Your Knowledge

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Why 90,000 more businesses can access the $20k instant asset write-off this year

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The popular $20,000 instant asset write-off for small business ends on 30 June 2017. This concession enables small businesses to immediately write-off depreciable assets that cost less than $20,000.

Until recently, this instant write-off was only accessible to businesses with an aggregated turnover of less that $2 million. But, a last minute deal struck between the government and Senator Nick Xenophon to pass the enterprise tax Bill - containing amongst other things the tax cuts for business and a change in the small business threshold – will see up to 90,000 more businesses access the instant write-off.

While the Bill containing these changes is not yet law, we expect that it will be passed when Parliament next sits.

For those businesses that have not accessed this concession previously, it's important to understand how you can take advantage of it before 30 June 2017.

What is the $20,000 instant asset write-off?

A deduction is generally available for purchases your business makes. The instant asset write-off however changes the speed at which you can claim a deduction.

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Since 7.30pm, 12 May 2015, small businesses have been able to immediately deduct business assets costing less than $20,000. On 30 June 2017, this $20,000 deduction limit reduces back to $1,000. When we say "immediately deductible" we mean that your business can claim a tax deduction for the asset in the same income year that the asset was purchased and used (or installed ready for use). The deduction is claimed on the business's tax return.

If your business is registered for GST, the cost of the asset needs to be less than $20,000 exclusive of GST. If your business is not registered for GST, it is $20,000 including GST.

Assets costing $20,000 or more can be allocated to a pool and depreciated at a rate of 15% in the first year and 30% for each year thereafter.

The instant asset write-off only applies to certain depreciable assets. There are some assets, like horticultural plants, capital works (building construction costs etc.), assets leased to another party on a depreciating asset lease, etc., that don't qualify - check with us first if you are uncertain.

Also, you need to be sure that there is a relationship between the asset purchased by the business and how the business generates income.

The deal to pass the enterprise tax Bill

The tax rate reductions for business and changes to the small business threshold were announced in the last Federal Budget but have been stuck in the Senate with concerns that it was merely a 'sugar hit' for the top end of town. However, a last minute deal between the government and Senator Nick Xenophon will see the Bill pass Parliament but exclude large businesses with a turnover of $50 million or more from any tax cuts or concessions.

The negotiated Bill enables:

- An increase to the aggregated turnover threshold to $10 million for access to small business tax concessions from 2016-17. This means that any businesses with a aggregated turnover of under $10 million can now access a raft of concessions previously only accessible to small businesses under $2 million. The main concession left out is access to the small business CGT concessions, which still requires the entity to pass a $2 million turnover test or a $6m net asset value test.
- Progressive reductions in the corporate tax rate for businesses with a turnover under $50 million. Businesses with an aggregated turnover of less than $10 million will benefit from a company tax reduction to 27.5% this financial year, and
- For unincorporated businesses such as sole traders, partnerships and trusts:
  - An increase to the aggregated turnover threshold to $5 million (up from $2 million) for access to the small business income tax offset from 2016-17, and
  - An increase to the unincorporated small business tax discount to 8% from 2016-17. The offset will be capped at $1,000.

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You can't for example just go and purchase multiple television sets if they have no relevance to your business.

How can you access the $20,000 instant asset write-off

There are a few issues to be aware of if you want to utilise the instant asset write-off:

Does your business qualify?

To access the instant asset write-off, your business needs to be a trading business (the entity buying the assets needs to carry on a business in its own right). It also needs to have an aggregated turnover under $10 million. Aggregated turnover is the annual turnover of the business plus the annual turnover of any "affiliates" or "connected entities". The aggregation rules are there to prevent businesses splitting their activities to access the concessions. Another entity is connected with you if:

- You control or are controlled by that entity; or
- Both you and that entity are controlled by the same third entity.

Should you spend the money now?

If there are purchases and equipment that your business needs, that equipment has an immediate benefit to the business, and your cashflow supports the purchase, then in many cases it will make sense to go ahead and spend the money – you have until 30 June 2017 before the deduction threshold drops back to $1,000.

The $20,000 immediate deduction applies as many times as you like so you can use it for multiple individual purchases. But, your business still needs to fund the purchase for a period of time until you can claim the tax deduction and then, the deduction is only a portion of the purchase price.

Assets must be ready to use

If you want to access the $20,000 immediate deduction, you have to start using the asset in the financial year you purchased it (or have it installed ready for use). This prevents business operators from stockpiling purchases and claiming tax deductions for goods they have no intention of using in the short term. So, if your business purchases an asset on 20 May 2017, it needs to be used or installed and ready to use by 30 June 2017 to qualify for the immediate deduction.

Second hand goods qualify

The instant asset write-off does not distinguish between new or second hand goods. For example, second hand machinery may qualify if it meets the other requirements.

The immediate deduction can be used more than once

Assuming all the other conditions are met, an immediate deduction should be available for each individual item costing less than $20,000. Just be careful of cashflow.

Be careful of contracts

You need to ensure that any contract you sign makes your business the owner of the asset and that the asset can be used or installed and ready to use by the business on or before 30 June. The rules require you to "acquire" the asset before 30 June so the wording of the contract will be important.

Assets for business and pleasure

Where you use an asset for mixed business and personal use, the tax deduction can only be claimed on the business percentage. If you buy an $18,000 second hand car and use it 80% for business and 20% for personal use, only $14,400 of the $18,000 is deductible.

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You don’t get $20,000 back on tax as a refund

The instant asset write off is a tax deduction that reduces the amount of tax your business has to pay. It enables your business to claim a deduction for depreciating assets in the year the asset was purchased and used (or installed ready to use). For example, if your business is in a company structure the most you will ‘get back’ is 27.5% (in 2016-17). If your business is likely to make a tax loss for the year then the bigger deduction might not provide any short-term benefit to you.

Why work-related travel claims are easy pickings for the ATO

The Australian Taxation Office (ATO) is on the warpath over work related travel expenses and is prepared to test the boundaries of claims in court.

A recent case before the Administrative Appeals Tribunal (AAT) highlights many of the issues that commonly occur. In this case, a truck driver claimed large work related travel expenses over two years - $24,736 in the first year, and $17,489 in the second.

Large work-related claims often pique the interest of the ATO and in this case, the ATO audited the taxpayer’s returns, then made amendments to take into account allowances the taxpayer received from his employer for travel but had not declared as income. The taxpayer responded by lodging an amended return, increasing his claim to $33,503 in the first year (later reducing it back to $26,235).

The ATO responded by initiating a specific audit of his work-related expenses across both years. The result was that the taxpayer’s claims for work-related travel were reduced to $0 for both years and he was slapped with shortfall penalties totalling just under $8,000.

At this stage you are probably wondering why you would bait the ATO, particularly when the documentation supporting your claims was inconsistent. But, the taxpayer objected to the ATO's decision, which launched a further investigation. This time the ATO conceded on some claims. Despite this, the taxpayer brought his case before the AAT.

The AAT found that the taxpayer did not prove that the ATO's amended returns were excessive, primarily because he did not keep records for work-related travel expenditure when away from home overnight driving trucks. The penalties applied by the Commissioner were also found to be reasonable. The issue in this case appears to be that the truck driver just didn't believe that he needed to keep records under the substantiation exemption and that he was entitled to claim the full amount of the Commissioner's reasonable rates each day he travelled.

While this case appears excessive, the main parameters highlight common issues that arise for work related travel claims.

What paperwork do you need to claim travel expenses?

Every year, the Commissioner publishes the reasonable rates for travel expenses – accommodation, food and drink, and incidental expenses. If claims fall within these reasonable amounts, you can deduct travel allowance expenses within Australia without being required to keep full written evidence of all the expenses. But, even if you can rely on the substantiation exception, you may still be required to show the basis for determining the amount of your claim - that is, you still might need to prove that you actually incurred the expenses, and the expenses were work related.

An area of concern is where these reasonable rates are applied carte blanche. For example, you might be travelling overnight but don't leave until the afternoon. You have breakfast and lunch as usual before travelling, sleep away from home, then return home the next night. In this circumstance you could not claim breakfast and lunch on the first day because these meals would have been consumed before the travel began.

Also, the ATO's reasonable rates for accommodation expenses are only applicable if you are staying in commercial accommodation such as a hotel, motel or serviced apartment. If you choose to stay with family or friends while you are travelling then you can't claim the ATO's reasonable amount.

If you choose to claim amounts above the Commissioner's reasonable amounts, you need to keep records substantiating all of your claim (not just the amount in excess of the Commissioner's rates).

Just because you receive a travel allowance does not mean you have a legitimate claim

One of the issues highlighted in this case was the misconception that because someone receives a travel allowance or overtime meal allowance, this automatically entitles them to a deduction. The expenses still need to be incurred in the course of work-related travel in order to be deductible. Also, the ATO's reasonable rates don't apply unless the allowance itself is 'bona fide' – that is, the amount must reasonably be expected to cover accommodation or meal expenses that will be incurred while travelling for work.

To qualify as a travel expense you need to sleep away from your home

To qualify as a travel expense, you need to travel away from your ordinary residence. The ATO takes that to mean that you're sleeping away from home – not just travelling for the day.

The difference between travelling in the course of your work, living away from home, or relocating is important. The tax treatment between these is quite different.

> "Our greatest weakness lies in giving up. The most certain way to succeed is always to try just one more time."
>
> *Thomas A. Edison*

Are you paying more tax than you need to?

What can you do to reduce your tax and the tax paid by your business? The answer is quite a bit but it takes planning pre 30 June. Here are our top tips:

Timing is everything

Accelerate deductions

For businesses, if your cashflow is good, make the purchases you need before the end of the financial year to claim the deduction, particularly those with turnover under $10 million. The $20,000 immediate deduction reduces back to $1,000 on 30 June (see Why 90,000 more businesses can access the $20k instant asset write-off this year).

For individuals, it's a good time for charitable giving.

Delay income - One off opportunity for high-income earners

Taxpayers with assessable income above $180,000 face an additional 2% tax on every dollar above this level. The 2% 'debt tax' is scheduled to end on 30 June. The difference in timing between the reduction in the FBT rate that occurred on 1 April 2017 and the removal of the 2% tax on 1 July offers a one-off opportunity to reduce your taxable income through salary packaging and other planning initiatives.

If you are likely to have a one off spike in income, for example from the sale of a business or other significant assets, it's worth seeing if you can delay the sale until 1 July 2017 to avoid paying an additional 2% tax. Just be aware of how the arrangement is structured. In many cases the sale is treated as having taken place for tax purposes when the parties enter into the contract, even if settlement occurs at a later point in time.

Money or debts owed to private companies

It's common for business owners to take cash out of their business or for the business to fund some personal expenses through the year – these appear in the shareholder loan account. If this has occurred, it is important that these debts are either repaid by 30 June (you can declare dividends to pay any outstanding shareholder loan accounts) or a formal loan agreement (with specific conditions) is put in place. Without taking action, the ATO will treat any outstanding amount as a deemed dividend taxable in the hands of the shareholder at their marginal tax rate.

Trusts, timing and getting it right

Trustees (or directors of a trustee company) need to decide on the distributions they plan to make by 30 June 2017 at the latest. It's also important to check your trust deed – most trust deeds require resolutions to distribute trust income to be made by 30 June each year. Decisions made by the trustees should be documented in writing by 30 June 2017.

If valid resolutions are not in place by 30 June 2017, there is a risk that the taxable income of the trust will be assessed in the hands of a default beneficiary (if the trust deed provides for this) or the trustee (in which case the highest marginal rate of tax would normally apply).

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.