



Australian Government
Australian Taxation Office

Personal services income – personal services business self-assessment checklist

This checklist helps you work out whether you are a personal services business under the law relating to personal services income.

There is legislation specifically about how personal services income is taxed. If you work as a contractor or consultant, you may be affected.

Personal services income is income earned mainly by your personal efforts and skills.

Legislation in relation to this took effect from 1 July 2000. However, if you had a prescribed payments system declaration on 13 April 2000, this legislation did not apply until 1 July 2002.

The legislation does not apply to you if you do not receive personal services income or if you are a personal services business.

If you are a personal services business, the general anti-avoidance provisions may apply to schemes to reduce income tax by income splitting. Our views are set out in *General anti-avoidance rules and how they may apply to a personal services business* (NAT 8028).

This checklist helps you work out whether you receive personal services income and, if you do, whether you are a personal services business.

➤ For more information, you should read *Alienation of personal services income: contractors and consultants* (NAT 4788).

⚠ IMPORTANT

- Do not send the completed checklist to us. Sign and date it below, then keep it with your business tax records.
- If you channel your personal services income through a company, partnership or trust (personal services entity), the words 'you' and 'your' refer to that entity.
- If your personal services entity receives the personal services income of more than one individual, complete the checklist for each such individual.

This checklist relates to the income year ending

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Name of individual who provides the personal services this self-assessment relates to

Name of personal services entity the personal services income is channelled through

CHECKLIST

STEP 1: Personal services income

Is the income mainly a reward for the personal efforts or skills of the individual?

Yes No

Personal services income is mainly a reward for an individual's personal efforts or skills. It does not include income that is mainly generated by: supplying or selling goods, an incoming-producing asset, granting a right to use property, or a business structure.

> If you answered **YES**, go to Step 2.

> If you answered **NO**, you do not need to answer any more questions. You are **not** affected by the personal services income legislation.

STEP 2: Results test

Does your contract or arrangement for personal services work require you to achieve a specified result or outcome?

Yes No

Do you supply the tools or equipment (if any) necessary to do your work?

Yes No

Even if the task requires a result that could only be achieved by using the client's tools or equipment you can answer yes to this question provided:

- there is no clause in the contract requiring you to provide the tools and equipment, and
- there is no expectation that you do so, having regard to the custom and practice in that industry.

Are you required to rectify defects in your work, or liable for the cost of rectifying defects?

Yes No

> If you answered **YES** to **all** questions in Step 2, you do **not** need to answer any more questions. You are a personal services business and are not affected by personal services income legislation.

> If you answered **NO** to any question in Step 2, go to Step 3.

STEP 3: The 80% rule

Does 80% or more of the individual's personal services income come from one client?

Yes No

> If you answered **YES**, you are **not** allowed to assess yourself against the other tests. Go to Step 5.

> If you answered **NO**, you are allowed to assess yourself against the other tests. Go to Step 4.

STEP 4: The other personal services business tests

You cannot assess yourself against these tests unless you answered **NO** in Step 3.

(i) Unrelated clients test

Does the individual have personal services income from two or more unrelated clients?

Yes No

Unrelated clients are not related to each other, or to this individual, the personal services entity or associates of the individual or entity. The personal services work must have been obtained as a direct result of making offers to the public (eg by advertising or word of mouth). Do not count clients obtained through a labour hire firm or placement agency.

> If you answered **YES** to the unrelated clients test, you do not need to answer any more questions. You are a personal services business and are not affected by personal services income legislation.

> If you answered **NO**, go on to the employment test.

(ii) Employment test

Do you get employees or other contractors to help the individual with at least 20% (by estimated market value) of the principal work?

Yes No

Principal work is the main work that generates the personal services income and does not include support work such as bookkeeping or banking.

You can count a family member who does principal work and for partnerships you can take into account the principal work of other partners.

You cannot count an entity (company, partnership or trust) associated with you. You cannot count this individual as an employee in this question, even where the individual operates through a personal services entity, and is employed by that entity.

Have you had any apprentices to help you earn personal services income for at least half the self-assessment year?

Yes No

- > If you answered **YES** to **either** of the questions in the employment test, you do not need to answer any more questions. You are a personal services business and are not affected by personal services income legislation.
- > If you answered **NO** to **both** questions, go on to the business premises test.

(iii) Business premises test

At all times in the income year were your business premises:

- owned or leased by you?
- used for personal services work more than 50% of the time?
- used exclusively by you?
- physically separate from the private residence of the individual named above, or their associates?
- physically separate from the business address of your clients, or their associates?

Yes No

You do not need to maintain and use the same business premises throughout the year.

- > If you answered **YES** to **all** parts of the business premises test, you do not need to read Step 5. You are a personal services business and are not affected by personal services income legislation.
- > If you answered **NO** to **any** part this test, you are not a personal services business. Go to Step 5.

STEP 5: Personal services business determination

You can also qualify as a personal services business by obtaining a determination from us stating that you are a personal services business.

You might apply for a personal services business determination because you are not sure whether you pass any of the tests.

We can also give you a personal services business determination where unusual circumstances prevent you from meeting one of the above tests.

If you wish to apply for a personal services business determination, phone **13 28 66** to obtain the application form (NAT 3360) and instructions (NAT 3363).

SIGN THIS CHECKLIST AND KEEP IT WITH YOUR RECORDS

I declare that all the information given in this checklist is true and correct.

Signature

Date / /


Name

MORE INFORMATION

- speak to your tax adviser
- visit our website at www.ato.gov.au
- phone **13 28 66**
- obtain a fax by phoning **13 28 60**, or
- write to us at PO Box 1130, Penrith NSW 2740.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

 You can also apply to us for a private binding ruling on any issue of law. This might include whether you receive personal services income, whether you meet any of the personal services business tests or whether the anti-avoidance law applies to your circumstances. For information on how to apply, phone **13 28 66**.

OUR COMMITMENT TO YOU

The information in this publication is current at April 2004 and we have made every effort to ensure it is accurate. However, if something in the publication is wrong or misleading and you make a mistake as a result, you will not be charged a penalty. You may have to pay interest, depending on the circumstances of your case.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser. Since we regularly revise our publications to take account of any changes to the law, you should make sure this edition is the latest. The easiest way to do this is by checking for a more recent version on our website at www.ato.gov.au