



Taxation

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Introduction

Each individual taxpayer has certain responsibilities under the Australian income tax system.

The Taxpayers' charter, published by the Australian Taxation Office (ATO) outlines:

- what you can expect from the ATO
- your rights and obligations
- what you can do if you are not satisfied with the ATO's decisions, actions or service, or how to make a complaint.

The content of this chapter should be used as a general guide only and does not cover the taxation of business entities such as companies, trusts and partnerships. The focus will primarily be upon income tax, and when and how individuals should complete a tax return.

Taxation Legislation and Guides

Income tax is imposed by a number of Commonwealth Acts of parliament. Broadly, the legislative regime covering Australian taxation law comprises the following federal Acts:

- *Income Tax Assessment Act 1997* (Cth)
- *Income Tax Assessment Act 1936* (Cth)
- *Fringe Benefits Tax Assessment Act 1986* (Cth)
- *Taxation Administration Act 1953* (Cth)
- *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

There are many guides to assist taxpayers to prepare their own income tax returns. For current information, consult the ATO's individual tax return instructions, which are available free of charge at any ATO, on the ATO's website or via the ATO's online and telephone publication ordering services. The ATO has trained volunteers at most branches to help with the preparation of returns.

Expert advice

People who are not certain of their rights should seek advice from accountants and other tax agents, who will prepare very simple individual tax returns for a fee.

Fees increase with the complexity of the return and are tax deductible if the accountant or agent has been registered by the ATO.

Ask your tax agent for a copy of your completed return so you are not obliged to return to the same tax agent the following year.

Who Must Lodge a Tax Return?

As set out in the individual tax return instructions, there are a number of reasons you may have to lodge a tax return. If you satisfy any of the following reasons, you have to lodge a return. These are based on the instructions for the year ended 30 June 2023.

Reason 1

During the previous financial year, you were an Australian resident and you paid tax under the pay as you go (PAYG) withholding or instalment system, or you had tax withheld from payments made to you.

Reason 2

You were eligible for the seniors and pensioners tax offset and your rebate income (not including your spouse's) was more than:

- \$32 279 if you were single, widowed or separated at any time during the year
- \$31 279 if you had a spouse but one of you lived in a nursing home or you had to live apart due to illness
- \$28 974 if you lived with your spouse for the full year.

Reason 3

You were not eligible for the seniors and pensioners tax offset, but you received a payment (e.g. Australian Government allowances) and other taxable payments that, when added together, made your taxable income more than \$21 884.

Reason 4

You were not eligible for the seniors and pensioners tax offset and you did not receive a payment listed at question 5 or 6 of the return instructions 2023 (which list many social security payments), but your taxable income exceeded:

- \$18 200 if you were an Australian resident for tax purposes for the full year
- \$416 if you were under 18 years old at 30 June 2023 and your income was not salary or wages
- \$1 if you were a non-resident for tax purposes and you had income taxable in Australia that did not have non-resident withholding tax withheld from it
- your part-year tax-free threshold amount if you became or stopped being an Australian resident for tax purposes.

Other reasons

You must lodge a tax return if any of the following applied to you:

- You had a reportable fringe benefits amount on your PAYG payment summary, either an individual non-business or foreign employment.
- You had reportable employer superannuation contributions on your PAYG payment summary.
- You were entitled to the private health insurance tax offset, but you did not claim your correct entitlement as a premium reduction, and your spouse (if any) is not claiming the rebate for you in the spouse's income tax return.
- You carried on a business.

- You made a loss or you can claim a loss you made in a previous year.
- You were 60 years old or older, and you received an Australian superannuation lump sum that included an untaxed element, or it is a death benefit superannuation lump sum paid to you as a non-dependant.
- You were under 60 years old and you received an Australian superannuation lump sum that included a taxed element or an untaxed element or it is a superannuation lump sum death benefit paid to you as a non-dependant.
- You were entitled to a distribution from a trust or you had an interest in a partnership, and the trust or partnership carried on a business of primary production.
- You were an Australian resident for tax purposes, and you had exempt foreign employment income and \$1 or more of other income.
- You are a special professional covered by the income averaging provisions. These provisions apply to authors of literary, dramatic, musical or artistic works, inventors, performing artists, production associates and active sportspeople.
- You received income from dividends or distributions exceeding \$18 200 (or \$416 if you were under 18 years old on 30 June 2023), and you had franking credits attached or amounts withheld because you did not quote your tax file number or Australian business number to the investment body.
- You derived Australian sourced taxable income (excluding any superannuation remainder or employment termination remainder) of \$45 001 or more while you were on a working holiday visa (417 or 462 visa).
- You made personal contributions (not including amounts that you are claiming as a deduction) to a complying superannuation fund or retirement savings account and will be eligible to receive a super co-contribution for these contributions.
- Your concessional contributions to your super exceeded the concessional contributions cap.
- Your non-concessional contributions exceeded your non-concessional contributions cap.
- You were a liable parent or a recipient parent under a child support assessment unless you received Australian government allowances, pensions or payments (whether taxable or exempt) for the whole of the period 1 July 2022 to 30 June 2023 and the total of all the following payments was less than \$27 509:
 - taxable income (excluding any assessable First Home Super Saver released amount)
 - exempt Australian Government allowances, pensions and payments
 - target foreign income
 - reportable fringe benefits total
 - net financial investment loss
 - net rental property loss

- reportable superannuation contributions.

The Commissioner of Taxation can demand a return at any time from any person, even if that person does not come within any of the above categories.

Tax exempt groups

The income of religious, scientific, charitable or public educational institutions is exempt from tax, and those bodies normally do not have to file a return. They must comply with any requirements for endorsement by the ATO applicable to that class of charity, and register with the Australian Charities and Not-for-profits Commission.

Residency Status Relevant for Tax Returns

Australian residency

Generally, you are an Australian resident for tax purposes if you have:

- always lived in Australia
- moved to Australia and live here permanently
- been in Australia continuously for six months or more, and for most of the time you have been in the one job and lived in the same place
- been in Australia for more than half of the financial year, unless your usual home is overseas and you do not intend to live in Australia.

The ATO publishes detailed information on how to determine tax residency and about the primary ‘reside test’ and other statutory tests that may apply.

Non-residents

Non-residents whose income can be sourced to Australia must lodge a tax return. Expert advice should be sought in these circumstances.

Lodging a Tax Return

Individual returns

The return form is available online from the ATO. Individual tax returns can be lodged online, in person or mailed to the ATO as explained in the return instructions.

Each taxpayer is required to file only one personal return each year, unless special demand is made.

Partnerships

If a person is a member of a partnership, they will still have to lodge a personal return.

The partnership also has to put in a return. Although the partnership does not pay any tax, the Commissioner of Taxation uses the partnership return to determine how much partnership income each individual partner should have declared on their personal return.

Filing a return

Individual tax returns are due on 31 October each year.

However, if a taxpayer has received permission to adopt an accounting period ending on a date other than 30 June, the due date will be either 31 October or 60 days after the end of the substituted accounting period, whichever is later.

If an accountant or other tax agent prepares and lodges a person's return, it may not be necessary for the return to be filed by 31 October. Some agents make special arrangements with the commissioner.

Late lodgement

If a return cannot be lodged by the due date, an application may be made to the ATO for an extension of time. That application, which should be made before the return is due, should show why an extension of time is needed. Penalties may be imposed for late lodgement. However, people who do not owe tax are rarely fined for late returns.

Self-disclosure

People who have not filed returns in the past are more likely to have their penalties waived or reduced if they disclose this to the commissioner before it is discovered.

Taxable Income

All the information asked for on the return must be given.

A tax return must list all income received by the taxpayer including:

- salary and wages
- money earned while carrying on a business
- interest
- dividends
- tips received in the course of employment
- amounts deducted by an employer from salary or wages (e.g. medical benefits)
- most annuities and pensions
- regular income under a will but not a specific bequest or sum of money
- workers compensation paid weekly or periodically but not lump sum workers compensation or a court award of damages for personal injury
- interest from savings banks, fixed deposits, building societies, credit unions, debentures, personal loans, interest on proceeds of a property sale, state government or Commonwealth Government loans
- interest from a bank or building society account where the person is a trustee for another person (e.g. a child)
- holiday pay, lump sum back pay and long service leave payments

- Australian income of a non-resident
- unemployment and sickness benefits, age pension, supporting parent's benefit, widow's pension
- invalid pension but only when the recipient is of age pension age
- disability support pension, if you have reached age-pension age
- termination and similar payments made as a result of the termination of employment.

The level of income tax that is payable is calculated as a percentage based upon the level of income earned by the taxpayer. This is part of what is commonly called a progressive tax system and is designed to ensure that those who earn more also pay more tax.

The current and recent tax rates can be viewed on the ATO website.

Likewise, there is a levy for those who do not have sufficient private health insurance and whose incomes are relatively high, at rates up to 2%.

Payments from superannuation funds are employment termination payments unless they are paid as a pension or annuity. Questions should be directed to a tax adviser.

Non-taxable Income

Money received does not have to be declared if it is not income. Income does not include:

- gifts
- hobby proceeds
- inheritances (assets or lump sum of money). However, if a beneficiary then sells an item the taxpayer has inherited, liability to pay capital gains tax may arise
- life insurance proceeds
- casket or lottery wins
- gambling wins, although someone who makes money regularly from gambling may be treated as a professional gambler and taxed on the income received
- prizes and awards
- maintenance payments received for self or children
- fringe benefits of employment. Employers, not employees, pay tax on non-cash benefits made available to employees such as low interest loans, use of motor cars, subsidised housing and certain cash living away from home allowances.

Failure to Declare Taxable Income

Under the self-assessment system, your income tax return is generally accepted at face value without adjustment. Even though you may receive a notice of assessment, which creates the formal obligation to pay tax, your return may be subject to further review or verification.

If a review shows any inaccuracies in income, deductions or entitlements, the ATO may amend your assessment within a prescribed period. This period is called the period of review and commences when the Commissioner of Taxation gives you notice of your assessment.

The standard period in which the commissioner can amend an assessment for an individual or small business taxpayer is two years from the date that notice of assessment is given. This period can be extended to four years

If fraud or evasion is suspected there is no time limit. The standard periods do not match the period for which taxpayers must keep records. This remains at five years from assessment.

Interest and dividends should always be declared. The ATO now obtains computer lists of all significant amounts received by way of interest and dividends from banks, building societies and public companies, which it may use to check the individual returns. Although a failure to declare dividends or interest payments may not be discovered for many years, a hefty fine will follow any discovery.

Tax at the highest marginal rate will be deducted automatically from interest payments unless a tax file number is supplied to the financial institution administering the interest-bearing account.

Every taxpayer who carries on business must keep adequate records in English.

Deductions from a Taxpayer's Assessable Income

Deductions that may be made from a taxpayer's assessable income include:

- expenditure to earn income
- trade union, professional and business association membership fees
- fees paid to a registered tax agent for preparing your tax return
- gifts to organisations that have been approved under the *Income Tax Assessment Act 1997* (Cth). These include most public hospitals, school building funds, public libraries, public art galleries, public museums, and some welfare and conservation bodies
- superannuation contributions up to annual limits, but only those made by self-employed persons or employees not covered by an employer-sponsored scheme.

Expenditure to earn income

For employees, expenditure to earn income includes necessary tools of trade, uniforms, protective work clothing and boots. It does not include ordinary work clothes, haircuts, transport to and from work or child minding.

For self-employed persons, it can include rent of business premises, lease (but not hire-purchase) payments for equipment, cost of materials used, subscriptions to business journals and periodicals, cost of seminars and conferences, a percentage of personal motor vehicle and petrol costs, a percentage of home telephone bill, business promotion expenses and bank charges. Some of these expenses may also be tax deductible for employees.

Non-deductible expenditure

Expenditure of a capital nature (i.e. expenditure that produces a lasting asset such as a desk or truck) is not deductible.

However, a proportion of most capital expenses may be deducted each year as depreciation, at a rate based on the effective life of the particular equipment or on the determination of effective lives published by the Commissioner of Taxation.

Maintenance payments to a spouse for that spouse or for children are not tax deductible.

Tax offsets

Tax offsets (sometimes also referred to as rebates) directly reduce the amount of tax you must pay. They are not the same as deductions, which are taken off your income before your taxable income is worked out. With a tax offset, you work out the tax due on your taxable income and then reduce it by the total amount of your tax offsets.

The most important tax offsets include private health insurance and franking credit offsets. Some offsets for pensioners can be transferred to a spouse, as can a childcare offset. As these rules have become more complex, detailed questions should be referred to a tax adviser.

Generally, tax offsets do not reduce your Medicare levy, however, where you have excess refundable tax offsets you can use them to reduce your tax, including your Medicare levy.

Claimable tax offsets

Low and middle-income earner tax offsets

From 1 July 2022, a taxpayer may be eligible for the low-income tax offset or low and middle-income tax offset if their income is below a certain range. These ranges are listed on the ATO website.

Beneficiary tax offset

The beneficiary tax offset is available to taxpayers who receive certain Australian Government allowances and payments. Generally, you pay no tax if your only income is a qualifying tax-free government pension or benefit. If you are not in receipt of the full amount of any such qualifying benefits and allowances or have other taxable income, you may be eligible for a partial offset.

Maintaining an invalid or invalid carer

Taxpayers may be able to claim a tax offset if they maintain a certain invalid or invalid carer.

Health insurance

The private health insurance offset is a percentage of the premium you pay to a registered health insurer for a complying private health insurance policy. The offset is affected by your level of income.

Pensioners and senior Australians

The senior Australians tax offset and the pensioner tax offset allow eligible people to earn more income before they have to pay tax and the Medicare levy.

Zones and overseas forces

Offsets are available for people who lived or worked in remote or isolated areas of Australia or served in forces overseas to partially compensate them for being in those areas.

Calculating Tax Payable

In order to calculate tax payments, it is necessary to start with a person's gross income, including net capital gains. Any deductions allowable under the applicable Acts should be subtracted from the gross income to arrive at the taxable income.

The tax is then determined using the Commissioner of Taxation's tax scales. Any rebates must then be deducted and any Medicare levy must be added.

The return instructions give step-by-step guidance.

Self-assessment

The self-assessment system means that taxpayers are generally assessed before the ATO examines their returns in detail.

If there are any errors detected, the ATO may issue an amended assessment. The taxpayer is obliged to repay any tax owing, together with interest and/or penalties as prescribed by law. If taxpayers are found to have overpaid their tax, they will receive interest from the ATO on that amount.

Rulings system

The self-assessment system is based on a series of binding public and private rulings made by the commissioner.

The commissioner makes public rulings, which are binding if they are favourable to the taxpayer. A public ruling may deal with the way in which a tax law is to apply in particular circumstances. No specific penalty tax provisions apply when a taxpayer does not adhere to a public ruling, but failure to comply with a public ruling may affect the amount of penalty for any breach of tax law.

The commissioner may make private rulings, which are binding on the commissioner in relation to particular arrangements entered into by a taxpayer.

An application for a private ruling must be made in a form approved by the commissioner. It must give the information required by the commissioner and be accompanied by prescribed documents.

A person who is dissatisfied with a private ruling may object in accordance with the objection procedure of the *Taxation Administration Act 1953* (Cth). If a tax shortfall is caused as a result of disregarding a private ruling, additional tax is payable.

A private ruling may be useful if a person is uncertain about their tax position and is concerned that they might subsequently be penalised. A private ruling by the commissioner will give guidance on how certain taxation arrangements will ultimately be viewed by the commissioner.

Medicare levy

A Medicare levy is charged on the taxable income of individuals who are residents in Australia at any time during the year of income.

Individuals and families on incomes above the Medicare levy surcharge thresholds, who do not have an appropriate level of private patient hospital cover, may be required to pay Medicare levy surcharge

for any period during the year that they did not have this cover. The Medicare levy surcharge is in addition to the Medicare levy.

Assessments of Tax Returns by the Australian Taxation Office

Once a return is lodged, the Commissioner of Taxation assesses the amount of tax payable, based on the information supplied in the return and any other relevant information in the possession of the ATO. A notice of assessment is then posted to the taxpayer.

Payments and refunds

The notice of assessment will show whether the taxpayer owes tax or is entitled to a refund. If a refund is due, a cheque will accompany the assessment notice or be paid by EFT.

Pay as you go

The pay as you go (PAYG) system has two main components, PAYG instalments and PAYG withholding. Under this system, taxpayers will generally make payments on a quarterly basis, based on their current trading and investment conditions. It does not affect the due date for lodgement of a taxpayer's income tax return. The rationale behind the legislation is to bring forward the payment of tax liability to the year the income was earned. PAYG instalments that are required to be paid quarterly will be due 21 days after the end of the preceding quarter.

Complex problems regarding the PAYG system should be directed to a tax adviser.

Due date for tax payments

Tax is due for payment on the date specified on the notice of assessment. Upon application, the commissioner may grant an extension of time for payment or permit payment to be made by instalments, though interest will usually be charged.

Investigations

The ATO may investigate taxpayers in two ways.

Sometimes the commissioner will ask questions in writing and ask for a written reply.

Alternatively, investigators from the ATO may seek to interview people about their tax obligations. Interviews will be recorded or may be done by two ATO people who will afterwards agree on their version of what occurred. For this reason, it is important for interviewees to also have someone else present or to record what is said. If recorded by the ATO, make sure you receive your labelled copy of the voice recording.

People who are not sure of the answer to any question during such an interview should ask the investigators to put it in writing and undertake to give a written reply as soon as possible. The commissioner has power to require individuals to give evidence on oath, which requires an answer to be given, but the ATO does not normally exercise that power.

Relief from paying tax

Total or partial release from liability to pay tax is available under the taxation system. Relief is available to people who can show that payment of the full amount of tax owing would entail serious hardship. Application forms are available from the ATO, and it is important that the taxpayer provides full details and be up to date with their tax returns.

Objecting and Appealing Tax Return Decisions

Taxpayers should calculate their own taxable income and rebates on their tax returns in case the ATO makes a mistake. Decisions by the ATO are usually accompanied by a written explanation and a contact number for the person or area of the ATO handling your case is supplied should there be any questions or a potential mistake by the ATO. In some very limited circumstances, the ATO will not be able to explain its decisions fully, however, it will still provide as much information as it can. These circumstances include where:

- another person is involved and releasing information about the ATO decision may breach their privacy or the secrecy provisions in the tax laws
- the ATO suspects fraud. The ATO may not release information because it might jeopardise its investigations.

When the assessment notice is sent, an accompanying adjustment sheet will show any calculation errors on the return and any other way in which the return has not been accepted.

Taxpayers who think an original assessment is wrong generally have two years to lodge an objection to that assessment, or four years for people with more complex affairs, however, the time to object may be as little as 60 days.

Late objections will only be considered if the taxpayer has given an acceptable explanation for being late and has been granted an extension of time in which to object.

Assessments, amended assessments and private rulings can be objected, and objections should be considered if:

- you disagree with an assessment or decision you have received from the ATO
- there is a dispute over how the ATO has interpreted the law
- you are uncertain about your interpretation of the law.

Grounds for objections

An objection must list all the grounds relied upon. No further grounds of appeal, no matter how valid or relevant, can be relied upon later without permission from a tribunal or the court.

A notice of objection that gives only vague grounds for an objection (e.g. 'it is incorrect' or 'it is excessive') is not valid. For this reason, objections may need to be prepared by a professional tax adviser.

After the objection

Once the objection is sent to the ATO, a reply may take several months, although a formal acknowledgment is usually sent promptly.

Eventually, the Commissioner of Taxation will either allow the objection, wholly or partially, or disallow it. The taxpayer will receive written notice of the decision.

Appealing a decision

The taxpayer then has 60 days in which to apply to the Administrative Appeals Tribunal for a review of the decision or appeal to the Federal Court of Australia against the decision.

The Administrative Appeals Tribunal

The Administrative Appeals Tribunal is the best place to go if the argument is basically one of fact.

Proceedings are relatively informal and inexpensive, as unsuccessful applicants to the tribunal do not have to pay the commissioner's legal costs. Hearings can, on request, be held in private. If you request a private hearing, your name and identifying details will not be published (unless there is a further appeal to the Federal Court). Applicants may either appear for themselves or be represented by a lawyer or an accountant.

The tribunal has a much wider power than a court to review any exercise of the commissioner's discretion.

The Federal Court

An appeal to the Federal Court might be preferable if the matter involves a question of law.

Since an unsuccessful party will usually be ordered to pay some of the legal costs of the successful party, the court is only a suitable forum if the person can afford to pay the commissioner's legal costs in the event that the appeal is not successful.

Exemption from paying court fees

Relevant exemptions from paying court filing and hearing fees in the Federal Court include if the person:

- has been granted legal aid for that proceeding
- is the primary holder of a health care card, a pensioner concession card, a Commonwealth seniors health card or any other card certifying entitlement to Commonwealth health concessions
- is serving a sentence of imprisonment or is otherwise detained in a public institution
- is younger than 18
- is receiving youth allowance, Austudy payments or ABSTUDY benefits.

Refund of fees

Tribunal fees will be refunded to successful taxpayers.

Court costs awarded in favour of a successful taxpayer are likely to include court fees.

Court hearing fees will also be refunded if the hearing does not proceed, and the court is given at least 10 working days notice that it will not proceed.

Further appeals

If the application is made to the Federal Court, then both the taxpayer and the commissioner have a right of appeal to the Full Court of the Federal Court of Australia. On the other hand, if the original application is to the Administrative Appeals Tribunal, there is only an appeal if a question of law is involved. The appeal is to the Federal Court. If a taxpayer is successful in the tribunal and the commissioner appeals, then the commissioner will often offer to pay the legal costs (as assessed by the court) even if the appeal is successful.

Payment pending appeal

The commissioner can demand the payment of tax that is subject to an objection or appeal.

Frequently, however, the payment of any amount that is not in dispute, plus half the disputed amount, will be accepted. The commissioner may also grant an extension of time for payment or accept payment of outstanding tax by instalments.

The commissioner is entitled to charge interest on unpaid tax.

Other Taxes Payable

Capital gains tax

Capital gains tax (CGT) is paid on any capital gain. It is not a separate tax, merely a component of income tax. A taxpayer is taxed on the taxpayer's net capital gain at the relevant marginal tax rate. A capital gains tax applies to assets acquired after 19 September 1985. The tax is payable on any profit made from the subsequent disposal of the asset. The provisions dealing with capital gains are set out in the *Income Tax Assessment Act 1997* (Cth).

Capital gains tax:

- is calculated by subtracting an adjusted purchase price from the total proceeds of sale, subject to some adjustments
- applies where an asset is sold or given away as a gift. The tax will not apply to the transfer of assets under a will or when a person dies without a will, and assets are transferred to next of kin. Capital gains tax must be paid only when the beneficiary disposes of the asset (this exclusion for disposal by death does not apply if an asset is given to a non-resident or to some tax-exempt bodies)
- does not apply to a taxpayer's principal place of residence and a reasonable surrounding area of land
- does not apply to motor vehicles
- does not apply to less valuable personal use items such as furniture, clothing and sporting equipment.

Losses made on capital items can be offset against capital gains, but not against normal income.

Calculation of capital gains

It is most important that people keep all receipts and other documentation relating to expenditure on assets to determine cost prices. All appropriate deductions can then be made and any net capital gain identified.

Exact calculation of the capital gain to include in a return depends on whether the asset was bought on or after 21 September 1999. Taxpayers may generally use indexation of the cost of the asset if the asset was bought before that date. For assets acquired after 21 September 1999, individuals, complying superannuation funds and trusts are instead entitled to apply a discount to the capital gain, which is 50% for individuals and trusts, but only one third for compliant superannuation funds. Other entities, such as companies that acquired an asset on or after that date, do not get capital gains tax discount.

Generally, if a taxpayer thinks they have derived some form of capital gain, expert advice should be obtained.

Fringe benefits tax

A fringe benefit is a payment to an employee in a form other than salary or wages. Under the *Fringe Benefits Tax Assessment Act 1986* (Cth) (FBTA Act), a fringe benefit is a benefit provided in respect of employment to an employee who is entitled or has been entitled to receive salary or wages.

Benefits include rights, privileges and services such as subsidised loans, discounted purchases from the employer's business, subsidised housing and the use of motor vehicles. The FBTA Act provides for the assessment and collection of fringe benefits tax.

The employer pays tax on the value of these benefits, not the employee. Fringe benefits tax is paid to the Commonwealth Government and is collected by the Commissioner of Taxation.

Stamp duty

Many common transactions are liable to duty (often referred to as stamp duty). A document subject to stamp duty (e.g. a contract to buy land) cannot be enforced in court (except in criminal proceedings) without being stamped, nor can a document be registered without being stamped.

Common transactions subject to stamp duty are registration or transfer of registration of a motor vehicle and sale or transfer of a house and/or land.

Who pays stamp duty?

The *Duties Act 2001* (Qld) places an obligation on the person executing a document that is subject to stamp duty to produce it for stamping. However, solicitors often arrange for documents to be stamped, and in some cases the other party to the transaction (e.g. the insurance company) will pay the stamp duty, but will collect it from the party liable to pay it.

The Commissioner of State Revenue may impose penalties for failure to stamp a document.

Amount of duty payable

The amount of duty payable on a particular transaction can be checked by ringing the Queensland Revenue Office.

Payroll tax

The Queensland Government levies payroll tax. If the value of wages paid to employees exceeds \$1.3 million per annum, the employer must register with the Commissioner of State Revenue and lodge payroll tax returns and pay tax as required. For further details contact the Payroll Tax section of the Queensland Revenue Office.

Land tax

Land tax is levied by the Queensland Government on freehold land owned in Queensland as at midnight on 30 June each year. The Queensland Revenue Office collects land tax in Queensland and administers the *Land Tax Act 2010* (Qld). The owner of taxable land is liable to pay the tax.

Goods and services tax

Goods and services tax (GST) of 10% is imposed on most goods and services sold in Australia. The main rules are in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), and the administrative rules are in the *Taxation Administration Act 1953* (Cth).

Goods and services tax is an indirect, broad-based consumption tax on taxable goods or services (including real property and rights) in the course of carrying on an enterprise. Subject to the satisfaction of certain conditions, when a supplier acquires goods or services in carrying on their business, they may claim an input tax credit for the GST component of the price. To obtain the input tax credit, the person supplying the goods or services to the supplier must be registered (or required to be registered), the acquisition by the supplier must be undertaken with consideration and it must be connected with Australia.

Certain transactions are GST free, but no organisation is exempt from GST. The following activities are GST free, which means that the business is unable to charge the end consumer GST:

- basic food
- health and medical services
- educational services
- childcare services
- charitable services.

Registrations for GST purposes are optional for those business taxpayers whose actual turnover is less than \$75 000. Any taxpayer who carries on a business where their turnover exceeds \$75 000 must register. The turnover threshold for non-profit organisations is \$150 000 before they must register for GST purposes. A business that provides taxi travel services must register for GST regardless of their GST turnover.

Registered taxpayers have to report their obligations and entitlements for GST on a form called the Business Activity Statement (BAS). This form is generally completed on a monthly or quarterly basis depending on the turnover of the taxpayer or the taxpayer's preference.

The ATO forwards to the business taxpayer a personalised BAS for each tax period including some information already completed and a unique identification number. The lodgement date for these

forms is printed on the front page of the form. Complex problems should be directed to a tax adviser.

Complaints about the Australian Taxation Office

When a taxpayer is informed of a decision, the ATO is required to explain that decision and to advise the taxpayer of the options they have to get the ATO to review it.

If the taxpayer is not satisfied with the decision or the treatment they have received from the ATO or need further help, they can contact the ATO.

Another avenue for complaint is the Inspector-General of Taxation if there is some apprehension in dealing directly with the ATO.

The Inspector-General cannot deal with issues affecting a taxpayer's assessment but can delve into the systems and procedures used by the ATO when dealing with taxpayers.

The Inspector-General has the role of maintaining the balance of rights between taxpayers and the ATO.

Complaints can be made in writing, in person or by telephone and the service is free.

Legal Notices

Disclaimer

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