hour is lower than the previously available shortcut method, the new rate does not include the work-related decline in value of any depreciating assets used during the income year or any other running expenses not specifically covered.

Upcoming FBT-related changes

Employers that have provided FBT car parking benefits for the 2022–2023 FBT year should be aware that the ATO has finalised the changes to its ruling on car fringe benefits – specifically on the concept of “primary place of employment”. A broad test of primary place of employment now applies. Considerations of whether a place is an employee’s primary place of employment may include where their duties are performed, the place at which is primary to the employee’s conditions of employment.

Determining the primary place of employment for FBT car parking purposes is important because, among other things, benefits are only fringe benefits taxable where a car is used by an employee to travel between home and their primary place of employment and is then parked at or in the vicinity of that primary place of employment.

The ATO is also working on a new area: a guideline for calculating electricity costs for FBT purposes when charging an employer-provided electric vehicle (EV) at an employee’s home. This is expected to be released sometime in March.

For an eligible EV that is exempt from FBT, car expenses such as registration, insurance, repairs/maintenance and fuel (including electricity to charge and run electric cars) are also exempt. However, providing a home charging station is not a car expense associated with providing a car fringe benefit, and may be a property or an expense payment fringe benefit.

TIP: With the end of the FBT year approaching fast, now is the time to get your documents and declarations in order to ensure smooth FBT return preparation and lodgment. Contact us today to get the ball rolling.

ATO targeting private not-for-profit schemes

As a part of its ever-tightening compliance net, the ATO has recently announced it is targeting specific tax avoidance behaviour in the not-for-profits sector.

The first area of focus is private foundations used to operate businesses or income-producing activities on which no tax is paid. This type of tax-avoidance scheme using not-for-profit foundations first surfaced in the 2015–2016 income year. The basic premise is that an adviser or promoter helps individuals to set up a "private foundation" which is claimed to be exempt from all taxes. The "private foundation" is then used by individuals to operate businesses or for income-producing activities. Unlike genuine not-for-profit foundations, individuals stream their untaxed employment, contractor or business income through their sham foundations, pay no tax on the income and use the funds for their own benefit. In some cases, a small portion of the income made may be paid to humanitarian or social causes, such as through charities, which is used as justification for the foundation's purported tax-free status. The ATO is taking this matter seriously and has already commenced investigations of potential promoters.

The second area of focus is registered public benevolent institutions (PBIs) using schemes to avoid or reduce FBT. The ATO is concerned with arrangements where employees of PBIs are used to undertake charitable or commercial work activities of other entities that are not themselves benevolent in nature. The ATO will be reviewing these arrangements to determine if any have the sole and dominant purpose of avoiding or reducing FBT.

Outcomes of quality of financial advice review

In a bid to increase the accessibility and affordability of quality financial advice, the government had previously commissioned a report into possible changes in the regulatory framework. The final report has now been released, containing 22 recommendations. According to the author of the report, Ms Michelle Levy, the current regulation of financial product advice focuses on providers and not consumers, and is itself an impediment to consumers getting useful guidance and good financial advice.

The recommendations are therefore more consumer-focused, and are wide-ranging. The following offers just a snippet of the relevant recommendations in relation to financial services:

- *Broaden the definition of personal advice:* The definition of personal advice in the *Corporations Act 2001* should be broadened so that all financial product advice will be personal advice if it is given to a client in a personal interaction or personalised communication by a provider who has information about the client's financial situation or their objectives and needs.
- *Personal advice must be provided by a relevant provider:* The Corporations Act should be amended to indicate that personal advice must be provided by a relevant provider where the provider is an individual and either the client pays a fee for the advice, or the issuer of the product pays a commission for the sale of the product to which the personal advice relates.
- *Introduce a good advice duty:* An individual who provides personal advice to retail clients must provide good advice. "Good advice" means personal advice that is, at the time it is provided, fit for purpose and, in all circumstances, good.
- *Introduce a new statutory best interests duty:* The new best interest duty would be a true fiduciary duty that reflects the general law and does not include a safe harbour. This duty would apply only to financial advisers.
- *Implement new ongoing fee and consent arrangements:* Providers would still need to obtain their clients' consent on an annual basis to renew an ongoing fee arrangement, but they should be able to do so using a single "consent form". The consent form should explain the services that will be provided and the fee the adviser proposes to charge over the following 12 months.
- *Change the requirement to provide a statement of advice:* The existing requirement to provide a statement of advice should be replaced with the requirement for a provider to maintain complete records of the advice provided and to give written advice on request by their client. Clients should be asked whether they would like written advice, before or at the time the advice is provided.

Superannuation tax break changes

In an attempt to repair the Federal Budget and lower the overall national debt, the government is seeking to introduce changes to the way superannuation in accumulation phase is taxed over the threshold of $3 million.

Currently, earnings from super in the accumulation phase are taxed at a concessional rate of 15% regardless of the super account balance. It is now proposed that from the 2025–2026 income year, the concessional tax rate applied to future earnings for those with super account balances above $3 million will be 30%. This change would not apply retrospectively to earnings in previous years, and would not impose a limit on the size of super account balances in the accumulation phase.

This measure would affect an estimated 0.5% of people who have money in Australian super accounts, or around 80,000 individuals, so the government considers it a "modest" adjustment which is in line with

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its proposed objective of superannuation – to deliver income for a dignified retirement in an equitable and sustainable way.

To illustrate just how little the change would affect ordinary Australians: in the latest ATO taxation statistics (relating to the 2019–2020 income year), the average super account balance for Australian individuals is around $145,388, with a median balance of only $49,374. In addition, according to ASFA (Association of Superannuation Funds of Australia) estimates, for a comfortable retirement, a single homeowner individual aged 67 at retirement will need $65,445 per year. If that individual lives to the ripe old age of 100, their required balance would only equate to an amount of $1.5 million in super – well below the $3 million threshold proposed.

With younger Australians increasingly facing cost of living pressures, astronomical house prices, slow wages growth and uncertain international headwinds, most have no hope of contributing up to the maximum concessional cap every year and attaining a super balance even close to $3 million, short of winning the lotto or receiving a lucky inheritance. This effect is amplified for women, who are usually more likely to take time away from work, or move to part-time opportunities, in order to raise children and take on caring responsibilities.

According to the latest Expenditure and Insights Statement released by the Treasury, government revenue foregone from super tax concessions amount to $50 billion per year, and the cost of these concessions is projected to exceed the cost of the Age Pension by 2050. With this single proposed change, the government estimates that around $2 billion in revenue will be generated in its first full year of implementation, which can be used to reduce government debt and ease spending pressures in health, aged care and the National Disability Insurance Scheme (NDIS).

According to Treasurer Jim Chalmers, the government will seek to introduce enabling legislation to implement this change as soon as practicable. Consultation will still be undertaken with the super industry and other relevant stakeholders to settle the implementation of the measure.

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