

News

March / April / May 2025

What's Next?

Australia's Crossroads

Navigating Uncertainty in the Wake of the Upcoming Election

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As the calendar flips into March, there's a certain energy in the air — a buzz that whispers of new beginnings.

It's a time when the days get shorter and we feel the drag of the cooler months, and when the rush of a new year's resolutions can either feel like a distant memory or a call to action. For many, March can feel like a "mad" month — a frenzied rush of expectations, activities, and even the lingering pressures of unmet resolutions. For many, this season embodies the spirit of change, and this year, we as Australians approach upcoming elections, that change carries with it a profound weight.

The convergence of economic pressures, shifting public opinion, and recent international electoral outcomes has created a dynamic and uncertain political environment. Both major parties are actively engaging with voters to address their concerns and secure support ahead of the federal election. As the election date approaches, the political landscape is expected to evolve, with potential for further shifts in voter sentiment and party strategies.

The country finds itself at a crossroads, grappling with an array of challenges that could shape the future of its political landscape. Economic pressures, shifting public sentiment, and uncertain outcomes in recent state by-elections all point toward a volatile election season ahead. With both major political parties in a tight race, the coming months will be marked by intense competition, strategic recalibrations, and the ever-present question: who will lead Australia through these unpredictable times?

Australians are faced with the dual threats of rising living costs and an economy under strain. The public's concerns about their financial wellbeing are palpable. As inflation continues to squeeze household budgets and wage growth lags behind the cost of living, the demand for leadership that can address these economic challenges will take centre stage. The government's handling of inflation, housing affordability, and welfare issues will undoubtedly be scrutinized, as voters weigh the promises and plans offered by both major parties.

There are notable parallels to the recent elections in the United States, particularly in terms of voter engagement and the shifting political landscape. Much like the U.S. elections, Australian voters are grappling with issues of national identity, economic stability, and social justice. In both countries, younger generations are playing an increasingly pivotal role, demanding greater attention to climate change, healthcare, and inclusivity. The polarization witnessed in American politics has also found its echo in Australian discourse, with rising tensions between progressive and conservative ideals. Australia's upcoming election may similarly serve as a referendum on the direction the country wishes to take—whether it seeks continuity or embraces a fresh vision for the future.

The outcome of this election will undoubtedly have long-lasting effects on the nation, and this serve as a reminder of the power and responsibility that lies in the hands of voters.

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Taxation

Selling a Small Business Operated Through a Company: Sell the Shares or Sell the Assets?

If you run a small business through a company and you decide to sell it, you have the choice of either selling the business assets themselves (together with any goodwill) or selling your shares in the company.

Usually, such decisions are made on the basis of relevant commercial considerations (eg due diligence and future liability issues).

However, if you are seeking to access the CGT small business concessions on any sale - then you should also consider whether it is better to sell the business assets per se or the shares in the company.

While in principle, there should be no difference in terms of the CGT outcome in selling either, it may well be easier to access the concessions by adopting one approach over the other.

For example, if you sell the business assets at the company level you will need to find one or more controllers of the company (i.e. broadly someone with a 20% or more interest in it at the relevant time) in order to be able to access the concessions.

Depending on the circumstances, this can be both easier and harder than it looks.

Furthermore, in case of the “CGT retirement exemption”, it is necessary to actually pay any exempted capital gain to this controller in order to be able to use the concession (or to put it into their superannuation if they are under 55 at the relevant time).

On the other hand, if you can use the “15 year exemption”, it is enough that such a person exists - without the need to pay the exempted gain to them.

Most importantly however, if you choose to sell the shares in the company, the company itself must have certain attributes – the most important of which is that 80% or more of its assets (by market value) must be assets used in carrying on a business.

This, in turn, raises the thorny issue of how money in the bank is to be treated – and there is often a fine line between whether it is considered to be used in carrying on a business or not.

Furthermore, if the company has “controlling interests” in any other entity, then the assets of any such entity has to be also taken into account in determining if this test is met.

Of course, as with the application of the CGT small business concessions in any circumstances, the “taxpayer” must satisfy either the \$2m turnover test or the \$6m maximum net asset value (MNAV) test.

Where shares or units are sold, the “taxpayer” is the individual who owns the shares and where the business assets are sold the “taxpayer” is the company or trust itself.

In either case, the tests can be difficult to apply because the “taxpayer” includes affiliates and connected entitled (ie related parties).

By way of example, if you sell the business assets of a company and you use the \$6m MNAV test, then any person who has a 40% or more shareholding in the company will be a connected entity and their assets (other than personal ones such as super and their home) will also have to be taken into account. Importantly, this can include investment properties and shares.

Then there is the difficult task of determining what liabilities relate to those assets for the purposes of this test – especially where the business assets are sold.

Suffice to say, the issues surrounding the question of whether you should sell the business assets of a company or the shares in them when seeking to apply the CGT small business concessions are complex.

Furthermore, the same issues arise in respect of deciding whether to sell the units in a unit trust that operates a small business or the assets of the business itself.

In any of these scenarios we are here to help.

Tax Deductibility of Financial Advice Fees Change

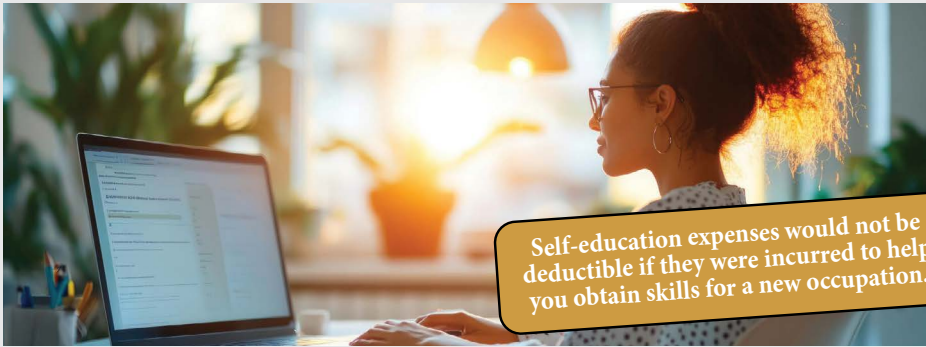
The Tax Office has released new guidance (TD 2024/7) on when financial advice fees can be claimed as a tax deduction.

Overall, their view has not changed but it has given more clarity around the deductibility of upfront and ongoing fees.

Some of the key takeaways from this determination include:

- If you receive financial advice that includes tax-related advice, you may be able to claim a deduction, but only if the advice comes from a qualified tax professional.
- Upfront fees for initial advice (eg, setting up a financial plan) related to structuring investments are generally non-deductible, as they are considered capital expenses. However, if the advice relates to managing investments for income production or relates to managing tax obligations, it may be deductible.
- Ongoing advice fees can be deductible if they are related to income-generating activities.
- To be deductible under tax law, the fees must relate to you gaining or producing assessable income. If only part of the advice is income-related, you can only claim a partial deduction.

In essence, advice fees must be linked directly to producing assessable income to qualify for deductions. For example, fees paid for advice that helps manage existing investments producing income can be deductible, but fees for advice on structuring investments or creating a financial plan will not be. Understanding the distinction between capital and income-related advice fees is key for ensuring that tax deductions are properly applied.



Self-education expenses would not be deductible if they were incurred to help you obtain skills for a new occupation.

Is your Self-Education Course Tax Deductible?

So, you are undertaking a course or further education that relates to your work or business in some way – and you have to pay for the costs of the training or course. Well, the question of whether you can claim a deduction for this cost as “self-education” expenses is not as clear cut as it should be.

As a broad proposition, self-education expenses are tax deductible if there is a sufficient connection with your income-producing activities.

In particular, if the expenses are incurred in improving your ability to carry out your current duties, they should be deductible – especially if they are likely to result in a pay rise. As an example, the costs of flying lessons for an air traffic controller have been allowed on this basis.

Likewise, a deduction for overseas travel expenses or formal study tour costs incurred by a person may be allowed where the clear purpose of the travel or tour is to increase the specific skills that relate to your job – especially if they may lead to a promotion or pay increase. (But there would always need to be an apportionment for any “private” element of the travel or study tour.)

However, self-education expenses would not be deductible if they were incurred to help you obtain skills for a new occupation.

Nor are they likely to be deductible if they are incurred in a preliminary manner before commencing your new job or a new occupation.

In short, self-education costs will not be deductible if they are undertaken to obtain a new career or obtain new employment.

On the other hand, if you are employed or are self-employed, then the cost of courses or training incurred would be deductible if there is a relevant connection with earning income by way of enabling you to carry out your existing duties better and/or more skilfully.

This could include, for example, undertaking a higher degree that is connected with your current job – and, again, especially if it is likely to lead to increased pay. Likewise, the expenditure incurred in attending professional development courses and seminars (eg, CPD events) would be deductible (unless these are paid for by your employer.)

Similarly, technical books and digital subscription services that improve your knowledge and/or skills in the areas related to your occupation would be deductible – but subject to an apportionment for any “private” usage of the material. For example, an English high school teacher may buy many books which are relevant to his or her job – but there may also be a personal use element.

Which all goes to show that nothing about deductions for self-education expenses is entirely clear cut. Feel free to contact us if you have this issue.

Property Capital Gains Withholding Changes



A bill was recently passed by both houses and is awaiting Royal Assent for the final Resident Capital Gains Withholding Rate changing from 12.5% to 15%.

Additionally, the current \$750,000 threshold is reducing to nil for withholding tax obligations in relation to taxable Australian Real Property.

The changes means Australian resident property sellers need to apply to the Tax Office for a clearance certificate when selling any property to ensure the purchaser is not required to transfer 15% of the purchase price to the Tax Office, rather than direct to the seller.

Tax Office to push non-compliers to monthly BAS reporting

The Tax Office has recently announced that they will be requiring small businesses with a history of failing to comply with their tax obligations to lodge a Business Activity Statement (BAS) on a monthly basis, rather than quarterly.

Small businesses that repeatedly fall foul of the following requirements will simply receive a letter from the Tax Office advising them of their new monthly reporting requirements:

- Paying late or not paying the amount due
- Not lodging or lodging late
- Reporting your tax obligations incorrectly

Those that receive such a letter can appeal the decision or apply to revert back to quarterly reporting after 12 months of good monthly lodgement compliance.

With the significant increase in small business tax debts post-COVID, we are finding the Tax Office is becoming increasingly aggressive in its small business tax collection and compliance. Please contact our office should you require assistance in this regard.

Superannuation

How Does Your Super Compare With Others Your Age?



Have you ever wondered how your super balance compares to others in your age group? Or maybe you're curious about how much you should have saved by now to ensure a comfortable retirement?

It is not always easy to figure out if your super is on track, but understanding how it stacks up can help you make smarter decisions now that will benefit you later. This article looks into the average super balances for people of different ages and explores how much you may need in retirement.

Average balances of Australians

The Tax Office has released data showing average super balances for different age groups. The data gives a helpful overview of where Australians are at in terms of their retirement savings. Table 1 on the right is showing how the averages break down:

You might be looking at your super balance right now, feeling either satisfied or a little worried about how it measures up to these averages. Remember, averages do not tell the whole story.

Your balance can be impacted by various factors like career breaks, part-time work, salary levels, or investment decisions. If you have made additional contributions or opted for higher-growth investment options, your balance may be above average. If it's not quite where you would like it to be, do not worry – there is still plenty of opportunity to take steps and get back on track.

Table 1.

Age	Averages (\$)	
	Men	Women
Under 18	7,666	5,088
18-24	8,069	7,297
25-29	25,407	23,273
30-34	53,154	44,053
35-39	90,822	71,686
40-44	131,792	102,227
45-49	180,958	136,667
50-54	237,084	176,824
55-59	301,922	228,259
60-64	380,737	300,717
65-69	428,533	379,483
70-74	474,898	422,348
75 or more	487,525	416,279

Source: TAX OFFICE Statistics 2021–22: Median super balance, by age and sex, 2021–22 financial year



How much super do you need in retirement?

Understanding what you will need in retirement can help you gauge whether your super balance is on track. The Association of Superannuation Funds of Australia (ASFA) provides clear benchmarks to define what a “comfortable” or “modest” retirement might look like.

A **modest retirement** covers basic living expenses, with most of the income coming from the age pension. On the other hand, a **comfortable retirement** allows for a higher standard of living, including private health insurance, a reliable car, household upgrades, and leisure activities like holidays.

In Table 2 below is what ASFA estimates you will need if you retire at 65, own your home outright, and are in good health:

Table 2.

	Comfortable retirement	Modest retirement
Singles	About \$595,000 in super for an annual income of \$52,085	At least \$100,000 in super, combined with the Age Pension, could provide an income of \$33,134 for singles or \$47,731 for couples
Couples	Around \$690,000 in super to generate a combined annual income of \$73,337	

Source: ASFA retirement standard budget for retirees aged 65 to 84 (June quarter 2024)

Knowing these benchmarks can help you assess your progress and plan for the future you want.

Are you on track?

Now that you know what the average super balance look like, and you have a better idea of how much you may need, it’s time to check where your super stands. If your balance is lower than the targets set by ASFA, do not panic – it is never too late to take action. You can still take steps to boost your super and make it work harder for your retirement.

Consider making extra contributions, whether through salary sacrificing or personal after-tax payments. Reviewing your investment strategy to ensure it aligns with your goals and risk tolerance is also important. If you’re unsure about what changes to make, it could be helpful to speak to a financial adviser who can offer tailored advice for your situation.

Super is an essential part of your retirement planning, and understanding where you stand can help you make smarter choices today. Whether you’re feeling confident about your balance or realising there’s more work to be done, it’s always worth taking the time to review and plan ahead.

The sooner you act, the more time your super will have to grow – putting you in a better position to enjoy your golden years.

Taxation

Yet More Rental Data Matching by The Tax Office



This latest quest for rental data comes after the Tax Office also acquired property management data records for 2.3 million rentals.

Feeding its seemingly insatiable appetite for rental data, the Tax Office has recently announced it will soon be collecting rental bond details for some 2.2 million individuals.

The data, which will be collected twice a year from State and Territory bond regulators, is very comprehensive, and will include personal details such as names, addresses, dates of birth, telephone numbers, email addresses and bank account details for rental providers and tenants. The data obtained will also include business-related information for managing agents.

Also included will be the address of the leased property, the term of the lease, lease commencement and end dates, bond amounts, rent payable and payment intervals.

The Tax Office will also be seeking information about the characteristics of the leased property, including the type of dwelling, the number of bedrooms and a unique identifier for the rented property.

This latest quest for rental data comes after the Tax Office also acquired property management data records for 2.3 million rental providers from software companies last year. The project is aimed at identifying those who may not have properly disclosed their rental income, or accounted for capital gains tax (CGT) due on the disposal of their rental property.

Where people are letting their properties outside of the rental bond framework by using short stay platforms such as Airbnb, the Tax Office already knows about those arrangements, having obtained the information from the platform providers.

Rental income from short-term stays or even renting out a bedroom in your home has to be disclosed as assessable income in the same way as rental income from the long-term lease of a house or an apartment, although there can be some tricky issues around the apportionment of expenses when claiming deductions.

Common Issues that could be raised on audit the Tax Office are on the lookout for include:

The repairs vs improvement issue

There can be a fine line between work carried out that is a genuine repair (and tax deductible up front) and an improvement (generally deductible over time). Even where something is a genuine repair, it may not be deductible if the work is carried out immediately after acquiring the property and before any tenants are put in.

Bond retentions

Where part of the bond is retained at the end of a tenancy because of damage caused by the tenants, the amount retained needs to be disclosed as assessable income. The cost of any associated repairs would generally be deductible.

Interest deductibility

Where you have a mortgage over an investment property and the loan was used to acquire the property (or any other income-producing asset), interest will be deductible, provided the property is being let or is available to let. But where you already own an investment property free and clear and borrow against it to pay off the mortgage on your main residence or use the money to buy a car or fund a holiday, the interest is non-deductible. It's the use of the borrowed funds that determines interest deductibility.

Is that holiday house genuinely available for rent?

Unless your beach house is exclusively used for rental purposes, and is never used by family members or friends free of charge or below market value, there are always issues around the apportionment of expenses. Advertising the property at an unrealistic price or only at unpopular times is not regarded as making it genuinely available for rent, which will affect apportionment.

Inherited property

There is a myriad of CGT issues around the sale of an inherited property, including where it has been used for rental purposes.

That Small Farm Dream... and Tax Deductions

Many who retire from full time work – or who are on the verge of retiring – turn their minds to “hobby farming”, or carrying out some sort of small-scale farming activities. And some are already right into it.

The devil is always in the detail – and there is a lot of detail attached to these rules.

But there are some important tax considerations that should be borne in mind in any of those cases – the key one of which is the “non-commercial loss” rules that apply to limit or deny a deduction for losses from that activity.

Importantly, these rules only apply if you are carrying on a business of farming (or any business for that matter) – as opposed to merely “hobby” farming (or any hobby activity). If it is merely a hobby, then generally there are no tax consequences associated with the activity. (However, note that it is not always easy to determine the difference between hobby farming and farming as a business.)

If you are carrying on a farming business (or any business for that matter) the “non-commercial loss” rules will come into play.

These rules provide that losses from a non-commercial business activity will be restricted from being offset against other income (such as other investment income, rent or salary and wages) unless that business activity satisfies one of the four “commerciality tests”.

Furthermore, if the rules apply, then the non-commercial loss is deferred and, in most cases, can only be offset against profits generated from the same activity in a later year. However, the non-commercial loss rules also do not apply for a farming business if income from other sources is less than \$40,000.

So, what are these four “commerciality tests”?

1 If the “income” generated from the business activity is \$20,000 or more then the rules will not apply. This includes if it would be estimated that the income would be \$20,000 where the activity is only carried on for part of the year. However, there are a lot of rules for how “income” is determined in this case.

2 If the total value of real property used in carrying on the activity is at least \$500,000 then again, the rules will not apply. But, again, there are a lot of rules for calculating what the value of real property is for these purposes.

3 If the farming activity resulted in a “profit” in at least three of the past five income years then the rules will not apply. But, again, there are many rules for how “profit” is determined in this case.

4 If the total value of other defined assets used in carrying on the activity is at least \$100,000 the rules will not apply.

Importantly, even if you satisfy one of these four tests, you do not get a deduction for your business loss in a year of income if your “adjusted taxable income” is \$250,000 or more.

Just to complicate things, the Tax Office has a discretion not to apply the non-commercial loss rules if it would be “unreasonable” to do so because the business has been affected by events outside the taxpayer’s control (eg, by drought, flood, bushfire or some other natural disaster).

This discretion can also be exercised where the business is not expected to make a tax profit in the year, but there is an “objective expectation” that it will make a tax profit within some commercially viable period. However, the exact circumstances in which the Tax Office will exercise the discretion are also governed by various tax rulings and policy guidelines.

In summary, most of the non-commercial loss rules are fairly straight forward in principle. However, as with any such matters, the devil is always in the detail – and there is a lot of detail attached to these rules.

Superannuation

Making Superannuation Contributions Later In life

Changes to the contribution rules now allow more flexibility for people in their 60s and 70s to add to their superannuation.

Superannuation laws have been simplified over recent years to allow older Australians more flexibility to top up their superannuation. Below is a summary of what you need to know when it comes to making superannuation contributions.

Adding to super

The two main types of contributions that can be made to superannuation are called concessional contributions and non-concessional contributions.

Concessional contributions are before-tax contributions and are generally taxed at 15% within your fund. This is the most common type of contribution individuals receive as it includes superannuation guarantee payments your employer makes into your fund on your behalf. Other types of concessional contributions include salary sacrifice contributions and tax-deductible personal contributions. The government sets limits on how much money you can add to your superannuation each year. Currently, the annual concessional contribution cap is \$30,000 in 2024/25.

Non-concessional contributions are voluntary contributions you can make from your after-tax dollars. For example, you may wish to make extra contributions using funds from your bank account or other savings.

As such, non-concessional contributions are an after-tax contribution because you have already paid tax on these funds. Currently, the annual non-concessional contribution cap is \$120,000 in 2024/25.

Super contribution options for people under 75

If you're under 75, you can make and receive various types of contributions to your superannuation, such as:

- Compulsory superannuation guarantee contributions
- Salary sacrifice contributions
- Personal non-concessional (after-tax) contributions
- Contributions from your spouse
- Downsizer contributions from selling your home
- Personal tax-deductible contributions

Work test rule relaxed

After age 67, you'll need to meet the "work test" or qualify for a "work-test exemption" to make personal tax-deductible contributions. To satisfy the work test, you must work at least 40 hours during a consecutive 30-day period each financial year. Prior to 1 July 2022, the work test applied to most contributions made by individuals aged between 67 to 75, but now it only needs to be met for personal tax-deductible contributions. The good news is that you do not need to meet the work test for other types of contributions, so being retired will not stop you from contributing to superannuation.

If you do not meet the work test condition, you can use the "work test exemption" on a one-off basis if your total superannuation balance on the previous 30 June was less than \$300,000 and you satisfied the work test requirements last financial year. Meeting this requirement will allow you to also make personal tax-deductible contributions to superannuation.

Super contribution options for people over 75

Once you turn 75, most superannuation contributions are no longer allowed. The only exceptions are compulsory superannuation guarantee contributions from your employer (if you're still working) and downsizer contributions from selling your home.

If you are about to turn 75 or have just passed that milestone, you still have one final chance to make or receive other contributions. Superannuation funds can accept contributions for up to 28 days after the month you turn 75. For example, if you turn age 75 in October, the contribution must be received by your superannuation fund by 28 November.

Final word

Changes to the contribution rules now allow more flexibility for people in their 60s and 70s to add to their superannuation. So whether you are still working or retired, you can continue to make superannuation contributions to benefit you in retirement and beyond.