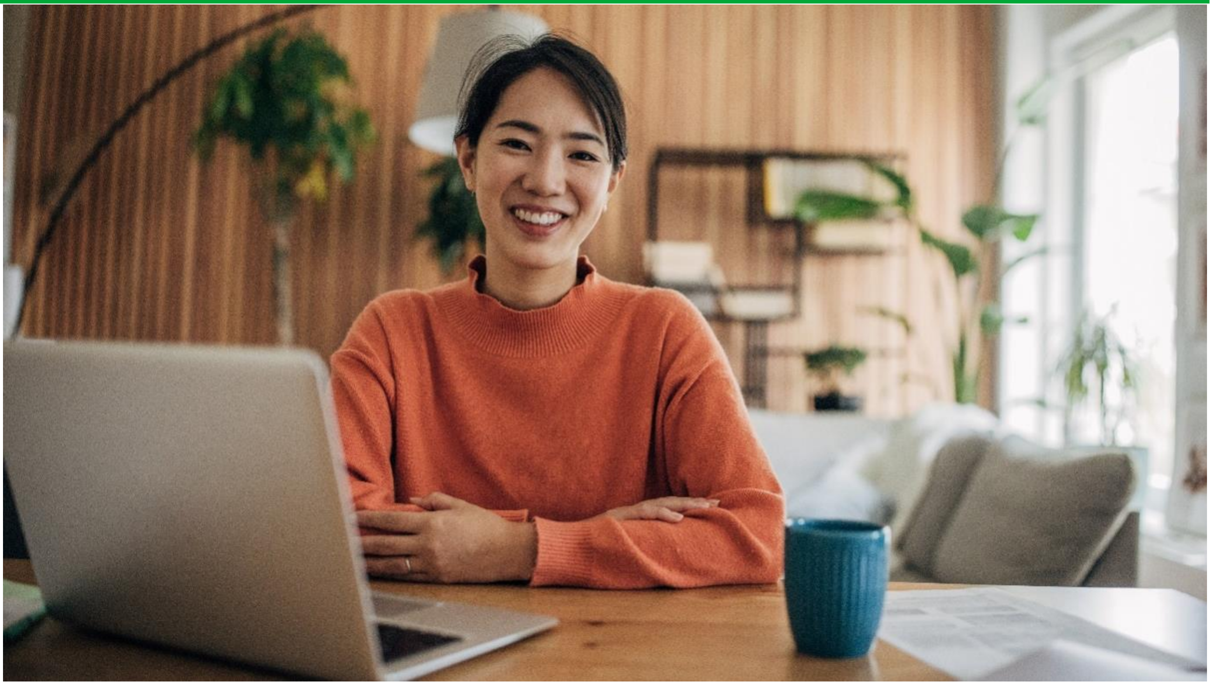
TaxWise® Business News

APRIL 2024



From the ATO

Check your PAYG instalments

Now is a good time to check that your business' PAYG instalments still reflect the expected end-of-year tax liability.

If your business' circumstances have changed and you think you will pay too much (or too little) in instalments for the year, the instalments can be varied on the next activity statement (due on 28 April 2024 if you pay quarterly). Instalments can be varied multiple times throughout the year. The varied amount or rate will apply for the remaining instalments for the income year or until another variation is made.

If your varied instalments are less than 85% of your total tax payable, you may have to pay a general interest charge on the difference, in addition to paying the shortfall. Depending on the circumstances there may also be penalties.

If you are not sure, it is best to not vary your instalments. Any overpaid instalments will be refunded to you after you lodge your tax return.

If your business is affected by COVID-19 or a natural disaster, the ATO has said it will not apply penalties or charge interest to varied instalments if you have made your best attempt to estimate your end of year tax liability.

If an amount or rate is varied online, activity statements and instalment notices will be issued electronically and not in paper form. You will need to consider this when deciding how to lodge, revise and vary future activity statements and instalment amounts.

Tip!

Your tax adviser or BAS agent can help you with your activity statements and tax returns.

Can you claim the small business skills and training boost?

If you are paying for your employees' external training, you could be eligible to claim the skills and training boost.

Businesses with an aggregated annual turnover of less than $50 million are potentially eligible for the small business skills and training boost. The boost provides an additional 20% bonus tax deduction for eligible expenditure incurred on training new and existing employees.

If eligible, you can claim a deduction on expenditure for external training courses delivered to your employees, either in person in Australia or online. The training must be provided by a registered external training provider.

The skills and training boost is available until 30 June 2024, so you still have time.

You cannot claim expenditure for training you undertake yourself as a business owner, such as where you are a sole trader, partner in a partnership or independent contractor.

For example, if you are a gardener operating as a sole trader, and you and your employee begin turf management training, you cannot claim the bonus deduction for the expenditure on training for yourself, but you can claim it for your employee's training.

Tip!

Talk to your tax adviser to see if you are eligible for the skills and training boost.

Starting a franchise

With franchising, the franchisor grants a right to the franchisee to:

- use a business brand name or trademark; and
- produce or distribute their product or service

The franchisor and each franchisee have their own Australian Business Number (**ABN**).

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

Common franchise fees

Common franchise fees are:

- 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 are 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 (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; and
- 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 claim a deduction for it only if:

- you have withheld tax from the payment and paid the withheld amount to the ATO; 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.

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.

Tip!

If your business is considering starting a franchise, or if you are already a franchisee and you are thinking about selling the franchise, contact your tax adviser to discuss all the tax implications.

EV home charging rates

The ATO allows a cents-per-kilometre methodology for calculating electricity costs where an electric vehicle (**EV**) is charged at an employee's home.

The employer can choose to use this methodology instead of determining the actual cost of the electricity. The choice is per vehicle and applies for the whole income or FBT year. However, it can change from year to year.

The methodology does not apply to plug-in hybrid vehicles, electric motorcycles or electric scooters.

Cents-per-kilometre

The 'EV home charging rate' is 4.2 cents per km. This rate is multiplied by the total number of relevant kilometres travelled by the EV in the income year or FBT year in question.

Where EV charging costs are also incurred at commercial charging stations and the home charging percentage can be accurately determined, the total number of relevant kilometres must be adjusted. If the home charging percentage cannot be accurately determined, you can choose to use either the EV home charging rate and disregard the commercial charging station cost, or the commercial charging station cost and not apply the EV home charging methodology.

Record keeping and transitional approach for 2022–23 and 2023–24

If you are an employer and you choose to apply the EV home charging rate for FBT purposes, a valid logbook must be maintained if the operating cost method is used.

To satisfy the record keeping requirements for income tax purposes:

- a valid logbook is needed to use the logbook method of calculating work-related car expenses. For other vehicles, the ATO recommends a logbook to demonstrate work-related use of the vehicle; and
- one electricity bill for the residential premises in the income year is needed (to show that electricity costs have been incurred).

However, if you have not maintained odometer records as at the start of the 2022–23 or 2023–24 FBT or income year, the ATO will allow a reasonable estimate to be used based on service records, logbooks or other available information.

How to nail your record keeping

Good record keeping helps you manage your business and cash flow, and ensures you get the right outcome with your business' tax return.

The following tips can help you get it right. They are based on common record keeping errors seen by the ATO.

- Keep accurate records of all cash and electronic transactions.
- Reconcile cash and EFTPOS sales regularly (by ensuring payments recorded internally match external records) and enter the amounts into your main business' accounting software system. Depending on your business, this may be daily, weekly or monthly.
- Check for mistakes if things do not add up.
- For expenses that are for business and private use, work out and record the business portion accurately.
- If you have used trading stock for private purposes, remember to account for the stock as if you have sold it and include the value in your business' assessable income to ensure your cost of sales figures are accurate (if you are a sole trader). There may be FBT or Division 7A implications if you run your business through a company or a trust.
- Ensure you have sufficient records to substantiate business expenses claimed as tax deductions.

- Do not use estimates to prepare your tax returns and business activity statements (BAS). Ensure you have complete and accurate records to substantiate the information you include in them.
- You generally need to keep most records for 5 years from when you prepared or obtained the record, or completed the transaction or related acts, whichever is later. For example, if your business buys a plot of land, you need to keep the record for 5 years after the land is acquired. However, if you then decide to build a new building on the land and that takes two more years, you will need to keep the relevant records for at least 7 years.
- You should also keep records long enough to cover the end of the period of review.
- If your business incurs a tax loss — or a capital loss that can be offset against capital gains — remember you need to keep records related to how you determined and worked out that loss for 5 years or the end of the period of review for the income year when the loss is fully deducted, whichever is later.
- If you are paying contractors to provide certain services on your behalf, remember to keep accurate and detailed records. This way, you can easily prepare your total payments to each contractor at the end of the year to help you complete your taxable payments annual report (TPAR).
- If you are claiming GST credits, set aside your GST in a separate ledger account to make your record keeping and calculations easier.
- If you had PAYG amounts withheld from payments to your business (for example, because of a voluntary agreement or labour hire arrangement), ensure your payer gives you a PAYG payment summary. You may need it to substantiate any PAYG credits you later claim in your tax return.

Digital record keeping

There are advantages to keeping business records digitally. If, for example, your business uses a commercially-available software package, it may help the business to:

- keep track of business income, expenses and assets as well as calculate depreciation;
- streamline its accounting practices and save time so you can focus on the business;
- automatically calculate wages, tax, superannuation and other amounts for activity statement and other purposes;
- meet Single Touch Payroll (**STP**) reporting obligations;
- back up records using cloud storage to keep records safe from flood, fire or theft.

If your business uses cloud storage, either through accounting software or a separate service provider, for example, Google Drive, Microsoft OneDrive or Dropbox, you should ensure:

- the record storage meets the record keeping requirements;
- you download a complete copy of any records stored in the cloud before you change software provider and lose access to them.

eInvoicing storage

Regardless of your business' eInvoicing software or system, you are responsible for determining the best option for storing business transaction data. You should:

- ensure that the process meets the record keeping requirements;
- discuss the options with the software provider;
- talk to your business adviser, if necessary.

Tip!

Not sure what records you should keep and how long you should keep them for? Talk to your tax adviser or BAS agent.

Registered emissions units

Do you or your business have emissions units? They may be registered emissions units or non-registered emissions units.

A registered emissions unit (**REU**) is a unit for which there is an entry in a Registry account in the Australian National Registry of Emissions Units. There are three types of REUs:

- a Kyoto unit;
- an Australian carbon credit unit (ACCU);
- a safeguard mechanism credit unit.

A special tax regime applies to REUs and the normal rules, such as CGT, do not apply to them.

Other emissions units and carbon credits are taxed under the general rules about income and deductions, including CGT.

Basic tax treatment of REUs

You can deduct certain costs related to becoming the holder of an REU in the income year you start to hold it. The available deductions are different if you become the holder of an REU because you are issued an ACCU by the Clean Energy Regulator.

You must account for changes in the value of REUs you hold over the course of the year if you hold any at either the beginning or end of an income year. This may result in an amount being assessable or deductible.

Any proceeds received from the disposal of REUs are assessable income. The costs incurred for ceasing to hold REUs are deductible in the income year of disposal.

Special rules

The basic tax treatment for REUs is varied in the following circumstances:

- REUs are acquired or disposed of in a non-arm's length transaction, or a transaction with an associate, for an amount other than their market value;
- where the disposal of an REU occurs for a purpose other than for gaining assessable income (for example, offsetting your personal carbon footprint);
- upon the death of the holder of the REU;
- where you are an eligible individual primary producer and the REU is an eligible ACCU;
- where the REU becomes or ceases to be taxable in Australia.

Example: accounting for registered emissions units in the first year of holding units

Annie purchases REUs on 1 July 2023 for $10,000. This is the point from which she first holds these REUs. Annie is entitled to a deduction for the cost of acquiring the REUs in the 2023–24 income year.

How to work out the value of REUs you held at the start of an income year

The value of the REUs you hold at the start of an income year is the same as the value of the REUs you held at the end of the previous income year.

If you held no REUs at the end of the prior income year, the value of REUs you hold at the beginning of the year is nil.

Example

At the end of the 2023–24 income year, Annie works out she held REUs with a value of $10,000. The value of these REUs she holds at the start of the 2024–25 income year is $10,000.

How to work out the value of REUs you held at the end of an income year

The value of an REU you hold at the end of an income year is worked out using one of three methods:

- FIFO (first-in first-out) cost method;
- actual cost method;
- market value method.

In the first income year that you hold REUs, you must choose one of these methods before you lodge your income tax return. If you do not choose the actual cost or market value method, the FIFO cost method will apply.

Once a choice is made, it cannot be revoked and you must continue to use this method for at least the three income years following the first income year in which you made the choice.

Example: accounting for registered emissions units in the first year of holding units

Annie acquires REUs on 31 July 2023 for $10,000. This is the first time she holds any REUs. She is still holding these REUs on 30 June 2024.

As Annie holds REUs at the end of the income year, she must work out the change in the value of her REUs between the beginning of the income year to the end of the income year to work out whether she needs to include an amount in her assessable income or whether she can claim a deduction.

As Annie did not hold any REUs at the beginning of the income year, the value of her REUs at the beginning of the income year is nil. She chooses to work out the value of these units at the end of the income year using the FIFO cost method.

On 30 June 2024, the value of the REUs Annie holds is $10,000.

When completing her tax return for the 2023–24 income year, Annie claims a deduction of $10,000 for the cost of acquiring the REUs and includes $10,000 in her assessable income. This is the increase in the value of the REUs she holds at the end of the 2023–24 income year compared to the start of the year.

Changing your method for valuing REUs

You can change your choice of valuation method for an income year only if you have used the same method for at least the four most recent income years and subject to the following limitations:

- You cannot choose to use the actual cost method for the current income year if you used the FIFO cost method for the most recent income year in which you held REUs at the end of the income year.
- The choice must be made before you lodge your income tax return for the income year for which you are changing your choice.

Disposing of REUs

The amount you are entitled to receive because you ceased to hold an REU is included in your assessable income in the income year in which you ceased to hold the unit.

Example

Annie decides to sell all the REUs she holds. She sells them in an arm's length transaction to an unrelated party on 1 April 2025 for their market value of $12,000. As Annie has sold her REUs for $12,000, she will need to include this amount as assessable income in her 2024–25 income tax return.

Tip!

The tax treatment of REUs can be complicated. Talk to your tax adviser if you have any concerns.

Payments in respect of software and IP rights

The ATO has released a revised draft ruling on whether an amount paid under a software arrangement is a royalty. The draft ruling focuses on payments for the use of, or right to use, copyright.

The ATO lists some arrangements where an amount paid as consideration will be treated as a royalty. They include:

- granting the right to use intellectual property (IP), irrespective of whether that right is exercised;
- using an IP right;
- supplying know-how in relation to an IP right referred to in (a) or (b) above; and
- the sale by a distributor of hardware with embedded software, where the distributor is granted or uses rights in the IP of the software.

Payments that are not considered to be royalties include:

- payments for granting a right to distribute copies of a computer program, without the use of, or right to use, the copyright or another IP right;
- payments for transferring all rights relating to the copyright in software; and
- payments for acquiring hardware with embedded software, where the distributor does not use, and is not granted the right to use, any copyright or other IP right in the software.

Do you use AI?

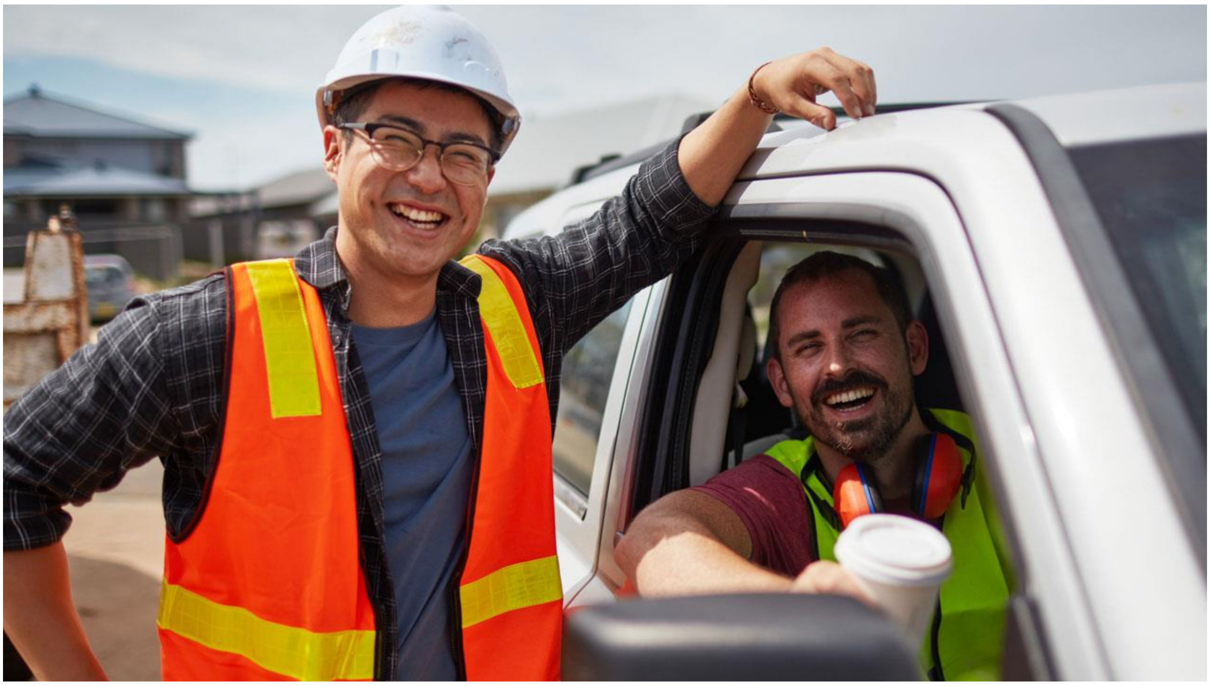
Do you use artificial intelligence (**AI**) to unlock devices, provide customer support or for virtual assistance in your business?

You should understand the potential challenges when working with an AI system and how to manage them. New guidance from the Australian Signals Directorate's Australian Cyber Security Centre (**ASD's ACSC**) on Engaging with Artificial Intelligence can help you use AI securely in your business.

The publication, co-sealed by the international intelligence community, includes important advice on how your business can interact with AI securely.

The ASD's ACSC outlines steps you can take to securely use AI in your operations:

- apply advice about engaging with AI alongside the Essential Eight framework to help secure your AI system;
- know the constraints of your AI system and train your staff to use it securely;
- know how the AI system will affect your organisation's privacy and data protection obligations;
- consider if any AI services used in your organisation or supply chain are secure-by-design;
- have suitably qualified staff to ensure your digital system is set up and maintained securely.



FBT issues

FBT return time

The fringe benefits tax (**FBT**) year runs from 1 April to 31 March. You should be preparing to lodge an FBT return for the FBT year ended 31 March 2024 if:

- your business is liable to pay FBT on fringe benefits provided to employees; and/or
- your business has paid FBT instalments through its activity statements (e.g. a BAS).

The FBT return is normally due on 25 May, but as that falls on a Saturday this year, the return is instead due on Monday 27 May.

You must lodge all activity statements for the FBT year ended 31 March 2024, including the March quarter, before lodging the FBT return. The FBT return will not be processed until all the activity statements are lodged.

If you use a registered tax agent to prepare and lodge the FBT return, then the due date for lodgment is 25 June 2024. That is also the due date for the balancing payment for FBT for employers using tax agents who lodge FBT returns electronically.

If you are lodging your business' FBT return through a tax agent for the first time, contact them before 21 May 2024. The agent needs to add your business to their FBT client list by this date so that your business will be eligible for the extended June lodgment and payment date.

The ATO states that most electronic lodgments are processed within 14 days and most paper lodgments are processed within 50 business days. If you are due a refund, it will be processed within 28 days.

If your business is registered for FBT but you do not need to lodge a return, you should send the ATO a *Fringe benefits tax – notice of non-lodgment* (NAT 3094). This will prevent the

ATO from seeking a return from you at a later date. Send the notice by the time the FBT return would normally be due.

Extension of time

If you need an extension of time to lodge the FBT return, you can contact the ATO on **13 28 66**. But if you use a tax agent to lodge the return, contact them.

If you are having difficulty paying on time, contact the ATO before the due date to discuss your circumstances.

Paying FBT

When you lodge the annual FBT return, you offset the instalments paid during the year against the actual FBT liability. If the instalments are less than the FBT liability, you pay the shortfall. If the instalments are more than the FBT liability, the ATO will refund the excess.

If you have to pay FBT of $3,000 or more for the year, you must pay quarterly FBT instalments in the next year.

What's new in FBT?

Changes to employee declarations

The make and model of the car are no longer required for the following employee declarations:

- remote area holiday transport;
- overseas employment holiday transport;
- relocation transport;
- employment interview or selection test;
- work-related medical examinations, medical screenings, preventative health care or counselling or migrant language training.

Changes to FBT record keeping

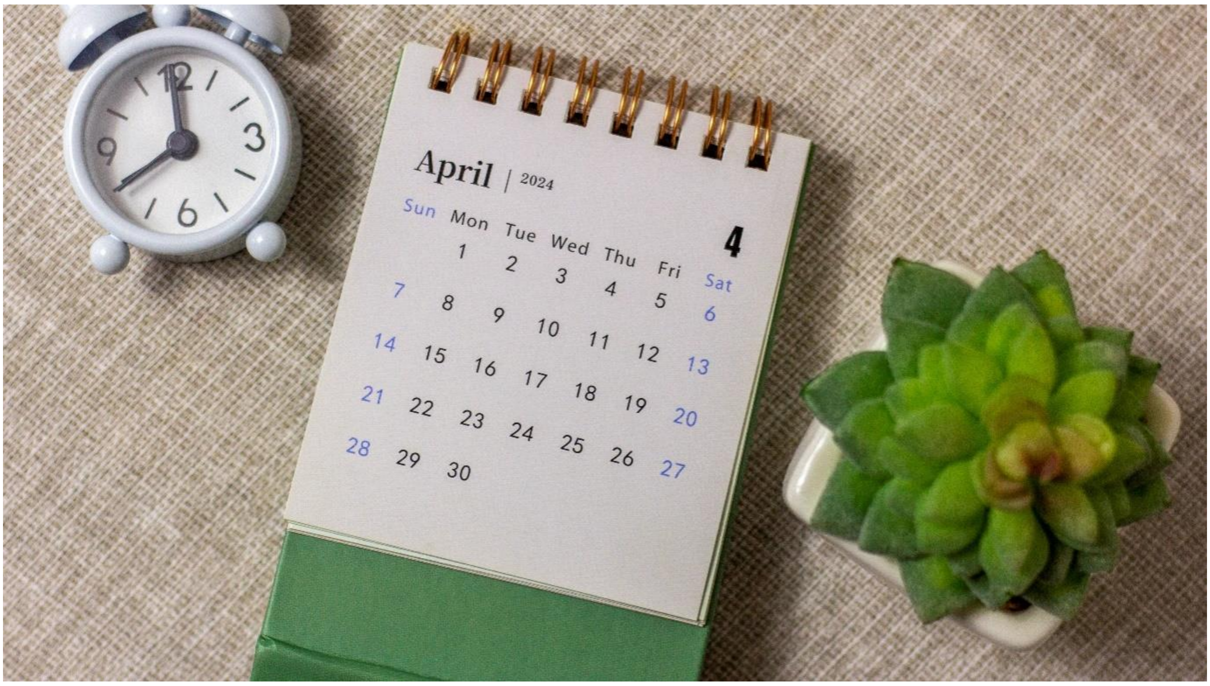
From 1 April 2024 (i.e. the FBT year ending 31 March 2025), employers have a choice in certain situations to use existing records in place of statutory evidentiary documents, such as travel diaries or employee declarations. This will apply only if the ATO has made a determination by legislative instrument that applies to the employer that specifies the kind of alternative documents or records.

So far, the new arrangements will apply in relation to:

- travel diaries;
- otherwise deductible benefits;
- the private use of vehicles other than cars;
- car travel to certain work-related activities;
- car travel to an employment interview or selection test;
- living-away-from-home — maintaining an Australian home;
- fly-in fly-out employees;
- overseas employment holiday transport;
- remote area holiday transport;
- relocation transport; and
- temporary accommodation relating to relocation.

Tip!

If your business provides fringe benefits to employees, talk to your tax adviser about your record keeping requirements.



Key tax dates

Date	Obligation
22 Apr 2024*	March 2024 monthly BAS due
29 Apr 2024*	March 2024 quarterly BAS due
	Pay March 2024 quarterly PAYG instalment
	Employee superannuation guarantee contributions due
21 May 2024	April 2024 monthly BAS due
27 May 2024*	2023–24 FBT return due
28 May 2024	March 2024 SG statement due (if required)
21 June 2024	May 2024 monthly BAS due

*This is the next business day as the due date falls on a Saturday or Sunday.

Note! Talk to your tax agent to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by COVID-19 or a natural disaster.