



WHAT HAS THE GOVERNMENT BEEN UP TO?

Stage 3 Income tax cuts redesigned

It is only February, yet we have already seen a significant tax development that will affect the majority of Australians — the Government's decision to 'redesign' the Stage 3 income tax cuts.

The table below sets out the redesigned personal income tax rates and thresholds that are now proposed to apply from 1 July 2024.

Taxable income	Tax payable
\$0 – \$18,200	Nil
\$18,201 – \$45,000	Nil + 16% of excess over \$18,200
\$45,001 – \$135,000	\$4,288 + 30% of excess over \$45,000
\$135,001 – \$190,000	\$31,288 + 37% of excess over \$135,000
\$190,001+	\$51,638 + 45% of excess over \$190,000

The following table sets out the tax rates and thresholds that would have applied if the Stage 3 tax cuts had gone ahead as originally legislated.

Taxable income	Tax payable
\$0 – \$18,200	Nil
\$18,201 – \$45,000	Nil + 19% of excess over \$18,200
\$45,001 – \$200,000	\$5,092 + 30% of excess over \$45,000
\$200,001+	\$51,592 + 45% of excess over \$200,000

This means that:

- Taxpayers whose taxable income exceeds \$18,200 but does not exceed \$45,000 will now receive a tax cut – they would not have under the legislated Stage 3 tax cuts.
- Taxpayers whose taxable income exceeds \$45,000 but is less than \$146,486 will receive a larger tax cut than they would have received under the legislated Stage 3 cuts.
- Taxpayers whose taxable income is \$146,486 or higher will receive a smaller tax cut than they would have received under the legislated Stage 3 cuts.

The tax-free threshold (\$18,200) will remain unchanged so taxpayers whose taxable income does not exceed \$18,200 will not benefit from the redesigned Stage 3 tax



FROM THE ATO

Employee or independent contractor?

A ruling issued by the ATO in December last year explains when an individual is an 'employee' for PAYG withholding (**PAYGW**) purposes.

In 2022, the High Court handed down two important 'worker classification' decisions, i.e. about how to decide if an individual is an employee or an independent contractor. The ATO's ruling considers the cases and comes to various conclusions:

- for PAYGW purposes, the term 'employee' has its ordinary meaning;
- whether a worker is an 'employee' of an entity under the term's ordinary meaning is a question of fact to be determined by reference to the legal rights and obligations that constitute the relationship between the parties;
- if the parties have comprehensively committed the terms of their relationship to a written contract (and its validity is not challenged or its terms are not varied or waived), it is the legal rights and obligations in the contract alone that are relevant in determining if the worker is an employee or an independent contractor;
- the traditional factors that determine whether a worker is an employee or independent contractor (e.g. control, specified result, risk and delegation) are

still relevant, but only in respect of the legal rights and obligations between the parties;

- a 'useful approach' for establishing whether a worker is an employee is to consider whether the worker is working in the entity's business, based on the construction of the terms of the contract.

ATO's compliance approach

The ATO has also published its compliance approach for businesses that engage workers and classify them as either employees or independent contractors. Specifically, it includes a risk framework for 'worker classification' arrangements, based on the actions taken by the parties when entering into such arrangements. The risk framework comprises four risk zones, ranging from very low risk (white) to high risk (red).

Tip! Talk to your tax adviser if you are uncertain if an individual providing services to your business is an employee or an independent contractor. The tax and superannuation implications can be significant if you get it wrong.

Are your ABN details up to date?

When did you last check your Australian Business Number (**ABN**) details on the Australian Business Register (**ABR**)? If you're not sure, it's time to check your details are correct.

Emergency services and government agencies use ABN details to identify businesses in areas affected by emergencies. Checking that both your physical business address and postal address are listed and up to date is important.

Other ABN details include authorised contacts, contact details and business activities.

If your details are incorrect, you may miss out on important help, information or opportunities like financial grants.

The fastest way to update your ABN details is through ABR online services (using your myGovID).

If you're no longer using your ABN, you need to cancel it. The ATO actively reviews ABN entitlement and may cancel your ABN if there are no signs of business activity.

Tip! Although it's your responsibility to keep your ABN details up to date, your tax adviser can do it for you.

Depreciating assets – composite parts

Have you ever looked at a depreciating asset held by your business and wondered if it is a single asset or whether it comprises a number of separate assets? The ATO has issued a ruling on this topic.

The ATO defines a 'composite item' as an item made up of several components that are capable of separate existence. It is a question of fact and degree whether a particular composite item is itself a depreciating asset, or whether one or more of its components are separate assets.

The ATO provides a series of 'guiding principles' to assist in identifying the relevant depreciating asset. They also provide some useful examples covering assets such as industrial storage racking, a desktop computer package, a mainframe computer, a local area network and a car global positioning system.

EV home charging rates

The ATO allows a cents-per-kilometre methodology for calculating electricity costs where an electric vehicle (**EV**) is charged at an employee's or individual's (e.g. sole trader's) home.

The employer or individual can choose to use this methodology instead of determining the actual cost of the electricity. The choice is per vehicle and applies for the whole income or FBT year. However, it can be changed from year to year.

The methodology does not apply to plug-in hybrid vehicles, electric motorcycles or electric scooters.

Cents-per-kilometre

The 'EV home charging rate' is 4.2 cents per km. This rate is multiplied by the total number of relevant kilometres travelled by the electric vehicle in the year in question.

Where EV charging costs are also incurred at commercial charging stations and the home charging percentage can be accurately determined, the total number of relevant kilometres must be adjusted. If the home charging percentage cannot be accurately determined, you can choose to either use the EV home charging rate and disregard the commercial charging station cost, or use the commercial charging station cost and not apply the EV home charging methodology.



Record keeping and transitional approach for 2022–23 and 2023–24

If you are an employer and you choose to apply the EV home charging rate for FBT purposes, a valid logbook must be maintained if the operating cost method is used.

To satisfy the record-keeping requirements for income tax purposes, the individual needs to have:

- a valid logbook to use the logbook method of calculating work-related car expenses. For other vehicles, the ATO recommends a logbook to demonstrate work-related use of the vehicle; and
- one electricity bill for the residential premises in the income year (i.e. to show that electricity costs have been incurred).

However, if odometer records have not been maintained as at the start of the 2022–23 or 2023–24 FBT or income year, the ATO will allow a reasonable estimate to be used based on service records, logbooks or other available information.

Sharing economy reporting regime

Under the Sharing Economy Reporting Regime (**SERR**), Electronic Distribution Platform (**EDP**) operators must report certain transactions made through their platform.

The rules generally apply from 1 July 2024, but they have already commenced for transactions for the supply of:

- taxi travel and ride-sourcing; and
- short-term accommodation (the ATO considers this to be for a period of 90 consecutive days or less).

Transitional arrangements are in place to help eligible small EDP operators meet their SERR reporting obligations in the first two reporting periods (see below).

What is an EDP?

Under SERR, an EDP is a service that:

- allows sellers to make supplies available to buyers (for example, guests booking accommodation, renting an asset like a handbag or lawnmower, or passengers booking car rides); and
- is delivered via electronic communication.

A seller is an entity that makes supplies via an EDP. A buyer is the end user of the supplies. An EDP can be, but is not limited to a website, an internet portal, a gateway, an application, an online store or marketplace.

Platforms are not an EDP if they provide only:

- carriage services that transmit electronic communications;
- access to payment systems or payment processing services;
- advertising that makes buyers aware of products and links them to a seller's website.

Example: ride-sourcing provider

Saferider is a third-party ride sourcing platform that allows passengers to request rides from drivers.

Trisha wants to go to the CBD. She opens the Saferider app and types in her desired destination.

The app connects her with James, a Saferider driver in her area and provides her with the price for the service. Trisha accepts the ride with James through the app and the transaction and payment is processed through the platform.

Saferider is an EDP as the service allows sellers (the drivers) to supply ride-sourcing services to end-users (the passengers) via a smartphone application.

Example: service that does not allow entities to make supplies available to end-users

Michelle wants a plumber to fix her kitchen sink. She uses a website called Fix It where she can request quotes for plumbing services.

Jim, a plumber, contacts Michelle and quotes a price, which Michelle accepts.

Fix It is not operating an EDP as its website only allows individuals to find a service provider. Transactions are not accepted through the website between the buyer and seller and any supply is agreed to outside of the platform.

Transactions reportable under SERR

EDP operators must report to the ATO details about the provision of consideration for supplies made through their EDP that are connected with Australia.

This includes ride sourcing, short-term accommodation, hiring (not selling) of assets and services made available through the platform. Assets hired could include personal assets, storage or business space. Services could include food delivery, professional, performing tasks and activities.

EDP operators do not need to report details of all supplies made through their EDP. For example, the following supplies do not need to be reported:

- those not connected with Australia;
- where an amount of the payment for the supply must be withheld under the PAYG withholding rules, for example, salary and wages, payments to a service provider covered by a voluntary agreement to withhold and payments for supplies in enterprise-to-enterprise transactions where the supplier does not quote its ABN;
- only the title or ownership of goods or real property is exchanged; and
- certain financial supplies.

Where a supply is made through multiple EDPs, the operator of the first platform is not required to report details about the transaction in certain circumstances.

Example: connected with Australia

Short Stay Marketplace Co is an EDP through which entities can make supplies of short-term accommodation.

Using this platform, Ezra contracts with Nina to book a three-night stay at a property owned by Nina in Melbourne for \$450. Short Stay Marketplace Co must report this transaction. It involves a supply that is made through the platform that is both for payment and connected with Australia (because the property is located in Australia).

If Nina owned property in Italy and Ezra booked a stay there, Short Stay Marketplace Co would not need to report that transaction as the supply of the accommodation would not be connected to Australia.

If Nina was an overseas resident, the supply of accommodation would still be connected to Australia even if the payment to the supplier was made into a bank account in Italy.

Large commercial properties used to provide short-term accommodation

EDP operators do not need to report transactions involving the supply of short-term accommodation for a reporting period if the property is a 'substantial property' in relation to that reporting period.

A property is a substantial property if at least 2,000 transactions were made through their EDP for the property over the 12-month period ending on the last day of the reporting period.

If the property was listed on the platform for only part of the 12 months before the last day of a reporting period, the number of transactions is proportionally adjusted to reflect the shorter time the property was listed on the platform.

Each distinct address is considered a separate property. This means that all transactions made in relation to multiple rooms at a single address (such as in a commercial hotel) would be considered to be made in relation to a single property. When there are separate addresses within a building (such as apartments in a complex), each apartment is a separate property.

When to report under SERR

The reporting periods under SERR are:

- 1 July to 31 December – the report must be submitted by 31 January of the following year;
- 1 January to 30 June – the report must be submitted by 31 July of that year.

The period in which you need to report a reportable transaction depends on when you pay the supplier. This matters for transactions where the booking, supply and payment by the operator of the EDP to the supplier occur over multiple reporting periods. Where this occurs, the operator of an EDP must report the transaction in the period when it pays the supplier.

Small operators of EDPs need not provide reports for the reporting periods from 1 July to 31 December 2023 and from 1 January to 30 June 2024 in certain circumstances. Alternatively, the operator of the platform may choose to lodge reports for those reporting periods, in which case they will be given an extension of time (to 29 February 2024 and 2 September 2024 respectively).

Penalties may apply for late or incorrect information provided.

Tip! Talk to your tax adviser if you think your business is affected by the SERR.

Fuel tax credits

Fuel tax credit rates increased on 5 February. The fuel tax credit rate is indexed twice a year in February and August – based on the upward movement of the consumer price index (**CPI**).

As a small business owner, you can claim fuel tax credits for eligible fuel you acquired, manufactured or imported and use in your business.

Fuel tax credits give you a full or partial credit for the fuel tax (excise or customs duty) that is included in the price of fuel used in your:

- machinery;
- plant;
- equipment;
- heavy vehicles; and
- light vehicles travelling off public roads or on private roads.



Example

The ATO has provided a useful example for small business owners.

Alex owns a landscaping business and uses a petrol-operated ride-on mower and whipper-snipper. She is eligible to claim fuel tax credits by being registered for both GST and fuel tax credits.

Alex uses the ATO's fuel tax credit calculator (<https://www.ato.gov.au/single-page-applications/calculatorsandtools?anchor=FTCCalc#FTCCalc/questions>) to help work out the fuel tax credit amount that she can claim on her business activity statement (**BAS**). The fuel tax credit calculator can also help with corrections or adjustments on her previous BASs.

Alex has kept records showing when the fuel was acquired to support her claims and she knows to keep her records for up to five years.

KEY TAX DATES

Date	Obligation
21 Feb 2024	January 2024 monthly BAS due
28 Feb 2024	December 2023 quarterly BAS due Pay December 2023 quarterly instalment Annual GST return due (if no income tax return due) December 2023 SG charge statement due (if required) SMSF 2022–23 annual return due (unless first return or late with return for the previous financial year)
21 Mar 2024	February 2024 monthly BAS due
21 Apr 2024*	March 2024 monthly BAS due
28 Apr 2024*	March 2024 quarterly BAS due Pay March 2024 quarterly instalment Employee SG contributions due
21 May 2024	April 2024 monthly BAS due Lodge annual FBT return (if your business lodges one) Pay assessed FBT
28 May 2024	March 2024 SG charge statement due (if required)

*Next business day applies instead

Note! Talk to your tax agent to confirm the correct due dates for your own tax obligations.

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