

Year End Tax Planning

JUNE

2022

YEAR END TAX PLANNING TIPS 2021-22

For Small Business and Individuals
ATO Determination and Compliance Guidelines

MANAGING HUMAN RESOURCES

What is a Key Performance Indicator (KPI)
and how do they assist your Business





Contents

YEAR END TAX PLANNING TIPS

2021-22	2
SMALL BUSINESSES	2
Claiming a Tax Loss	2
Work Related Car Expense	2
Varying Pay As You Go Instalments	2
Disclosure of Business Tax Debt	3
Director Penalty Notices	3
Cash Flow Support and Red Tape Reduction	3
Lowering Tax Instalments In 2022-23	4
Facilitating Pre-Filing of Payroll Tax Returns	4
Aligning the Excise and other Reporting Requirements	4
Check Eligibility for Small Business Tax Regime	4
Review Salary Sacrifice Arrangements	4
Make Trust Resolutions by June 30	4
Seeking Professional Advice when Starting a Business	4
Small Business Restructure Rollover Relief	4
Stream Trust Capital Gains and Franked Dividends	4
Private Company Loans	4
Prevent Deemed Dividends in Respect of Unpaid Trust Distributions	5
Write-Off Bad Debts	5
Year-End "Tax Effective" Investment Products	5
Bonuses	5
Depreciation	5
Trading Stock	5
Prepayment of Expenses	5
Varying Pay As You Go Instalments	5
Reportable Fringe Benefits	6

INDIVIDUALS	10
Prepayment of Deductible Expenses	10
Salary Packaging Arrangements	10
Medicare Levy Surcharge (MLS) and Private Health Insurance Rebate (PHIR)	10
ATO Recovery from Higher Education Loan Program and Trade Support Loan Debt	10
ATO Data Matching	10
Incur Expenses Before Year End	11
Motor Vehicle Expenses	11
Zone Tax Offset	11
Claiming Travel Allowance Deductions	11
Superannuation	11
Trust	13

ATO DETERMINATION AND COMPLIANCE GUIDELINES	15
Exclusion for Debts Forgiven	15
PRACTICAL COMPLIANCE GUIDELINE (PCG) 2021/4	16

MANAGING HUMAN RESOURCES 18

WHAT IS A KEY PERFORMANCE INDICATOR (KPI) AND HOW DO THEY ASSIST THE BUSINESS?	18
Key Performance Indicators (KPIs)	18
Attributes of good KPIs	18
Categories of KPIs	18
KPIs can be categorised into four different types	18

Year End Tax Planning Tips 2021-22

SMALL BUSINESSES

Claiming a Tax Loss

With the unwelcome challenges posed by the COVID-19 pandemic, and for some the recent floods, many in business have sustained serious losses. Before you claim a tax loss, make sure you have correctly claimed expenses that you are entitled to.

Overclaiming expenses can put your business in an incorrect tax loss situation. It's also important to remember to apportion your expenses correctly, so that only the business portion of the expense is claimed, and not any personal component of the expense.

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 year, you can generally carry forward that loss and claim a deduction for your business in a future year.

You may be able to offset current year losses if you're a sole trader or an individual partner in a partnership and meet certain conditions. If you're an eligible corporate entity (company, corporate limited partnership or public trading trust), you may be able to claim the loss carry back tax offset. You can check your eligibility for this tax offset using the ATO loss carry back offset tool.

Work Related Car Expense

On 3.3.2022 the ATO issued draft Legislative Instrument LI 2022/D8TD which applies to eligible taxpayer who elect to use the cents per kilometre method then calculation income tax deductions for their work-related car expenses.

The Commissioner has determined that the rate is 75 cents per kilometre. It will apply to the income year commencing 1.7.2022 and remains applicable to subsequent income years until such time as it should be varied.

Varying Pay As You Go Instalments

PAYG instalments allow you to make regular prepayments throughout the year towards the expected tax on your business and investment income. By paying regular instalments throughout the year, you should not have a large tax bill when you lodge your tax return.

You can vary your PAYG instalments if you think your current payments will result in you paying too much or too little tax for the income year. You must make variations on or before the payment due date. Your varied amount will apply for all your remaining instalments unless you make another variation before the end of the income year.

If you continue to be affected by COVID-19, the ATO will not apply penalties or charge interest to varied instalments relating to the 2021-22 income year. This applies if you have taken reasonable care to estimate your end of year tax liability. You must make variations on or before the payment due date. Your varied amount or rate will apply for the remaining instalments for the income year, or until you make another variation.

The ATO recognises that many businesses in local government areas in Queensland and New South Wales have been affected by the floods. The ATO aims to support the community's recovery efforts during this difficult time by providing administrative support to help taxpayers. The ATO encourages taxpayers to review their PAYG instalments regularly, so the amount you prepay is closer to your expected tax for the year.

If your small business is having financial difficulties and can't pay tax or super on time, support is available. The ATO may be able to set up an affordable payment plan or offer interest-free periods for eligible overdue activity statement amounts. If you have an outstanding debt, are able to meet the requirements of a payment plan, or require additional assistance, contact them for further help.

The ATO may ask for evidence that your business is experiencing financial difficulty to support your claim, such as

- bank notices (for example, and overdraft call)
- an eviction notice
- a disconnection notice
- a repossession notice
- a notice of impending legal action
- staff pay records
- contract payment schedules
- legal documents

They take many factors into account when assessing a claim. Sometimes the ATO may change their requirements depending on your circumstances. Even if you can't pay on time, it's important to keep lodgements up to date. This will give you a clear idea of your tax position and the ATP can tailor help, such as advice, payment plans, or deferrals, to your situation.

Disclosure of Business Tax Debt

The ATO has started writing to all their clients that may be eligible to have their tax debts disclosed to credit reporting bureaus (CRBs). This is to raise awareness of the actions they can now take under the Disclosure of Business tax debts measure. The letter will be sent to all clients with business tax debts that currently meet the criteria for disclosure.

This letter provides information on how to effectively engage with them to manage their debt. Taxpayers can avoid disclosure by making payment in full or negotiating a payment plan. If you do not take steps to actively manage their debt, they will remain eligible for disclosure. Before the ATO take any final action to disclose their tax debt, they will issue a formal Intent to Disclose Notice.

If you receive an Intent Notice, asking to 'Act now or your tax debt will be reported to credit reporting bureaus', you must contact the ATO within 28 days of receiving the notice to avoid the debt being reported. The ATO will then work with you to manage their debt or help them understand the next steps.

There is information on the ATO website if you need help with paying and support in difficult times. It is crucial that you engage with the ATO early before your debts become unmanageable. You can access the payment plan estimator to work out an affordable plan.

Director Penalty Notices

In March the ATO began contacting relevant clients via letter to inform them about their potential personal liability for company tax debts under the Director Penalty Notice (DPN) program.

The letter will be sent to directors of companies if the company has not met their debt obligations in respect of PAYG withholding, Superannuation Guarantee Charge and GST. Directors will be notified that the ATO is considering issuing them with a DPN, which makes them personally liable for the debts of their business if the company does not actively manage their debt.

The ATO's focus is on making directors aware of their obligations and personal liabilities, and the actions that may be taken if they don't engage. The ATO maintains it will be providing clear pathways for clients to re-engage, work with them, and avoid escalation.

There is information on their website if a director needs help with paying and support in difficult times. It is crucial that you engage with the ATO early before their debts become unmanageable. You can access the ATO payment plan estimator to work out a plan.

Generally, when you have a debt, general interest charges continue to apply. It is essential to bring all their lodgements up to date to avoid further penalties. While you have a debt, general interest charges continue to apply. You should bring all your lodgements up to date to avoid further penalties.

Cash Flow Support and Red Tape Reduction

On 23 March 2022 the Government announced a package of new measures to slash red tape and provide cash flow support for millions of small and medium businesses.

Treasury and the ATO will consult on the following measures to automate tax administration

- Aligning instalment payments with financial performance and Improved cash flows through an improved pay as you go instalment system
- Smarter reporting of taxable payments
- Digitalising trust income reporting

Consultation with the community, tax practitioners and digital service providers to finalise the policy scope, design and specification will take place over the coming months. Further information on the consultation process will be provided shortly.

Subject to completion of consultation and advice from software providers about their capacity to deliver, the measures are proposed to apply from 1 January 2024 for Aligning instalment payments with financial performance and Improved cash flows through an improved pay as you go instalment system; and 1 July 2024 for Digitalising trust income reporting.

Lowering Tax Instalments In 2022-23

The Government will set the GDP uplift rate that applies to pay-as-you-go (PAYG) instalments and GST instalments to two per cent for the 2022–23 income year. This measure will apply to instalments due after 31 March 2022. This measure is now law.

Facilitating Pre-Filling of Payroll Tax Returns

The Government will facilitate sharing of single touch payroll data with State and Territory Governments on an ongoing basis to cater for pre-filling payroll tax returns.

Aligning the Excise and other Reporting requirements

The Government is lowering the costs of doing business for manufacturers, importers and distributors in the alcohol and fuel sectors by enabling businesses with an annual turnover of less than \$50 million to lodge and pay excise and excise-equivalent customs duty on a quarterly basis, from 1 July 2023. This measure is not yet law.

Check Eligibility for Small Business Tax Regime

Small businesses (sole traders, partnerships, companies, and/or trusts with a turnover of less than \$10 million) may be eligible for a range of tax benefits including the instant asset write-off a 25 per cent company tax rate, simplified depreciation, capital gains tax concessions (turnover less than \$2 million) and accounting on a cash basis.

Review Salary Sacrifice Arrangements

Employees can consider salary sacrifice arrangements under which their gross salary may be foregone to obtain either packaged car for fringe benefits tax (FBT) purposes, or they can make additional superannuation contributions.

We note that the option for employees to make tax-deductible superannuation contributions themselves became law on 29.11.2016 and took effect from 1.7.2017.

Make Trust Resolutions By June 30

Trustees of discretionary trusts are required to make and document resolutions on how trust income should be distributed to beneficiaries for the 2021-2022 financial year by 30 June.

In the event, a valid distribution is not made then a default beneficiary may be assessable. If there are no default beneficiaries, then the trustee will be assessable at the highest marginal rate.

Seeking Professional Advice When Starting a Business

Professional expenses associated with starting a new business, such as legal and accounting fees, are deductible in the year those expenses are incurred rather than deducted over a five-year period as was the case prior to 1.7.2015.

Small Business Restructure Rollover Relief

Since 1.7.2016, small businesses have been able to change the legal structure of their business without incurring any income tax liability when active assets are transferred from one entity to another. This rollover applies to active assets and depreciating assets used or held ready for use, in the course of carrying on a business. Seek professional advice.

Stream Trust Capital Gains and Franked Dividends

Trustees of discretionary trusts may be able to stream capital gains and franked dividends to different beneficiaries if the trust deed allows the trustee to make a beneficiary “specifically entitled” to those amounts, the trustee must document this resolution before 30 June and the beneficiary receives or is entitled to receive an amount equal to the net financial benefit of that gain or dividend.

It may be necessary to make a family trust election for this to be effective.

Private Company Loans

Income Tax law can potentially treat a payment or loan by a private company to a shareholder or an associate as an unfranked deemed dividend unless an exemption applies.

The most common exemption is to enter into a written loan agreement requiring minimum interest and principal repayments over a specified loan term, which may be seven or 25 years depending on whether or not the loan is secured. Prior to 30 June, you should carefully review such debit loans on the company’s balance sheet.

Prevent Deemed Dividends in Respect of Unpaid Trust Distributions

An unpaid distribution owed by a trust to a related private company beneficiary that arises from 1.7.2017 will be treated as a loan by the company if the trustee and the company are controlled by the same family group. In these circumstances, the associated trust may be taken to have derived a deemed dividend for the amount of the unpaid trust distribution.

However, a deemed dividend may be prevented if the unpaid distribution is paid out, or a complying loan agreement is entered into before the company's 2021-2022 income tax return needs to be lodged. Alternatively, a deemed dividend will not arise if the amount is held in an eligible sub-trust arrangement for the sole benefit of the private company, and other conditions are satisfied. These rules are complex and professional advice should be sought.

Write-Off Bad Debts

Businesses can only obtain income tax deductions for bad debts, if the debt still exists at the time, it is written off. Thus, if the debt is forgiven or compromised before it is written off as a bad debt in the accounts no deduction will be available. The debt must also be unrecoverable and written off in the accounts as bad prior to 30 June. The bad debt must have been previously brought to account as assessable income or lent in the ordinary course of carrying on a money-lending business.

This is particularly relevant for small business entities who use cash accounting (not accruals) when reporting revenue for taxation purposes.

Year-End "Tax Effective" Investment Products

Proceed with caution and make sure you get independent professional advice.

Bonuses

Ensure all bonuses are determined and properly documented before year end.

Depreciation

- Scrap obsolete items of plant and equipment.
- Utilise depreciation pools to their full extent; and

From 7.30 pm AEDT on 6.10.2020 until 30.6.2023, temporary full expensing allows a deduction for

- The business portion of the cost of new eligible depreciation assets for businesses with an aggregated

turnover under \$5 billion or for corporate tax entities that satisfy the alternative test.

- The business portion of the cost of eligible second-hand assets for businesses with an aggregated turnover under \$50 million.
- The balance of a small business pool at end of each income year in this period for businesses with an aggregated turnover under \$10 million.

Trading Stock

Consider these may be obsolete stock to write off and note closing stock can be valued at year end at the lesser of cost, market value, or the replacement value.

Generally, an entity must perform a stock take to determine the physical quantity and value of each item at year end.

Prepayment of Expenses

In some circumstances, small businesses (with a turnover of less than \$10 million) should consider prepaying expenses prior to 30 June 2022. A tax deduction can be brought forward into this financial year for expenses like insurance premiums, subscriptions and memberships, travel advertising, and interest. A deduction for prepaid expenses will generally be allowed where the payment is made before 30 June 2021 for services to be rendered within a 12-month period.

Varying Pay As You Go Instalments

PAYG instalments allow you to make regular prepayments throughout the year towards the expected tax on your business and investment income. By paying regular instalments throughout the year, you should not have a large tax bill when you lodge your tax return.

You can vary your PAYG instalments if you think your current payments will result in you paying too much or too little tax for the income year. You must make variations on or before the payment due date. Your varied amount will apply for all your remaining instalments unless you make another variation before the end of the income year.

If you continue to be affected by COVID-19, the ATO will not apply penalties or charge interest to varied instalments relating to the 2021-22 income year. This applies if you have taken reasonable care to estimate your end of year tax liability.

You must make variations on or before the payment due date. Your varied amount or rate will apply for the remaining instalments for the income year, or until you make another variation.

The ATO recognises that many businesses in local government areas in Queensland and New South Wales have been affected by the floods. The ATO aims to support the community's recovery efforts during this difficult time by providing administrative support to help taxpayers.

The ATO encourages taxpayers to review their PAYG instalments regularly, so the amount you prepay is closer to your expected tax for the year.

If your small business is having financial difficulties and can't pay tax or super on time, support is available. The ATO may be able to set up an affordable payment plan or offer interest-free periods for eligible overdue activity statement amounts.

If you have an outstanding debt, are able to meet the requirements of a payment plan, or require additional assistance, contact them for further help. The ATO may ask for evidence that your business is experiencing financial difficulty to support your claim, such as

- bank notices (for example, and overdraft call)
- an eviction notice
- a disconnection notice
- a repossession notice
- a notice of impending legal action
- staff pay records
- contract payment schedules
- legal documents

They take many factors into account when assessing a claim. Sometimes the ATO may change their requirements depending on your circumstances.

Even if you can't pay on time, it's important to keep lodgements up to date. This will give you a clear idea of your tax position and the ATP can tailor help, such as advice, payment plans, or deferrals, to your situation.

Reportable Fringe Benefits

If the value of certain fringe benefits you provide to an individual employee exceeds \$2,000 in an FBT year (1 April to 31 March), you must report the

grossed-up taxable value of those benefits on their payment summary or through Single Touch Payroll for the corresponding income year (1 July to 30 June). These are called reportable fringe benefits. However, where an employee uses a pooled or shared car that results in a taxable fringe benefit, the use of this car is not included for payment summary or Single Touch Payroll purposes.

Car logbook requirements

Having a valid car logbook is beneficial for both maximising deductions in a personal tax return for work related travel cost using your own car and minimising the taxable value of a car fringe benefit for FBT purposes, when the car is provided by an employer. The ATO record keeping requirements are strict and often do not pass scrutiny in the event of an audit.

With the FBT year ending on 31.3.2022, it is timely to consider these requirements. A separate logbook must be kept for each vehicle for a continuous 12-week period and must document

- When the log book period begins and ends.
- The car's odometer readings at the start and end of the logbook period.
- The total number of kilometres the car travelled during the logbook period.
- The number of kilometres travelled for each journey.
- The odometer readings at the start and end of each subsequent income year your logbook is valid for.
- The business-use percentage for the logbook period based on the business use of the vehicle.
- The make, model, engine capacity and registration number of the car.

The 12-week period may overlap two income/FTB years provided it includes part of the year. In general, a logbook will be valid for five years assuming business use is consistent and patterns of usage do not change throughout this period.

What needs to be recorded in a logbook?

For each trip, the following must be recorded

- The date the trip began and ended
- Odometer readings at the start and end of each trip
- Kilometres travelled during the journey
- The purpose of the trip

These entries must be made as soon as possible after the trip. Simply stating 'business trip' may not be adequate as the ATO may request more detailed information in relation to the journey to establish whether the purpose of the trip was for business or private purposes. It is advisable to include further details (e.g., name of client, supplier etc.).

If the 12-week period is not representative of the whole year, you may have to adjust your business percentage (i.e., upward or downward). If your pattern has changed substantially during the year, the logbook may no longer be valid, and you may need to keep a new log book.

Is travel from home to work business related?

It should be noted that except in limited circumstances, a trip that starts or ends at your home is generally considered private in nature. Some examples in which a journey that starts or ends at home that may become business related includes:

- Home is your place of business (this does not include a home office).
- Carrying essential bulky tools and equipment that cannot be stored at your worksite.
- Travelling to or from an alternative place of work.

Garaging a car at an employee's home

Generally, a car fringe benefit will arise where you make a car you own or lease available for the private use of an employee. Where your employee is garaging a work car at home, you may be providing them with a car fringe benefit. For FBT purposes, a car is a motor vehicle (except a motorcycle or similar vehicle) designed to carry a load of less than one tonne and fewer than nine passengers.

If an exemption does not apply, you need to determine the taxable value of the car fringe benefit. It's calculated using either the

- statutory formula method – the taxable value is a set formula based on the car's cost price
- operating cost method – the taxable value is based on the operating costs of the car, reduced by any business use.

Exemption for certain car benefits

In some cases, the use of a car is exempt from FBT. An employee's private use of a taxi, panel van, or utility vehicle designed to carry less than one tonne is exempt from FBT if its private use is limited to

- travel between home and work
- incidental travel in the course of performing employment-related travel, and/or
- non-work-related use that is minor, infrequent and irregular (such as occasional use of the vehicle to remove domestic rubbish).

If a home-garaged car is not being driven

Where a car has not been driven at all during the period it has been garaged at home, or has only been driven briefly for the purpose of maintaining the car, the ATO will accept that you don't hold the car for the purpose of providing fringe benefits to your employee.

In these situations, provided you elect to use the operating cost method, there will be a nil taxable value for the car and no FBT liability. You need to elect to use the operating cost method in writing before you lodge your FBT return for the year. You should maintain odometer records to show that, during the period the car is garaged, it has not been driven, or has only been driven briefly for the purposes of maintaining the car.

If you don't elect to use the operating cost method, or don't have odometer records, the statutory formula method applies and you will have an FBT liability for the year. This is because the car is garaged at the employee's home and is taken to be available for private use.

If a home-garaged car is being driven

If an employee is driving a car for business purposes, and you elect to use the operating cost method, you may be able to reduce the taxable value of the car fringe benefit to take into account this business use. This may include reducing the taxable value to nil if the car is only being used for business travel. You will only be able to reduce the taxable value if you have logbook records and odometer records for the period in question. If you have not previously maintained a logbook for the car, the logbook will need to be for at least

- 12 continuous weeks, or
- until the car stops being garaged at home, if this is less than 12 weeks.

Logbook requirements for car fringe benefits can vary

Logbook requirements will vary depending on whether you already use the operating cost method and have an existing logbook in place, or it's your first time electing to use the operating cost method or it's a logbook year for you.

Generally, if you have used a logbook for the car before, it will be a logbook year if you have not kept a logbook for the car in the previous four years. If COVID-19 has impacted driving patterns and you have an existing logbook.

Where you're already using the operating cost

Where you're already using the operating cost method you may have an existing logbook in place. You can still rely on this logbook, despite changes in driving patterns due to COVID-19. You must keep odometer records for the year, and these will show how much the car has been driven during the year, including any lockdown period.

You need to make a reasonable estimate of the percentage of business use of the car, taking into account logbooks, odometer records and any changes in the pattern of business use throughout the year, including changes due to COVID-19.

Where your driving patterns and business-use percentage are impacted by COVID-19, you can choose to keep a new logbook provided that the period is representative of your usage throughout the year. This is so, even if it is not a logbook year. This may provide a more accurate base to estimate the business use of the car.

Example 1: FBT year ended 31 March 2020 – new logbook not kept

An employer uses the operating cost method to value their car fringe benefits. They kept a logbook in the FBT year ended 31 March 2018. For the FBT year ended 31 March 2020, there is no requirement for the employer to keep a new logbook.

The employees' driving patterns were not impacted significantly by COVID-19 across the 2020 FBT year, with any impact occurring in March 2020, so the employer decides not to keep a new logbook. They use the existing logbook, odometer records, employee fuel card records, plus client records to estimate the business use percentage for the year.

Example 2: FBT year ended 31 March 2021 – new logbook kept

An employer uses the operating cost method to value their car fringe benefits, and kept a logbook in the FBT year ended 31 March 2018. For the FBT year ended 31 March 2021, there is no requirement for the employer to keep a logbook. However, employee driving patterns have been significantly impacted by COVID-19, and so the employer chooses to keep a new logbook as it provides a more accurate base to estimate the business use of the car. Odometer records of the total kilometres travelled during the logbook period and during the FBT year are also kept.

First time using the operating cost method

Where it's your first time using the operating cost method or it is a logbook year, you must

- keep a logbook recording details of business journeys undertaken in the car for a continuous period of at least 12 weeks (the logbook period must also be recorded in the logbook).
- keep odometer records of the total kilometres travelled in the logbook period, and the total kilometres travelled during the year, and
- estimate the number of kilometres travelled on business journeys during the FBT year.

For this estimate, you must consider all relevant matters including logbook and odometer records, any other records, and any variations in the pattern of business use throughout the year. If the car was not driven for a period due to COVID-19 impacts, it is recommended that you also keep odometer records to show this.

Covid-19 car fringe benefits, and logbooks

ATO has determined how your FBT obligations relating to work cars may be impacted by the COVID-19 pandemic, and how to calculate your FBT liability.

- Your fringe benefits tax (FBT) obligations may be affected if your employees have been garaging work cars at their homes due to the impacts of COVID-19.
- Where a car isn't being driven at all, or is only being driven for maintenance purposes, the ATO accepts that you aren't holding the car for the purposes of providing fringe benefits. If you elect to use the operating cost method, and maintain appropriate records, you may not have an FBT liability for a car.
- Certain kinds of cars may also be exempt from FBT even where they are garaged at employee homes.

- If an exemption doesn't apply and a work car is garaged at your employee's home, it will be deemed to be available for private use and you may have an FBT liability.
- You can take into account the impact of COVID-19 on the business use of a car if it is being driven during the period it is garaged at home. This will require you to maintain a logbook (or to have kept a logbook in any of the previous four years) which will enable you to calculate your FBT liability.
- Your logbook-keeping requirements will depend on whether you are already maintaining an existing logbook for the year.
- For any car fringe benefits calculated using the operating cost method, you may adjust your business use estimates to reflect changes in your employees' driving patterns due to COVID-19.

COVID-19 impacted driving patterns

You may have been in the middle of maintaining a logbook for a 12-week period at the time the COVID-19 pandemic impacted driving patterns. You may be concerned that the resulting logbook does not reflect the business use of the car for the 2020 FBT year.

If you are making a reasonable estimate of the business use, you can adjust the use indicated from the logbook to account for the change in driving patterns from COVID-19 impacts.

However, you must ensure that the logbook still records a period of at least 12 weeks – if the logbook does not reflect a 12-week period you cannot apply it to reduce the taxable value to take business use into account.

Example – FBT year ended 31 March 2020 – logbook impacted by COVID-19

An employer uses the operating cost method to value their car fringe benefits, and the 2020 FBT year is a logbook year. They begin maintaining a logbook on 2 February 2020, meaning the logbook must run for at least a 12-week continuous period to 26 April 2020. However, from early April, in response to the COVID-19 pandemic, the employees' car usage changes significantly, and there are few or no business journeys for the final four weeks of the logbook period.

When estimating the business use for the 2020 FBT year, the employer may adjust their estimate to reflect the business journeys recorded in the period of the logbook before COVID-19 impacted driving patterns, to ensure it is a reasonable estimate of the business use across the FBT year.

INDIVIDUALS

In general, individual income is derived and deductions are incurred on a receipt's basis. The following suggestions may reduce your current tax year liability.

Prepayment of Deductible Expenses

An individual can claim a deduction for prepaid expenditure for a period not exceeding 12 months. The most common types for prepayment include

- Income protection insurance
- Interest on investment loans
- Interest on share portfolio loans
- Membership and subscriptions
- Investment property expenses
- Corporate Body levies
- Insurance
- Repairs and maintenance
- Rates

Before year end, an individual should review the gains and losses on each asset within their investment portfolio. There may be opportunities to

- Make sure assets have been held greater than 12 months before sale so the 50% discount can be applied to the gross capital gain – remember this is from “contract” to “contract” ... not settlement.
- Realise capital losses to offset any capital gains that were made earlier in the income year.
- Defer realisation of capital gains until July.

Salary Packaging Arrangements

An effective salary sacrifice arrangement will reduce an individual's marginal rate of tax.

The contractual arrangements should be documented or amended before year end as an individual cannot make a retro perspective salary sacrifice arrangement for income already earned. A typical salary sacrifice arrangement may include the following components:

- Motor vehicle expense
- Additional superannuation contributions
- School fees

The top marginal tax rate applied on income in excess of \$180,000. With the “mark-up” factors, fringe benefits tax effectively applies the top marginal rate regardless of your income. However, for taxpayers not on the top marginal rate it is still possible to take advantage of FBT concessions.

Medicare Levy Surcharge (MLS) and Private Health Insurance Rebate (PHIR)

The threshold for the imposition of the MLS (If not covered by private hospital insurance) are broadly as follows:

- Singles (no dependants) - \$90,000 pa; and
- Families - \$180,000 pa (plus \$,500 for each dependent child after the first)

There are a number of income amounts such as reportable fringe benefits, reportable superannuation contributions, and investment losses counted in calculating these thresholds.

Further, there is a “tiered” system for calculating MLS in the 2022 income year. The rate of the rebate will be between 1% and 1.5% depending on the extent to which income exceeds the relevant threshold.

In addition, PHIR is also means-tested in the 2022 income year under a “tiered” system. The rate of the rebate will be between 0% and 30% depending on income levels. This means some taxpayers who have claimed a full 30% rebate from their health insurance provider on their premiums will have an additional liability upon lodgement of their return.

ATO Recovery from Higher Education Loan Program and Trade Support Loan Debt

The Higher Education Loan Program (HELP) and Trade Support Loan (TSL) repayment rules to debtors who reside overseas have been extended by assessing their repayment obligations on their worldwide income. Repayment obligations commenced from July 2017.

Since January 2016, HELP and TSL debtors who are going overseas for more than 6 months were required to register with the ATO. Debtors already living overseas are expected to register.

ATO Data Matching

The ATO's extensive data matching capabilities are based on the information it receives from various sources

including banks, share registers, employers, government agencies, and via its network of global information exchange agreements.

In terms of focus areas for compliance activities, the ATO continues to closely monitor:

- Claims for work-related expenses that are usually high relatively close to others across comparable industries and occupations.
- Excessive rental properties expenses.
- Non-commercial rental income received for holiday homes.
- Interest deductions claimed for the private proportions of loans; and
- People who have registered for GST but are not actively carrying on a business.

In 2022 an area of ATO focus is contractors not declaring income detectable under the Taxable Payments Reporting System (TPRS).

Incur Expenses Before Year End

Expenses that are incurred before year end can reduce taxable income. Consider forthcoming liabilities and the value in incurring them before year end.

If you have rental property, consider whether you are maximising claims for capital works deductions on the property. A report from a quantity surveyor or suitably qualified specialist will maximise your entitlements. Pay income protection insurance premiums before year end.

Motor Vehicle Expenses

There are now only two methods that can be used to claim a deduction for motor vehicle expenses.

There are

- The cents per km method (for up to 5,000 business kilometres travelled); and
- The logbook method (logbook kept over 12 weeks and updated every 5 years)

For the year ended 30 June 2022, the single rate of deduction determined by the Commissioner is 72 cents per kilometre.

Detailed records assist in maximising deductions.

Zone Tax Offset

Since 1 July 2015, the zone tax offset has been limited to those taxpayers whose usual place of residence is within the designated zones. The zone tax offset is a concessional tax offset available to individuals against their income tax liability in recognition of the isolation, extreme climate, and high cost of living associated with living in designated zones.

This means “fly-in-fly-out” and “drive-in-drive-out” employees, whose usual place of residence is located outside of the zone, are ineligible to claim the zone tax offset for the 2016 income year and later income years.

Claiming Travel Allowance Deductions

An audit focus by the ATO continues on travel allowance expenses being claimed by individual taxpayers.

If you intend to use the exception for retaining substantiation of these claims the following must apply

- You must be receiving a bona fide travel allowance from your employer.
- You must be working away from home (on overnight stays) in the course of performing employment duties.
- You must calculate the claim correctly for your salary level and location of work; and
- You must be able to show that you are incurring travel expenses.

Superannuation

Note, there is no tax deduction for the non-concessional contribution. 2022 Contributions Caps are

- Concessional contributions (employer contributions) \$27,500.
- Non-concessional contributions (personal contributions) \$110,000 or 3-year limit of \$330,000.
- Again, if you want to contribute more than \$110,000 in non-concessional contributions contact your accountant as this involves a 3-year average and you need to be certain you are eligible.

Eligibility age change for downsizer superannuation contributions

The ATO has issued a reminder on downsize contribution. As part of the 2021–22 federal Budget, the Australian Government announced it will reduce the eligibility age for downsizer contributions from 65 to 60 years old. This measure has now become law, with the Treasury Laws

Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Bill 2021 receiving royal assent on 22 February 2022.

This means from 1 July 2022, eligible individuals aged 60 years or older can choose to make a downsizer contribution into their superannuation of up to \$300,000 per person (\$600,000 per couple) from the proceeds of selling their home. There are no changes to the remaining eligibility criteria.

For contributions made prior to 1 July 2022, eligible individuals must still be aged 65 years or older at the time of making their contribution.

What is the purpose of downsizer contributions?

The downsizer measure began on 1 July 2018, increasing the flexibility of older Australians to contribute to their super. This allows eligible individuals to contribute up to \$300,000 from the proceeds of the sale of their home, without it impacting their contributions caps.

Salary Sacrifice Bonus into superannuation

You may be able to optimise your tax position by salary sacrificing any prospective end-of-year bonus into super. Seek advice to ensure it is tax effective and that the contributions caps are not breached.

Superannuation – Income

Individuals aged over 60 and retired are generally not taxed on any payments from a superannuation fund. Individuals aged between 55 and 60 will generally be taxed concessionaly.

Superannuation – Rebate

A rebate up to \$540 is available for superannuation contributions made during the 2022 year for your spouse where your spouse's income is less than \$37,000 p.a. (this rebate reduces for income amounts up to \$40,000 p.a.).

The age limits for spouse contribution were increased from 69 to 75 years from 1.7.2020.

Superannuation – Government Co-Contributions

The maximum co-contribution amount that you received is \$500, based on an after-tax contribution of \$1,000 (i.e., for every \$1 contribution made, the government contributes \$0.50). This is reduced by 3.33 cents for each \$1 of income over \$41,112 p.a. up to \$56,112 p.a. As there are also other qualifying criteria, you should contact your accountant if you wish to access this benefit in 2022.

Eligibility for Super Concessional Contributions

The 2021-2022 financial year is the fourth year when carry forward provisions come into effect, where you can carry forward unused contributions for five consecutive years.

To be eligible, your Total Superannuation Balance (TSB) must be less than \$500,000 at 30 June of the previous year. This is assessed at June of the prior year for each year in the rolling five-year period in which you intend to use the unused cap.

This strategy can be used for taxpayers expecting to have higher taxable income in an income year and would like to reduce the tax liability they have to pay, whether it is for work bonuses, large capital gains, retirement payouts, or large trust distributions.

Individuals aged 65 to 74 and who meet the work test (and TSB test) will also be eligible to access the catch-up concessional contributions.

Transition to Retirement Income Streams

If you are 55 or older at 30 June 2022, you may be eligible to commence a "Transition to retirement" pension. Benefits may include:

- Receiving pension income while still working.
- Ability to salary sacrifice to superannuation to access lower tax rates; and
- Concessional tax treatment within your super fund.

Note that up to 30.6.2017, the income from assets supporting a transition to retirement income stream was tax-exempt. Since 1.7.2017 this exemption no longer applies.

Contraventions for SMSFs

In February the Australian Taxation Office (ATO) released its statistical overview of SMSFs for the 2019-20 financial year based on annual SMSF returns. The ATO also released some data for the 2020-21 financial year on SMSF demographics and assets, as well as auditor contravention reports (ACRs).

The most common contraventions are

- related party loans and loans to members 21%
- in house assets 19%
- failure to keep assets separate 13%

These contraventions account for more than 50% of the contraventions reported to the ATO.

Other contraventions included:

- acquisition of assets from released parties
- sole purpose breaches
- operating standards
- borrowings
- administrative areas

Other contraventions involved trying to access the low tax rates (15%) of a SMSF by the use of acquisitions resulting in non-arm's length income (N.A.L.I). Financial stress along with the easy accessibility of funds in a SMSF appeal to be the main drives of these contraventions.

Trust

Over time a trust can build up considerable liabilities due to income allocated (but not applied) to young beneficiaries. It is wise to keep the balance of these loans to a minimum by paying private expenses such as school fees from the trust. It is possible for a young adult to call up their loan account. Exercise caution in applying this as TA 2022/1 now calls this into question.

Parents benefitting from the trust entitlements

We cover TA 2022/1 in detail because this situation applies to so many family (discretionary) trusts.

The ATO is currently reviewing trust arrangements where parents enjoy the economic benefit of trust income appointed to their children who are over 18 years of age (Children). The common feature of the arrangements is that trust income is appointed between members of the family group but in substance it is the parents who exercise control over and enjoy the economic benefit of the income.

In some arrangements, there is an understanding that trust income appointed to the Children will be paid to their parents or otherwise dealt with at their parents' discretion. In others, the trust income appointed to the Children is recorded as applied (with or without their knowledge) to repay amounts owed by them to their parents, being amounts owed in respect of expenses that benefit the children but are properly understood as parental expenses. Examples of these expenses are the costs of their upbringing as a minor or for the kinds of ongoing financial support parents would ordinarily provide their children.

The arrangements the ATO is concerned about are those which are more properly explained by the tax outcomes obtained, including the accessing of tax-free thresholds

and lower marginal tax rates of family members, rather than ordinary familial considerations. These arrangements, if effective, may have unintended tax consequences or may attract the application of specific or general anti-avoidance provisions.

Description

The arrangements may display all or most of the following features

- The trustees of a discretionary trust (Trust), or the directors of a corporate trustee, are either one or two individuals who are the parents in a particular family (Parents).
- Income derived by the Trust is used during the year of derivation to meet the expenses of the Parents. These may be recorded as beneficiary loans made from the trustee to the Parents throughout the year.
- Resolutions of the trustee for the year show one or more of the Children presently entitled to a share of the income of the Trust.
- The entitlements are for substantial amounts but do not generally result in the Children's taxable income exceeding the threshold for the top marginal tax rate (\$180,000).
- Amounts are not paid to the Children. Rather, at the actual or purported direction of the Children, the entitlements are satisfied by the amounts being either paid to their Parents, or applied against any beneficiary loans owed by the Parents.
- The parties contend that the entitlements are paid or applied in this manner because
 - the Children are required to repay their Parents for expenses incurred in relation to their upbringing or while they were minors (for example, school fees, school uniform costs or their share of the family holidays).
 - the Children are required to pay or repay their Parents amounts to meet their share of family costs for the current year in excess of amounts it would reasonably be expected an adult child would meet for their personal living expenses while they remain living at home or otherwise supported to some extent by their Parents (those amounts being, for example, a reasonable rate for their board, lodgings or rent if living away from home, or car expenses), or
 - there is an agreement that the Parents will manage the pooled family members' entitlements from the Trust for the benefit of the family members.

- There is no expectation or understanding that the Children's income they derive from sources other than the Trust distributions will be used to either repay their Parents for expenses incurred when they were a minor or pay more than their reasonable share of the household expenditures, or be placed in a pool to be managed by the Parents for the benefit of the family members.

For some of the expense repayment arrangements, there will be no contemporaneous evidence of the claimed

obligation of the Children to repay their Parents. In cases involving the Parents' management of the entitlements from the Trust for the benefit of the family members, there may be no documentary evidence to demonstrate how that objective will be achieved.

The Children may or may not be aware of their purported entitlements, or obligations, or the application of their entitlements against relevant expenses incurred on their behalf by their Parents.

Example

The ABC Trust's beneficiaries include the members of the ABC Family. David is the sole trustee of the ABC Trust. David and his wife Rani have two children, Jenny (aged 22) and Paul (aged 19), who live with them in the family home. David and Rani have an existing mortgage on the home. Jenny and Paul are both full-time students and during the 2020-21 income year, they each earned approximately \$12,000 from casual employment.

During the 2020-21 income year, the ABC Trust derives income of \$720,000 (the trust's net income is also \$720,000).

A resolution of the trustee of the ABC Trust dated 30 June 2021 shows both Jenny and Paul are each presently entitled to \$160,000 of the income of the ABC Trust, with David and Rani each presently entitled to \$200,000.

Jenny and Paul are not paid any amounts. Instead, David transfers an amount equal to their entitlements to the mortgage offset account that he and Rani maintain. Jenny and Paul's entitlements are recorded as having been fully paid in the accounts of the ABC Trust. David pays Jenny and Paul's tax liabilities in relation to their entitlements from his personal funds.

David has taken these actions as Jenny and Paul have agreed that their entitlements from the ABC Trust will be managed by David for the benefit of all family members. David has determined that those entitlements should be applied to reduce the debt on the family home.

This arrangement raises the concerns mentioned in this Alert. By entering into this arrangement, the purported \$160,000 entitlements of both Jenny and Paul are not subject to the top marginal tax rate. David has not managed the entitlements for the benefit of all members of the family. The arrangement has the result that the post-tax amounts of Jenny and Paul's entitlements have been diverted to meet their parent's individual liabilities in circumstances where their parents would have been able to meet them. David and Rani receive the same economic benefit from that income as if it had been appointed to them directly, but without the amounts being included in their assessable income and subject to tax at a higher marginal tax rate. The arrangement involving the making of the trust distributions and use of those amounts appears to be motivated by the tax outcome achieved rather than ordinary familial objectives.

The Takeout

The offsets against the loan accounts of children for child rearing expenses should not continue. For ongoing income, it is very important to show the adult child has a present entitlement to the income and that this is reflected in their loan account. Only amounts physically paid to the adult child can be offset against this amount owing to the adult child.

ATO DETERMINATION AND COMPLIANCE GUIDELINES

Exclusion for Debts Forgiven

Does the exclusion for debts forgiven for reasons of natural love and affection require that the creditor be a natural person?

The answer yes - the exclusion for debts forgiven for reasons of natural love and affection requires that the creditor is a natural person.

Paragraph 245-40(e) of the Income Tax Assessment Act 1997 excludes a debt forgiven for reasons of natural love and affection from the application of the commercial debt forgiveness provisions.

The context of paragraph 245-40(e) requires a direct causal nexus between the forgiveness and the natural love and affection, and the natural love and affection must arise in consequence of ordinary human interaction. For this to occur, the creditor must be a natural person and the object of their love and affection must be one or more other natural persons. Where the conditions for the exclusion are otherwise satisfied, there is no requirement that the debtor must be a natural person.

Subject to paragraph 5 of this Determination, this Determination applies to years of income commencing both before and after its date of issue. However, this Determination will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 Public Rulings).

It is recognised that this Determination takes a different view to ATO Interpretative Decision ATO ID 2003/589 *Commercial debt forgiveness - can a company forgive a debt for reasons of natural love and affection?* (withdrawn on 6 February 2019). The Commissioner will not devote compliance resources to apply the views expressed in this Determination in relation to debts forgiven prior to 6 February 2019 that would have been covered by ATO ID 2003/589. However, if the Commissioner is asked or required to state a view (for example, in a private ruling or in submissions in a litigation matter), the Commissioner will do so consistently with the views set out in this Determination.

Paragraph 245-40(e) provides that the commercial debt forgiveness provisions do not apply to a debt forgiven for reasons of natural love and affection.

Whether a debt has been forgiven for reasons of natural love and affection necessitates a careful examination of the

reasons for forgiving the debt. This is a question of fact and includes taking into account the surrounding circumstances of the debt and the nature of the relationship said to be the subject of the natural love and affection.

The text in paragraph 245-40(e) comprises three elements, whose interaction is important:

- The first element requires that there must be 'forgiveness of a debt'.
- The second element, 'for reasons of', requires a causal nexus between the first and third element.
- The third element, 'natural love and affection', can be characterised as a limitation on the first element.

Element 1 - 'forgiveness of a debt' - the creditor

The use of the phrase 'forgiveness of a debt' in section 245-40 denotes creditors generally and, read in context, paragraph 245-40(e) indicates that the reasons of natural love and affection must be those of the creditor.

Element 2 - 'for reasons of'

The second element is comprised in the phrase 'for reasons of', which requires a causal nexus between the forgiveness and the natural love and affection. It is not sufficient that there is forgiveness of the debt and there is natural love and affection. The forgiveness must be because of the natural love and affection. The Commissioner takes the view that the causal nexus requires that the forgiveness be for the reason of the natural love and affection felt by the creditor for another natural person.

Element 3 - 'natural love and affection'

The third element in paragraph 245-40(e) is the phrase 'natural love and affection', which has both a legal meaning and an ordinary meaning. No contrary intention appears from the text or context of paragraph 245-40(e) to displace the presumption that the Commonwealth Parliament intended the term to have these ordinary and legal meanings.

The ordinary meaning of this phrase imports strong emotions of caring, fondness and attachment that arise in consequence of ordinary human interaction. The term's legal meaning refers to goodwill towards, or emotional attachment to, another person, particularly that of a parent to their children.

In testing the state of mind of a creditor to establish the presence of natural love and affection, a number of factors may be relevant including past dealings, existing relationships and future intentions. Whether natural love and affection is present in a relationship can only be determined on a case-by-case basis.

In the context of a conveyance, the phrase ‘natural love and affection’ ordinarily arises between family members where the making of a gift could constitute good consideration, although not valuable consideration. Ordinarily, it is considerations of moral obligation or emotional willingness, irrespective of self-interest, which are the catalyst for the relevant action, rather than a promise of something in return.

This interpretation is further supported by considering the elements of paragraph 245-40(e) as a whole. The notion of forgiveness is confined by the use of ‘natural love and affection’. That term serves to identify the motivation for the forgiveness. The requisite connection between that motivation and the forgiveness can only be satisfied when the creditor feels the natural love and affection for some other natural person. That is, an entity that is not a natural person cannot feel natural love and affection.

The debtor

As the natural love and affection required for paragraph 245-40(e) to operate must arise in consequence of ordinary human interaction, the object of the creditor’s natural love and affection that is the reason for the debt forgiveness must be another natural person.

However, paragraph 245-40(e) does not further require that the object of the creditor’s natural love and affection is also the debtor.

Accordingly, paragraph 245-40(e) is capable of applying in circumstances where the debtor is not a natural person (for example, a company). It still remains necessary to establish that the creditor forgave the debt for reasons of natural love and affection, notwithstanding the debtor was not the object of that sentiment (for example, where a parent forgives a debt owed by a company that is 100% owned by their child).

The reasons for a creditor’s decision to forgive a debt (the second element in paragraph 245-40(e)) need to be determined on a case-by-case basis. That is, taking into account the surrounding circumstances, it is necessary to identify that the creditor’s natural love and affection for a person (who may not be the debtor) motivated the creditor’s decision to forgive the debt.

Creditor is a natural person acting in a trustee or partnership capacity

A natural person may forgive a debt in their capacity as a trustee of a trust, or as a partner in a partnership. It is possible that the conditions in paragraph 245-40(e) would be satisfied where the natural love and affection of that person motivates the forgiveness of a debt owed to the trust or partnership respectively.

However, the cases where this could happen would be limited. The acts that an individual may take in their capacity as a trustee or as a partner are subject to limitations that arise under trust and partnership law principles, statute and the terms of any trust deed or partnership agreement. Accordingly, within the scope of a particular trust or partnership relationship, a trustee or partner may not be permitted to forgive a debt owed to the respective trust or partnership for reasons of natural love and affection.

PRACTICAL COMPLIANCE GUIDELINE (PCG) 2021/4

In December the ATO released Practical Compliance Guideline (PCG) 2021/4 which finalises its compliance approach towards the allocation of profits from professional firms to an individual professional practitioner (IPP). The ATO has concerns with arrangements involving the provision of services where the IPP redirects income to an associated entity, with a resulting overall tax liability.

The final guideline does not materially differ to the draft guidelines. It does include some further examples along with, changes to the risk assessment factor scoring. There are also some other minor changes to clarify certain matters.

The guidelines apply to professionals whose income is not covered by the personal services income (PSI) regime and will apply to (but will not be limited to) professionals within the following industries:

- Accounting
- Architecture
- Engineering
- Financial services
- Law
- Management consulting
- Medicine

To apply the risk assessment framework in PCG 2021/4, the arrangement must satisfy the following two ‘gateways’:

- Gateway 1 - there must be a genuine commercial basis for the arrangements in place.
- Gateway 2 - the arrangements must not contain any high-risk features listed in PCG 2021/4.

If the arrangement falls into the:

Green zone - the ATO will not apply compliance resources unless there are exceptional circumstances.

Amber zone - the ATO may contact the taxpayer to conduct further analysis in order to understand the arrangement and resolve any areas of difference.

Red zone - the ATO may contact the taxpayer to conduct further analysis and if the arrangement remains high risk, it may proceed to audit.

All professional practises need to refer to the risk assessment factors in PCG 2012/4. If they are not comfortable in doing so, they should seek specialist advice.

Pre-existing arrangements in accordance with the suspended 2015 guidelines are acceptable for the years 30.6.2018 – 30.6.2022 (inclusive) as long as they

- Comply with those suspended guidelines
- Are commercially driven, and
- Do not exhibit any of the high-risk features outlined in PCG 2021/4.

The ATO are also allowing a transitional period for those individual professional practitioners to continue to apply the suspended guidelines to their arrangements until 30.6.2024.

Deferral of summaries for ETPs and departing super payments

On 21.2.2022, the ATO released Draft Legislative Instrument LI 2022/D6. This will vary due date for providing the Commissioner with copies of payment summaries in respect of employment termination (ETPs) and departing superannuation payments (DASP) to 14 August following the end of the financial year in which these payments are made. It is proposed this change will apply 1.4.2022.

Insolvency advice and illegal phoenix activity

In late February, the ATO updated this warning to taxpayers. Many in business are still struggling from the effects of the COVID-19 pandemic. If your business is insolvent or struggling to pay its debts, it's important to seek specialist advice from a qualified and registered insolvency practitioner as soon as you can. Be wary of inappropriate insolvency advice that could lead to illegal phoenix activity.

Insolvency advice to watch out for

Registered liquidators and trustees will provide you with sound insolvency advice that you can rely on. But some insolvency advisers suggest actions designed to help directors avoid paying their creditors and create new companies to continue on without debts. This is illegal phoenix activity and can result in serious penalties. Following this advice could put you at risk of a fine, criminal conviction or even a jail term.

Be wary if an adviser:

- contacts you with advice, especially after your creditor has taken court action
- suggests you transfer your assets to a third party without payment
- offers advice on restructuring your business to avoid paying debts or other obligations
- offers you a fee based on a percentage of your debt or obligations
- tells you they know a liquidator who will protect your personal interests or assets
- tells you about a valuer who can under-value any assets
- asks you to provide incorrect information to authorities
- suggest you can withhold or destroy relevant records to prevent access by the liquidator or bankruptcy trustee
- suggests they deal with the liquidator or trustee on your behalf.
- encourages you to engage in any kind of illegal activity.

What to do

If your business is experiencing difficulties, it's important to take action and get advice straight away. ASIC has advice for directors whose companies are in financial difficulty or insolvent.

If you need to wind up your company or re-structure your business, a registered liquidator or registered trustee will be able to help you.

Penalties re electronic sales suppression tools

On 24.2.2022, the ATO released PS LA 2022/1 Administrative penalties for electronic sales suppression tools. This provides guidance to ATO staff on the application and remission of the administrative penalties for producing, supplying, possessing and incorrectly keeping records using an electronic sales suppression tool (ESST). ESSTs are hardware or software tools designed and used to manipulate sales records, understate income and assist in avoiding tax obligations.

As we are dealing with the black economy here, this is clearly a path you should not be going down. Really the only time a full remission of penalties may be possible is if you unknowingly possess the software. For instance, you may have purchased a business without knowing the POS software contained an EEST which was not used. As well as severe penalties there is the strong possibility of legal action.

PS LA 2022/1 contains six worked examples to provide guidance to ATO staff. Once again do not go down this path.

Managing Human Resources

WHAT IS A KEY PERFORMANCE INDICATOR (KPI) AND HOW DO THEY ASSIST YOUR BUSINESS?

Key Performance Indicators (KPIs)

Key Performance Indicators (KPIs) are the critical (key) indicators of progress toward an intended result. KPIs provide a focus for strategic and operational improvement, create an analytical basis for decision making and help focus attention on what matters most.

Managing KPIs includes setting targets (the desired level of performance) and tracking progress against that target. Managing with KPIs often means working to improve leading indicators that will later drive lagging benefits. Leading indicators are precursors of future success; lagging indicators show how successful the organisation was at achieving results in the past.

Attributes of good KPIs:

- Good KPIs provide objective evidence of progress towards achieving the desired result
- Measure what is intended to be measured to help inform better decision making
- Offer a comparison that gauges the degree of performance change over time
- Can track efficiency, effectiveness, quality, timeliness, governance, compliance, behaviours, economics, project performance, personnel performance or resource utilisation
- Balanced between leading and lagging indicators

Categories of KPIs:

KPIs can be categorised into four different types:

- 1. Compensation**
- 2. Culture**
- 3. Employment**
- 4. Performance**

The below section gives practical examples and application of each of the KPI categories that can be implemented in your business.

1) Compensation KPIs	Description
Percentage of Cost of Workforce	Compared to all costs, the cost of the workforce can be measured by summing all salaries and dividing by the total company costs within a given period.
Salary/ Wage Competitiveness Ratio	It is used to evaluate the competitiveness of compensation options. It can be determined by dividing the average company salary by the average salary offered by competitors or by the rest of your industry.
Benefits Satisfaction	This allows a company to see how satisfied an employee is with the specific benefits they are offered. It can be determined through surveys and can be used to break down each benefit individually.
Employee Productivity Rate	Helps to measure workforce efficiency over time. It can be determined by taking the total company revenue and dividing it by the total number of employees.
Return On Investment	As an organisation, you want to ensure that the dollars you are putting into training your employees is paying off. Can be defined as the profit per dollar invested in social compensations/wages.

2) Culture KPIs	Description
Employee Satisfaction Index	This is a key metric underlying talent retention. Using a company-wide survey can be helpful in gauging employee happiness.
Number of Employee Satisfaction Surveys	Helps understand how much effort is being put into maintaining and improving employee happiness.
Percent of Employees Trained in Company Culture	Evaluates the importance and understanding of company-wide organisational culture.
Percent of annual leave days Used	Helps show the company attitude toward a healthy work-life balance. Determined by observing the number of vacation days used as compared to those unused.
Net Promoter Score	Measures how likely an employee is to recommend their organisation as a place to work. This is determined by the difference in the percentage of promoters and detractors.

3) Employment KPIs	Description
Absenteeism Rate	Gives perspective on the amount of labour and productivity lost due to sickness and otherwise unpredicted leave. Formula: $(\text{Total number of lost workdays due to absence}) / (\text{Number of available workdays in an organisation}) = (\text{Absenteeism rate})$
Number of Full-Time Employees	Keeps tabs on the growth of the company workforce over time.
Number of Contractors	Examines the growth in associated workers over time. It can be compared to the number of full-time workers to understand workforce trends better.
Average Tenure	The average length of time an employee spends with the company helps determine employee satisfaction and talent retention.
Resignation Rate	It is determined by taking the number of employee-led resignations from the company over the total number of terminations in a given time period.
Termination Rate	It is determined by taking the number of terminations from the company over the total number of resignations and terminations in a given time period.
Retirement Rate	This metric is particularly important for any organisation developing a strategic workforce plan. It can be calculated by looking at the number of employees who retired as a percentage of the headcount.
Average Age of Retirement	The summed age of all retiring employees is divided by the number of retiring employees. Being aware of these trends aid in forecasting retirement and planning for workforce replacement.
New Hire Probation Failure Rate	Helps determine how successful the talent acquisition process is at finding the right fit for jobs.
Average Time to Fill a Job Vacancy	Tracks how efficient the hiring process is regarding time resources used to fill a vacant spot.
Recruitment Process Satisfaction Rate	Provides a perspective on how well the process works from the 'employee's perspective.
Cost Per Hire	Acknowledges the amount of resources invested into acquiring the best talent. It can be determined by averaging the total marketing, hiring process, and referral (if necessary) costs per hire.
Effectiveness of Training	Helps the company understand how comfortable new hires feel after their training vs. before. They are typically determined through a post-training survey.
Training Cost per Employee	Helps to measure the amount invested in onboarding new hires.
Percent of Employees Trained	Helps a company see how quickly new hires are being onboarded.

Diversity Rate	Workplace diversity helps to cultivate innovation and competitive advantage. Diversity of nationalities and ethnicities can be calculated by noting the differences among employee demographic segments.
Attrition Rate	Helps a company figure out how successful they are at retaining talent. Determined by dividing the number of employees who left the company in a given period by the average number of employees in that time period.
Turnover Rate for Highest Performers	Turnover of top performers, in particular, is negative and comes at a higher cost. This metric helps indicates the success of retention efforts and aids in planning for talent replacement. It can be determined by dividing the number of high performers to leave in the past year by the total high performers identified.
Average Time to Find a Hire	Helps track the efficiency of the hiring process.
Candidates Interviewed per Recruitment request	Determined by calculating the total number of candidates interviewed by the total number of hires in a particular hiring period.
Yield Percentage	This is the percentage of candidates remaining after each elimination round in the hiring process. A low percentage might indicate the need to update an unclear or unattractive job posting, and a high percentage indicates a larger number of qualified candidates to continue the hiring process.
Knowledge Achieved with Training	Helps the company see not specifically the price of the training but whether it was effective. Seeing if the individuals retained knowledge well enough to apply it is critical. It can be determined by creating an exam, and monitoring exam pass rate %, average score %, and pre/post-training %.
Diversity Numbers/ Nationalities in The Work force	Workplace diversity helps to cultivate innovation and competitive advantage. Diversity of nationalities and ethnicities can be calculated by noting the differences among employee demographic segments.
Acceptance Rate	Dividing the number of acceptances by the number of offers allows organisations to understand how successful their recruitment strategies are. Industry benchmarks can then be a helpful comparison.

4) Performance KPIs	Description
Percent of Job Candidates who Meet Job Criteria	Helps in evaluating the effectiveness of job postings in reaching top candidates.
Rate of Internal Job Hires	Shows the effectiveness of organisational talent development.
Rate of Internal Referral Hires	Allows managers to see the value-added when current employees help to identify and acquire talent.
Performance of New Hires	The performance of new hires can be compared to that of other employees, and typically done by evaluating performance reports.
Internal Promotions Vs. External recruitment	This ratio measures how many people are already working at a company are considered for internal promotion versus the number of externally attracted people. It can be particularly effective when looking at organisational succession planning.
Internal Promotion Rate	Internal promotions indicate successful retention and growth of top performers. It can be determined by dividing the number of promoted individuals by the total number of employees.
Suggestions per Employee	Evaluates employee engagement in improving business processes and reflect on the openness of a company to employee input.
HR-To-FTE Ratio	The number of HR full-time equivalents is divided by the total number of full-time equivalents. It helps determine HR's ability to provide services. Larger organisations typically have a smaller ratio but more HR staff overall than small businesses.
Percentage of Workforce below Performance Standards	This measure keeps a tab on the amount of low-performing employees in an organisation.





TSA Unit Trust
t/as bO2 Corporate Essentials Pty Ltd

ABN 70 377 440 020
ACN 119 058 310

PO Box 5179
Bundall QLD 4217

T 1300 55 55 33 | P (07) 5574 0555
F (07) 5574 2881 | E info@bo2.com.au

www.bo2.com.au

DISCLAIMER

The information expressed in this publication are only intended as a guide. Therefore, the information presented neither consider any personal circumstances nor replace personal advice. bO2 Corporate Essentials Pty Ltd does not accept any liability which may arise because of a loss for acting on information contained in this publication.

Copyright © 2022

This publication has been prepared by TSA Unit Trust T/as bO2 Corporate Essentials Pty Ltd. No part of this document can be reproduced without permission.