

DLK ADVISORY

ARE YOU RECEIVING PSI?



Personal Services Income (PSI) generally only applies to individuals that receive more than 50% of their ordinary or statutory income from a contract as a reward for personal effort or skills. An example that most people would be familiar with is a sole trader builder/tradesman using their skills to earn income either directly, or through an interposed entity (ie a PSE). However, PSIs apply to any industries, trades or professions where individuals use their personal effort or skills. This includes so called “white collar” professionals in IT, finance, and medicine in addition to the construction industry.

If you earn PSI during the income year, the deductions that can be claimed will be limited to the deductions that you could have claimed if you were an employee and the income earned was salary and wages. This means that, for example, you would be unable to deduct rent, mortgage, interest, rates or land tax in relation to a residence or part of a residence that you use to gain or produce PSI. It applies to all PSI, regardless of whether it is earned as a sole trader, through a company, or partnership or trust. This also largely applies to PSEs in relation to the “test individual”.

*Partnering together
to achieve your objectives*

To avoid that outcome, individuals/PSEs can self-assess whether or not they conduct a Personal Services Business (PSB) against one of the 4 tests set out below. If any one of the 4 tests is met during an income year, the PSI rules will not apply to limit deductions:

- results test – can be satisfied if at least 75% of a test individual's PSI in an income year is for producing a result as well as being responsible for the cost of rectifying all defects. The individual is also required to supply the plant, equipment and tools of trade needed to do the work.
- unrelated clients test – can be met if an individual or PSE gains or produces income during the year from 2 or more entities that are not associates of each other (or associates of the individual or PSE), and the services must be provided as a direct result of making offers/invitations (eg advertising) to the public at large or a section of the public.
- employment test – is met where the individual/PSE engages one or more entities to perform at least 20% (by market value) of the individual/PSE's principal work. Note, however, test individuals of the PSE do not count towards the employment test.
- business premises test – can be satisfied if the individual or PSE maintains and uses business premises at all times during the income year that meet certain conditions, such as being physically separate from premises used for private purposes.

However, if more than 80% of the PSI or PSE's income is from one source (i.e. the same entity and/or its associates), then only the results test can be used to self-assess whether a PSB is being conducted. The ATO has also proposed to continue the existing method for estimating net amounts that will be included in an individual assessable income in relation to a PSE. It is important to note that income generated principally from supply or sale of goods, supply and use of income-producing assets, or by a specific business structures are not captured under the PSI rules.

CONTACT

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