



From the ATO – Has your business been impacted by the floods?

If you're a small business in an Australian Government Disaster Recovery Payment declared local government area, you don't need to request a deferral for certain obligations.

You won't be penalised if you lodge by the later date but remember to pay by the original due date. If you can't pay by the due date, contact the ATO to discuss payment options and request a remission of general interest charge.

If you need help, even if you haven't been directly affected by the floods, the ATO may be able to:

- give you extra time to pay tax or lodge tax returns, activity statements or other obligations
- help you reconstruct lost or damaged tax records;
- prioritise any refunds owed to you.

Tax concessions for small business entities

The ATO has reminded small business entities (aggregated turnover of less than \$10 million) that they are eligible for various tax concessions. Some (but not all) of the concessions are now also available to medium sized businesses (aggregated turnover of at least \$10 million but less than \$50 million).

Income tax concessions

Start-up costs – small and medium businesses are entitled to deduct certain costs when starting up a business, including professional, legal and accounting advice and government fees and charges.

Simplified trading stock rules – this concession allows small and medium businesses to choose not to account for changes in the value of their trading stock at the end of the financial year for tax purposes. The business will need to record how the value of the stock was estimated, but there is no need to tell the ATO it has chosen to use an estimate.

The business can choose not to conduct a stocktake (and account for changes in the value of trading stock) if there is a difference of \$5,000 or less between:

- the value of the opening stock at the start of the income year; and
- a reasonable estimate of the value of the closing stock at the end of the year.

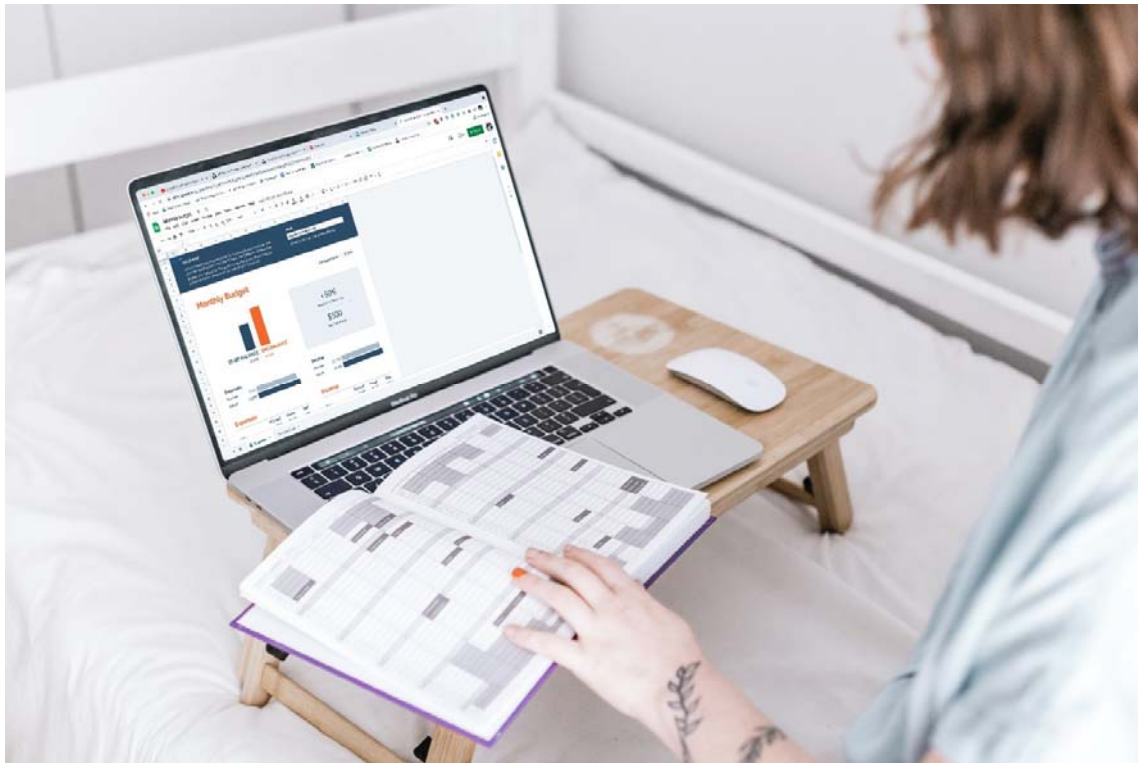
If the business chooses not to use an estimate, it will need to conduct a stocktake and account for the changes in the value of the stock.

Immediate deductions for prepaid expenses – small and medium businesses may be able to claim an immediate deduction for prepaid expenses incurred in an income year where the payment covers a period of no more than 12 months that ends by the end of the following income year.

Two-year amendment period for small and medium sized businesses – the Commissioner generally has a two-year period, starting after the day on which the ATO issued a notice of assessment, to amend the assessment. For a medium sized business, this concession applies only if the assessment is for an income year starting on or after 1 July 2021. The two-year amendment period does not apply if the business is in a 'high risk' category, has complicated tax affairs or is subject to an anti-avoidance provision.

Small business restructure roll-over – small businesses can change the legal structure of their business without incurring an income tax liability when active assets are transferred from one entity to another. This roll-over applies to active assets that are CGT assets, trading stock, revenue assets and depreciating assets used, or held ready for use, in the course of carrying on a business.

Medium sized businesses *cannot* access this concession.



Tax losses

Before you claim a tax loss, make sure you have correctly claimed expenses to which you are entitled. Overclaiming expenses can put your business in an incorrect tax loss situation.

Keeping accurate and complete records will help you keep track of your tax losses. It can help you avoid incorrectly carrying back a tax loss or carrying forward tax losses to deduct in future years.

If your business makes a tax loss in the current income year, you can generally carry forward that loss and claim a deduction for your business in a future year (subject to satisfying either the continuity of ownership test or the same or similar business test in the case of a company).

Companies and entities taxed as companies (e.g. corporate limited partnerships) may be able to claim the loss carry back tax offset. You can carry back losses made in 2019–20, 2020–21, 2021–22 and 2022–23 to an earlier income year (but no further back than 2018–19) and claim a refundable tax offset.

If you're carrying on a non-commercial business activity as an individual, either alone or in a partnership, and your business makes a loss, you must consider the non-commercial loss rules.



Using business money from your private company for personal purposes

There may be tax consequences if you take or use money or assets from your private company or trust for personal purposes.

For example, it is quite common for the company or trust to make a loan to a shareholder or an associate of a shareholder (e.g. the shareholder's spouse or child). When a private company lends money or assets to a shareholder, the shareholder may be taken to have received a Division 7A deemed dividend if certain conditions are not met.

If this happens, the shareholder will need to report an unfranked dividend as part of their assessable income in their individual tax return. This has no impact on the company's balance sheet, tax return or franking account.

To avoid a Division 7A deemed dividend, before the company tax return is due or lodged (whichever comes first), the loan must:

- be repaid in full; or
- put on complying terms.

To put a loan on complying terms, the loan must:

- be made under a written agreement and signed and dated by the lender;
- have an interest rate for each year of the loan that at least equals the benchmark interest rate (4.77% for 2022–23);

- not exceed the maximum term of 7 years, or 25 years in certain circumstances when the loan is secured by a registered mortgage over real property.

The company must include any interest earned from the loan in its assessable income in its tax return.

You (the shareholder):

- must make the minimum yearly repayment each year comprising principal and interest components (the ATO publishes a Division 7A calculator to work this out);
- cannot borrow money from the company to make the minimum yearly repayment;
- can make payments on the loan using a dividend declared by the company. This dividend, which can be franked, must be reported in your individual tax return as assessable income.

It is important to keep accurate records of any such transactions and ensure they are reported correctly for tax purposes.

Unpaid present entitlement

An unpaid present entitlement (UPE) arises where a beneficiary of a trust is presently entitled to a share of trust income but it remains unpaid. If the beneficiary is a private company and the trust is a shareholder of the company or an associate of a shareholder of the company, the ATO considers that the unpaid amount is a loan from the company to the shareholder (or associate) and therefore subject to the operation of Division 7A.

The ATO has recently issued a final taxation determination, revising its views on the application of Division 7A where there is a UPE. For example, the ATO now considers that Division 7A may apply where a private company beneficiary has knowledge of a UPE and does not demand payment.

Check your business' PAYG instalments

Now is a good time to check that your business' PAYG instalments still reflect its expected end of year tax liability.

If the business' circumstances have changed and you think it will pay too much (or too little) in instalments for the 2022–23 income year, the instalments can be varied on the next activity statement (due on 28 April 2023). Instalments can be varied multiple times throughout the year. The varied amount or rate will apply for the remaining instalments for the 2022–23 income year or until another variation is made.

If your business is affected by COVID-19 or a natural disaster, the ATO has said it will not apply penalties or charge interest to varied instalments if the business has made its best attempt to estimate its end of year tax liability.

If an amount or rate is varied online, paper activity statements and instalment notices will no longer be issued. These will be issued electronically. Your business will need to consider this

when deciding how to lodge, revise and vary future activity statements and instalment amounts.



Four tips to help nail your record keeping

Good record keeping helps you manage your business and cash flow, and ensures you get the right outcome with your business' tax return.

The ATO's top 4 tips for record-keeping are:

- Always keep detailed records of payments to contractors providing taxable payment reporting system (**TPRS**) services so it's easier to prepare and lodge the Taxable payments annual report (**TPAR**) by 28 August.
- Make sure vehicle logbook records are no more than 5 years old if you are claiming car expenses and use the logbook method. If your logbook will be older than this when you plan to lodge your business' return, you need to start a new logbook.
- Check if government grants or payments made to your business are taxable and need to be reported as business income when your business lodges its tax return.
- Record the amounts withheld from any payments made to your business and keep written evidence from the payer, including their details and ABN. Payments your business receives may be subject to withholding because your business didn't quote an ABN, subcontracting work has been provided through a labour hire firm or your business has a voluntary agreement with the payer to withhold tax amounts.

Digital record-keeping

There are advantages in keeping business records digitally. If, for example, your business uses a commercially-available software package, it may help the business:

- keep track of business income, expenses and assets as well as calculate depreciation;
- streamline its accounting practices and save time so you can focus on the business;
- automatically calculate salaries and wages, PAYG withholding, employee superannuation and other amounts for activity statement and other purposes;
- meet Single Touch Payroll (**STP**) reporting obligations;
- back up records using cloud storage to keep records safe from flood, fire or theft.

If your business uses cloud storage, either through accounting software or a separate service provider, for example, Google Drive, Microsoft OneDrive or Dropbox, you should ensure:

- the record storage meets the record-keeping requirements;
- you download a complete copy of any records stored in the cloud before you change software provider and lose access to them.

eInvoicing storage

Regardless of your business' eInvoicing software or system, it is responsible for determining the best option for storing business transaction data. You should:

- ensure that the process meets the record-keeping requirements;
- discuss the options with the software provider;
- talk to your business adviser, if necessary.
- transfer pricing rules affecting non-arm's length international dealings.



New changes to home-based business expenses

If you wholly or partly operate your business from home, you may be able to claim the business-use portion of expenses you incur. For example:

- occupancy expenses (such as mortgage interest or rent, council rates, land taxes and home insurance premiums);
- running expenses (such as electricity, gas, phone, internet, stationery, cleaning and the decline in value of assets);

The temporary shortcut method (80 cents per hour) ended on 30 June 2022 and the fixed-rate method has been revised.

For the 2022–23 income year, the revised fixed rate is 67 cents per hour. You no longer need to:

- have a dedicated home office space;
- separately work out the business-use portion of phone, internet, gas and electricity.

You can also separately claim the decline in value of depreciating assets and equipment, including any repairs and maintenance costs.

If you want to use the revised fixed rate method, you need to keep a record of all hours worked from home for the entire income year (for example, on a timesheet, roster or in a diary).

If you haven't kept a record of all hours worked from home, you can use a representative record of your hours only from 1 July 2022 to 28 February 2023. **You will need a record of the total number of your actual hours worked from home from 1 March 2023 to 30 June 2023.**

Your business structure can also affect the method you can use and the expenses you can claim.



FBT issues

FBT return time

If your business provided fringe benefits to its employees or their associates between 1 April 2022 and 31 March 2023, it's now time to lodge the 2023 fringe benefits tax (**FBT**) return and pay any outstanding FBT. [An associate includes a spouse, child, parent, sibling and most other relatives (but not cousins).]

You should note the following dates:

- The 2022–23 FBT year ended on 31 March 2023.
- You'll need to lodge the FBT return and pay any outstanding liability by 22 May to avoid interest and penalties (the statutory due date of 21 May falls on a Sunday this year).
- If you're lodging electronically via a tax agent, the due date to lodge and pay is 26 June (the concessionary due date of 25 June falls on a Sunday this year).

- If it is the first time your business will use a tax agent to lodge an FBT return, you'll need to contact them before 21 May. The agent needs to add your business to their FBT client list by this date to be eligible for the June lodgement and payment date.

If your business doesn't need to lodge an FBT return but it is registered for FBT, you should still let the ATO know by the date the return would have been due. You can do this by completing a *Notice of non-lodgement – Fringe benefits tax* form.

While it's important to lodge and pay on time, there may be circumstances where your business can't. If this is the case, you should contact the ATO or speak with 145 financial as early as possible.

Don't forget to keep all records relating to the fringe benefits that have been provided during the 2022–23 FBT year, including how the taxable value of the benefits was calculated.

New FBT year resolutions

To help your business start the new FBT year (commencing on 1 April 2023) on the right foot, the ATO has published a few tips.

When providing fringe benefits to employees, your business needs to:

- self-assess its FBT liability for the FBT year;
- lodge an FBT return (if your business has an FBT liability or paid FBT instalments through its activity statements);
- pay the FBT owed by the due date; and
- include the reportable fringe benefits on each employee's income statement or payment summary (if the total taxable value per employee is more than \$2,000).

If your business' FBT liability for the 2022–23 FBT year was \$3,000 or more, you will need to pay four quarterly instalments.

You should also know that:

- there are exemptions and concessions that can reduce the amount of FBT your business pays; and
- errors on the FBT return can be amended or you can make a voluntary disclosure.

FBT thresholds and rates for 2023–24

The FBT rate (47%) and the gross-up rates — **2.0802** where the benefit provider is entitled to a GST credit (type 1 gross-up rate) and **1.8868** where the benefit provider is not entitled to a GST credit (type 2 gross-up rate) — for the 2023–24 FBT year are unchanged from the 2022–23 FBT year.

The following have changed for the 2023–24 FBT year:

- the benchmark interest rate (e.g. for loan fringe benefits) is 7.77% (up from 4.52%); and
- the record keeping exemption (also relevant for eligibility to use the base rate method to calculate FBT) is \$9,786 (up from \$9,181).

The cents per km rates for motor vehicles (other than a car) for the 2023–24 FBT year are:

- 0–2500cc – 62 cents (up from 58 cents);
- over 2500cc – 73 cents (up from 69 cents); and
- motorcycles – 18 cents (up from 17 cents).

The ATO has also published (in Tax Determination TD 2023/2) the reasonable food and drink amounts for the 2023–24 FBT year for employees living away from home (LAFHA), both in Australia and overseas.

Tax Tip

Temporary full expensing

Don't forget that temporary full expensing – which allows an immediate deduction for the full cost of depreciating assets – ends on 30 June this year.

To take advantage of temporary full expensing, your business must acquire and start to use an asset (or have it installed ready for use) by 30 June 2023.

This will allow your business to increase its deductions for 2022–23 and thus reduce the tax payable.



Key tax dates

Date	Obligation
21 Apr 2023	March 2023 monthly BAS due
28 Apr 2023	March 2023 quarterly BAS due
	Pay March 2023 quarterly PAYG instalment
	Employee superannuation guarantee (SG) contributions due
22 May 2023*	April 2023 monthly BAS due 2022–23 FBT return due
29 May 2023*	March 2023 SG statement due (if required)
21 June 2023	May 2023 monthly BAS due
21 July 2023	June 2023 monthly BAS due
28 July 2023	June 2023 quarterly BAS due
	Pay June 2023 quarterly PAYG instalment

Note! Talk to 145 financial to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by COVID-19 or a natural disaster.

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