



ML|Partners Pty Ltd

COMBINING ACCOUNTING & WEALTH MANAGEMENT

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Practice Update

Please read this update
and contact this office
if you have any queries

JULY - SEPTEMBER 2022

Townsville Office

Just a reminder for clients making appointments to see us in our Townsville Office that we are now in **Suite 2** 458 Flinders Street West. The ML Partners office is on the left hand side at the front of the building. Our visiting offices were previously in the same building and staff will still be available at this location by appointment only.



An election ago, the 2022-23 Budget proposed a 120% tax deduction for expenditure by small and medium businesses on technology, or skills and training for their staff. This proposal has now been adopted by the current Government and details released in recent exposure draft by Treasury.

Timing

Two investment 'boosts' will be available to small and medium businesses with an aggregated annual turnover of less than \$50 million:

- Skills & Training Boost
- Technology Investment Boost

The *Skills and Training Boost* is intended to apply to expenditure from 7.30pm ACT time on Budget night, 29 March 2022 until 30 June 2024. The business, however, will not be able to start claiming the bonus deduction until the 2023 tax return. That is, for expenditure incurred between 29 March 2022 and 30 June 2022, the additional 20% 'boost' deduction will not be claimable until the 2022-23 tax return (assuming the announced start dates are maintained **if and when the legislation passes Parliament**).

The *Technology Investment Boost* is intended to apply to expenditure from 7.30pm ACT time on Budget night, 29 March 2022 until 30 June 2023. As with the Skills and Training Boost, the additional 20% deduction for eligible expenditure incurred by 30 June 2022 will be claimed in the 2023 tax return.

Small business tax incentives back on the table

The Government has reinvigorated the 120% skills training and technology costs deduction for small and medium business.

The boost for eligible expenditure incurred on or after 1 July 2022 will be included in the income year in which the expenditure is incurred.

When it comes to expenditure on depreciating assets, the bonus deduction is equal to 20% of the cost of the asset that is used for a taxable purpose. This means that, regardless of the method of deduction that the entity takes (i.e., whether immediate or over time), the bonus deduction in respect of a depreciating asset is calculated based on the asset's cost.

Technology Investment Boost

The Technology Investment Boost is a 120% tax deduction for expenditure incurred on business expenses and depreciating assets that support digital adoption, such as portable payment devices, cyber security systems, or subscriptions to cloud-based services.

The boost is capped at \$100,000 per income year with a maximum deduction of \$20,000.

To be eligible for the bonus deduction:

- The expenditure must be eligible for deduction (salary and wage costs are excluded for the purpose of these rules)
- The expenditure must have been incurred between 7.30pm (AEST), 29 March 2022 and 30 June 2023
- If the expenditure is on a depreciating asset, the asset must be first used or installed ready for use by 30 June 2023.

To be eligible, the expenditure must be wholly or substantially for the entity's digital operations or digitising its operations. For example:

- **digital enabling items** – computer and telecommunications hardware and equipment, software, systems and services that form and facilitate the use of computer networks;
- **digital media and marketing** – audio and visual content that can be created, accessed, stored or viewed on digital devices; and
- **e-commerce** – supporting digitally ordered or platform enabled online

Repair and maintenance costs can be claimed as long as the expenses meet the eligibility criteria.

Where the expenditure has mixed use (i.e., partly private), the bonus deduction applies to the proportion of the expenditure that is for an assessable income producing purpose.

The bonus deduction is not intended to cover general operating costs relating to employing staff, raising capital, the construction of the business premises, and the cost of goods and services the business sells. The boost will not apply to:

- Assets that are sold while the boost is available
- Capital works costs (for example, improvements to a building used as business premises)
- Financing costs such as interest expenses
- Salary or wage costs
- Training or education costs
- Trading stock or the cost of trading stock

For example:

A Co Pty Ltd (A Co) is a small business entity. On 15 July 2022, A Co purchased multiple laptops to allow its employees to work from home. The total cost was \$100,000 (GST-exclusive). The laptops were delivered on 19 July 2022 and immediately issued to staff entirely for business use. As the holder of the assets, A Co is entitled to claim a deduction for the depreciation of a capital expense.

A Co can claim the full purchase price of the laptops (\$100,000) as a deduction under temporary full expensing in its 2022-23 income tax return. It can also claim the maximum \$20,000 bonus deduction in its 2022-23 income tax return.

The \$20,000 bonus deduction is not paid to the business in cash but is used to offset against A Co's assessable income. If the company is in a loss position, then the bonus deduction would increase the tax loss. The cash value to the business of the bonus deduction will depend on whether it generates a taxable profit or loss during the relevant year and the rate of tax that applies.

Skills and Training Boost

The Skills and Training boost is a 120% tax deduction for expenditure incurred on external training courses provided to employees.

External training courses will need to be provided to employees in Australia or online, and delivered by training organisations registered in Australia.

To be eligible for the bonus deduction:

- The expenditure must be for training employees, either in-person in Australia, or online
- The expenditure must be charged, directly or indirectly, by a registered training provider and be for training within the scope (if any) of the provider's registration
- The registered training provider must not be the small business or an associate of the small business
- The expenditure must be deductible
- Enrolment for the training must be on or after 7.30pm, 29 March 2022.

The training must be necessarily incurred in carrying on a business for the purpose of gaining or producing income. That is, there needs to be a nexus between the training provided and how the business produces its income.

Only the amount charged by the training organisation is deductible. In some circumstances, this might include incidental costs such as manuals and books, but only if charged by the training organisation.

Some exclusions will apply, such as for in-house or on-the-job training and expenditure on external training courses for persons other than employees. The training boost is not available to:

- Sole traders, partners in a partnership, or independent contractors (who are not employees)
- Associates of the business such as a relative, spouse or partner of an entity or person, a trustee of a trust that benefits an entity or person and a company that is sufficiently influenced by an entity or person.

For example:

Cockablue Pets Pty Ltd is a small business entity that operates a veterinary centre. The business recently took on a new employee to assist with jobs across the centre. The employee has some prior experience in animal studies and is keen to upskill to become a veterinary nurse. The business pays \$3,500 (GST exclusive) for the

employee to undertake external training in veterinary nursing. The training is delivered by a registered training provider, whose scope of registration includes veterinary nursing.

The bonus deduction is calculated as 20% of 100% of the amount of expenditure that can be deducted under another provision of the taxation law. In this case, the full \$3,500 is deductible under section 8-1 of the ITAA 1997 as a business operating expense. Assuming the other eligibility criteria for the bonus deduction are satisfied, the bonus deduction is calculated as 20% of \$3,500. That is, \$700.

In this example, the bonus deduction available is \$700. That does not mean the business receives \$700 back from the ATO in cash, it means that the business is able to reduce its taxable income by \$700. If the company has a positive amount of taxable income for the year and is subject to a 25% tax rate, then the net impact is a reduction in the company's tax liability of \$175. This also means that the company will generate fewer franking credits, which could mean more top-up tax needs to be paid when the company pays out its profits as dividends to the shareholders.

Rental properties and second-hand depreciating assets

The ATO is reminding taxpayers that have a residential rental property, to take care when making claims for 'second-hand depreciating assets' used in their properties.

In most cases, these are items that existed in the taxpayer's property when they purchased it, or were in their private residence (which they later rented out), such as:

- ☐ flooring and window coverings;
- ☐ air conditioners, washing machines, alarm systems, spas, pool pumps; and
- ☐ items used for both the rental property and the taxpayer's own home.

Since 1 July 2017, taxpayers generally cannot claim the decline in value of second-hand depreciating assets (some limited exceptions do apply).

However, this rule does not apply to a property that was rented out before this date, or if it is newly built or substantially renovated (conditions apply).

If you have a residential rental property, to help us get your claim right, please answer the following:

- ☐ When did you purchase the property?
- ☐ Was it a new or existing build?
- ☐ Did you live in the property before renting it out?
- ☐ When did you start renting the property?
- ☐ Was the asset already in the rental property when you bought it?
- ☐ Is the property used for business purposes?

More COVID-19 business grants are now tax-free

The Federal Government has expanded the list of State and Territory COVID-19 grant programs that may be tax-free to eligible businesses.

A State or Territory Government COVID-19 grant payment will generally be tax-free if:

1. the payment is received under a grant program that is formally declared to be an eligible program;
2. the recipient carried on a business and had an aggregated turnover of less than \$50 million in the income year the payment was received, or in the previous income year; and

3. the payment was received in the 2021 or 2022 income year.

The following **Victorian** and **ACT** COVID-19 grant programs have recently been declared as eligible grant programs for these purposes:

- ☐ Business Cost Assistance Program Round Two – Top Up (Victoria).
- ☐ Business Cost Assistance Program Round Three (Victoria).
- ☐ Business Cost Assistance Program Round Four (Victoria).
- ☐ Business Cost Assistance Program Round Four – Construction (Victoria).
- ☐ Business Cost Assistance Program Round Five (Victoria).
- ☐ Commercial Landlord Hardship Fund 3 (Victoria).
- ☐ Impacted Public Event Support Program Round Two (Victoria).
- ☐ Licensed Hospitality Venue Fund 2021 – Top Up Payments (Victoria).
- ☐ Live Performance Support Program (Presenters) Round Two (Victoria).
- ☐ Live Performance Support Program (Suppliers) Round Two (Victoria).
- ☐ HOMEFRONT 3 (ACT).

Super comparison tool updated



The YourSuper comparison tool helps individuals compare MySuper products and choose a super fund that meets their needs.

It ranks the performance of these products by fees and net returns.

Each year, the Australian Prudential Regulation Authority ('APRA') assesses the performance of each MySuper product, and this information is displayed in the comparison tool. Updated information for the 2022/23 year is now available.

The comparison tool provides one of the following results for each MySuper product:

- ☐ Performing – the product has met or exceeded the performance test benchmark.
- ☐ Underperforming – the product has not met the performance test benchmark.
- ☐ Not assessed – the product had less than five years of performance history and has not been rated by APRA.

Individuals who are members of underperforming MySuper products will receive correspondence to notify them of the underperforming status.

Individuals can access a personalised version of the tool which allows them to view and compare their existing MySuper products by doing the following:

- ☐ Log in to ATO online services through myGov.
- ☐ Go to the 'Super' drop-down menu and select 'Information', then select 'YourSuper comparison'.

To access a non-personalised version of the tool (without logging into myGov), visit www.ato.gov.au/yoursuper

Tax time focus on rental property income and deductions

The ATO is focusing on four major concerns this tax season when it comes to rental properties.

Concern 1: Include all rental income

When preparing tax returns, make sure all rental income is included, such as from short-term rental arrangements, renting part

of a home, and other rental-related income like insurance payouts and rental bond money retained.

Concern 2: Accuracy of expenses

Not all expenses are the same – some can be claimed straight away, such as rental management fees, council rates, repairs, interest on loans and insurance premiums.

Other expenses such as borrowing expenses and capital works need to be claimed over a number of years.

Depreciating assets such as a new dishwasher or new oven costing over \$300 are also claimed over their effective life.

Concern 3: Capital Gains Tax upon sale of a rental property

When selling a rental property, capital gains tax ('CGT') needs to be considered and any capital gains or capital losses need to be reported.

When calculating a capital gain or capital loss, it's important to get the cost base calculation right.

It is also important to note that when selling any property for \$750,000 or more, vendors/sellers must have a clearance certificate otherwise 12.5% will be withheld.

These clearance certificate applications can take up to 28 days to process so to avoid delays, sellers should apply as early as practical using the online form.

Concern 4: Record keeping

Records of rental income and expenses should be kept for five years from the date of tax return lodgments or five years after the disposal of an asset, whichever is longer.

Sessional lecturer entitled to superannuation support

The Federal Court has agreed with the ATO that a lecturer providing services to a higher education provider was a common law employee and therefore entitled to superannuation support, despite being engaged as an independent contractor.

The ATO reviewed the situation and concluded that the lecturer was entitled to receive superannuation support. This was on the basis that for superannuation guarantee purposes they were either an 'employee' within the ordinary meaning of that term, or was what is referred to as an 'extended definition employee' as someone engaged primarily for the provision of their labour services.

Some of the factors which indicated the lecturer was in an employment relationship with the higher education provider included:

- ☐ that the lecturer was engaged in his personal capacity and not through an interposed entity (such as a company or trust);
- ☐ that the higher education provider had a right of control over the lecturer, including the question of how, when and where he was required to provide the relevant teaching services; and
- ☐ the mode or manner by which the lecturer was to be remunerated was clearly expressed by reference to the time that the lecturer was engaged in delivering lectures and marking, not by reference to any readily identifiable or quantifiable product or result.

Please feel free to discuss with our office any scenarios where a 'contractor' is engaged personally, remunerated on an hourly basis for hours worked and is not provided with superannuation support.

TD 2022/11 – Discretionary trusts and corporate beneficiaries

When a trustee of a trust makes a decision to create an entitlement to income of the trust in favour of a corporate beneficiary (i.e., a privately held company), certain steps need to be taken to ensure that if the entitlement to the distribution remains unpaid (that is, no cash equal to the amount of the entitlement is paid to the corporate beneficiary), that this does not trigger what is

called a 'deemed dividend' in the hands of the trust.

A deemed dividend is likely to give rise to unwanted taxation consequences for the trust.

Historically, one way to avoid triggering a deemed dividend in such circumstances was to place the amount representing an unpaid distribution in a sub-trust for the benefit of the corporate beneficiary.

With these sub-trust arrangements, the relevant funds are generally being invested in the main trust to be used for working capital or to make plant and equipment or real property acquisitions.

These sub-trust arrangements were typically based on interest only loan arrangements, with the requirement that the principal be repaid at the end of either seven years (i.e., as an Option 1 arrangement) or ten years (i.e., to as an Option 2 arrangement).

The ATO has now formed the view that for entitlements to trust income that come about from 1 July 2022 (effectively from the 2023 income year) that these interest only Option 1 and Option 2 arrangements are no longer sufficient to avoid the potential triggering of a deemed dividend with respect to any unpaid present entitlements.

Broadly speaking, from 1 July 2022, in relation to an unpaid distribution payable to a corporate beneficiary, one way to avoid the unpaid distribution giving rise to a potential deemed dividend is for the unpaid distribution to be replaced with what is referred to as a complying Division 7A loan.

These Division 7A loans are made under S.109N of the Income Tax Assessment Act 1936 ('ITAA 1936').

Ordinarily, such a loan is repaid on a principal and interest basis, over seven years, based on an interest rate provided by the ATO for each year of the loan, with annual minimum loan repayments calculated based on a formula provided by the income tax legislation.

ATO's small business focus for 2022 income year



The ATO announced that it will be focussing on the following matters for small business tax returns for the 2021/22 year:

- ☐ **Deductions that are private in nature** and not related to business income, as well as overclaiming of business expenses (especially for taxpayers running a home-based business).

- ❑ **Omission of business income** (e.g., income from the sharing economy or new business ventures).
- ❑ **Record keeping** – including insufficient or non-existent records that are needed to substantiate claims.

The ATO acknowledges that it has been a tough couple of years for many small business owners and encourages taxpayers to act early to find a solution if they are getting behind in their tax obligations, either by contacting their tax agent or the ATO.

ATO updates ‘cents per kilometre’ rate for individuals

The ATO has updated the cents per kilometre rate relating to individual car expenses for the **2023** income year to **78 cents** per business kilometre.

The cents per kilometre method:

- ❑ uses a set rate for each kilometre travelled for business;
- ❑ allows taxpayers to claim a maximum of **5,000** business kilometres per car, per year;
- ❑ does not require written evidence to show exactly how many kilometres were travelled (but the ATO may ask taxpayers to show how they worked out their business kilometres, for example by means of diary records); and
- ❑ uses a rate that takes all vehicle running expenses (including registration, fuel, servicing and insurance) and depreciation into account.

The cents per kilometre rate was 72 cents for the 2020 and 2021 income years.

ATO to target ‘wash sales’ this Tax Time

The ATO is warning taxpayers to not engage in ‘asset wash sales’ to artificially increase their losses to reduce gains (or expected gains). Wash sales are a form of tax avoidance that the ATO is focussed on this tax time.

Wash sales typically involve the disposal of assets (e.g., cryptocurrency and shares) just before the end of the financial year, where after a short period of time, the taxpayer reacquires the same

or substantially similar assets. Such sales are usually done to create a loss to be offset against a gain already derived, or expected to be derived, in certain circumstances, in a tax return.

The ATO’s sophisticated data analytics can identify wash sales through access to data from share registries and crypto asset exchanges. When the ATO identifies this behaviour, the capital loss is rejected, resulting in an even bigger loss to the taxpayer.

The ATO has warned taxpayers engaging in wash sales that they are at risk of facing swift compliance action and additional tax, interest and penalties may apply. Taxpayers are urged to ignore any advice encouraging a wash sale of any asset. The clear advice from the ATO is to check the ATO website or check with an independent registered tax professional and not to rely on advice received through media, social media, or advertisements.

Downsizer contributions age changes from 1 July 2022

From **1 July 2022**, people aged **60 years and over** will be eligible to make downsizer contributions of up to **\$300,000 per person** (\$600,000 per couple) from the sale proceeds of their home into their super. For downsizer contributions made prior to 1 July 2022, eligible individuals must have been aged 65 years or older at the time of making their contribution.

Eligible downsizer contributions do not impact or count towards the member’s concessional or non-concessional super contribution caps.

During the 2022 Federal election, the previous Coalition Government announced it would support a further reduction to the downsizer eligibility age to 55 years. However, this announcement has not become law. Accordingly, contributions received on or after 1 July 2022 from members who are 55 to 59 will:

- ❑ be ineligible for treatment as downsizer contributions; and
- ❑ generally count towards either the member’s non-concessional or concessional superannuation contributions caps.

Super guarantee contributions

The due date for employers to make super guarantee contributions for their employees for the September 2022 quarter is 28 October 2022.

Employers that do not pay an employee's superannuation guarantee amount on time (and to the right fund) are liable to pay the 'superannuation guarantee charge' ('SGC'). The ***SGC is more than the superannuation amount that is otherwise payable for the employee and is not tax deductible.***

The super guarantee rate increased to **10.5%** in relation to salary and wages paid on or after **1 July 2022**.

FBT-free Electric Cars



New legislation before Parliament, if enacted, will make zero or low emission vehicles FBT-free.

Electric vehicles (EV) represent just under 2% of the new car market in Australia but it is a rapidly growing sector with a 62.3% jump in new EV registrations between 2020 and 2021.

Making EVs FBT-free is just the first step in the Government's plan to make zero and low emission vehicles the car of choice for Australians, focussing on affordability and overcoming "range anxiety" by:

- Cutting import tariffs
- Placing EV fast chargers once every 150 kilometres on the nation's highways
- Creating a national Hydrogen Highways refuelling network, to deliver stations on Australia's busiest freight routes
- Converting the Commonwealth fleet to 75% no-emissions vehicles

It is on this last point, fleet cars, that the FBT exemption on EVs is targeted. In Australia, business account for around 40% of light vehicle sales according to a research report by [Griffith and Monash Universities](#). However, EV sales to business fleets comprised a mere 0.08% of the market in 2020. The Government can control what it purchases and has committed to converting its fleet to no-emission vehicles, but for the private sector, there is a wide gap between the total cost of ownership of EVs and traditional combustion engine vehicles. It's more expensive overall and the Government is looking to reduce that impediment through the FBT system.

How the EV FBT exemption will work

The proposed FBT exemption is intended to apply to cars provided by an employer to an employee under the following conditions:

- ❖ Low and zero emission cars
 - Battery electric vehicles;
 - Hydrogen fuel cell electric vehicles; and
 - Plug-in hybrid electric vehicles. Be careful here because this doesn't include all hybrid vehicles. To qualify the car needs to be 'plug-in'. A car that has an internal combustion engine will not meet requirements unless it is able to be fuelled by a battery that can be recharged by an off-vehicle power source.

- ❖ The car was first held and used on or after 1 July 2022

Where the car is first held and used on or after 1 July 2022. Provided the conditions of the exemption are met, an electric car that was ordered prior to 1 July 2022, but was not delivered until after 1 July 2022 would be eligible for the exemption (even if an employer acquired legal title to the car before 1 July 2022). However, a car delivered to you prior to 1 July 2022 would not qualify.

A second-hand electric car may qualify for the exemption, provided that the car was first purchased new on or after 1 July 2022.

- ❖ Value below luxury car tax threshold for fuel efficient vehicles

The value of the car at the first retail sale must be below the luxury car tax threshold (\$84,916 in 2022-23) for fuel efficient vehicles. The luxury car tax threshold generally includes GST and customs duty but excludes other items such as service plans, extended warranties, stamp duty and registration.

If an electric car qualifies for the FBT exemption, then associated benefits relating to running the car for the period the car fringe benefit is provided, can also be exempt from FBT.

Government modelling states that if an EV valued at about \$50,000 is provided by an employer through this arrangement, the FBT exemption would save the employer up to \$9,000 a year.

While the measure provides an exemption from FBT, the value of that fringe benefit is still taken into account in determining the reportable fringe benefits amount of the employee. That is, the value of the benefit is reported on the employee's income statement. While income tax is not paid on this amount, it is used to determine the employee's adjusted taxable income for a range of areas such as the Medicare levy surcharge, private health insurance rebate, employee share scheme reduction, and social security payments.

Can I salary sacrifice an electric car?

Assuming your employer agrees, and the car meets the criteria, salary packaging is an option. While some FBT concessions are not available if the benefit is provided under a salary sacrifice arrangement, the exemption for electric cars will be available. In order for a salary sacrifice arrangement to be effective for tax purposes, it needs to be agreed, documented, and in place **prior** to the employee earning the income that they are sacrificing.

Government modelling suggests that for individuals using a salary sacrifice arrangement to pay for a \$50,000 electric vehicle, the saving would be up to \$4,700 a year.

Who cannot access the FBT exemption?

Your business structure makes a difference

By its nature, the FBT exemption only applies where an employer provides a car to an employee. Partners of a partnership and sole traders will not be able to access the benefits of the exemption as they are not employees of the business. When it comes to beneficiaries of a trust and shareholders of a company it will be important to determine whether the benefit will be provided to them in their capacity as an employee or director of the entity.

Exemption is limited to cars

As the FBT exemption only relates to cars, other vehicles like vans are excluded. Cars are defined as motor vehicles (including four-wheel drives) designed to carry a load less than one tonne and fewer than nine passengers.

Director ID's – Time is running out!



If you are a director of a company, and became a director prior to 31st October 2021, then **you must apply for a director ID by 30th November 2022**. When you become a director of a company for the first time, then you are now required to apply for a director ID prior to appointment as a director.

ASIC is responsible for enforcing director ID offences set out in the Corporations Act 2001. It is a criminal offence if directors do not apply on time and penalties may apply.

Offence	Maximum penalties for individuals
Failure to have a director ID when required to do so	\$13,200 (criminal); \$1,100,000 (civil)

To apply for your director ID, kindly follow the instructions in the link below:

<https://www.abrs.gov.au/director-identification-number/apply-director-identification-number>

Once you receive your director ID, would you please provide details of your ID number to our office so that we may update our records.

If you have any questions or require assistance, please don't hesitate to contact us.

Staff News

The financial planning team welcome Amy Hughes, who is an experienced Para planner who brings to the role 18 years' experience in the financial services industry. Amy holds a Diploma in Financial Planning and has been contracted to ML Partners since August 2018, but made the move in July to join the ML team on a full-time basis. Welcome Amy!



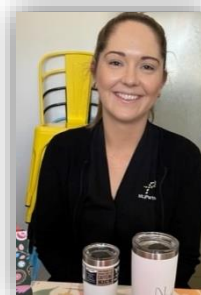
July - September 2022 - Practice Update

A warm welcome also to Chloe Blackburn who commenced work in the Home Hill office in September. Chloe is employed in an accounting support role and has a number of years' experience in administration & customer service. Chloe is already proving to be a valuable member of the team – welcome Chloe!



A sincere thanks must also go to Mr & Mrs Pellizzari for their ongoing support of ML Partners. We now have the great privilege of employing three of their daughters.

The Home Hill office farewelled Nicole Homan in August, who leaves us to further her skills in the mining industry. We wish Nicole every success in her new role.



The Ayr office welcomes Leanne Pellizzari who joined the team in a full time receptionist/administration role this month. Leanne brings with her a wealth of experience in a variety of administration roles and is a welcome addition to the team.

Quote of the month

“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.”

- Margaret Mead, anthropologist

<p>Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.</p>
