

Practice Update

April 2025

ATO's new focus for small business

The ATO is currently focusing on the following 'specific risk areas', where it is concerned "*small businesses are getting it wrong*":

- **Contractors omitting income** — with a focus on data matching to ensure all income is reported.
- **Quarterly to monthly BAS reporting for GST purposes** — The ATO will move around 3,500 small businesses with a history of non-compliance to monthly reporting from 1 April 2025.

The ATO will also continue its focus on non-commercial business losses, small business capital gains tax ('CGT') concessions, business income that is not personal income, incorrect claims for 'small business boosts', GST registration and income of taxi, limousine and ride-sourcing services.

Reminder of March 2025 Quarter Superannuation Guarantee ('SG')

Employers are reminded that employee super contributions for the quarter ending 31 March 2025 must be **received** by the relevant super funds by Monday, 28 April 2025.

If the correct amount of SG is not paid by an employer on time, they will be liable to pay the SG charge, which includes a penalty and interest component.

The SG rate is 11.5% for the 2025 income year.

FBT record keeping and plug-in hybrid exemption changes

With the 2025 fringe benefits tax ('FBT') year having just ended (on 31 March), the ATO is reminding employers of some changes that might impact their FBT obligations.

Alternative record keeping changes

For the 2025 and succeeding FBT years, employers can use existing records instead of travel diaries and declarations for some fringe benefits.

If using existing corporate records, employers need to meet the minimum required information at the time of lodging the FBT return. Keeping the right records ensures employers can correctly calculate the taxable value of the benefit and support their FBT position.

Plug-in hybrid electric vehicle changes

The FBT exemption for plug-in hybrid electric vehicles ('PHEVs') broadly ended on 31 March 2025, so the 2025 FBT year may be the last year that employers can claim the exemption.

However, an employer can continue to apply the exemption if that PHEV was used, or available for use, **before** 1 April 2025 (and that use was exempt), **and** they have a financially binding commitment to continue providing private use of the vehicle on and after 1 April 2025.

Editor: Please contact our office if your business provided fringe benefits to staff between 1 April 2024 and 31 March 2025 and you need any assistance (including in relation to keeping appropriate records).

Taxable payments annual report lodgment reminder

Businesses that pay contractors for 'Taxable payments reporting system services' may need to lodge a 'Taxable payments annual report' ('TPAR') by 28 August each year.

Editor: This includes businesses paying contractors in the building and construction, cleaning and IT industries.

From 22 March, the ATO will apply penalties to businesses that have not lodged their TPAR from 2024 or previous years, and/or have been issued three reminder letters about their overdue TPAR.

Businesses that do not need to lodge a TPAR can submit a 'non-lodgment advice ('NLA') form'. Businesses that no longer pay contractors can also use this form to indicate that they will not need to lodge a TPAR in the future.

Quarterly TBAR lodgment reminder

SMSFs must report certain events that affect a member's transfer balance account ('TBA') quarterly using transfer balance account reporting ('TBAR').

These events must be reported even if the member's total superannuation balance is less than \$1 million.

Editor: TBA events include starting or commuting a retirement phase pension.

TBARs for the March quarter are due on **28 April 2025** and SMSFs that do not report on time may be subject to compliance action and penalties, and the member's TBA may be adversely affected.

Note that SMSFs are **not** required to lodge if there were no TBA events during the quarter.

General transfer balance cap will be indexed on 1 July 2025

Indexation of the general transfer balance cap ('TBC') will occur on 1 July 2025. This cap will increase by \$100,000 from \$1.9 million to \$2 million.

Editor: The general TBC amount is used for a number of purposes, including to determine the total capital amount that can be transferred to the retirement (pension) phase, and to determine eligibility for making non-concessional contributions.

This increase has flow through impacts for individuals who have started a retirement phase pension, as they will be entitled to an increase to their personal TBC if they have not previously been at, or exceeded, their cap.

Individuals starting a pension for the first time on or after 1 July 2025 will be entitled to a personal TBC of \$2 million.

The ATO will calculate an individual's personal TBC based on the information reported to and processed by the ATO. To help individuals have a clear understanding of their position, the ATO encourages funds to report all 'TBC events' when they occur and as early as possible before the 1 July 2025 indexation start date.

Editor: Indexation of the general TBC also has flow through consequences for the Total Super Balance ('TSB'). The TSB influences an individual's non-concessional contributions cap, non-concessional bring forward arrangement, and eligibility for spouse tax offset and co-contributions.

ART rejects taxpayer's claim for CGT small business relief

In a recent decision, the Administrative Review Tribunal ('ART') held that a taxpayer was not entitled to the CGT small business concessions on the disposal of his interests in some farm land.

The taxpayer ran a beef cattle business (in partnership with his wife) on properties adjacent to the dairy farm that his parents owned. Following his father's death in 2007, the taxpayer acquired legal interests in the two properties on which that dairy farm was operated.

The ATO rejected the taxpayer's contention that he was entitled to concessional CGT small business relief on disposal of those interests in 2016, on the basis that the interests disposed of did not meet the 'active asset' test.

The ART upheld the ATO's decision, finding that the taxpayer did not use his interests in the properties, nor were they held 'ready for use', in carrying on his cattle business. His claim that he intended to use the properties, but that he could not due to his strained relationship with his brother, was not sufficient.

Consequently, the interest in the properties was not an active asset and the taxpayer was not entitled to concessional CGT treatment.

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.