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YOUR KNOWLEDGE

INSIDE

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$20k deduction for 'electrifying' your business

Electricity is the new black. Gas and other fossil fuels are out. A new, limited incentive nudges business towards energy efficiency. We show you how to maximise the deduction!

The small business energy incentive is the latest measure providing a bonus tax deduction to nudge the investment behaviour of small and medium businesses, this time towards more efficient energy use and electrification. Fossil fuels are out, gas is out, electricity is the name of the game.

Legislation before Parliament will see SMEs with an aggregated turnover of less than $50 million able to claim a bonus 20% tax deduction on up to $100,000 of their costs to improve energy efficiency in the business. But, the tax deduction is time limited. Assuming the legislation passes Parliament, you only have until 30 June 2024 to invest in new, or upgrade existing assets.

How much?

Your business can invest up to $100,000 in total, with a maximum bonus tax deduction of $20,000 per business entity. The energy incentive is not provided as a cash refund, it either reduces your taxable income or increases the tax loss for the 2024 income year.

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What qualifies?

The energy incentive applies to both new assets and expenditure on upgrading existing assets. There is no specific list of assets that can qualify. Instead, the rules provide a series of eligibility criteria that need to be satisfied.

First, the expenditure incurred in relation to the asset must qualify for a deduction under another provision of the tax law.

If your business is acquiring a new depreciating asset, it must be first used or installed for any purpose, and a taxable purpose, between 1 July 2023 and 30 June 2024. If you are improving an existing asset, the expenditure must be incurred between 1 July 2023 and 30 June 2024.

If your business is acquiring a new depreciating asset the following additional conditions need to be satisfied:

- The asset must use electricity; and
    - There is a new reasonably comparable asset that uses a fossil fuel available in the market; or
    - It is more energy efficient than the asset it is replacing; or
    - If it is not a replacement, it is more energy efficient than a new reasonably comparable asset available in the market; or
- It is an energy storage, time-shifting or monitoring asset, or an asset that improves the energy efficiency of another asset.

If you are improving an existing asset the expenditure needs to satisfy at least one of the following conditions:

- It enables the asset to only use electricity, or energy that is generated from a renewable source, instead of a fossil fuel;
- It enables the asset to be more energy efficient, provided that asset only uses electricity, or energy generated from a renewable source; or
- It facilitates the storage, time-shifting or usage monitoring of electricity, or energy generated from a renewable source.

What doesn’t qualify?

Certain kinds of assets and improvements are not eligible for the bonus deduction, including where the asset or improvement uses a fossil fuel. So, hybrids are out. Solar panels and motor vehicles are also excluded.

In addition, the following assets are specifically excluded from the rules:

- Assets, and expenditure on assets, that can use a fossil fuel;
- Assets, and expenditure on assets, which have the sole or predominant purpose of generating electricity (such as solar photovoltaic panels);
- Capital works (such as buildings and structural improvements);
- Motor vehicles (including hybrid and electric vehicles) and expenditure on motor vehicles;
- Assets and expenditure on an asset where expenditure on the asset is allocated to a software development pool; and
- Financing costs, including interest, payments in the nature of interest and expenses of borrowing.

What does qualify?

The legislation contains a few examples of what would qualify:

- Electrifying heating and cooling systems
- Upgrading to more efficient fridges and induction cooktops (for example replacing gas cook tops)
- Installing batteries and heat pumps
- Installing an electric reverse cycle air conditioner instead of a gas heater
- Replacing a coffee machine with a more energy efficient coffee machine if the manufacturer’s electricity consumption information supports this – keep the documentation!
- Thermal storage that can store heat or cold from a renewable source
- Solar thermal hot water system (assuming it meets the other criteria)

The legislation to implement the energy incentive is before Parliament. We’ll keep you updated on its progress. If you intend to make a major outlay to take advantage of the bonus deduction, talk to us first just to make sure it qualifies.

The ‘Airbnb’ Tax

Property investors that choose to utilise their property for short-term stays (or leave it vacant) are firmly in the sights of the regulators.

The Victorian Government’s recent *Housing Statement* announced Australia’s first short-stay property tax. The additional tax, which is scheduled to come into effect from 1 January 2025, is expected to generate $70 million plus annually. The *Short Stay Levy* will be set at 7.5% of the short stay accommodation platforms’ revenue – so, a few days in Melbourne at $850 will cost an extra $63.75 taking the stay to $913.75.

According to the statement there are more than 36,000 short stay accommodation places - with almost half of these in regional Victoria. More than 29,000 of those places are entire homes.

Airbnb’s ANZ Country Manager Susan Wheeldon however says that “short-term rentals in Victoria make up less than one percent of total housing stock. Acute housing issues existed long before the founding of Airbnb, and targeting these properties is not a long term solution.”

Property investors are now braced for an onslaught of similar taxes at either the local Government or State level.

For Victorian investment property owners this comes after a temporary land tax surcharge from the 2024 land tax year and for those keeping a property vacant, an increase to the absentee owner surcharge rate from 2% to 4% including a reduction in the tax-free threshold from $300,000 to $50,000 (for non-trust absentee owners).

Some local Government taxes on Airbnb style accommodation will be removed once the new tax comes into effect.

Some Councils already impose a surcharge on short stay accommodation. Brisbane City Council for example imposed a 50% rate surcharge on properties listed for short-term rental for more than 60 days a year in their 2022-23 Budget, only to increase it to 65% in 2023-24.

What happens overseas?

Bed taxes in some form are not uncommon internationally but it is unusual to isolate one form of tourist accommodation from another as the Victorian Government have chosen to do. Also unusual is the 7.5% rate – many local taxes on short stay accommodation are in the 5% range (despite California’s Transient Occupancy Tax of up to 15% depending on the region you are staying).

Globally, the idea of taxing vacant and short-term accommodation is also not new.

In British Columbia, the Underused Housing Tax - a 1% tax on the ownership of vacant or underused housing introduced from 1 January 2022 - has been credited with increasing the rental stock by up to 20,000 properties.

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Taking the alternative route to freeing up rental stock, New York introduced new rules in September 2023 that severely restrict Airbnb style accommodation options. Hosts need to register with the city if they offer accommodation for less than 30 consecutive days (unless their building is exempt as a hotel or accommodation establishment). Under the new rules the host must permanently reside in the property - entire properties will no longer be available - and, only two guests are allowed. The platforms are responsible for monitoring and enforcing compliance with the new rules.

New York is not alone in curbing the rise of short-term rentals. Amsterdam, Paris and San Francisco limit the number of days in a year an entire residence can be listed – between 30 and 90 days.

Closer to home in Byron Bay, the Byron Bay Council will limit "non hosted holiday letting to 60 days per year for most of the Shire" from 23 September 2024.

But do restrictions on Airbnb create rental stock?

According to Professor Nicole Gurran, from the University of Sydney's School of Architecture, Design and Planning, if Australia is serious about controlling short-term rentals to solve Australia's long-term rental crisis, then more needs to be done.

"In comparison to much of the international regulation of the short-term rental market, Australia is very "light touch". The overarching aim is to encourage the tourism economy.

While this might have been appropriate five years ago when the rental market was in better shape, and long-term housing demand focused on inner city areas, the current crisis demands a new approach. Regulations must be tailored to the conditions of local housing markets, rather than the one-size-fits-all approach that exists today," Professor Gurran says.

In a 2017 study, Professor Gurran and Professor Peter Phibbs found that, Airbnb absorbed 7% of stock in one Sydney municipality.

So, where is all this going? Governments are unlikely not to take advantage of the opportunity to share in what has become a lucrative short-term rental market. What that looks like will really depend on the States and Territories. Beyond revenue, further regulation is likely to ensure that private gain from short-term rentals is not at the expense of supply of long-term accommodation.

- End –

30% tax on super earnings above $3m

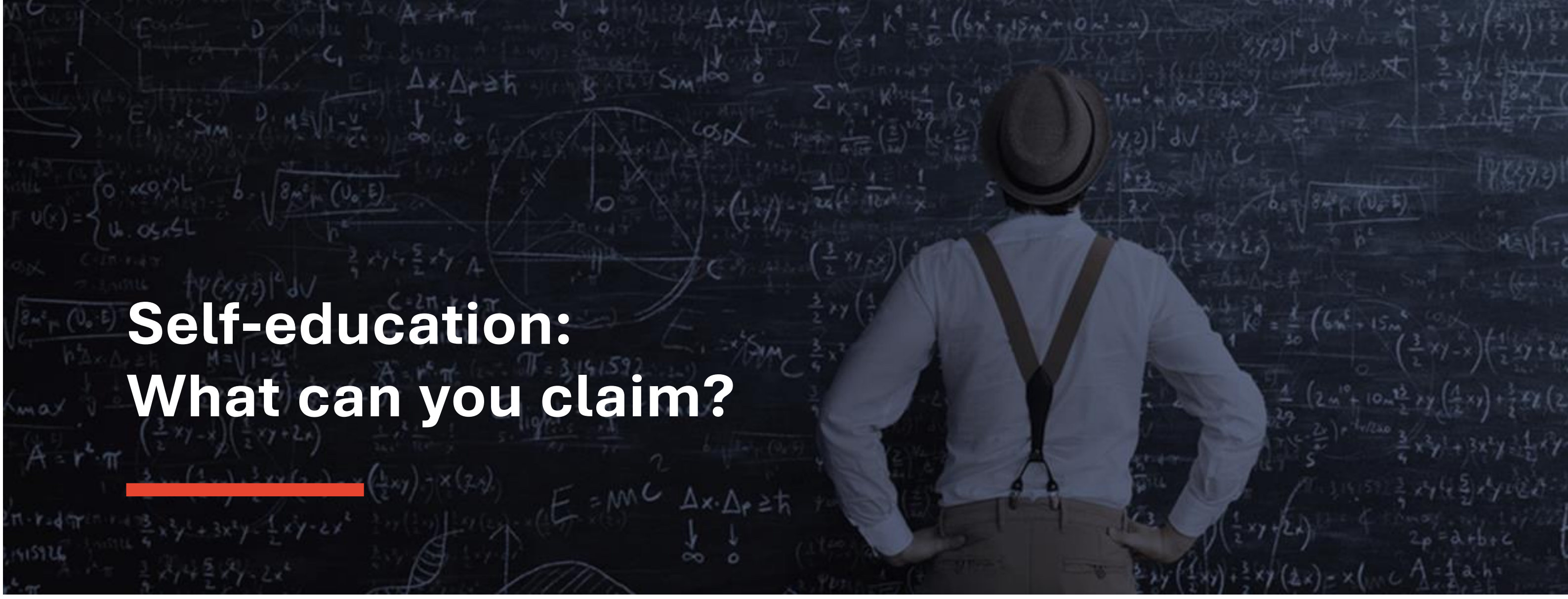
Treasury has released draft legislation to enact the Government's plan to increase the tax rate on earnings on superannuation balances above $3m from 15% to 30% from 1 July 2025. This is the final step before the legislation is introduced into Parliament and a step closer to reality.

The draft legislation appears largely unchanged from the Government's original announcement.

The proposed calculation aims to capture growth in total super balance (TSB) over the financial year allowing for contributions (including insurance proceeds) and withdrawals. This method captures both realised and unrealised gains, enabling negative earnings to be carried forward and offset against future years.

The ATO will perform the calculation for the tax on earnings. TSBs in excess of $3 million will be tested for the first time on 30 June 2026 with the first notice of assessment expected to be issued to those impacted in the 2026-27 financial year.

From a planning perspective, for those with superannuation balances close to or above $3m, it will be important to explore the implications to your personal situation – there is no one size fits all strategy here and what is best for you will depend on your circumstances. Superannuation, even with the increased tax, remains a tax efficient vehicle.



Self-education: What can you claim?

The Australian Taxation Office have released a new draft ruling on self-education expenses. We revisit the deductibility of self-education expenses and what you can and can't claim.

If you undertake study that is connected to your work you can normally claim your costs of that study as a tax deduction - assuming your employer has not already picked up your expenses. There is also no limit to the value of the deduction you can claim. While this all sounds great and very encouraging there are still issues to consider before claiming your Harvard graduate degree, accommodation, and flights as a self-education expense.

Clients are often surprised by what cannot be claimed. Self-education expenses are not deductible if you are undertaking the education to obtain a new job or something not connected to how you earn your income now. Take the example of a nurse's aide who attendees university to qualify as a registered nurse. The university degree and the expenses associated with degree are not deductible as the nursing degree is not sufficiently connected to their current role as a nurse's aide.

The ATO have recently released a new draft ruling on self-education expenses. While the ruling does not introduce new rules, it does reinforce what the ATO will accept…and what they won't.

Personal development courses

While not always the case, one of the key challenges in claiming deductions for self-development or personal development courses is that the knowledge or skills gained are often too general. Take the example of a manager who is having difficulty coping with work because of a stressful family situation. She pays for and attends a 4-week stress management course.

In that case, the stress management course is not deductible because the course was not designed to maintain or increase the skills or specific knowledge required in her current position.

When your employment ends part the way through your course

If your employment (or your income earning activity) ends part the way through completing a course, your expenses are only deductible up to the point that you stopped work. Anything from that point forward is not deductible (that is until you obtain a new role and assuming the course remains relevant).

Overseas trips with some work thrown in

Overseas study tours are deductible in limited circumstances. If you are travelling overseas, you need to prove that the dominant purpose of the trip is related to how you earn your income. Factors that help demonstrate this include the time devoted to the advancement of your work related knowledge, the trip not being merely recreational, and that the trip was requested by or supported by your employer. The ATO are strict on this. Take the example of a senior lecturer in history at a University. He takes a trip to China with his wife while on leave over the Christmas break to update his knowledge on his area of academic interest. While his job does not require him to undertake research, he incorporated some of the 600 photos he took and some of the learnings from the tour into the courses he teaches. Despite having a relationship to work, the trip is not deductible as, while relevant in some ways to his field of activity, it is incidental to

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the overall private and recreational nature of the trip.

Overseas conference with some recreation thrown in

We've all had them. Conferences where you spend a few days in sessions and then a day (or more) of touring or golf. When the dominant purpose of the trip is related directly to your work, then the ATO are more accommodating. If the leisure time, for example an afternoon tour organised by the conference, is incidental to the conference itself, then you can claim the full conference expenses.

Where you are extending your stay beyond the conference dates and this isn't considered incidental, then you apportion the expenses and only claim the portion related to the conference. Let's say you attend a conference for four days, then spend another four days on holiday. Assuming the conference is directly related to your work, you can claim your expenses related to the conference (assuming they were not picked up by your employer), and half of your airfare (as it's a 50/50 split on how you spent your time between the conference and recreation).

Not fully deductible? Part of the course might qualify

If a particular course is not entirely deductible, a deduction may still be available for some of the course fees where there are particular subjects or modules in that course that are sufficiently related to your employment or income earning activities. In these cases, the course fees would be apportioned. Take the example of a civil engineer who is completing her MBA. While the MBA itself may not have a sufficient connection to her engineering role to be fully deductible, her expenses related to the project management subject she took as part of the degree could qualify.

Interaction with government assistance

If your course is a Commonwealth supported place, you cannot claim the course fees. But, the deductibility of course fees are not impacted merely because you borrow money to pay for those fees, for example a full-fee paying student using a government FEE-HELP loan to pay for course fees.

A warning on large claims

There is no limit on the amount you can claim as a self-education expense but the ATO is more likely to target large self-education expenses. For anyone who has completed post graduate study you know that these expenses can ratchet up very quickly, particularly when you add in any other expenses such as books or travel. It's important to ensure that there is a clear connection between your current job or business activity and the self education expenses before you claim them.

Airfares incurred to participate in self-education, provided you are not living at the location of the self-education activity, are deductible. Airfares are part of the cost of undertaking the self-education activities.

Quote of the month

"Grit is about doing the hard work, day in and day out, without immediate reward."

Angela Duckworth, academic and psychologist