July 2020

Love & Partners News

With the 2020 financial year passing, we anticipate that a lot of you will be getting ready for the new tax season.

We just want to let you know that in this time of Covid-19 we will offer a different approach this year for our **salary and wage return clients**, to minimise face-to-face contact and use technology to our advantage. **This does not apply for our business clients.**

In order to use your and our time more efficiently, we will send you a checklist to fill out online and submit once completed.

Following the submission, we will get in touch with you to confirm the details and obtain any other info if required.

We will email the online version of the checklist in July so watch this space.

Each individual checklist will need to be emailed to a different email address therefore please advise your spouses email address if we do not have it on file.

The ATO advises to hold off on tax return preparation until late July to make sure that all information has been collected and to avoid any mistakes - please refer to the attached information.

As you will be lodging your tax return through a Tax Agent, you have **until 15th May 2021** to lodge your 2020 income tax return.

Here is hoping for a less complicated year!

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Tax return tips

Despite the current COVID-19 world in which we live, the procedures for completing and lodging tax returns remains pretty much the same.

So, before we sit down with you to go over your tax return, certain information will be needed. Of course these days pre-filling takes care of a lot of the "paperwork", and if you wait until late-July or mid-August the ATO's systems will most likely be able to provide most of the information from employers, banks, government agencies, share registries and other third parties.

We will then be able to double-check the information is correct and enter any deductions you want to claim. However to be thorough, before coming in for your tax appointment here are the sorts of information needed to enable us to complete your tax return.

- Payment summaries (now called income statements): These outline the income you have received from your employer, super fund or government payments such as from Centrelink or the Department of Veterans Affairs.
- Bank statements: Details any interest you have earned during the period and fees you have paid.
- Shares, unit trusts or managed fund statements: Information on dividends or distributions you've received (dividends that you've elected to reinvest must be declared as income).
- Buy and sell investment statements: Needed to calculate capital gains and losses. If you bought or sold any shares you can access the details on your online broking account or you can get them from your investment adviser or stockbroker.
- Records from your rental property: If you use a property manager you will probably get an annual tax statement that details income and expenses, otherwise you will need to gather details of income received and expenses paid, including any capital gains or capital losses from the sale of property.
- Foreign income: Details of foreign pensions or other foreign income.
- Private health insurance policy statement: Information needed to complete the private health insurance section of your tax return.

Income that must be declared

The taxability of some forms of income may seem obvious, but in keeping with our objective of being thorough, here is a list of common types of income that must be declared on your tax return. (This remains the case even if the amount of income has been affected by the COVID-19 crisis.)

- Employment income (including any *JobKeeper* payments)
- Super pensions, annuities and government payments
- Investment income (including interest, dividends, rent and capital gains)
- Business, partnership and trust income
- Foreign income
- Income from crowdfunding (for example donations received for a venture in which you intend to make a profit)
- Income from the sharing economy (for example Airtasker, Uber or Airbnb)

- Other income, including compensation and insurance payments, discounted shares under employee share schemes, some prizes and awards.
- *JobSeeker* or other relevant welfare payments

  Check with us if you are unsure about any of these payments.

Deductions

When completing your tax return, you're entitled to claim deductions for some expenses, most of which should be directly related to earning your income (called “work-related expenses”). Naturally, a deduction reduces your taxable income, and means you pay less tax.

To claim a deduction for work-related expenses:

- you must have spent the money yourself and not been reimbursed
- it must be directly related to earning your assessable income
- you should have a record to substantiate your claim.

When your expenses meet these criteria, here's a list of the things you may be able to claim.

- Vehicle and travel expenses: This does not normally include the cost of travel between work and home, but if you use your car for work or work in different locations then you may be able to claim a deduction.
- Clothing, laundry and dry-cleaning expenses: To legitimately claim the cost of a uniform, it needs be unique and distinctive, for example it contains your employer's logo, or is specific to your occupation, like chef's pants or coloured safety vests.
- Gifts and donations: Only claim for contributions to organisations that are endorsed by the ATO as “deductible gift recipients”.
- Home office expenses: Costs could include your computer, phone or other electronic device and running costs such as an internet service. There may be scope for depreciation, and you can only claim the proportion of expenses that relate to work, not private use. There is also an alternative “80 cents per hour” method that can be used for claiming expenses if you worked from home during the COVID lockdown (only from 1 March).
- Interest, dividend and other investment income deductions: Examples include interest, account fees, investing magazines and subscriptions, internet access, depreciation on your computer.
- Self-education expenses: Providing the study relates to your current job, you may be able to claim expenses like course fees, student union fees, textbooks, stationery, internet, home office expenses, professional journals and some travel.
- Tools, equipment and other equipment: If you buy tools or equipment to help earn your income, you can claim a deduction for some or all of the cost. The type of deduction you claim depends on the cost of the asset. For items that don't form part of a set and cost $300 or less, or form part of a set that together cost $300 or less, you can claim an immediate deduction for their cost. For items that cost more than $300, or that form part of a set that together cost more than $300, you can claim a deduction for their decline in value.
- Other deductions: Other items you can claim include union fees, the cost of managing your tax affairs, income protection insurance (but not if it's through your super fund), overtime meals, personal super contributions (that is, after tax) and other expenses incurred in the course of earning an income.

Of course, check with this office for more ideas. Sometimes one’s circumstances will define what can and generally cannot be claimed as a deduction, so even if some of the above seem to fit your situation, it may pay to check with us first.

Off the deduction menu

The ATO is focused on helping taxpayers get their deductions right, but it’s also on the lookout for red flags that identify people who are doing the wrong thing. Here's a list of deductions you usually can't claim on your tax return.

- Travel between home and work, which is generally considered private travel.
- Car expenses, unless you are transporting bulky tools or equipment that you need to do your job, and that your employer requires you to transport (and there is no secure area to store the equipment at work).
- Car expenses that have been salary sacrificed.
- Meal expenses, unless you were required to work away from home overnight.
- Private travel, including any personal travel portion of work-related travel.
- Everyday clothes you bought to wear to work (for example, a suit or black pants), even if your employer requires you to wear them.
- Self-education expenses where there is no direct connection to your current employment.
- Phone or internet expenses that relate to private use.

Instant asset write off extended to 31 December

Note that the boost to the instant asset write off rules that the government put in place to help stimulate the Australian economy in the face of the COVID-19 crisis has been extended to the end of this year. Businesses with a turnover of up to $500 million a year will be allowed to continue writing off newly purchased assets worth up to $150,000.

To get your claim right, remember:

- check if you're an eligible business
- both new and second-hand assets can be claimed, provided each asset costs less than $150,000
- assets must be first used or installed ready for use between 12 March and 30 June for a claim for the 2019-20 year, or between 1 July and 31 December for a claim for the 2020-21 year
- a car limit applies to “luxury” passenger vehicles. The limit is $57,581 for the 2019-20 income tax year and $59,136 for 2020-21.
- if your asset is for business and private use, you can only claim the business portion
- you can claim a deduction for the balance of your small business pool if it's less than $150,000 at 30 June 2020 (before applying depreciation deductions)
- different eligibility criteria and thresholds apply to assets first used, or installed ready for use, prior to 12 March 2020.

The threshold applies on a per asset basis, so eligible businesses can immediately write-off multiple assets provided each costs less than $150,000. The extension will also give businesses additional time to acquire and install assets (which can be new or second-hand), as they will now have until the end of the calendar year.

The realities of insuring against cyber crime

Think your business is too small or that your data and information isn’t important enough to be targeted by hackers? Think again!

Much of our communication, be it personal or businesses-related, has increasingly moved online in the last two decades, and continues to do so, especially in these recent times of COVID-19 with nearly everyone doing business exclusively online. Every day, thousands of pieces of information are transmitted via email, text, Messenger, WhatsApp, LinkedIn, social media and so on.

Yet while we've launched with a vengeance into the online world, whether by choice or of COVID-necessity, how many of us have kept pace with adequate cyber protections and insurances? Every day, we see individuals and businesses being targeted by cyber criminals. And it's not just the big end of town in the crosshairs — plenty of smaller practices fall victim to cyber crime.

Cyber insurance can be regarded as business-critical insurance because statistics show that the likelihood of a claim occurring within a cyber insurance policy is now as high, if not higher, than making a claim against your business insurance or PI insurance.

Yet not all insurance policies are the same, and so businesses need to understand exactly what they are and are not covered for. At a minimum, a cyber policy should provide a 24/7 breach response service (including IT forensic services), breach response management, credit monitoring, public relations crisis management, civil and regulatory defence costs and penalties, cyber extortion costs, business interruption cover and cyber terrorism.

Proactive IT management and response plan

In addition to cyber insurance, a proactive IT management and a data breach response plan, supported by your IT, are critical elements to future-proof a business. The idea is that a data breach response plan should be no different to having a fire evacuation plan; it needs to be tested and rehearsed regularly.

Often recommend are three pillars of secure information management to identify and address risks within the IT infrastructure to reduce the likelihood of a cyber-attack. In what could be dubbed the "CIA of data management", these are:

- confidentiality
- integrity, and
- availability.

This three pillar approach ensures all data remains available and accessible (availability) to only authorised users (confidentiality) and remains intact and unchanged by unauthorised access or processes (integrity).

What does proactive IT management look like?

It's easy to tell a business to ensure its service providers are proactively managing IT systems, network and company data, with a focus on prevention. But what does this mean practically?

One could label this as an "always eyes on" holistic approach. This would include comprehensive monitoring, maintenance, support and management of organisational systems to help identify issues or concerns before they become a problem.

A set of overarching guidelines and business security principles should be established, and then the business should work through a practical approach that covers these key areas:

- password management and security
- network and data access management and security
- physical security
- information exchange policies and security (eg secure, encrypted, audited email)
- backup and disaster recovery
- education and awareness for internal staff
- cyber insurance coverage and policy wording
- policies and procedures (eg incident and data breach response plan)
- legal response and management plan, and
- responding to the psychological impacts following a data breach.

A big risk

A successful attack can cause lasting and irreparable damage to your business. It can result in business downtime, legal and financial liability, as well as damage to your reputation, brand and the trust you have with clients. The biggest risk your business can take is to do nothing.

Remote AGMs and document signing allowed

Companies should note that the government made a determination just before the end of the financial year that permits companies to hold annual general meetings by electronic format. Also, companies may execute a document, without using a common seal, by electronic communication. The determination is to be repealed on 6 November 2020.

Annual general meetings

Due to public safety concerns related to COVID-19, until the date above companies will be permitted to hold their annual general meeting in electronic format. This will include processes that precede and are involved with the meeting. Among other things, the provisions state that:

- all persons entitled to attend the meeting must be given a reasonable opportunity to participate without being physically present
- all persons participating electronically are taken to be present at the meeting
- a vote taken at the meeting must be taken on a poll, and not by a show of hands
- a proxy may be appointed using one or more technologies specified in the notice of meeting
- a notice of meeting may be given, and any other information to be provided with a notice of meeting, or at or in relation to a meeting, may be provided, using one or more technologies to communicate to those entitled to receive notice of the meeting:
    - the contents of the notice and the other information; or
    - details of an online location where the notice and the other information can be viewed or from where they can be downloaded.

Executing of documents

A company may execute a document without using a common seal if each of the specified persons:

- signs a copy or counterpart of the document that is in a physical form; or
- a method is used to identify the person signing in the electronic communication and to indicate the person's intention in respect of the contents of the document and the method:
    - is as reliable as appropriate for the purpose for which the company is executing the document, in light of all the circumstances, including any relevant agreement; or
    - it is proven in fact to have fulfilled the functions described in the above point, by itself or together with further evidence.

Varying PAYG instalments because of COVID-19

PAYG instalments is a system that helps you manage your expected tax liability on income from your business or investments for the current income year by making smaller regular payments.

To assist taxpayers experiencing financial difficulty as a result of COVID-19, the ATO is providing added flexibility to manage your instalments to suit your circumstances. You can vary your instalments (including varying to zero) if you think using the present amount or rate will result in you paying too much by instalments when compared to your estimated tax for the year.

Your varied amount or rate will apply for all your remaining instalments for the income year, or until you make another variation.

Furthermore, if you vary your instalment amount or rate it can also be possible to claim a credit for instalments you have already paid for the current income year (more below).

In an added element to the PAYG withholding regime, the ATO has stated that where you choose to vary your PAYG instalment amounts due to the effects of COVID-19, it will not apply penalties for excessive variation or charge interest on those instalments.

You can lodge a variation of PAYG instalments on your business activity statement (BAS) or instalment notice, and of course we can help you do this or provide guidance.

Also note that the government has announced that it will suspend the indexation of tax instalments for the 2020-21 income year. Both income tax (PAYG) and GST instalments are included.

If you are an amount payer

As an amount payer, the amount on your BAS is set as a dollar amount. You can vary your instalment amounts to zero for the remainder of the year if:

- you expect to have significantly less business and investment income than expected, or
- you expect your deductions against your business or investment income to be more than the income itself for the full year.

If you are a rate payer

The instalment rate is a percentage applied against the income you received for the period, so the amount you pay will go up or down with your income received. Again, you can vary your instalment rate to zero if:

- you expect to have significantly less income than expected, or
- you expect your deductions against your business or investment income to be more than the income itself for the full year.

How to claim a credit on PAYG instalments already paid

Once you have varied down your rate or amount, the ATO states that it is possible to claim back a credit from PAYG instalments previously paid for the 2019-20 year. To do this, complete the amount at label 5B on your activity statement (and of course ask for help or advice if you need it).

If you choose to not claim back credits on your activity statement and it ends up that you have overpaid your PAYG instalments, you will be credited with them after your tax return is processed.

Rental Properties and Self-Managed Super Funds

With the 2019/20 tax year now over, it’s time for members and trustees to take stock of some of the things they might need to sort out with their SMSFs before the inevitable meeting with us.

This is especially so with some of the concessions SMSF trustees may have provided to tenants for property owned by the fund. It could include rent waivers, reductions or lease renewals.

What’s different for the 2019/20 tax year

For the tax year just gone, given the effects of the floods and bushfires that occurred earlier in 2020 and COVID-19, rental income may have reduced, or ceased, as a result of changes in rental arrangements, or due to travel restrictions short-term accommodation may have been impacted. There have also been changes to tax deductions for owners of vacant land.

Keeping Records

To start with, there are some lessons to be learned for anyone owning a rental property whether it is an individual, company, trust or SMSF. It is important to make sure, whatever the circumstances being faced, that records of all income and expenses, as well as changes to the lease arrangements for the property are kept. Without those documents it is difficult to work out what can be claimed, and it may be hard to justify the expense was actually incurred.

What's included or allowed?

Any rent paid to the SMSF directly, or to a real estate agent managing the property, should be declared as income at the time it is paid. For example, if the SMSF has an arrangement with the tenants to defer rent until the next financial year, the rent is not included as income until it has been received. Additionally, if the SMSF has taken out tenant or rental insurance that covers for the loss of rent, any payouts are to be included in the fund's assessable income.

If there has been an agreement to reduce or defer the rent on the property, the SMSF will continue to incur ongoing expenses such as council rates, water and electricity charges, strata levies, maintenance costs and so on. The fund will still be able to claim these expenses as long as the reduced rent charged is determined at arms' length, having regard to the current market conditions.

In some situations, if the SMSF has a limited recourse loan, the trustees may have made arrangements with the lender to defer the loan repayments. In these situations, the SMSF can claim interest being charged on the loan as a deduction - even if the bank defers the repayments.

Holiday houses and short-term accommodation

If an SMSF owns a holiday house or a bed and breakfast during the past financial year, there may have been cancellations of bookings or the property may have experienced a period when it was sitting idle as a result of the bushfires or travel restrictions due to COVID-19. Providing the short-term rental accommodation remains available for rent, deductions that relate to the property will still be available to the SMSF.

One issue that may arise is that due to the natural disasters, if a person who is a related party of the SMSF, such as a member, trustee or a relative, has decided to live in the property then there are a number of compliance issues that may arise. This could include: a breach of the in-house asset test, which limits the amount of fund assets that can be invested in; lent to or leased to a related party; a breach of members using assets of the fund; and arm's length investment requirements. Also, it may bring into question whether the fund is being used solely to provide retirement and associated benefits for members and their dependants.

Deductions for vacant land no longer available

From 1 July 2019 expenses incurred by the SMSF for holding vacant land are no longer deductible if the fund is intending to build a rental property on the land, but construction has not been completed. This also applies to land for which the SMSF may have been claiming expenses in previous years.

In situations where an SMSF is having a rental property constructed, deductions cannot be claimed for the costs of holding the land, such as interest. However, if the rental property, which is owned by the SMSF, was destroyed in the bushfires and it is subsequently being rebuilt or repaired, a deduction can be claimed for the costs of holding the land which is now vacant, for up to three years, while the rebuilding is taking place.

These rental issues are some things to think about when getting the accounts and records ready for the SMSF's annual returns for the 2019/20 financial year.