TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

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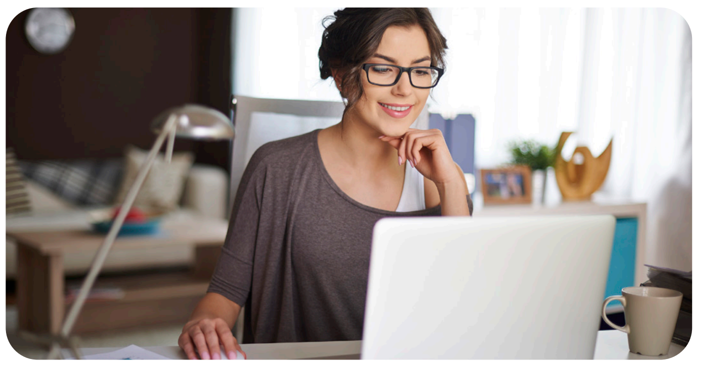

When Is Self-Education Deductible?

If you have been thinking about taking a course or about studying further and want to claim it back on your tax return, take a moment to read this article before going ahead.

Self-education is an area of the individual income tax return that can get many people into trouble. This is because they may incorrectly claim costs not qualifying for the deduction.

To start with, any self-education costs that you try to claim must be **work-related.** They must be costs incurred to receive a formal qualification from a school, college, university or another place of approved education. To claim this deduction, you must be able to show that there is a close connection between the course and your current work activities at that time.

You can claim a deduction if:

- The course maintained or improved a skill or specific knowledge required for your then-current work activities, or
- You can show that the course led to, or was likely to lead to, increased income from your then-current work activities.

You cannot claim a deduction for self-education if:

- The course relates only in a general way to your current employment or profession, or
- The course will enable you to get new employment. (cont. p2)

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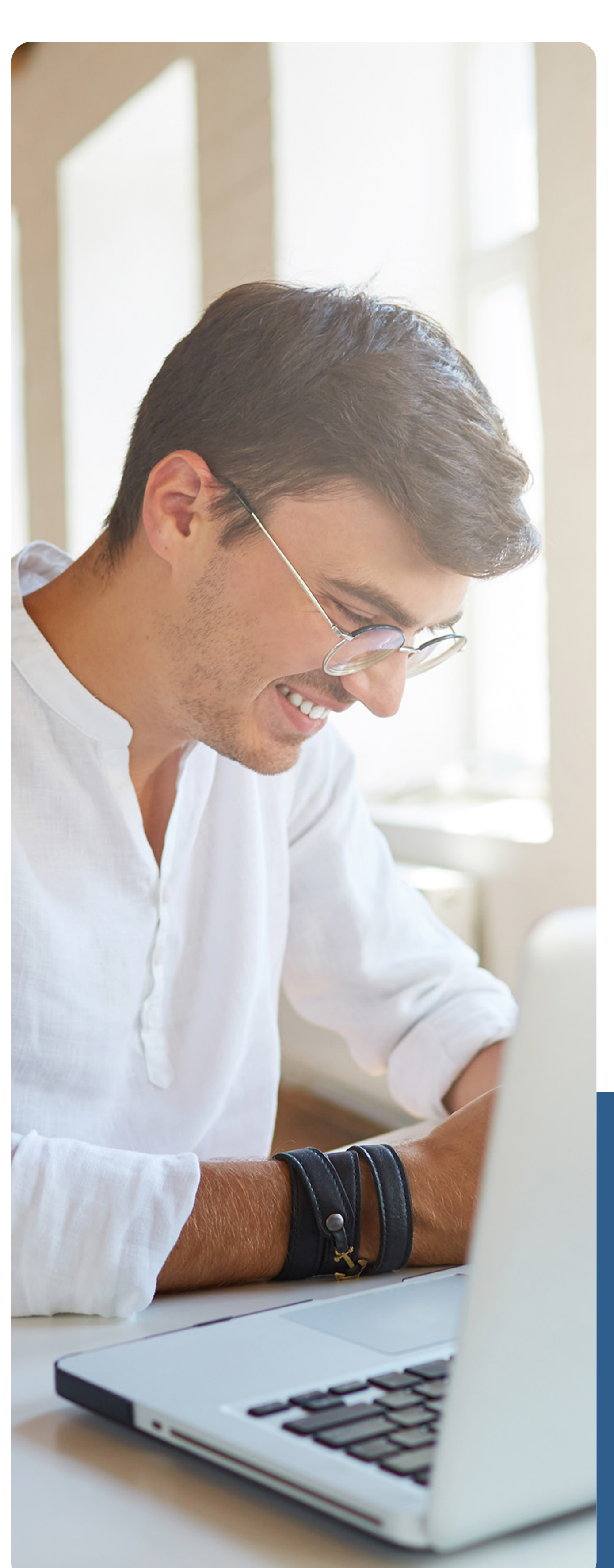

Determining Close Connection To Employment: An Example

Louis is a computer science student studying system analysis, software design and programming.

Louis also works at the university laboratory installing computers. His course and job are only very generally related. The work only requires a low level of computer knowledge which Louis already had before starting his employment.

The high-level professional skills Louis acquires from the course are well beyond those currently required for his current employment.

Consequently, Louis cannot claim a deduction for his course because it:

does not maintain or improve his specific knowledge or skills in his current job

relates in only a general way to his current employment

will enable him to get new employment.

It is undoubtedly crucial that you talk to us before you decide to commit to formal education to upskill if the ability to claim a tax deduction is a part of your decision-making process. We can assist in clarifying if it will be claimable and accepted by the ATO.

Private & Domestic Expenses: Childcare

One of the most common discussions that crop up around this time of the year relates to claimable tax deductions, and that child care should be tax-deductible as it is an expense incurred to earn your income.

This statement makes sense, but it's not necessarily correct.

According to the rules, a tax deduction for an expense directly incurred in earning assessable income can be claimed on your return.

You may be incurring childcare expenses to earn your income.

However, the law then states that a tax deduction cannot be claimed where:

- The expense in capital in nature
- The expense in a private or domestic expense; or
- There is another specific provision in the tax act that prohibits it.

This is where things get tricky: child care expenses are considered by the Australian Taxation Office to be **of a private or domestic nature.**

As a general rule, most expenses associated with a taxpayer's home are of a private or domestic nature and do not qualify as deductions for taxation purposes. An exception to this general rule is where part of the home is used for income-producing activities and has the character of a "place of business".

Child care does not typically fall under this category of exception.

Another item that commonly catches people out on their income tax return and is considered an expense of private or domestic nature is clothes that are not a specific uniform. For example, if working as a waiter requires you to wear black pants, or a PT instructor wears generic gym clothes, these are not claimable.

Travel to and from work is also considered as private and domestic (whether it is by car or public transport). As a judge in the UK once stated, "You are not driving to work and back home again; instead, you are driving away from work and back to work again. It is your **private** decision to live away from work."

Many other expenses may or may not be claimable on your tax return this year, so why not start a conversation with us so we can assist you with working out what applies to you?

No Refund This Year? Here's Why...

This year, you may have had a rude shock when opening your notice of assessment from the Australian Tax Office after lodging your individual income tax return.

Many Australians are receiving for the first time assessments that have determined that they owe the ATO money this year instead of receiving a tax refund.

Here are some reasons why you may have a debt in this financial year:

Expired Or Unavailable Offsets

- This financial year saw many of the tax offsets that had been previously available to use in individual income tax returns reach their cut-off dates or change eligibility criteria.
  - » For example, the LMITO (low and middle income tax offset) ended 30 June 2022.This added an additional $1,500 to what your 'debt' could be subtracted from otherwise. As this is no longer available, you are now without that extra $1,500 to offset the tax debt, resulting in potentially high tax debts this year.

HECS/HELP Repayment Issues

- Your income increased leading to a higher repayment threshold for your study or training support loan.
- You have a study or training support loan and you didn't advise your employer so they didn't withhold an amount to cover your repayment liability.

PAYG Withholding Issues

- Not enough tax was withheld from your income throughout the income year to meet your tax obligations because
  - » you moved into a higher tax bracket – for example, through promotion, or you have multiple jobs or extra sources of income
  - » you have incorrectly claimed the tax-free threshold for more than one job –see, income from more than one job
  - » You're the recipient of Australian Government allowances and payments.

Income-Related Issues

- You receive income as an individual (sole trader) running a business or from a partnership or trust.
- You have income as a sole trader, and you haven't paid enough in instalments through the income year through the pay-as-you-go (PAYG) instalments system
- You receive additional income through the sale of a capital asset such as real estate, crypto assets or shares, this is a capital gains event.
- You receive income from investments or assets – for example, dividends on shares or rental income.
- You're earning income from sharing economy activities – for example, ride-sourcing, renting out or sharing assets or providing personal services.
- Changes to your income (or your family status) affect your single or family income threshold, and you may need to pay the Medicare levy or Medicare levy surcharge (MLS).

Other Reasons:

- The amount of private health insurance rebate you receive changes or is too much.
- You have exceeded the concessional contributions cap with your super fund.
- We find a difference between the details in your tax return and the information we receive through pre-fill data or our data matching program.

What Might Your Accountant Ask You Before Lodging A Tax Return?

Throughout the tax return lodgement process, a registered tax agent can be of invaluable help. However, we may have to ask you specific questions to assist you with getting the best return possible. Here's how you can prepare beforehand:

Record-Keeping

Do you have all of your records for your return? You need to keep accurate and complete records of anything you may want to claim on your tax return. This may include invoices, receipts, bank statements, logbooks, or other records.

An acceptable record shows all of the following:

- the name or business name of the supplier
- the amount of the expense or cost of the asset
- the nature of the goods or services you buy
- the date you bought the goods or services
- the date the document was produced.

If you claim a deduction for a work-related expense, you must have records of those expenses that show:

- you spent the money
- that the expense directly relates to earning your income.

To show how the expense relates to earning your income, you need a diary or similar record that shows:

- your private and work-related use.
- how you calculate the amount you claim as a deduction.
- For an asset that you use for personal and work use, you may only claim the work-related part of the expense as a deduction.

Your records must be kept for 5 years from the date that you lodge your tax return.

Property

Did you sell a property in the last financial year? If you had a major property-related event, there may be additional items to consider on your tax return.

For example, when properties are sold, there may be capital gain, losses, or main residence exemptions to be reported on your return. If you used any part of the home or property to produce income while they owned it (such as renting out a room or running a business from home), we need to be advised so that we can apply the correct tax treatment to it. We may also be able to assist you with determining if the 6-year rule for CGT might apply.

Additional Income

In a world of multiple income streams, it's important to make sure that all income sources are reported on your tax return.

If you have additional employment, government payments, dividends, or partnership, trusts and units income, these need to be declared on your tax return.

You also need to make sure that you have reported all rental income from any properties you own correctly. Rental properties can be tricky, particularly when it comes to claiming deductions for improvements, so bring in as much information as you have available so that we can assist you with this particular item.

What Is The Tax Treatment Of Second-Hand Depreciating Assets In A Property?

If you have a rental property, are you aware of the rules around claiming second-hand depreciating assets?

Second-hand depreciating assets are depreciable items previously used or installed and ready for use in a rental property. These assets may have already existed in the property when clients purchased it, or were used in their private residence before renting it out.

These assets may include:

flooring, window coverings

air conditioners, washing machines, alarm systems, spas, pool pumps

items used for both the rental property and your client's own home.

The rules around these assets regarding claiming deductions are precise.

A deduction for the decline in value for assets in an existing residential rental property c**annot be claimed if you entered into a contract to purchase that property on or after 7:30 pm (AEST) on 9 May 2017.**

If your home **was turned into a residential rental property on or after 1 July 2017, you can't claim a deduction for the decline in value for depreciating assets** in your home.

You may only claim a deduction for the decline in value for any new depreciating assets you purchase for your residential rental property.

Exceptions

You can claim a deduction for the decline in value of second-hand depreciating assets if any of the following apply:

- You are carrying on a business of letting rental properties.
- You purchased your residential rental property or a second-hand depreciating asset for your residential rental property before 7:30 pm (AEST) on 9 May 2017.
- You used a depreciating asset that you acquired before 7:30 pm (AEST) on 9 May 2017, and then, before 1 July 2017, you installed it at your residential rental property.
- Your rental property is not used to provide residential accommodation; for example, it is let out for commercial purposes (such as a doctor's surgery).
- The entity that owns the residential rental property is an excluded entity.
- The income-generating activities at your rental property are unrelated to providing residential accommodation (for example, solar panels used in generating income from the sale of electricity).

Claiming assets on your return can be a complicated business - why not make it easier with a consultation with your registered tax agent?

Under The Latest Ruling, When Are You A Tax Resident?

Tax residency is an essential element of Australia's taxation system; however, it can appear complicated and confusing. While there are four tests that can assist you in determining your residency status for tax purposes, a new ATO ruling in June 2023 has taken into consideration modern global work practices and recent court decisions to make residency clearer to individuals this tax time.

TR 2023/1 replaces and consolidates three prior ATO rulings following several Federal Court appeal judgments handed down in 2019 and 2020 that considered residency for individuals. The repealed cases included:

- IT 2650 Income tax: residency – permanent place of abode outside Australia
- IT 2681 Income tax: residency status of business migrants
- TR 98/17 Income tax: residency status of individuals entering Australia

However, the ruling does not change the following when it comes to tax residency status:

- You are a resident if you meet any of the four tax residency tests
- Each case of tax residency is determined based on its own facts - there are no bright-line' rules (clearly defined rule or standard composed of objective factors).
- You can be a tax resident of more than one country.

What Are The Four Tests?

Four tests are used to determine if you are an Australian resident for tax purposes. You will be an Australian resident if you meet any one of these tests.

The Domicile Test

Under this test, you are a resident if your domicile (permanent home) is in Australia.

There are three types of Domicile:

- A 'domicile of origin', which is attributed to each individual at birth.
- A 'domicile of dependence', which is relevant where a person (such as a minor) lacks the capacity to acquire their own domicile and their domicile is determined by reference to someone else's domicile (such as a parent).
- A 'domicile of choice', which is the domicile a person with the capacity to do so acquires voluntarily.

You are not a resident if your permanent place of residence is outside of Australia.

The Resides Test

Under this test, you are a resident of Australia if you reside in Australia according to the ordinary meaning of 'reside' – which means 'to dwell permanently, or for a considerable time, to have a settled or usual abode, and to live in a particular place'.

Some factors that can be used to determine residency status include physical presence, intention and purpose, family and business or employment ties, maintenance and location of assets, and social and living arrangements.

183 Day Test

You will be a resident under this test if you spend over half the year in Australia unless it is established that your 'usual place of abode' is outside Australia and you have no intention of taking up residence here.

You do not need to maintain a physical domicile in your home country (you may have been renting and terminated your lease).

In practice, this test only applies to individuals arriving in Australia.

Commonwealth Superannuation Fund Test

This test only applies to certain Australian Government employees eligible to contribute to the Public Sector Superannuation Scheme (PSS) or the Commonwealth Superannuation Scheme (CSS).

If this is the case, you (and your spouse and children under 16) are considered residents of Australia regardless of any other factors.

if you have questions about your tax residency status, consult a registered tax agent as soon as possible - this could have implications for your return, so it is vital to resolve these issues as soon as possible.

NFPs & Tax – How Do We Treat Employees Versus Volunteers?

Not For Profits (NFP) across the country may have different tax implications that apply to their particular organisation, especially if they are exempt from income tax. However, the rules around employees and volunteers remain unaffected for these organisations and need to be taken into account during tax time.

What Is A Not For Profit?

A not-for-profit is generally an organisation that does not operate for the profit, personal gain or other benefit of particular people (for example, its members, the people who run the organisation, or their friends or relatives).

It can provide direct benefits (such as distributing money or gifts) or indirect benefits (such as a member receiving help that is consistent with the organisation's purpose). In not-for-profit (NFP) organisations, staff members and those determined to be 'responsible persons' (such as a board or committee member, or a trustee) can also be paid a reasonable amount for their work.

Tax Treatment Of Employees:

PAYG

Pay as-you-go (PAYG) withholding obligations for not-for-profit organisations are the same as for businesses. Organisations that are exempt from income tax are not exempt from PAYG withholding obligations and must withhold amounts from their employees' or independent contractors' pay to send to the ATO.

Under the PAYG system, independent contractors can provide for their own income tax liability by entering into voluntary agreements authorising your not-for-profit organisation to withhold amounts from their payments.

If your organisation is in a labour hire arrangement, it must withhold from payments to the labour hire firm if the firm has not quoted its ABN. If your organisation provides workers to its clients under a labour hire arrangement, it must withhold from payments to these workers.

FBT

If a not-for-profit (NFP) organisation provides a fringe benefit to its employees or associates of its employees (such as family members), it may have to pay fringe benefits tax (FBT). FBT is separate from income tax. It is calculated on the taxable value of the fringe benefits provided.

Pending eligibility, the organisation may be able to apply for FBT concessions for not-for-profit organisations.

As a general rule, your NFP organisation is not liable for FBT on benefits provided to independent contractors.

Employment Termination Payments

The employment termination payments (ETPs) obligations for your not-for-profit organisation are the same as for businesses.

ETPs are specific payments made to your not-for-profit organisation's employee when they stop working for you. ETPs are subject to concessional tax treatment depending on the employee's age and length of employment.

Tax Treatment Of Volunteers

Although there is no legal definition of 'volunteer' for tax purposes, a volunteer does not work under a contractual obligation for remuneration and would not be an employee or independent contractor. So, if an NFP's workers are not employees or independent contractors, they will be volunteers.

As a general rule:

- Volunteers do not have to pay tax on payments or benefits they receive in their capacity as volunteers.
- Not-for-profit organisations are not liable for pay as you go (PAYG) withholding and fringe benefits tax (FBT) on payments they make, or benefits they provide, to volunteers.

If you're ever uncertain about income tax matters, whether you're an NFP, general business or even an individual, speak with your registered tax agent. We're here to help.

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