SIRAGUSA
ACCOUNTANTS & ADVISERS

2022 Guide for Individuals

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.

What this will mean to you depends on the terms of your employment agreement. If your employment agreement states you are paid on a ‘total remuneration’ basis (base plus SG and any other allowances), then your take home pay might be reduced by 0.5%. That is, a greater percentage of your total remuneration will be directed to your superannuation fund. For those paid a rate plus superannuation, then your take home pay will remain the same, but your superannuation fund will benefit from the increase. If you are used to annual increases, the 0.5% increase might simply be absorbed into your remuneration review.

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 <u>not</u> apply if:

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

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 have 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.

Contractor or employee?

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.

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.

Ensuring that you are correctly classified as either an employee or contractor is important and can have significant ramifications for you. For example, employees (and some contractors deemed to be employees) are eligible for superannuation guarantee on their salary and wages. On the other hand, if you are an independent contractor, you may need to obtain an ABN to avoid no ABN withholding of the payments you receive.

Areas of ATO scrutiny

Work from home expenses

One in three Australians claimed work from homes expenses in their tax return last year and it is an area that the ATO want to ensure is being claimed correctly.

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. Ineligible expenses include:

- 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 for assets), and
- Occupancy expenses such as rent, mortgage interest, property insurance, and land taxes and rates, that cannot generally be claimed by employees working from home (especially those are working from home solely due to a lockdown).

And, if you are claiming the simplified method, you cannot then claim separate expenses.

Disaster and pandemic relief payments

If you received a $1,500 pandemic leave disaster payment, this amount is assessable income and will be included as income in your tax return.

Similarly, if you are a member of the arts community and received a payment under the creative economy support package, these payments are assessable income but any expenses you incurred for the activity the payment covered will be deductible.

The situation is different if you have received the COVID-19 disaster payment. These payments are tax-free and do not need to be included in your tax return.

Car expenses

Car expenses are under scrutiny particularly since, for most of us, our normal routine changed significantly during the pandemic.

The most common mistake is people using the cents per kilometre method to make their claim, and then claiming expenses separately such as fuel, car insurance, and registration. The cents per kilometre rate is all-inclusive and covers decline in value, registration, insurance, maintenance, repairs, and fuel costs. These expenses can't be added on top of the rate when calculating deductions.

For those claiming deductions for car expenses, expect the ATO to take a close look to ensure what is claimed reflects what was occurring during the pandemic especially if you have been working from home.

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.

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).

For landlords

If you own commercial or residential premises that you rent out and COVID has had an impact, very little has changed from a tax perspective.

- If tenants remain in the property or the property remains genuinely available for rent, you can continue to claim expenses as usual, even if the rental rate has been reduced on a temporary basis or tenants have been unable to pay rent for a period of time.
- If you negotiated with your bank to defer mortgage repayments, you can continue to claim interest if the deferred interest is capitalised.
- If you received an insurance payment for rent defaults, or your tenant made a back payment of rent they owe, this income is taxable and will need to be declared in your tax return.

If your rental property is outside of Australia, and you are an Australian resident for tax purposes, you must recognise the rental income you received in your tax return (excluding any tax you have paid overseas), unless you are classified as a temporary resident for tax purposes. You can claim expenses related to the property, although there are some special rules that need to be considered when it comes to interest deductions. For example, if you have borrowed money from an overseas lender you might be subject to withholding tax obligations.

Superannuation

Reduction in minimum superannuation drawdown rates extended again

The temporary 50% reduction in superannuation minimum drawdown requirements for account-based pensions and similar products has been extended to 30 June 2023.

Age	Default minimum drawdown rates (%)	Reduced rates by 50% for the 2019-20 to 2022-23 income years (%)
Under 65	4	2
65-74	5	2.5
75-79	6	3
80-84	7	3.5
85-89	9	4.5
90-94	11	5.5
95 or more	14	7

Minimising the cost of end of year compliance

Having your paperwork organised always makes life much easier. Preparing your end of year documents and information prior to coming to see us will save you time and money. This is a general list of what to have ready when we next meet with you.

- Income Statement
- Interest income from banks and building societies
- Dividend statements for dividends received
- Tax statements of managed investment funds
- Rental property statements from real estate agent and details of other expenditure incurred
- 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
- Any expenses related to your work you have not claimed from your employer
- Self-education expenses
- Travel expenses
- Donations to charities
- Payments for income protection or sickness and accident insurance
- 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)
- Details of any income derived from participating in the sharing economy (e.g., Uber driving, rent from AirBNB, jobs completed through Airtasker etc.,)