Australian Government
Australian Taxation Office

Starting your own business

- https://www.ato.gov.au/Business/Starting-your-own-business/
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- QC 31774

The key things you need to know and do when starting your own business.

Are you in business?
Work out whether you're in business and when your business starts for tax purposes.

Before you start a business
Tax, super and registration obligations you need to consider before you start a business.

Business structures – key tax obligations
Key tax obligations for sole trader, partnership, company and trust business structures.

Franchising and tax
Tax treatments for franchise-specific payments and transactions between franchisors and franchisees.

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Small business webinars and workshops
Free webinars to improve your knowledge about starting and running a business.

Are you in business?

- https://www.ato.gov.au/Business/Starting-your-own-business/Are-you-in-business-/
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Work out whether you're in business and when your business starts for tax purposes.

On this page

What is a business?

Generally, a business involves a set of continuous and repeated activities you do for the purpose of making a profit. Profit can be in money, but it can also be made through other means, like being paid with good or services (such as a barter deal).

A one-off transaction can also be a business if it is either:

- intended to be repeated
- the first step in starting a business.

You can run one business or multiple businesses at the same time.

You can follow the steps below to help you work out if your activities are a business.

When you're not in business

Not everything you do to make money is a business.

Your activities are not a business when they are:

- a one-off transaction (unless it is the first step in carrying on a business or intended to be repeated)
- done as an employee
- a hobby or recreation from which you don't seek to profit
- a simple investment, such as passively holding shares on which you receive dividends or a rental property you let through an agent.

Even if you’re not in business, you may still need to declare certain payments you receive as assessable income in your income tax return. For example:

- rent or income from providing services
- payment from a one-off transaction
- the market value of goods or services you receive in a barter deal
- dividends from shares you own.

When a company is not in business

Most companies are in business if they intend to and are likely to make a profit.

However, some companies are not in business. For example, a company is not in business if it:

- holds assets solely for its shareholders' private use, and its running costs are funded solely by its shareholders
- provides social and recreational activities for members without seeking to make a profit.

Steps to work out if you are in business

Step 1: Identify all relevant, related activities

Examples of relevant, related activities include:

- keeping records
- obtaining and maintaining licences and permits
- if you rent out premises or goods, everything you do to rent out those premises or goods
- if your activity is providing goods or services, everything you do in providing them.

Step 2: Are the activities a business?

The more of the following questions you answer yes to, the more likely it is your activities are a business:

- Do you intend to be in business?
- Do you intend and have a prospect of making a profit from your activities?
- Is the size or scale of your activity enough to make a profit?
- Are the activities repeated and continuous?
- Are your activities planned, organised and carried out in a business-like manner? For example, do you:
  - keep business records and have a separate business bank account?
  - advertise and sell your goods and services to the public, rather than just to family or friends?
  - operate from business premises?
  - maintain required licences or qualifications?
  - have a formal business plan or budget?
  - have a business name or an ABN?

If you’re still not sure whether your activities constitute a business, you may need to consider the indicators that a business is being carried on in more detail, including relevant court decisions. These are discussed in the following tax rulings:

- For an individual, partnership or trust, see Taxation Ruling TR 97/11: Income tax: am I carrying on a business of primary production? While this ruling is about primary production, the principles it explains can be applied more broadly.
- For a company, see Taxation Ruling 2019/1 Income tax: when does a company

carry on a business?

Example: assessing if you are in business

Angela is employed as a mechanic at a local garage. She helps her employer upload a few how-to videos on a video sharing platform to create awareness and drive business to the garage.

Angela discovers she can monetise popular content and creates her own video sharing channel with the intention of making a profit. She uploads videos of how to fix machinery.

When Angela's channel starts to grow, she:

- sets up a production schedule that sets out the type of content she will produce on a weekly basis
- buys lighting and sound equipment to improve her production quality
- asks a friend to help her advertise her channel on social media
- paints her channel logo on the side of her truck to advertise
- joins the video sharing platform’s Partner Program and starts earning money
- records all expenses from her content creation activity.

Angela wants to know if her ‘side hustle’ activities are a business.

Step 1: Identify all relevant, related activities

- Angela identifies all the activities involved in her video sharing activity, including the continuous and repeated production schedule and filming, purchasing of equipment to generate more revenue, advertising, and monetisation partnership.
- She does not include the work she does as an employee at the garage.

Step 2: Are her video sharing activities a business?

Angela looks at all her activities together. She determines that she is in business because she:

- intends to run a business
- intends to make a profit to supplement her salary and wage income
- sets up a regular schedule for these activities
- operates in a businesslike way, has a plan and system for making a profit, keeps records, and promotes and advertises her activity.

When does your business start?

It is important to know when your business starts. This will affect the registrations you must have and when you need to apply for them.

It may also affect:

- how tax laws apply to your activity and the assets you use in that activity
- the tax concessions or deductions available to you.

Your business starts when you have more than an intention to be in business and have:

- made the decision to start the business
- acquired the minimum level of assets to start running your business
- started your business activities.

Have your activities changed?

If your activity changes in a major way you must reassess whether you are in business. For example, this could be if:

- you are now making a profit or have an intention to do so
- your activity was originally a hobby but you make arrangements to make money from it, such as monetising online content you created
- you are in business but change, pause or stop your activities.

Before you start a business

- https://www.ato.gov.au/Business/Starting-your-own-business/Before-you-start-a-business/
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Tax, super and registration obligations you need to consider before you start a business.

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Are you in business?

Before you register for an Australian business number (ABN), it is important you determine if you are in business and when your business starts.

Knowing if you're in business helps you know what records you need to keep, and what obligations you have.

What to consider before starting a business

Understanding the road ahead and doing your research and planning is critical for your success.

The Guide to starting a business on business.gov.au helps you navigate these steps.

It's also important to:

- know that you are ready to start a business
- talk to people with similar businesses, or a trusted business adviser
- speak with a registered tax professional
- contact your local industry association
- look at the ATO's website and small business benchmarks to see how businesses perform in your industry
- research financial information for your business – how much will it cost to start your business, to be in business, and can you access grants or loans?
- decide which business structure is right for you as this determines the tax you will need to pay
- know what records you may need to keep and income and deductions you need to declare or claim, and from when this needs to happen
- know what registrations you need to have in place, and from when.

Getting up and running

- Registrations and insurance
- Business reporting, income returns and deductions
- Engaging with us online
- Hiring workers

Registrations and insurance

Once you have started a business, you need to meet specific business obligations. This includes any required registrations or business insurance.

You may need an Australian business number (ABN). This unique 11-digit number identifies your business or organisation to the government and community. An ABN has its own set of obligations.

You may also need to:

- register for goods and services tax (GST), which is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia
- register for pay as you go (PAYG) withholding and meet your super obligations for any employees you hire
- register for fringe benefits tax (FBT) when you are providing fringe benefits to your employees.

You can apply for an ABN and other key business registrations through the Business Registration Service.

You may also need business insurance and licences to protect your business. It's important to understand the licences and permits you need to do certain activities and help protect your business and employees.

Business reporting, income returns and deductions

Income you receive from your business activities is assessable income and must be declared on your income tax return.

A tax return needs to be lodged for each sole trader, partnership, trust and company you are running.

Sole traders need to report all income, including business income, in their individual tax return.

You can claim a business tax deduction for most expenses you incur in carrying on your business, as long as they are directly related to earning your assessable income. If you are registered for GST, you will also need to lodge a business activity statement (BAS).

Engaging with us online

Our online services are quick, easy, tailored and secure. They let you manage most of your reporting and transactions with us at a time that's convenient for you.

You can use:

- Online services for individuals and sole traders
- Online services for business for approved self-managed super fund (SMSF) auditors, businesses, and other organisations.

Hiring workers

If you're thinking of hiring a worker, it's important to understand your tax and super obligations as an employer.

Before you hire your first worker you need to:

- set up single touch payroll (STP) to meet your employer obligations
- register for PAYG withholding
- set up your business to pay superannuation contributions to your worker's nominated fund
- register for FBT if you provide benefits in addition to wages
- see if you need to register for state and territory payroll tax
- use our online services to manage your registrations and obligations.

Setting yourself up for success

- Cash flow management
- Record keeping
- Business banking
- Technology

Businesses that are operating well and meet their obligations usually have the same things in common.

They:

- have good cash flow management practices
- use technology to help run their business
- keep good records and have good accounting systems
- seek the advice of a registered tax professional or business adviser.

With accurate record keeping and digital tools, it's easier to track, monitor and make improvements to your cash flow. It also makes it easier to report to the ATO and make payments.

Cash flow management

Managing your business cash flow and knowing the amount of money that goes in and out of your business – that is, income and expenses – allows you to make better business decisions.

It also makes it easier for your business to pay bills and other costs and meet your tax, GST, superannuation and employer obligations.

In your first year of business, you can meet your obligations by:

- making tax pre-payments into your tax account
- putting money aside for your expected tax bill
- voluntarily entering into PAYG instalments.

For help with understanding how to manage your business cash flow:

- attend our free Budgeting for your commitments webinar
- ask your trusted business adviser or registered tax agent about the Cash Flow Coaching Kit.
- visit business.gov.au and learn about how to create a budget and how to improve your business's financial position.

Record keeping

As a business, for tax purposes you must keep detailed records for all transactions related to your tax, GST and superannuation affairs as you start, run, sell, change or close your business.

Keeping accurate and complete records for all your business transactions will also help you manage your business and its cash flow.

Business banking

Understanding your business banking obligations is important. Different business structures have their own record keeping requirements.

- If you're operating as a partnership, company or trust, you must have a separate bank account for tax purposes.
- If you're operating as a sole trader, you do not have to open a separate business bank account, but it's a great idea to do so and will save you time when working out what transactions are personal and business.

Further information about organising your finances can be found on business.gov.au.

Technology

The right digital tools will help you perform daily business activities and meet your tax, GST and super obligations. They also make it easy for you to engage with us when it is convenient to you.

Small businesses can use:

- Online services for individuals and sole traders
- Online services for business
- the ATO app – to access and manage your tax and super on the go
- eInvoicing – a fast, easy and secure way to automatically send and receive invoices through your software
- digital record keeping software systems – to track your income and expenses from the start of your business
- electronic payment systems – if you are making sales in your business, you will need to select a payment system. Your customers then pay for your goods or services electronically, making it easier for you to reconcile your expenses, including
    - tap-and-go (contactless) payments
    - credit and debit cards
    - EFTPOS
    - online payments
    - smart phone and tablet card processing.

Any payment software you use must not have any payment suppression tools.

Support for your business

The ATO is here to help you on your business journey. We offer a range of learning resources, tools and services to support your business.

- Tax time support for your business.
- Free webinars to improve your skills and knowledge to be successful in your business venture.
- Calculators and tools to help you run your business.
- A small business newsroom – subscribe and get the latest tax and super news delivered to your inbox.

- ATO app – to access and manage your tax and super on the go.
- Join the discussion online – follow us on social media for tips and updates or check out our ATO Community forum to ask questions about tax and super.
- National Relay Service – if you have difficulty hearing or speaking to people on the phone, you can contact us through the National Relay Service.
- National tax clinic program – if you're experiencing difficulties and can't access or afford professional advice or representation with your tax affairs, the tax clinic program may be able to help.
- Registered tax or BAS agents – contact a registered agent to help manage your tax and super.
- Contact us – if you need more help.

Aboriginal and Torres Strait Islander peoples and other languages

In addition to our range of tools and services, we have information:

- on Tax for businesses for Aboriginal and Torres Strait Islander peoples
- in languages other than English (including Arabic, Chinese, Hindi, Korean, Punjabi and Vietnamese) to help people from culturally and linguistically diverse backgrounds understand tax and super in Australia.

If you would like to speak to us, you can also:

- phone our Indigenous Helpline on 13 10 30
- phone the Translating and Interpreting Service (TIS) on 13 14 50 if you would like to talk to us in your language.

Business structures - key tax obligations

- https://www.ato.gov.au/Business/Starting-your-own-business/Business-structures---key-tax-obligations/
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Key tax obligations for sole trader, partnership, company and trust business structures.

On this page

Types of business structures

A business structure:

- defines who owns and operates a business
- affects your tax and registration requirements
- affects your legal liabilities and obligations.

There are 4 commonly used business structures in Australia:

- sole trader
- partnership
- company
- trust.

Information about other business structures is available on business.gov.au.

If you're unsure which business structure to choose, talk to your registered tax agent, or trusted business or legal adviser.

If you change your business structure, there may be costs, tax implications and other obligations you need to meet.

Sole trader

A sole trader is an individual running a business. It is the simplest and cheapest way to run a business.

If you run your business as a sole trader, you are:

- the sole owner and controller of it
- legally responsible for all aspects of the business, including debts and losses you incur in running it.

You can employ workers in your business, but you cannot employ yourself.

As a sole trader, you are responsible for paying your worker's superannuation, known as super guarantee. You don't have to pay super guarantee for yourself but you can choose to make personal super contributions to save for your retirement.

Key tax obligations

As a sole trader, you:

- use your individual tax file number (TFN) when lodging your income tax return
- report all your income in your individual tax return, using the section for business items to show your business income and expenses (there is no separate business tax return for sole traders)
- are entitled to an Australian business number (ABN) and use that ABN for all business activities
- must register for goods and services tax (GST) if:
  - your annual GST turnover is $75,000 or more
  - you provide taxi, limousine or ride-sourcing services (regardless of your GST turnover)

- you want to claim fuel tax credits

- may be required to lodge business activity statements, for example if you are registered for GST, have employer obligations such as pay as you go withholding, or have pay as you go instalments
- pay tax on all your income, including income from your business, based on your individual tax rate
- may voluntarily use, or be required to make, pay as you go instalments to prepay your income tax
- can claim a deduction for any personal super contributions you make after notifying your fund
- can hire workers, and need to meet all employer and super obligations for them.

As a sole trader, you can claim a deduction for salary, wages and allowances you pay your workers on your tax return.

You cannot claim a deduction for money or assets you take from the business for personal use.

Partnership

A partnership is a group or association of people who run a business together and share the income or losses from the business between themselves.

A written partnership agreement is not required for a partnership to exist but can help:

- prevent misunderstandings and disputes about what each partner brings to the partnership
- set out how business income and losses are to be shared between the partners (equally between partners or not)
- set out how the business is to be managed.

If there is no written agreement, income and losses are equally distributed between partners.

The partners in a partnership are not employees of the partnership, but they are able to employ other workers.

Partners are responsible for their own superannuation. However, the partnership is required to pay super for its employees.

Key tax obligations

A partnership:

- has its own TFN
- must lodge an annual partnership return showing all business income and deductions and how its income or losses are distributed to the partners
- must apply for an ABN and use it for all business activities

- must register for GST if it:
  - has annual GST turnover of $75,000 ($150,000 for not-for-profit organisations) or more
  - provides taxi, limousine or ride-sourcing services (regardless of GST turnover)
  - wants to claim fuel tax credits

- may be required to lodge business activity statements, for example if it is registered for GST, has employer obligations such as pay as you go withholding, or have pay as you go instalments
- does not pay tax
  - each partner reports their share of the net partnership income or loss in their own tax return and is personally liable for any tax that may be due on that income.

A partnership and its partners cannot claim a deduction for money they withdraw from the business. Amounts you take from a partnership:

- are not wages for tax purposes
- may affect what your share of the partnership income is that you have to pay tax on.

Company

A company is a separate legal entity with its own tax and superannuation obligations, run by its directors and owned by its shareholders.

A company's income and assets belong to it, not its shareholders. There may be tax consequences if you are using your company's money and assets for private purposes.

A company can distribute profits to its shareholders through dividends and may be able to attach franking credits to those dividends, which allows its shareholders to receive a credit for the tax already paid by the company on its profits.

While a company provides some asset protection, its directors can be liable for their actions and, in some cases, certain tax and superannuation debts of the company under the director penalties rules.

All company directors are legally required to verify their identity and apply for a director identification number (director ID) prior to being appointed as a director of a company.

Companies are regulated by the Australian Securities and Investments Commission (ASIC).

Companies have higher set-up and administration costs than other types of business structures, and have additional reporting requirements.

Key tax obligations

A company:

- is responsible for its own tax and superannuation obligations
- must apply for its own TFN
- is entitled to an ABN if it is registered under the *Corporations Act 2001*
  - if the company is not registered under the *Corporations Act 2001* it may still register for an ABN if it is running a business in Australia

- must register for GST if it
  - has annual GST turnover of $75,000 ($150,000 for not-for-profit organisations) or more
  - provides taxi, limousine or ride-sourcing services (regardless of GST turnover)
  - wants to claim fuel tax credits

- may be required to lodge business activity statements, for example if it is registered for GST, has employer obligations such as pay as you go withholding, or has PAYG instalments
- owns the money that the business earns (you may have to pay tax on any money taken out for personal use)
- must lodge an annual company tax return
- usually pays its income tax by instalments through the pay as you go instalments system
- pays tax at its applicable company tax rate
- must pay super guarantee for any eligible workers (this includes any company directors)
- must issue distribution statements to any shareholders it pays a dividend to.

Trust

A trust is an obligation imposed on a person or other entity to hold and manage property for the benefit of beneficiaries. If a trust is set up to run a business, it will normally have a trust deed that, among other things, sets out the powers of the trustees and the interests of the beneficiaries in the trust.

The trustee manages a trust's tax affairs. The trustee can be an individual or a company. The net income of the trust is usually distributed to beneficiaries.

Key tax obligations

A trust:

- must have its own TFN
- must lodge an annual trust tax return, which includes a statement of how its income was distributed
- must apply for an ABN and use it for all business activities
- must register for GST if it
  - has annual GST turnover of $75,000 ($150,000 for not-for-profit organisations) or more

  - provides taxi, limousine or ride-sourcing services (regardless of GST turnover)
  - want to claim fuel tax credits

- may be required to lodge [business activity statements](), for example if it is registered for GST, has employer obligations such as pay as you go withholding, or has pay as you go instalments
- must pay super for eligible employees (this may include the trustee if employed by the trust).

Who pays income tax?

The trustee must lodge an annual trust tax return. Who pays tax on the trust's income is determined by how the trust income is distributed and who it is distributed to.

Generally, the beneficiaries will be responsible for paying tax on the trust net income distributed to them.

The trustee is liable to pay tax on any undistributed income and may be liable to pay tax on behalf of certain beneficiaries, like non-residents or minors.

There may be other circumstances where the trustee is responsible for paying tax.

If the trust makes a loss, it cannot be distributed to the beneficiaries and they cannot claim it as a loss against their income.

However, the trust may be able to carry forward losses and offset them against future income it earns.

Franchising and tax

- https://www.ato.gov.au/Business/Starting-your-own-business/Franchising-and-tax/
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Tax treatments for franchise-specific payments and transactions between franchisors and franchisees.

On this page

Starting a franchise

With franchising, the:

- franchisor grants the right to the franchisee to
  - use a business brand name or trademark
  - produce or distribute their product or service

- franchisor and each franchisee have their own Australian business number (ABN).

The franchisee will incur franchise-specific payments to their franchisor in addition to other general business expenses. Some of these payments will be deductible and others are capital in nature and not deductible.

Common franchise fees

Franchise establishment fees

The franchise establishment fee or transfer fee forms part of the cost base for your franchise licence, which is a capital asset. Because these fees are a capital investment in your business, they are not tax deductible.

Franchise renewal fees

If your franchise renewal fees form part of your cost base, they will not be deductible. Any franchise renewal fees not included in your cost base may be deductible as a business expense and subject to the prepayment rules.

An example of where you would not include a franchise renewal fee in your cost base is where it is for a relatively short period of time (for example, 5 years), and you would be left with no franchise if you did not pay the renewal fee.

Royalties, interest and other payments to the franchisor

An agreement to buy a franchise often includes ongoing royalty payments, interest payments or levies to the franchisor.

These payments typically cover head office expenses, such as administration, advertising and technical support.

Royalty payments, interest payments and levies to the franchisor can be claimed as an expense on your annual tax return. This is because they are an ongoing expense in running your business.

Royalty and interest payments to non-residents

- Generally, when you make royalty and interest payments to non-resident franchisors, you are required to withhold a flat rate of:
- 30% from the gross amount of a royalty payment
- 10% from the gross amount of an interest payment.

However, where there is a tax treaty agreement with the non-resident's country of residence, you apply the withholding rate in the tax treaty.

You pay and report the amounts you withhold from interest and royalty payments in your business activity statement (BAS) for the relevant reporting period.

You report the total annual amount of royalty and interest payments, and amounts withheld, in the PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report.

If you are required to withhold tax from a royalty or interest payment to a non-resident, you can only claim a deduction for it if:

- you have withheld tax from the payment and paid the withheld amount to us, or
- the withholding tax is paid.

Training fees

You can claim a tax deduction for fees you pay to the franchisor for ongoing training for employees in their roles. For more information refer to Income and deductions for business.

GST

If the franchisor is registered for goods and services tax (GST), payments you make to the franchisor may include a GST component.

If you are registered for GST you may be able to claim a GST credit in your BAS for the GST amount included in:

- the initial franchise fee
- franchise renewal fees
- franchise service fees or royalties
- advertising fees
- transfer fees
- training fees.

Transferring or terminating a franchise

If you transfer a franchise to another party or end your franchise agreement, there may be capital gains tax (CGT) and GST consequences.

When you transfer or end your franchise agreement you will need to calculate your CGT and include that in your annual tax return.

The sale of an existing franchise by a franchisee may qualify as a GST-free sale of a going concern.

Using your business money and assets for private purposes

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You may need to report money and assets taken from your company or trust as income in your tax return.

On this page

For a summary of this content in poster format, see Using business money and assets (PDF, 261KB) .

Who needs to know?

This information will help you understand how money taken out of your business, or using business assets for private purposes, must be recorded and reported for tax purposes.

It applies if you are an individual who:

- is a director or shareholder of a company that operates a small business (your business)
- is a trustee or beneficiary of a trust that operates a small business (your business)
- is a director of a corporate trustee for a trust that operates a small business (your business)
- is or has been an associate of the shareholder (individual or entity). An associate can include a relative, partner, spouse, or another entity controlled by a shareholder.

How do you use money or assets from a company or trust

The most common ways you may take or use money or assets from a company or trust are as:

- salary and wages – see employment income
- fringe benefits, such as an employee using the business's car

- director fees
- dividends paid by the company to you as a shareholder (a distribution of the company's profits) – see paying dividends and other distributions
- trust distributions by the trust to you as a beneficiary – see trustees and beneficiaries
- loans from the trust or company – see loans by private companies
- allowances or reimbursements of expenses you receive from the trust or company.

There are reporting and record-keeping requirements for each of these types of transactions.

How to record and report the use of your business money or assets

You may need to report and must maintain appropriate records that explain transactions of which you have:

- taken money or assets from your business
- used the business's assets for private purposes.

The ATO view on minimum record-keeping standards is provided in Taxation Ruling TR 96/7.

In this section

- Salary, wages or directors' fees
- Fringe benefits and allowances

Salary, wages or directors' fees

You can be an employee and a shareholder or director of the company that operates your business. You can also be an employee and a beneficiary of the trust that operates your business.

You must include any salary, wages or directors' fees you receive from your business as assessable income in your individual tax return.

The company or trust that operates your business can generally claim a deduction for any salaries, wages or director's fees paid.

Your business must:

- register for pay as you go (PAYG) withholding and withhold an amount from salary, wages and directors' fees
- report the payment information to the ATO using Single Touch Payroll (STP)
- pay the amount withheld to the ATO and compulsory employee superannuation contributions to a complying super fund by the relevant cut-off dates.

Example 1: Taking money as salary or wages

Daphne is the sole director of a company that sells speciality gift hampers to customers. She and her partner Jo are equal shareholders in the company. Before this financial year, Daphne ran the business as a sole trader.

As a sole trader, Daphne paid herself $1,500 a month out of her business account and into her personal account. Daphne doesn't need to report this separately because it has already been included as business income on her individual tax return.

At the time she sets up the company, Daphne becomes an employee of the company and is paid $1,500 a month as a salary. Her tax agent explains to her that there are different tax consequences now that the business is run through a company, which is a separate legal entity.

Daphne now reports the $1,500 a month income she receives from her employment as salary in her individual tax return. The company reports business income and claims a deduction for the salary paid to Daphne in its company tax return. The tax agent helps Daphne to set up PAYG withholding and STP reporting, as well as meet her company's superannuation guarantee obligations.

Fringe benefits and allowances

Fringe benefits tax (FBT) applies when employees or directors of a company or their associates receive certain benefits from the company or trust. This could be a payment or reimbursement of private expenses or being allowed to use the business assets for private purposes such as the business's car.

Your business:

- may be entitled to claim a deduction for the cost of providing fringe benefits
- must lodge an FBT return and pay any FBT that applies to the fringe benefits provided to the employees or their associates
- must keep all records relating to the fringe benefits it provides, including how the taxable value of benefits was calculated.

There are various exemptions from FBT that may apply, for example, the small business car parking exemption.

The FBT liability for your business may be reduced if you (as an employee) make a contribution towards the cost of the fringe benefit.

You don't need to report the value of fringe benefits that you (or your associate) receive, in your tax return, unless they are included as reportable fringe benefits on your payment summary or income statement.

Example 2: FBT

Sameera is the sole director and shareholder of a small tourism company that runs tours and owns 3 coastal holiday houses.

Sameera is also one of 3 employees of the company.

Each employee of the company is given the opportunity to stay in one of the holiday houses for up to 4 weeks each year during the off-peak season.

This year, Sameera and her family take up this offer and stay at their favourite holiday house for 2 weeks of their own holidays at no cost.

This is an employee's private use of one the company's business assets. The company is providing Sameera, in her capacity as an employee, with a fringe benefit.

The company reports the fringe benefit in its FBT return and pays FBT on the benefit.

Distribution of income and profits

In this section

Dividends

If your business is run through a company, the company can distribute its profits to its shareholders, which can include you.

This distribution of profits is known as a dividend.

If the company has franking credits, it may be allowed to frank the dividend by allocating a franking credit to the distribution. A franking credit represents income tax paid by the company on its profit and can be used by the shareholder to offset their income tax liability.

A company must issue a distribution statement at the end of each income year to each shareholder who receives a dividend. It must show the amount of the franking credit on the dividends paid and the extent to which they were franked. The company may also need to lodge a franking account tax return in certain circumstances.

Any dividends that you receive and franking credits on them must be reported in your tax return as assessable income.

The company cannot claim a deduction for dividends paid as these are not a business expense, but rather a distribution of company profit.

Trust distributions

If your business is operated through a trust, the trustee may make the beneficiaries presently entitled to a share of trust income by the end of the financial year according to the terms of the trust deed.

By the end of a financial year, the trustee should advise and document in the trustee resolution:

- details of the beneficiaries
- their share of the net income of the trust.

If the trustee resolution is not made according to the terms of the trust deed, it may be ineffective and, instead, other beneficiaries (called default beneficiaries) or the trustee may be assessed on the relevant share of the trust's net (taxable) income. Where a trustee is assessed, it may be at the highest marginal tax rate.

Details of the trust distribution should be included in the statement of distribution which is part of the trust return lodged for each financial year.

The trust cannot claim a deduction for distributions paid as it is not a business expense, but rather a distribution of trust income.

If the beneficiary of a trust is a company, and the trust does not pay the amount the company is presently entitled to, Division 7A of the *Income Tax Assessment Act 1936* can apply.

Closely held trusts

If you have a trust within your family group, in some circumstances you may need to include a trustee beneficiary statement as part of the trust return lodged.

For further guidance, see closely held trusts.

Lending money or assets

In this section

- Companies lend money or assets to shareholders and their associates
- Trustees lend money or assets to beneficiaries and their associates

Companies lend money or assets to shareholders and their associates

A company can make a loan to its shareholders and associates.

When a company lends money or assets to a shareholder, the shareholder may be taken to have received a Division 7A deemed dividend if certain conditions are not met. If this happens, the shareholder will need to report an unfranked dividend in their individual tax return and the company will have to adjust their balance sheet to reduce their retained profits.

To avoid a Division 7A deemed dividend, before the company tax return is due or lodged (whichever comes first), the loan must either:

- be repaid in full
- put on complying terms.

To put a loan on complying terms, the loan must:

- be in a written agreement and signed and dated by the lender
- have an interest rate for each year of the loan that at least equals the benchmark interest rate
- not exceed the maximum term of 7 years, or 25 years in certain circumstances when the loan is secured by a registered mortgage over real property.

The company must include any interest earned from the loan in its tax return.

You (the shareholder):

- must make the minimum yearly repayment each year (use the Division 7A calculator to work this out)
- cannot borrow money from the company to make the minimum yearly repayment
- can make payments on the loan using a dividend declared by the company. This dividend must still be reported in your individual tax return as assessable income.

Example 3: Loan received from the company

Amir is the sole director of a company that provides administration services to other businesses. He and his partner Aiesha are equal shareholders in the company. Before this financial year, Amir ran the business as a sole trader.

Amir's and Aiesha's daughter is about to start high school and they have to pay $2,000 in school fees. The business has had a few good years and Amir decides they should use the money from the business to pay for the fees.

However, Amir knows that he cannot pay for a private expense using the company's money without properly accounting for it. As the director, he decides that the company will lend him and Aiesha the $2,000.

He draws up a written loan agreement for the loan to be repaid over 2 years, with an interest rate equal to the benchmark interest rate. The loan agreement identifies the company, Amir and Aiesha as the parties, and the repayment terms. It is signed by all parties.

The company lends Amir and Aiesha the money, which they pay back to the company with interest each year according to the agreement over the next 2 years. When Amir prepares the company tax return, he declares the interest as income for the company.

Trustees lend money or assets to beneficiaries and their associates

If you borrow money from the trust, you will need to keep a record of it. If the loan is on commercial terms, you will need to repay the principal and interest as per the loan agreement. The trust will need to report the interest as assessable income in its tax return.

There may be a situation where someone receives an amount of trust income instead of the beneficiary who is presently entitled to that amount in an arrangement to reduce tax. This can happen where the trustee, instead of paying the trust income to the presently entitled beneficiary, lends that money on interest-free terms to another person.

This is called a reimbursement agreement and section 100A of the *Income Tax Assessment Act 1936* may apply. This means that the net income of the trust that would otherwise have been assessed to the beneficiary (or trustee on their behalf) is instead assessed to the trustee at the top marginal tax rate.

Repayments of loans made to companies and trusts

If you have lent money to your business, your business will make repayments to you.

Your business cannot claim a deduction for any repayments of principal it makes to you but may be able to claim a deduction for interest it pays to you on the loan. The company or trust should keep records of any loan agreements and documents explaining these payments being made to you.

You do not have to declare the principal repayments, but any interest you receive from your business is assessable income to you and must be included in your individual tax return.

When you take your business's money or assets in another way

If you take money out of your business or use its assets for private purposes in a way not described above, you or your business may have unintended tax consequences. This may include triggering Division 7A.

To ensure your business transactions are transparent:

- You should consider setting up a separate bank account for your business to pay business expenses and avoid using it to pay for your private expenses.
- If you take money out of the business or use its assets, make sure you keep proper records that explain all your business transactions, including all income, payments and loans to you and your associates from the business and loans from you to the business.
- If your company lends money to you or your associates, make sure it's based

on a written agreement with terms that ensure it's treated as a complying loan – so the loan amount isn't treated as a Division 7A dividend.
- Ensure the transactions are correctly reported for tax purposes.

If you make an honest mistake when trying to comply with these obligations, you should tell us or your registered tax agent as soon as possible.

Example 4: Using money that is treated as a Division 7A dividend

Jian is the director and sole shareholder of a plumbing company. Jian decides to have his home repainted, which he pays for using his company's bank account.

Jian meets regularly with his bookkeeper, who notices the unusual transaction.

The bookkeeper advises Jian that the transaction will be treated as a Division 7A dividend if he doesn't pay the money back or make it a complying loan before his next company tax return is due. Jian has enough money in his personal bank account, so he decides to repay the company the full amount.

As he pays before the company's lodgment date, there are no Division 7A consequences for Jian.

He also takes his bookkeeper's advice and makes sure he stops paying for his private expenses with the company bank account.

Small business webinars and workshops

- https://www.ato.gov.au/Business/Starting-your-own-business/Small-business-webinars-and-workshops/
- Last modified: 08 Nov 2022
- QC 61059

Free webinars to improve your knowledge about starting and running a business.

On this page

- Small business webinars
- Small business workshops

Small business webinars

Our webinars are live, interactive online seminars presented by experienced tax officers. You can ask questions to help apply the information to your situation.

To help you access the right information, we offer free webinars in Chinese, Arabic and Vietnamese

Most popular webinars

- Employer: Expense payment fringe benefits
- Starting a small business
- Claiming small business tax deductions
- Introduction to business records
- Goods and services tax (GST) introduction
- Running a home-based business

Managing your business

- Considering your small business viability
- Introduction to business records
- Budgeting for your commitments
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- Strategies for improving your cash flow
- Using your business money and assets
- Digital options for your small business
- eInvoicing – the future for small business
- Connecting online with the ATO: Sole traders
- Connecting online with the ATO: Businesses
- Closing your small business

Employing and paying workers

- Employer: Single Touch Payroll
- Employer: Hiring Workers
- Employer: Paying Workers
- Employer: Introduction to car fringe benefits
- Employer: Calculate car FBT

Issues for specific industries

- Building and construction services: TPAR
- Cleaning services: TPAR
- Ride-sourcing and tax (sole traders)
- Ride-sourcing: Income, expenses and GST
- Road freight services: TPAR

Small business workshops

Our face-to-face workshops are currently on hold until further notice.

Our commitment to you

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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