Client Information Bulletin

BLAZE ACUMEN
CHARTERED ACCOUNTANTS

April 2023

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

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

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

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

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

Tip! If you are having problems in lodging a return or an activity statement or paying a tax bill, contact your Blaze Acumen tax adviser.

2. Tax concessions for small business entities

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

Income tax concessions

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

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

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

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

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

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

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

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

Medium sized businesses *canno*t access this concession.

CGT concessions

There are four CGT concessions available to eligible small businesses:

- the small business 15-year exemption;
- the small business 50% reduction;
- the small business retirement exemption; and
- the small business roll-over.

The small business CGT concessions are available where one of the following conditions is satisfied:

- the business' aggregated turnover is less than $2 million (*not* $10 million);

- the sum of the net value of the business' CGT assets and those of the business' affiliates and any entities connected with the business does not exceed $6 million;
- you are a partner in a partnership that is a small business entity (i.e. aggregated turnover is less than $2 million), and the asset is an interest in an asset of the partnership; or
- the conditions for certain passively held assets are satisfied.

Importantly, the asset in question (i.e. the capital gain from the CGT event that happened to the asset that will benefit from the CGT concessions) must be an *active asset*. This means that the asset must be used in the course of carrying on a business (whether alone or in partnership) or must be an intangible asset (for example, goodwill) inherently connected with a business.

There are certain exceptions. For example, an asset that is used mainly to derive rent, interest or royalties is generally not an active asset.

The active asset test is satisfied if the asset was an active asset:

- for a total of at least 7½ years during the test period, if owned for more than 15 years; or
- for at least half of the test period, if owned for up to 15 years.

If the asset is a share in a company or an interest in a trust, it must meet additional conditions.

Other concessions

These include:

- *GST concessions* for small businesses – e.g. accounting for GST on a cash basis, and paying GST by instalments and reporting GST annually;
- *FBT concessions* for small and medium sized businesses – e.g. FBT exemptions for car parking benefits and the provision of work-related portable electronic devices; and
- *PAYG instalment concession* for small and medium businesses – a business can pay PAYG instalments using a GDP-adjusted notional amount calculated by the ATO.

Tip! Talk to your Blaze Acumen tax adviser to make sure your business is utilising any available concessions.

Tax losses

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

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

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

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

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

Tip! Talk to your Blaze Acumen tax adviser about how to best utilise a tax loss.

Changing loss carry back choice

If your company has chosen to carry back a loss from one income year to an earlier income year (but not before 2018–19), it may want to change how much of the tax loss it carries back. This needs to be done on the approved ATO form and within the time limit for amending the relevant tax assessment.

The change will take effect from the day your company made the original loss carry back choice.

The ATO provides this example.

XYZ Co made a loss carry back choice in its Company tax return 2021 to carry back $5,000 of the $10,000 tax loss it made in that income year to the 2019–20 income year. Later it decides that it wants to carry back all the $10,000 tax loss to the 2019–20 income year.

XYZ Co notifies the ATO of its change in loss carry back choice using the approved form within the time limit for amending its tax assessment for the 2020–21 income year.

The period for amending an assessment is generally 2 years if your company is a small business entity (aggregated turnover of less than $10 million) or, if the income year starts on or after 1 July 2021, a medium sized business (aggregated turnover of less than $50 million). Otherwise, the amendment period is generally 4 years.

For a company balancing on 30 June, the first income year starting on 1 July 2021 is the 2021–22 income year.

3. Using business money from your private company for personal purposes

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

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

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

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

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

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

- be made under a written agreement and signed and dated by the lender;
- have an interest rate for each year of the loan that at least equals the benchmark interest rate (4.77% for 2022–23);
- not exceed the maximum term of 7 years, or 25 years in certain circumstances when the loan is secured by a registered mortgage over real property.

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

You (the shareholder):

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

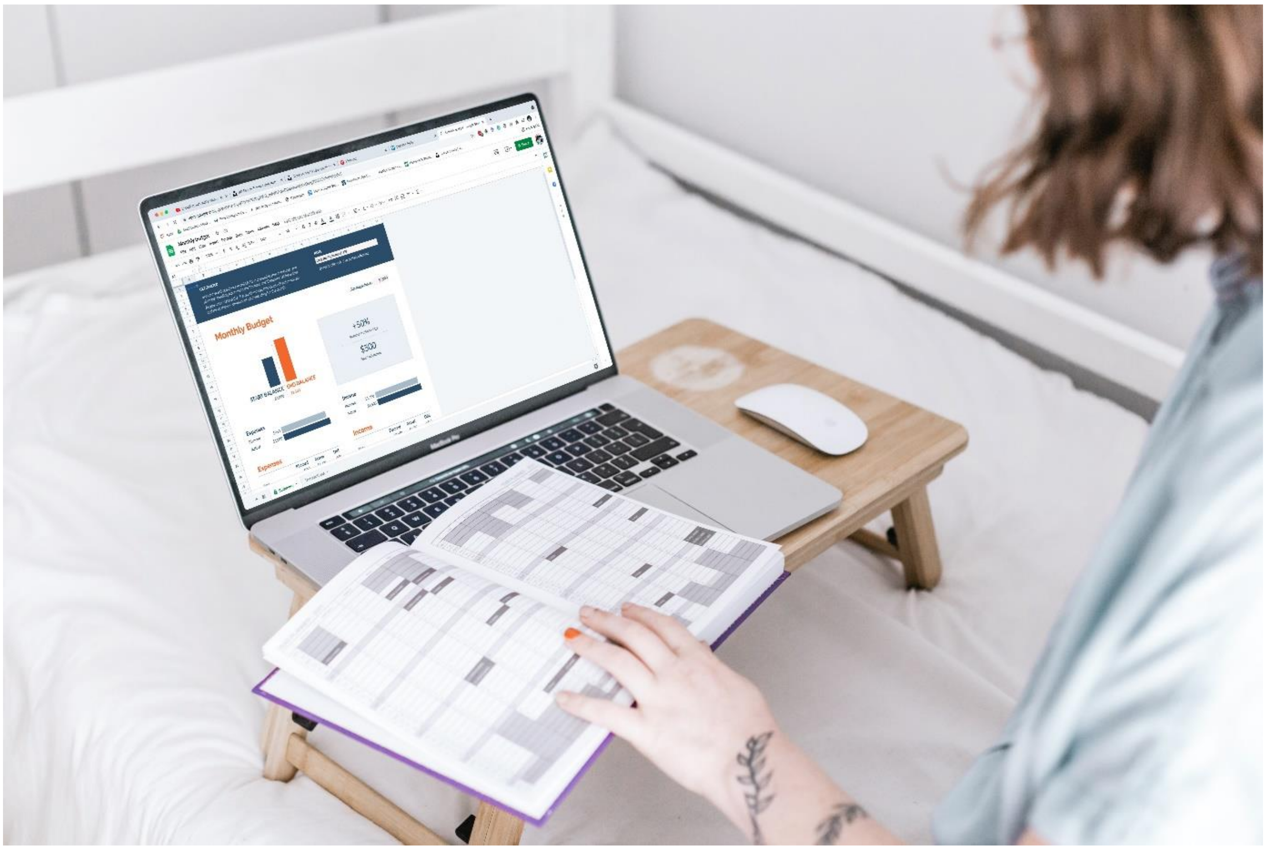
It is important to keep accurate records of any such transactions and ensure they are reported correctly for tax purposes.

Unpaid present entitlement

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

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

Tip! Division 7A is very complex – particularly the UPE rules – so talk to your Blaze Acumen tax adviser to make sure you don’t take steps that result in a Division 7A unfranked dividend.



4. Check your business' PAYG instalments

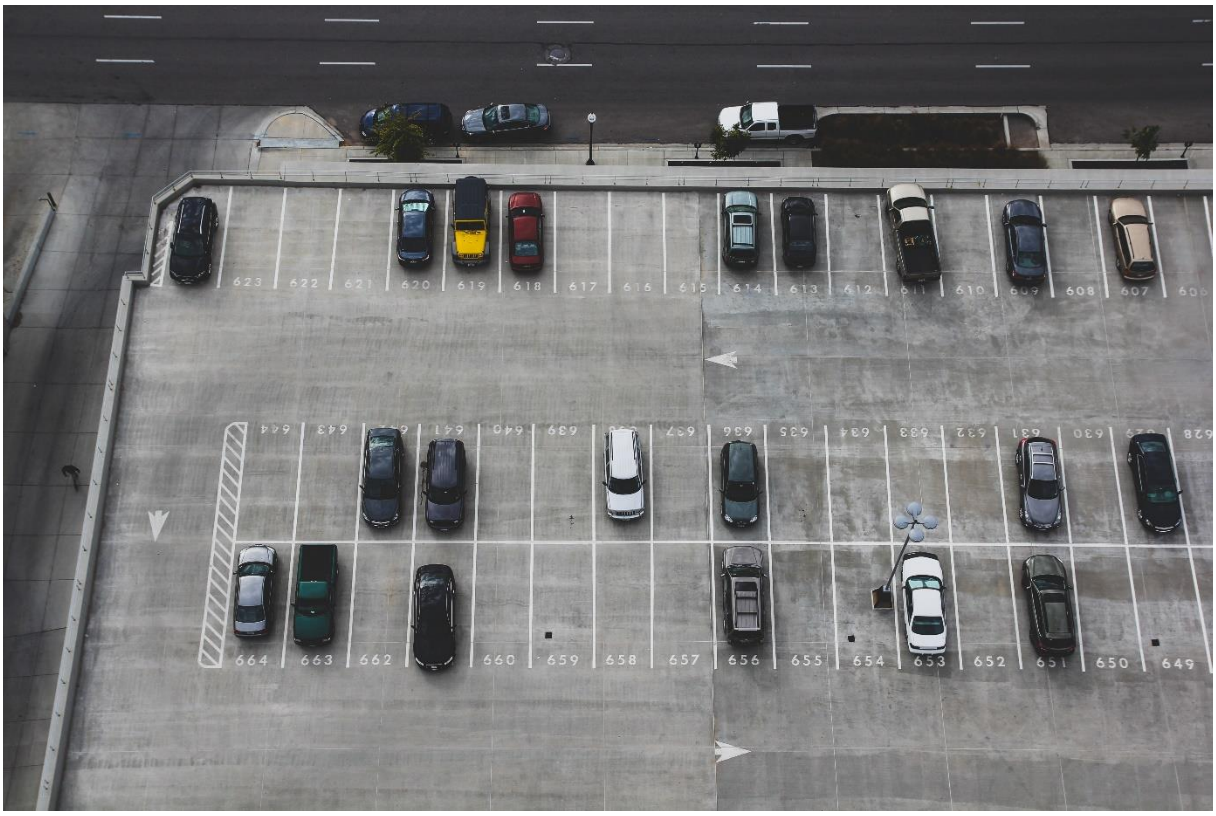
Now is a good time to check that your business' PAYG instalments still reflect its expected end of year tax liability.

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

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

If an amount or rate is varied online, paper activity statements and instalment notices will no longer be issued. These will be issued electronically. Your business will need to consider this when deciding how to lodge, revise and vary future activity statements and instalment amounts.

Tip! Your Blaze Acumen tax adviser can help you with your business' activity statements and tax returns.



5. Four tips to help nail your record keeping

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

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

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

Digital record-keeping

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

- keep track of business income, expenses and assets as well as calculate depreciation;
- streamline its accounting practices and save time so you can focus on the business;

- automatically calculate salaries and wages, PAYG withholding, employee superannuation and other amounts for activity statement and other purposes;
- meet Single Touch Payroll (**STP**) reporting obligations;
- back up records using cloud storage to keep records safe from flood, fire or theft.

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

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

eInvoicing storage

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

- ensure that the process meets the record-keeping requirements;
- discuss the options with the software provider;
- talk to your business adviser, if necessary.

Valuing assets

It is important to value assets (or liabilities) correctly for tax purposes. Valuations may be required for a variety of purposes, such as:

- market value substitution rules used for domestic CGT and income tax purposes;
- asset threshold tests such as those in relation to the small business CGT concessions;
- indirect tax rules such as the GST margin scheme rules; and
- transfer pricing rules affecting non-arm's length international dealings.

But valuing an asset isn't always easy. To help taxpayers, the ATO has updated its guidance on market valuation for tax purposes. The updated guidance sets out the ATO's views on a range of matters, including:

- the definition of market value for tax purposes;
- who can determine market value for tax purposes;
- valuation fundamentals for tax purposes, including: (i) eight guiding principles; (ii) valuation approaches and methods; (iii) expectations in relation to valuation reports, including common issues; and
- the ATO's approach to reviewing valuations.

Tip! Valuing an asset (or a liability) for tax purposes is complex. Talk to your Blaze Acumen tax adviser if your business needs to obtain a valuation for tax purposes.

6. New changes to home-based expenses

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

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

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

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

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

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

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

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

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

Tip! Talk to your Blaze Acumen tax adviser if you wholly or partly operate your business from home.

7. FBT issues

FBT return time

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

You should note the following dates:

- The 2022–23 FBT year ended on 31 March 2023.
- You'll need to lodge the FBT return and pay any outstanding liability by 22 May to avoid interest and penalties (the statutory due date of 21 May falls on a Sunday this year).
- If you're lodging electronically via a tax agent, the due date to lodge and pay is 26 June (the concessionary due date of 25 June falls on a Sunday this year).
- If it is the first time your business will use a tax agent to lodge an FBT return, you'll need to contact them before 21 May. The agent needs to add your business to their FBT client list by this date to be eligible for the June lodgment and payment date.

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

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

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

Tip! Your Blaze Acumen tax adviser can help you prepare the FBT return and work out if your business has an FBT liability.

New FBT year resolutions

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

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

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

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

You should also know that:

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

Tip! Speak to your Blaze Acumen tax adviser if you require assistance with FBT.

8. Party-planning for employees

Is your business planning a party for its employees, or thinking in advance about an end-of-financial-year celebration? If so, make sure you consider the FBT implications as the party or celebrations may constitute entertainment-related fringe benefits.

This will depend on:

- the amount spent on each employee;
- when and where the party is held;
- who attends – just employees, or are partners, clients or suppliers also invited?; and
- the value and type of gifts provided.

Remember to keep all records relating to any fringe benefits provided during the FBT year, including how the taxable value of benefits is calculated.

Tip! Talk to your Blaze Acumen tax adviser before holding a party for employees.

FBT thresholds and rates for 2023–24

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

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

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

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

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

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

9. Tax Tips

Temporary full expensing

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

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

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

Planning for the end of the tax year

Defer assessable income

To reduce the tax you will pay for the 2022–23 income year, you might want to consider deferring assessable income to the next income year.

For example, you could delay issuing an invoice so you won’t be paid until after 30 June – that way, the income will be taxed next year. It is trickier if you account for income on an accruals basis – you might have to delay issuing the invoice until after 30 June.

If you are in the process of selling property and the profit will be taxable as a capital gain, you could defer the sale until the next income year – but remember that the taxing point of a capital gain arises on the date that you exchange contracts and not on settlement.

Of course, these tips are always subject to cash flow requirements.

Increase deductions

Another way to reduce your tax bill for the 2022–23 income year is to increase your deductions. For example, you could bring forward the purchase of one or more depreciating assets (new assets are currently immediately deductible under the temporary full expensing regime). An immediate deduction is also available for start-up costs and certain prepaid expenses.

Don't forget that temporary full expensing – which allows an immediate deduction for the full cost of depreciating assets – ends on 30 June this year. To take advantage of temporary full expensing, you must acquire and start to use an asset (or have it installed ready for use) by 30 June 2023.

Charitable donations are a good way to increase your deductions. If you are not sure whether a donation will be deductible, you can check the deductibility status of charities at https://www.abn.business.gov.au/Tools/DgrListing. Every now and again, new charities are added to the list, while others drop off (usually because the time limit for making a tax deductible donation has expired).

In certain circumstances, you can claim a deduction if you donate trading stock.

Don't forget to obtain and keep receipts.

Tip! As the end of the 2022–23 income year approaches, talk to your Blaze Acumen tax adviser about ways to minimise your tax bill.

10. Do the personal services income rules apply to you?

If more than half the income you've received from a contract is a reward for your personal efforts or skills (rather than from the use of assets, the sale of goods, or from a business structure), then your income is classified as personal services income (**PSI**).

You can receive PSI in almost any industry, trade or profession. For example, as a financial professional, IT consultant, construction worker or medical practitioner.

The PSI rules are designed to prevent PSI from being diverted or split with other individuals or entities in an attempt to pay less tax.

If you earn PSI, it's important to check whether these rules apply to you. If you're conducting a personal services business (**PSB**) for a particular income year, then the PSI rules won't apply for that year, although you'll still need to report your PSI in your income tax return and keep certain records.

You can self-assess as a PSB if you either:

- meet the results test for at least 75% of your PSI; or
- meet one of the other PSB tests and less than 80% of your PSI is from the same entity and its associates.

The other PSB tests are the Unrelated clients test, the Employment test and the Business premises test. If you can't self-assess as a PSB, then the PSI rules will apply. The PSI rules can affect the deductions you claim and how you report your PSI in your tax return.

Tip! If you are uncertain how the PSI rules apply to you, talk to your Blaze Acumen tax adviser.

11. Do you have a holiday home?

You can claim deductions only to the extent your holiday home expenses are incurred for the purpose of producing rental income.

Many Australians own a holiday home, but there are a small number of holiday home owners who, on average claim deductions that are six times higher than income earned from their property.

Here are a few questions to consider to make sure your claim for rental deductions is valid:

- How many days was it rented out and was the rent in line with market values?
- Where do you advertise for rent and were any restrictions placed on tenants?
- Have you, your family or friends used the property?

12. Key tax dates

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

*You must lodge your FBT return and pay any FBT you owe by 22 May 2023 unless a tax agent lodges your return electronically – in this case the due date is 26 June 2023.

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