



myTax 2018 Loss details

How to report deferred non-commercial business losses when you lodge your return using myTax.

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Non-commercial business losses

Completing this section

Complete this section if you have a loss:

- from a business activity you carried on either as a sole trader or in partnership (including a loss after deducting your partner expenses)
- at **Distribution from partnerships** or **Distribution from partnerships less foreign income**
- at **Net personal services income**
- for the **Net primary production** or **Net non-primary production** sections at **Business income or losses**
- from a foreign business shown at **Other foreign income**. If your activity is carried on partly in Australia and partly overseas, you need to combine the results of both to see if you have an overall loss from the activity before completing this section.

Non-commercial business losses

Under the rules for non-commercial business losses, you can use a 2017–18 loss from a business activity you conduct either as a sole

trader or in partnership to calculate your 2017–18 taxable income only if it meets one of these conditions:

- an [exception](#) applies
- you meet the income requirement and one of the [four tests](#) is satisfied
- you meet the [income requirement](#) and none of the four tests is satisfied, but the Commissioner of Taxation has exercised his discretion, or ruled that it will be exercised, to allow you to claim the loss
- you do not meet the income requirement, but the Commissioner has exercised his discretion, or ruled that it will be exercised, to allow you to claim the loss.

You cannot claim losses arising from activities you conduct that are a private recreational pursuit or hobby, or if there is no likelihood of profit.

The rules for non-commercial business losses apply to both foreign and Australian business activities.

Deferring your loss

If you are unable to claim your loss in 2017–18 because of these rules, you must defer the loss.

This deferred loss is not disallowed. Instead, you take it into account for the next income year in which you carry on this business activity or one of a similar kind.

The deferred loss is a deduction when calculating any net profit or loss from the activity in that future year. Your deferred loss deduction may be reduced if:

- you earn net exempt income in the future year, or
- you become bankrupt or are released from any debts by the operation of an Act relating to bankruptcy.

Whether any overall loss can be taken into account when you calculate taxable income for that future year depends on the application of the deferral rules for non-commercial business losses in that year.

If you are unable to claim your loss against other income in 2017–18 because of these rules, you must complete this section. myTax will

automatically show the amount as a deferred non-commercial loss.
This amount cannot be used to reduce your 2017–18 taxable income.

Completing this section

What you may need

- Any written advice from the ATO that the Commissioner will exercise his discretion to allow you to deduct your loss from your business activity carried on either as a sole trader or in partnership with others.
- If you are a partner in a partnership, you will need the following details for each business activity that you, as a partner, were involved in:
 - the amount of assessable income earned by the partnership for the activity
 - the share of partnership's assessable income, real property and certain other assets, attributable to partners who are not individuals
 - your share of income or loss from the partnership for the activity.
- You may need to see **Partnerships** which has information on the special rules that determine whether a business activity you carry on in partnership with others satisfies any one of the four tests.

1. For each business activity from which you made a loss, select **Add** and enter information into the corresponding fields.

If you are having difficulty finding a **Main business or professional activity** description, see [below](#).

If you have a loss from a passive investment (for example from a rental property) at **Distribution from partnerships less foreign income**, see [Investment losses](#).

If you are unsure if a business activity has an overall loss, see [Work out whether you have an overall loss](#).

2. For **Type of loss**, select the most appropriate number code from the following list:

- 0: Your loss is from a passive investment. You do not need to defer losses from passive investments. For more information, see [Investment losses](#).
- 1: Your assessable income from the business activity for 2017–18 was at least \$20,000 and you met the income requirement.
- 2: The business activity produced a profit for tax purposes in three out of the past five years (2013–14 to 2017–18) and you met the income requirement.
- 3: The value of real property assets or interests in real property (excluding any private dwelling) used on a continuing basis in carrying on the business activity was at least \$500,000 and you met the income requirement.
- 4: The value of certain other assets (except cars, motor cycles or similar vehicles) used on a continuing basis in carrying on the business activity was at least \$100,000 and you met the income requirement.
- 5: The ATO has written to advise you that the Commissioner will exercise his discretion to allow you to claim a loss for that business activity for 2017–18. This is where the Commissioner has issued a product ruling, or a private ruling, allowing losses to be claimed from an activity you participated in.
 - Some business activities may be covered by a product ruling or private ruling that does not relate to 2017–18. Use loss code 5 only if you have advice in writing that the Commissioner will exercise his discretion for 2017–18.
 - If you have applied for a private ruling for the Commissioner to exercise his discretion for 2017–18, but have not yet received the ruling, use loss code 8 unless another code applies.
- 6: The loss was from a business activity you operated that was a professional arts business and your assessable income (excluding any net capital gain) from unrelated sources was less than \$40,000. A professional arts business is a business you carry on as an author of a literary, dramatic, musical or artistic work, as a performing artist, or as a production associate.
- 7: The loss is from a business activity you operated that is a primary production business, and your assessable income

(excluding any net capital gain) from unrelated sources was less than \$40,000.

- 8: The above loss codes don't apply. You must defer your loss.

3. Enter the net loss details into the corresponding fields:

- If the **Type of loss** is 8: *None of the codes apply – loss deferred*
enter your net loss from the business activity in the following fields
 - **Primary production – your share of total deferred non-commercial loss**
 - **Non-primary production – your share of total deferred non-commercial loss.**
- If the **Type of loss** is not 8: *None of the codes apply – loss deferred*
enter your net loss from the business activity in the following fields
 - **Primary production – your share of total loss**
 - **Non-primary production – your share of total loss.**

4. Enter the amount of deferred non-commercial business loss from a prior year for the business activity at **Amount of deferred loss from prior year included in the above amount(s)**.

5. If the **Type of Loss** is 8: *None of the codes apply – loss deferred* you must enter amounts in these three fields:

- **Deferred loss amount from carrying on a business of investing**
- **Deferred loss amount from carrying on a rental property business**
- **Remaining deferred loss amount.**

These amounts must add up to your net loss from this business activity.


Enter zero if there is no amount to be shown.

6. Select **Save**.

7. Select **Save and continue**.

Having difficulty finding a Main business or professional activity description?

If you are, we recommend you take the following steps:

1. Enter your activity into the [Business industry code search tool](#) 
2. From the search tool results, click on the link for the most appropriate description for your activity.
3. From here, you will see a number and a description (for example **69320 Accounting Services**). Enter this description at **Main business or professional activity** in myTax.

There are a limited number of descriptions from the Business industry code search tool that are not listed in myTax. If this applies to you, use the list below to determine what you should choose to enter at **Main business or professional activity** in myTax:

Main business or professional activities - myTax substitute

From the Business industry code search tool	In myTax
Nursery Production (Under Cover)	Nursery and Floriculture Production
Forestry	Forestry and Logging
Basic Organic Chemical Manufacturing	Basic Chemical Manufacturing
Computer and Electronic Equipment Manufacturing	Computer and Related Manufacturing
Waste Remediation and Materials Recovery Services	Waste Treatment, Disposal and Remediation Services
Other Agricultural Product Wholesaling	Agricultural Product Wholesaling
Clothing and Footwear Wholesaling	Textile, Clothing and Footwear Wholesaling

Sport and Camping Equipment Retailing	Recreational Goods Retailing
Telecommunications Services	Wired Telecommunications Network Operation
Taxi Service Operation	Taxi Service Operation (Owner Operator)
Taxi Driver	Taxi Driver (Except Owner Operator)
Superannuation Funds	Superannuation Funds or First Home Saver Account Trusts
Other Auxiliary Finance and Investment Services	Auxiliary Finance and Investment Services
Other Specialised Design Services	Architectural, Engineering and Technical Services

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Investment losses

Use this guide to help you understand investment losses and how to complete a Loss details worksheet.

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If your only loss is from a passive investment (for example from a rental property) at **Distribution from partnerships less foreign income**, complete a **Loss details** worksheet and show:

- **Description of activity** enter 'Residential property operators'
- **Type of loss** select '0: Passive investment - partnership'
- **Primary production - your share of total loss** enter '0'
- **Non-primary production - your share of total loss** enter '0'.

Continue to [step 4](#).

If you have a loss from a business activity and a loss from a passive investment (for example from a rental property) at **Distribution from partnerships less foreign income**, then you are not required to report the loss from a passive investment. You need to complete a **Loss details** worksheet for each other business activity loss.

If you are unsure if a business activity has an overall loss see [Work out whether you have an overall loss](#), or continue to [step 2](#).

Work out whether you have an overall loss

Complete the worksheet for each business activity to determine whether you have an overall loss for that activity.

Worksheet

Row	Calculation element	\$
a	Income from the activity shown at other sections: <ul style="list-style-type: none"> • gross interest • dividends (unfranked, franked and franking credit amounts) • farm management repayments • net capital gain • other foreign source income 	\$
b	Loss from the activity shown at: <ul style="list-style-type: none"> • primary production and non-primary production distribution from partnerships • net personal services income • net primary production and net non-primary production business income or losses (Include the loss here as a positive amount)	\$
c	Partner deductions attributable to the activity (including landcare operations)	\$

d	Loss from the activity at other foreign income (Include the loss here as a positive amount)	\$
e	Add b , c and d .	\$
f	Subtract e from a .	\$

If the result at **f** is negative this activity has an overall loss and you must complete a **Loss details** worksheet. Continue to [step 2](#).

If the result at **f** is zero or positive you do not have an overall loss for this business activity. If you have more than one business activity loss, complete a **Loss details** worksheet for each other activity. If you do not have a loss from another business activity show:

- **Description of activity** enter the relevant description
- **Type of loss** select 5: *Commissioner's discretion*
- **Reference** select AN: *NCL ruling code - Authorisation number for private ruling*
- **Number** enter '200926'.
- **Primary production - your share of total loss** enter '0'
- **Non-primary production - your share of total loss** enter '0'.

Continue to [step 4](#).

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More information on non-commercial business losses

Use this guide to understand the exceptions, income requirement, four tests and the Commissioner's discretion.

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- The exceptions
- The income requirement
- The four tests
- The Commissioner's discretion

The exceptions

If you operated or proposed to operate a primary production business or a professional arts business and your unrelated assessable income for 2017–18 (except any net capital gain) from other sources is less than \$40,000, you may claim your business loss for 2017–18.

A professional arts business is a business you carry on as an author of a literary, dramatic, musical or artistic work, as a performing artist, or as a production associate.

GST excluded

Your assessable income excludes any goods and services tax (GST) on a taxable supply you make. You must be registered or required to be registered for GST to make a taxable supply.

The income requirement

You must meet the **income requirement** to continue to access the four tests to offset your loss from a business activity against other assessable income.

If you do not meet the income requirement, you may request the Commissioner to exercise his discretion to allow your loss, see [The Commissioner's discretion](#).

You will meet the income requirement and have access to the [four tests](#) if the total of the following amounts is less than \$250,000:

- Taxable income is shown on the **Prepare your return** screen. Any business losses you are claiming at this section will be ignored when working out taxable income. If you had a taxable loss, use zero for this calculation.
- Total reportable fringe benefits amounts shown on your payment summary and totalled on the **Prepare your return** screen.

- Reportable superannuation contributions are your reportable employer superannuation contributions (shown on your payment summary and totalled on the **Prepare your return** screen), plus any deductible personal superannuation contributions shown at **Personal super contributions**.
- Net investment losses are the total of your financial investment losses and rental properties losses (shown on the **Prepare your return** screen).

If you do not meet the income requirement, you will have to defer your loss unless the Commissioner has exercised his discretion or ruled that it will be exercised, or you satisfy another exception.

The four tests

You will not have to defer your loss from your business activity if you meet the income requirement and the activity satisfies at least one of the following four tests:

- There is at least \$20,000 of assessable income from the business activity for this income year.
- The business activity has produced a profit for tax purposes in three out of the past five years, including the current year.
- The value of real property assets (excluding any private dwelling) used on a continuing basis in carrying on the business activity is at least \$500,000.
- The value of certain other assets (except cars, motorcycles and similar vehicles) used on a continuing basis in carrying on the business activity is at least \$100,000.

See also

- Non-commercial losses
- Taxation Ruling TR 2001/14 *Income tax: Division 35 – non-commercial business losses*
- Partnerships

You can phone **13 28 66**.

The Commissioner's discretion

If you meet the income requirement for the most recent income year ending before you request that the discretion be exercised, the Commissioner can exercise his discretion to allow a loss from a business activity to be claimed in the year it arises. This can occur even if none of the four tests are satisfied, provided either:

- the business activity was affected by special circumstances outside the control of the business operators (for example, natural disasters) where the activity would have satisfied one of the four tests but for these special circumstances, or
- the business activity, because of its nature, has a lead time and, for this reason, does not or will not satisfy any of the four tests. However, there is an objective expectation that within a period that is commercially viable for the industry either
 - it will satisfy one of the four tests, or
 - produce assessable income for an income year greater than the tax deduction attributable to the income for that year.'Commercial viability' is measured against independent industry standards.

If you exceed the income requirement for the most recent income year ending before you request that the discretion be exercised, the Commissioner can exercise his discretion to allow a loss from a business activity in more limited circumstances. The Commissioner can exercise his discretion in this instance if:

- the business activity was affected by special circumstances outside the control of the business operators (for example, natural disasters) where the activity was unable to produce a tax profit and would have satisfied one of the four tests but for these special circumstances, or
- the business activity, because of its nature, has a lead time and, for this reason, does not or will not produce assessable income greater than the tax deduction attributable to that income. However, there is an objective expectation that it will do so within a period that is commercially viable for the industry concerned. 'Commercial viability' is measured against independent industry standards.

Applying for the Commissioner's discretion

You must apply in writing for advice on whether the Commissioner will exercise discretion. To do this, complete the **Application for a private**

ruling on the Commissioner's discretion for non-commercial business losses.

See also

- Commissioner's discretion or phone **13 28 66**.

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Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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