2023

YEAR-END TAX BULLETIN

IDEAS | PEOPLE | TRUST

BDO

CONTENTS

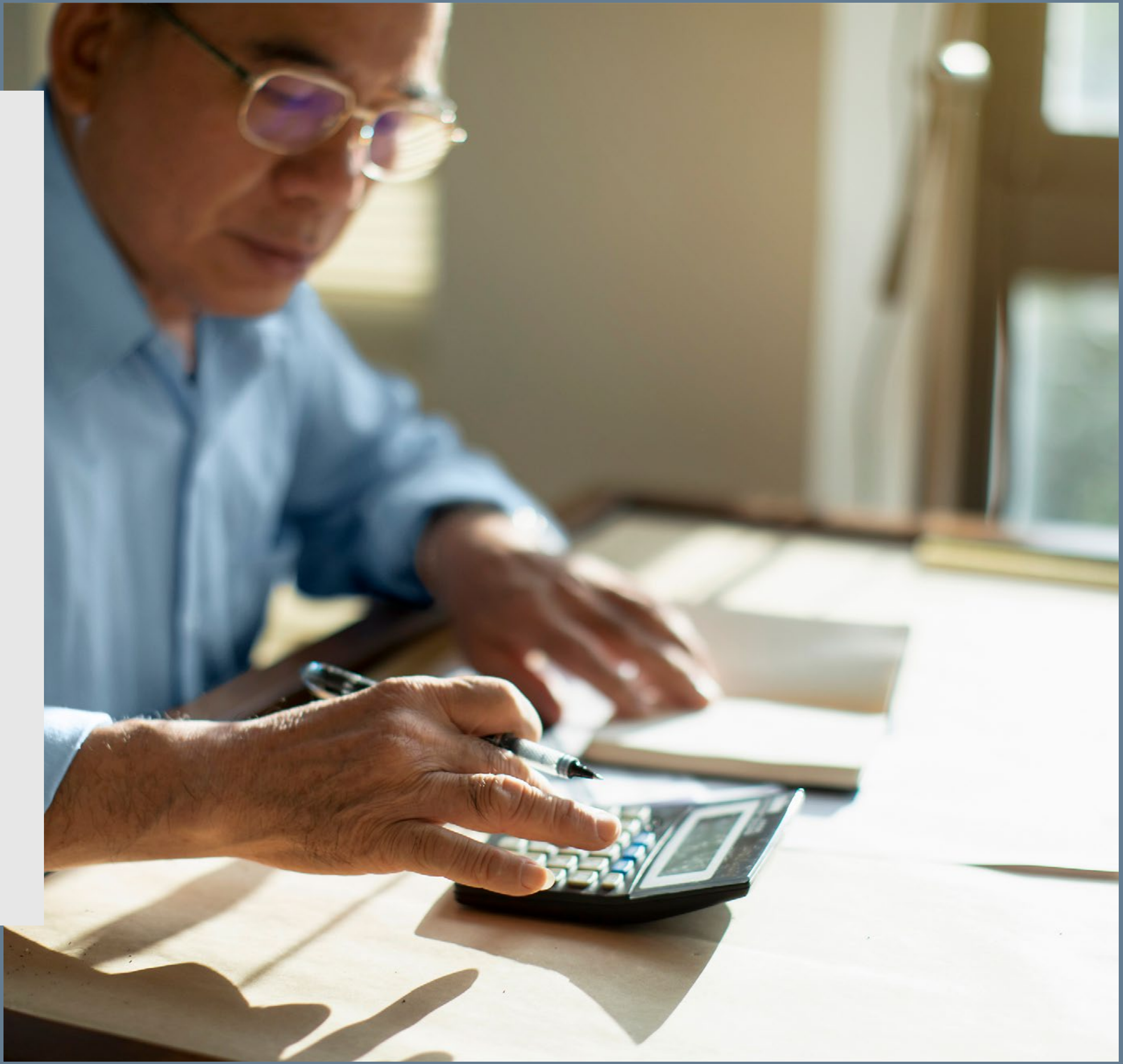
INTRODUCTION

The end of the tax year is an important time to ensure that your tax affairs are in order.

In this year's BDO Year-End Tax Bulletin, we summarise the tax highlights from the 2023 Federal Budget and important considerations for different groups of taxpayers. In addition, we outline ongoing year-end issues as they relate to:

- Companies
- Employment
- Tax accounting
- Compliance
- Trusts
- Individuals
- Investment and Capital Gains Tax.

This document is not exhaustive and your individual circumstances must be considered. Please consult your BDO adviser before acting on the information in this document.



BUDGET ANNOUNCEMENTS

The **2023 Federal Budget** was handed down on 9 May 2023. Some of the main revenue initiatives with immediate impact are:

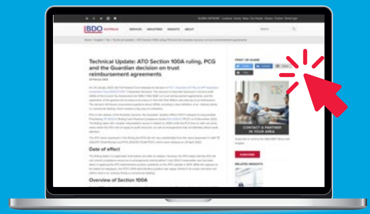
- Eligibility for the temporary full expensing of assets expires 30 June 2023. It is important to note that this date is when the asset is first used or installed ready for use for a taxable purpose, and not when invoiced or paid for
- Small Business Instant Asset Write Off – Commences 1 July 2023 through to 30 June 2024, for capital assets with a purchase price no greater than $20,000, which are purchased and installed ready for use/use prior to 30 June 2024
- Small Business Energy Incentive – Small and medium businesses with a turnover of up to $50 million have a 20% bonus deduction on investment in energy saving assets and technology with the deduction capped at $20,000 from 1 July 2023 to 30 June 2024
- Sunset on FBT exemptions for plug-in hybrids – The Government is sunsetting the FBT exemption for plug-in hybrid electric cars. This change will apply from 1 April 2025. Arrangements involving plug-in hybrid electric cars entered into between 1 July 2022 to 31 March 2025 will remain eligible for the electric car discount
- Low and Middle Income Tax Offset (LMITO) – Expires 30 June 2023.

Further information is available in **BDO's Federal Budget 2023 Report**.

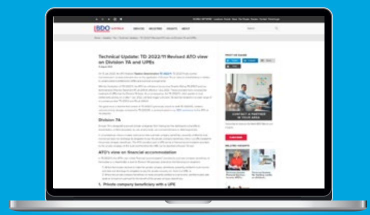
COMPANIES

Leading into the end of the financial year, consider whether your company will pay a dividend, how many franking credits it has, and how those credits will be used. It is also important to consider dividend policies in place and items which may impact the balance of retained earnings and consequently the amount of the dividend which can be declared. For example, the impact of leasing standard AASB16 often impacts the balance of retained earnings.

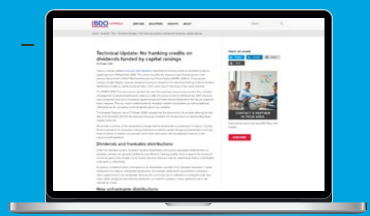
- **Company tax and franking rates:** Confirm whether the income tax rate and franking rate applicable to your company is 25 per cent or 30 per cent. Be aware that changing between rates could give rise to franking credits being trapped within the company
- **Loss carry back:** The loss carry back rules allow losses incurred in the financial years 30 June 2020 to 30 June 2023 to be carried back and be applied as a deduction to the years 30 June 2019 to 30 June 2022, with a refund paid to the company. These rules expire 30 June 2023
- **Carried forward losses:** The loss carried forward rules allow losses to be indefinitely carried forward to be offset against future income, subject to the company satisfying certain tests. You should discuss this with your BDO adviser
- **Franking Deficits Tax And lodgement of Franking Account Return:** Ensure you confirm whether your company has a franking deficit early, as franking deficits tax is payable and the franking account return is required to be lodged by 28 July 2023
- **Division 7A:** Loans, payments and other forms of financial accommodation from private companies to their shareholders and associates, including other individuals and trusts, may attract Division 7A or give rise to deemed dividends. Ensure you have identified and documented all relevant arrangements and that you have made the relevant minimum repayments
- **Trading stock:** It is important to consider the appropriate valuation method - cost, market value, or replacement price - and Identify any obsolete stock using the special valuation rule, and Scrap any unwanted stock before 30 June 2023.



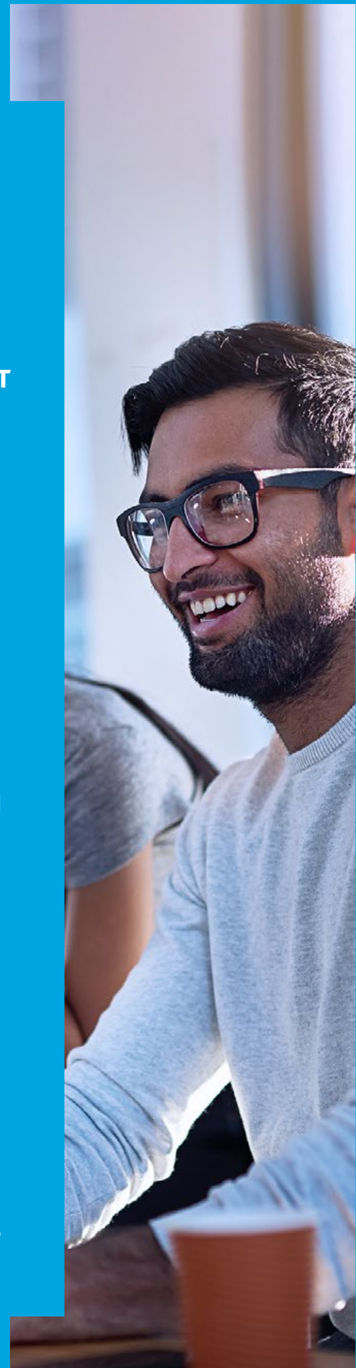
TECHNICAL UPDATE: OFF-MARKET SHARE BUY-BACKS: PROPOSED CRACKDOWN



TECHNICAL UPDATE: TD 2022/11 REVISED ATO VIEW ON DIVISION 7A AND UPES



TECHNICAL UPDATE: NO FRANKING CREDITS ON DIVIDENDS FUNDED BY CAPITAL RAISINGS



EMPLOYERS

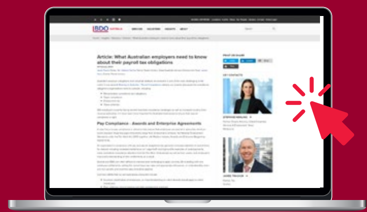
There have been some changes that employers need to consider.

SUPERANNUATION:

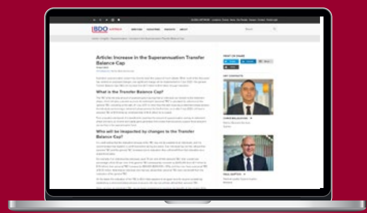
- **Super Guarantee Charge (SGC) rate:** The SGC rate for employer superannuation contributions is 10.5 per cent for the year ending 30 June 2023, increasing to 11 per cent on 1 July 2023
- **Deductions for SGC contributions:** Superannuation contributions are only deductible if they are paid by the employer by 30 June 2023
- **SGC contribution date:** Employer SGC contributions must be received by the fund no later than the twenty-eighth day after the end of the relevant quarter. For the 30 June 2023 quarter, the contribution must be received by 28 July 2023
- **SGC statement:** Where there is a shortfall of SGC contributions, an SGC statement must be lodged no later than the twenty eighth day of the second month following the end of the quarter (for example, 28 August for 30 June).

CONTRACTORS:

- Where you engage independent contractors, ensure they are properly classified for Pay As You Go Withholding (PAYGW) and SGC purposes. For PAYGW purposes, where the contractor is not an employee, you are not required to withhold PAYG and send it to the Tax Office. However, for SGC purposes, certain independent contractors who have been engaged primarily to supply their labour will be subject to the SGC rules, and the user of their service may be required to pay superannuation for them or pay SGC. Both sets of rules have changed recently, and you should discuss these with your **BDO adviser**.



ARTICLE: WHAT AUSTRALIAN EMPLOYERS NEED TO KNOW ABOUT THEIR PAYROLL TAX OBLIGATIONS



ARTICLE: INCREASE IN THE SUPERANNUATION TRANSFER BALANCE CAP

TAX ACCOUNTING

There are a number of basic tax rules that need to be considered approaching the end of the financial year.

- **Income derivation:** Confirm if you are a cash or accruals taxpayer. Can you defer the recognition of income? If you are in losses, can you accelerate the recognition of income?
- **Deductions incurred:** Deductions for expenses are generally allowed when the expenses is ‘incurred’. Ensure you have incurred expenses prior to year-end. Provisions and most accrued expenses are not generally deductible
- **Prepaid expenditure:** Can you pay deductible expenditure prior to 30 June 2023? Immediate deductions will arise for prepayments of salary, amounts to be paid under a court order or law, and amounts under $1,000. Small and medium sized enterprises can generally deduct any prepaid expenditure when paid if the service period does not exceed 12 months. Other prepaid expenses are generally deductible over the service period.

COMPLIANCE

In addition to the traditional income tax compliance provisions, there are further compliance measures that should be considered approaching the end of the financial year.

- **Taxable Payments Reporting System:** Certain businesses operating in a variety of industries - including construction, courier services, Information Technology and security - that engage independent contractors may be required to lodge a Taxable Payments Report with the Tax Office
- **Director Penalties:** Company directors should review their companies' reporting mechanisms to ensure they are adequately informed of their companies' financial position. The director penalty provisions may leave directors personally liable where their company fails to make PAYGW, SGC and GST payments by the due date
- **Tax Risk Management and Governance:** The ATO is currently undertaking reviews on certain taxpayers and examining their corporate governance practices to assess their internal tax control frameworks. In most instances, the ATO expects that companies and their directors develop a tax governance and internal control framework. The framework is required to evidence that good corporate governance and internal controls are in place, to mitigate the risk of the company paying or accounting for an incorrect amount of tax, or that the tax positions a company adopts are not out of step with the tax risk appetite that the directors have authorised or believe is prudent.

TRUSTS

Policy amendments focused primarily on trust distributions and how they are taxed. Changes were made to two key integrity measures:

TRUST DISTRIBUTIONS

- **Distribution resolutions:** Most discretionary trust deeds require distribution resolutions be made on or before 30 June. When making a resolution, trustees (and directors in the case of corporate trustees) must ensure the requirements of the trust deed, company constitution and Corporations Act have been complied with
- **Streaming:** Trustees can stream franked dividends and capital gains to specific beneficiaries by making the beneficiaries specifically entitled to these amounts. This is an alternative to distributing franked dividends and capital gains on a proportional basis as part of the ordinary distribution. It is important that the trust deed does not disallow streaming. The tax rules around streaming are complex and you should ensure you obtain expert advice
- **Non-residents and capital gains:** Where a discretionary trust makes a capital gain, non-resident beneficiaries will be subject to Australian tax, even if the relevant assets are not taxable Australian property.

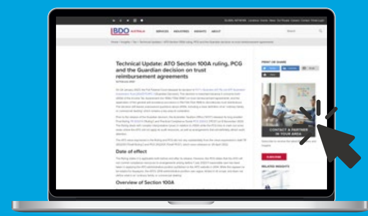
  Also note non-residents are not entitled to the 50% CGT discount. In this instance, a trustee could consider streaming the capital gain to a resident individual beneficiary to at least obtain the benefit of the 50% CGT discount
- **Section 100A**: The Tax Office has issued new guidelines on the application of Section 100A of the Income Tax Assessment Act 1936 to trust distributions. Section 100A is an anti-avoidance provision seeking to prevent a tax benefit arising under a 'reimbursement agreement' that results in the trust beneficiary passing on the benefit of the trust distribution to another person to obtain a tax benefit. However, a recent court case has confirmed that Section 100A can only apply where there is pre-existing agreement before the trustee resolves to make the distribution. Where Section 100A applies, the beneficiary is deemed to never have been made presently entitled to the share of trust income and therefore the trustee is assessed at the top marginal tax rate for individuals, without access to the CGT discount.

TRUST LOSSES AND UPEs

- Where a trust has a tax loss, subject to satisfying the relevant tests, those losses can be carried forward to future years to be offset against future income
- **Unpaid Present Entitlement (UPE) and Division 7A:** The Tax Office has issued **new guidelines** on the operation of Division 7A of the Income Tax Assessment Act 1936 in relation to unpaid present entitlements (UPEs) made by trusts to private companies. These apply for the year ending 30 June 2023.

TRUST REPORTING

- **Tax File Number trust reporting:** Trustees of resident discretionary trusts, family trusts and closely held trusts are **required to obtain tax file numbers** from beneficiaries, and report all new beneficiaries for the year to the Tax Office by 31 July each year.



TECHNICAL UPDATE: ATO SECTION 100A RULING, PCG AND THE GUARDIAN DECISION ON TRUST REIMBURSEMENT AGREEMENTS

INDIVIDUALS

INDIVIDUAL TAX RATES

- There has been no change to the individual income tax rates for the 2023/24 financial year:

INCOME TAX RATES – RESIDENT TAXPAYERS – 30 JUNE 2024	
THRESHOLD	**RATE**
$0 - $18,200	0%
$18,201 - $45,000	19.0%
$45,001 - $120,000	32.5%
$120,001 - $180,000	37.0%
$180,001 +	45.0%

- The Medicare Levy is payable in addition for qualifying taxpayers
- Taxpayers who benefited from the LMITO will pay more tax from 1 July 2023.

INCOME TAX DEDUCTIONS

- **Working from home expenses:** The Tax Office has announced changes to the method for individuals who claim working from home deductions under the simplified method. While the actual cost method remains unchanged, the fixed rate method has been changed to exclude the 80 cents per hour shortcut method but increased the Fixed Rate method from 52 cents per hour to 67 cents per hour, which applies from 1 July 2022. To claim under the new rules, taxpayers are required to keep significantly more detailed records from 1 March 2023
- **Home office expenses:** Taxpayers who are claiming home office expenses must comply with the **Tax Office's requirements** which cover eligibility to claim, additional running expenses, and expenses you *cannot* claim. These include general household items such as tea and coffee, employer provided items and employer reimbursed items
- **Substantiation:** Where you are claiming deductions for work related expenditure such as laundry, travel expenses, car expenses and phone or internet expenses, you must comply with the substantiation provisions. These rules may require you to maintain logbooks and diaries, and to retain invoices and documentation
- **Surveillance:** The Tax Office has announced the surveillance areas it will be concentrating on for individual taxpayers. They have identified working from home deductions, home office expenses rental property deductions, especially short term rentals and CGT.

TECHNICAL UPDATE: USE OF AN INDIVIDUAL'S FAME BY RELATED ENTITIES

TECHNICAL UPDATE: ATO CHANGES TO WORKING FROM HOME DEDUCTION

INVESTMENT AND CAPITAL GAINS TAX (CGT)

Timing and planning are everything when it comes to assessing your CGT strategy and calculating your CGT bill at the end of the financial year:

- **Temporary full expensing of assets:** this measure phases out on 30 June 2023. Qualifying assets must be acquired and either used or be installed ready for use by 30 June 2023
- **CGT cost base:** nsure all amounts that can be included in calculating the cost base of CGT assets have been identified. These include:
  - Money paid for the CGT asset
  - Incidental costs of acquiring the asset such as marketing, search fees, or borrowing expenses
  - Costs of owning the asset including repairs and insurance premiums
  - Capital costs to increase or preserve the value of your asset or to install or move it
  - Costs of preserving or defending ownership of the CGT asset.
- **Date of CGT events:** Ensure you identify the correct date of your CGT events. This is generally the date on which a contract is signed. If there is no contract of sale, the CGT event is usually when you stop being the asset's owner
- **CGT discount:** Capital gains realised by individuals and trusts can be discounted by 50% per cent and by one third for super funds where the asset was held for at least 12 months. Where the assets sold were formerly used in a business, small business CGT discounts may also be available
- **Pre CGT:** Where assets were acquired prior to 20 September 1985, they may not be subject to CGT. You may need to confirm with your BDO adviser.

To learn more about specific end of financial year reporting or planning requirements for your business, **contact your BDO adviser** ▶

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