

# DLK ADVISORY

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## TAX RULES FOR PERSONAL SERVICES INCOME

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The tax legislation contains special rules about personal services income (PSI). The PSI rules are aimed at improving the integrity of, and equity in, the tax system by ensuring that individuals cannot reduce or defer their income tax by alienating or splitting their PSI through the use of interposed companies, partnerships or trusts. An interposed entity is called a personal services entity (PSE).

### **What is PSI?**

Personal services income (or PSI) is income (whether ordinary income or statutory income) that is earned mainly as a reward for the personal efforts or skills of an individual (ie more than 50% of the income must be a reward for the personal efforts or skills of an individual). PSI includes income from the personal efforts or skills of an individual that is earned through a PSE.

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to achieve your objectives*

## **PSI earned through a company or trust**

If you operate your business through a PSE, income earned by the PSE from the provision of your personal services will be attributed to you for tax purposes unless:

- the PSE is carrying on a personal services business (PSB); or
- the income was promptly paid to you as salary or wages.

The PSE will be carrying on a PSB if at least one of a number of tests (PSB tests) are satisfied.

If 80% or more of your PSI (with certain exceptions) is income from one client (or the client and their associate(s)) and the results test is not met, the PSE will need to obtain a PSB determination from the ATO.

## **Limits on deductions**

A PSE cannot deduct amounts that relate to gaining or producing your PSI, unless you could have deducted the amount as an individual or the PSE received the PSI in the course of carrying on a PSB.

Even if you don't use a PSE to derive your PSI, there are limitations on the deductions that you may claim against your PSI. For example, you may not be able to deduct certain home office expenses, eg occupancy expenses such as mortgage interest or rent.

## **New ATO ruling**

The ATO recently released a new taxation ruling (TR 2022/3) which considers:

- how to identify PSI;
- how the PSI rules apply to an individual or entity; and
- the application of the PSB tests.

## **Want to find out more?**

Talk to us about whether the PSI rules may apply to you.

## **CONTACT**

If you have any queries, please feel free to contact us.

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