Practice Update

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MARCH 2023

Significant change to claiming working from home expenses

Before 1 July 2022, an individual taxpayer that incurred additional deductible expenses as a result of working from home, had a choice of three methods to claim these expenses.

These choices were:

- ❑ The shortcut method – which was available from 1 March 2020 to 30 June 2022;
- ❑ The fixed-rate method – which was available from 1 July 1998 to 30 June 2022; or
- ❑ Actual expenses, that is calculating the actual expenses incurred as a result of working from home *(Editor: This method can be burdensome to apply in practice)*

From 1 July 2022, as a result of the release of PCG 2023/1 by the ATO, the shortcut method and the fixed-rate method have been abolished.

A replacement method that can be used instead of the actual expenses method (which has not been abolished) is the revised fixed-rate method.

Under the revised fixed-rate method, a deduction can be claimed of 67 cents per hour for energy expenses (electricity and gas), internet expenses, mobile and home phone expenses, and stationery and computer consumables.

Other expenses associated with working from home, such as depreciation of home office furniture and a personally owned computer used at home for work purposes, will need to be calculated on an actual basis when using the revised fixed-rate method.

To claim a deduction under the new fixed-rate method, an individual needs to meet three criteria, which are:

- ❑ The individual is working from home while carrying out their employment duties or carrying on their business on or after 1 July 2022;
- ❑ They are incurring additional running expenses of the kind outlined in the above discussion as to what the 67 cents per hour amount reflects, as a result of working from home;
- ❑ They keep and retain relevant records in respect of the time they spend working from home and for the additional running expenses (covered by the rate per hour) they are incurring.

There are strict record keeping requirements associated with this new method.

For the year ending 30 June 2023, a taxpayer using this new method will need to keep a record which is representative of the total number of hours worked from home during the period from 1 July 2022 to 28 February 2023.

The taxpayer will also need to keep a record of the total number of actual hours they worked from home for the period 1 March 2023 to 30 June 2023.

The record of the actual hours worked from home could be maintained by timesheets, rosters, time-tracking apps, logs of time spent accessing employer systems or online business systems, or a diary kept contemporaneously.

For the year ending 30 June 2024 and later income years, a taxpayer using this method must also keep a record of actual hours worked from home for the entire year.

Under both the short-cut method and the previous fixed-rate method, there was no need for detailed record keeping of the actual hours worked from home. Estimates were acceptable. This is a significant change and increases the record keeping burden on taxpayers.

Another significant change, which results in an increase in record keeping obligations under the revised fixed-rate method, is that in relation to running costs such as energy costs, phone and internet costs, a taxpayer needs to maintain at least one monthly or quarterly bill.

This is because the ATO now requires proof that the individual has incurred the running costs represented by the 67 cents per hour deduction.

Transfer balance cap indexation

An individual's transfer balance cap ('TBC') determines the maximum amount they can commit to a retirement phase interest in their super fund, such as an account-based pension, without being subject to penal taxation.

When the TBC concept was introduced with effect from 1 July 2017, it was initially $1,600,000. It was increased by $100,000 as of 1 July 2021 to $1,700,000.

The TBC increases in $100,000 increments (or multiples of $100,000) in line with the Consumer Price Index ('CPI').

As a result of a substantial increase in the CPI, the TBC is due to increase on 1 July 2023 by $200,000.

Accordingly, an increase in the TBC is seen as a good thing, as it potentially means an individual can have more of their superannuation interest supporting a tax-free pension.

Individuals who start their first retirement phase income stream (otherwise known as a pension) on or after 1 July 2023 will have a TBC of $1.9 million.

From 1 July 2023 individuals will have a TBC between $1.6 million and $1.9 million.

An individual who already had a transfer balance account and at any time met or exceeded their personal TBC will not be entitled to indexation, and their personal TBC will remain the same.

For example, an individual who started their first retirement phase income stream, an account based pension, on 1 January 2022 with a value of $1,700,000 at the time of commencement, would have fully utilised their then TBC of $1,700,000.

Such an individual, having already fully utilised their TBC, will not gain any benefit from the increase in the TBC due to indexation.

Where an individual has partially utilised their TBC before 1 July 2023, instead of benefiting from the full $200,000 increase in the TBC, they will have access to a proportional indexation of their TBC based on the unused cap percentage of their transfer balance account.

Editor: To see if this change will impact on how much you can have counted towards a pension interest in your super fund, please contact our office

ATO and Australian Federal Police crackdown on GST-fraud promoters

A raft of enforcement activity has been undertaken across the country by the ATO-led Serious Financial Crime Taskforce, including the execution of search warrants and issuing of warning letters.

At 31 December 2022, the ATO took compliance action on more than 53,000 clients and stopped approximately $2.5 billion in fraudulent GST refunds from being paid to individuals seeking to defraud the system.

Two individuals have been sentenced to jail time for their crimes so far, following their arrest in 2022.

This follows 87 earlier arrests across the country, with many more to come. The ATO has commenced writing to more than 20,000 individuals involved in the fraud, warning them of the serious consequences coming their way unless they come forward and repay the money they have defrauded.

The fraud was first detected in early 2022 and involved offenders inventing fake businesses and Australian business number (ABN) applications, then submitting fictitious Business Activity Statements in an attempt to gain a false GST refund.

Promoters of the fraud use social media and other channels to recruit participants.

The ATO has been issuing warnings to the community to be on the lookout for fraud schemes that are being promoted through social media and other channels.

For those who may be tempted by the promise of big gains, the ATO has sophisticated risk models and works with banks, law enforcement agencies, and other organisations to share information and detect fraud. It also has access to intelligence through community tip offs, social media platforms, and other information sources.