



Personal services income schedule 2002

schedule and explanatory notes

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INTRODUCTION

General notes

This schedule is to be used by companies, partnerships and trusts only.

Please read the instructions to help you to complete this schedule.

If you are an individual in receipt of personal services income (PSI) you must complete item P1 of the Business and professional items schedule/section.

Alienation of personal services income

On 1 July 2000 the *New Business Tax System (Alienation of Personal Services Income) Act 2000* introduced changes to the tax treatment of PSI earned by contractors and consultants. The changes to the tax law only apply to PSI.

Note: If you had a prescribed payments system (PPS) declaration in force at 13 April 2000, the changes to the tax law do not apply to PSI earned **before** 1 July 2002. You will however need to consider how the alienation measure impacts on your Pay As You Go (PAYG) and Business Activity Statement (BAS) obligations for PSI earned from 1 July 2002.

What is personal services income (PSI)?

This is income that is mainly a reward for an individual's personal efforts or skills.

Examples of PSI include:

- income of a professional practitioner in a sole practice
- income payable under a contract which is wholly or principally for the labour or services of a person
- income derived by a professional sportsperson or entertainer from the exercise of professional skills
- income derived by consultants from the exercise of personal expertise.

It does not include income that is mainly:

- for supplying or selling goods—for example, from retailing, wholesaling or manufacturing, or
- generated by an income-producing asset, (such as a bulldozer), or
- for granting a right to use property—for example, the copyright to a computer program, or
- generated by a business structure—for example, an accountant working for a large accounting firm.

If PSI is channelled through a company, partnership or trust (a personal services entity), it is still the individual's PSI for income tax purposes.

Note: 'you' and 'your' in these instructions refers to the personal services entity.

The changes do not apply to PSI earned by employees, except where the individual is an employee of a personal services entity. The changes also do not apply to PSI that is earned in the course of conducting a personal services business.

What is a personal services business?

You qualify as a personal services business, if:

- you meet the results test, or
- less than 80 percent of the individual's PSI in an income year comes from each client and you meet either the unrelated clients test or the employment test or the business premises test, or
- you obtain a determination from the Australian Taxation Office confirming that you are a personal services business.

What is the results test?

You will meet the results test in an income year if, in respect of at least 75 percent of the PSI of the individual doing the personal services work:

- the PSI is paid to achieve a specified result or outcome under your contract or arrangement, and
- you provide the tools or equipment necessary (if any) to do the work, and
- you are liable for the cost of rectifying defects in your work.

You can self-assess whether you meet the results test.

What is the 80 percent rule?

If you don't meet the results test and 80 percent or more of the PSI in the income year comes from one client you cannot self-assess whether you meet the other tests. The changes to the tax law apply to you unless you get a determination from the ATO.

If you don't meet the results test you can self-assess against the other tests if less than 80 percent of the PSI comes from each client.

If you receive any income that is not PSI—for example, investment income or income from the sale of goods or the use of an income producing asset do not take that income into account when working out whether 80 percent or more of the PSI comes from one client.

If you are a commission agent you will be treated as having less than 80 percent of your PSI from each client provided that you meet all of the following conditions:

- you are an agent of the principal but not an employee
- you receive income from your principal for services that you provide to customers on the principal's behalf
- at least 75 percent of that income is performance-based commissions or fees
- you actively seek other customers to whom you could provide services on the principal's behalf and
- you do not provide any services to the customers, on the principal's behalf, using premises that the principal (or their associate), owns or has a leasehold interest in, unless you use the premises under an agreement entered into at arm's length.

Under these circumstances a commission agent can self-assess whether they are conducting a personal services business. There is no need to apply to the ATO for a determination.

Unrelated clients test

You will meet the unrelated clients test in the income year, if the individual doing the personal services work has PSI from 2 or more clients who are not associated with each other or with the individual or with you.

The personal services must also be provided as a direct result of making offers to the public—for example, by advertising or word of mouth. Do not count clients obtained by putting your name with a labour hire firm, placement agency or similar organisation.

Separate government departments are deemed not to be associates of each other for the purposes of this test.

If you are a commission agent that meets all of the special conditions for the 80 percent rule and provides the services as a direct result of making offers to the public then you will satisfy the unrelated clients test.

Employment test

You will meet the employment test in the income year if you:

- have employees or engage sub-contractors or entities that perform at least 20 percent (by market value) of the principal work, or
- you have apprentices for at least half the income year.

Principal work is the main work that generates the PSI and does not usually include support work such as secretarial duties.

You can count a spouse or family member who does principal work but not companies partnerships or trusts associated with you.

If you are a partnership you can also count any partners who perform principal work that helps to generate the PSI. You cannot count any individual whose PSI you receive.

Business premises test

You will meet the business premises test if at all times during the year of income your business premises are:

- owned or leased by you
- mainly used for personal services work—for example, more than 50 percent of the time by the individual doing the work
- used exclusively by you
- physically separate from the private residence of the individual doing the personal services work, or their associates and
- physically separate from the business address of your clients or their associates.

You need not maintain and use the same business premises throughout the year but you must satisfy all the above criteria.

What if the measure applies?

If the changes apply to you, there are 3 main effects:

- The PSI is treated as the income of the individual who does the personal services work and must be included in their income tax return.
- The personal services entity must either:
 - pay the PSI promptly, as salary or wages, to the individual who does the personal services work or
 - attribute the PSI to the individual who does the personal services work and withhold and remit tax on that income
- The deductions you can claim are limited.

Deductions

The deductions that can be claimed against PSI fall into 2 classes:

1 Personal services income deductions

The following costs, provided they are incurred in gaining or producing your assessable income, are deductible:

- costs incurred in gaining work—for example, advertising, tendering and quoting for work
- insuring against loss of income or earning capacity—for example, sickness, accident and disability insurance
- insuring against liability arising from acts or omissions in the course of earning income—for example, public liability insurance and professional indemnity insurance
- engaging an entity that is not your associate to perform work
- contributing to a fund in order to obtain superannuation benefits for individuals and their dependents in the event of the individuals' death whose PSI is included in the ordinary or statutory income of the personal services entity
- meeting your obligations under a workers compensation law to pay premiums, contributions or similar payments or to make payments to an employee in respect of compensatable work-related trauma
- meeting your obligations, or exercising your rights, under the Goods and Services Tax (GST) law.

The following deductions may be limited depending on your circumstances:

Certain car expenses

You can deduct:

- a car expense for each car used solely for business purposes
- a work-related car expense or an amount of fringe benefits tax payable for a car fringe benefit where a car is used partly for private purposes. However, there cannot be, at the same time, more than one car for which such deductions can arise in relation to gaining or producing the same individual's PSI. If there is more than one car of which there is private use at the same time, in respect of the same individual, the entity must choose which car upon which to claim deductions. The choice remains in effect until the personal services entity ceases to hold that car.

Other superannuation contributions

Where a personal services entity makes contributions to a fund for the purpose of making provision for superannuation benefits payable for an individual whose PSI is included in the entity's income and:

- the individual performs less than 20 percent (by market value) of the entity's principal work and
- the individual is an associate of another individual whose PSI is included in the entity's income; then the entity's deduction in respect of the contributions cannot exceed the amount it would have to contribute, for the benefit of the individual, to a complying superannuation fund in order to ensure that it did not have an individual superannuation guarantee shortfall in respect of the individual.

Depreciating assets

You can claim a deduction for the decline in value of depreciating assets used for income producing purposes provided:

- the income is included in the assessable income of the individual and
- the individual would have been able to deduct the amount if he or she had used the assets in the same circumstances.

2 Entity maintenance deductions

These are:

- fees or charges associated with an account with an authorised deposit-taking institution (but not including interest or interest like amounts)
- tax related expenses
- any expense incurred in relation to the preparation or lodgment of a document under corporations law
- statutory fees.

Entity maintenance deductions may be offset against PSI where the other income—that is, income excluding PSI—of the entity has been determined. The entity maintenance deductions must first be offset against the entity's other income. Where the entity maintenance deductions exceed the other income, the excess of the entity maintenance deductions may reduce PSI attributable to the individual(s).

The sum of the excess entity maintenance deductions and the PSI deductions will reduce the PSI of the individual(s).

To apportion the entity maintenance expenses between several individuals, the following formula is used.

$$\text{Excess entity maintenance deductions} \times \frac{\text{Individual's PSI}}{\text{Total PSI}}$$

Non-deductible amounts

The entity cannot deduct amounts in respect of the PSI of individuals for:

- rent, mortgage interest, rates and land tax
- payments to associate(s) or deductions for superannuation for associates, unless the associate's performs part of the principal work for which the entity gains or produces the PSI.

Note: Other expenses incurred by the entity in gaining and producing other income—for example, investment income—can be claimed in the entity's tax return, not on the attached schedule.

FOR MORE INFORMATION

You can :

- call the ATO on **13 2478**
- refer to the ATO website at www.taxreform.ato.gov.au
- speak to your tax adviser
- write to us at
BTR Advice
Locked Bag 9000
ALBURY NSW 2640
- email us at BTRAdvice@ato.gov.au
- phone the Telephone Typewriter Service if you have a hearing or speech impediment on **1300 130 478**
- refer to Taxation Rulings TR 2001/7 Income tax: the meaning of personal services income and TR 2001/8 Income tax: what is a personal services business
- apply to the ATO for a **Personal services business** determination. You can download a copy of the form and instructions from the ATO website or call **1300 720 092**.

Taxpayers who do not speak English and need help from the ATO can phone the Translating and Interpreting Service (TIS) on **13 1450**.

PS1 Are you conducting a personal services business?

Results test

Indicate at label **W** if you satisfy the results test in respect of any individual. Print **Y** for *Yes* or **N** for *No* at label **W**.

Personal services business determination

Indicate at label **B** if you hold a personal services business (PSB) determination(s) in respect of any individual(s). Print **Y** for *Yes* or **N** for *No*.

If you answered *Yes* at label **W** and/or *Yes* at label **B** and this applies to **all** individuals you do not need to complete the remaining parts of the PSI schedule. Go to the signature block at the bottom of page 2. Otherwise go to the next question.

Individuals with 80 percent or more of their PSI from one source where the results test is not met and a PSB determination is not held

Indicate at label **A** whether this is the case.

Print **Y** for *Yes* or **N** for *No* at label **A**.

Go to the next question.

Individuals with less than 80 percent of their PSI from one source where the results test is not satisfied and a PSB determination is not held.

Indicate at label **C** whether this is the case.

Print **Y** for *Yes* or **N** for *No* at label **C**.

If you answered **Yes** at label **C** you must indicate which of the personal services business tests you satisfy (if any). Print **X** at the appropriate label(s) **D1**, **E1**, **F1**.

PS2 Personal services income details

You must complete part PS2 of this schedule for all individuals with:

- 80 percent or more of their PSI from one source where the results test is not satisfied and a PSB determination is not held, and
- less than 80 percent of the PSI from each source where the results test is not satisfied, a PSB determination is not held and at least one of the other personal services business test is not met.

Note: When completing the schedule, if you have the PSI of more than 4 individuals you need to record totals in respect of all individuals.

However you should only attach one completed schedule to your return showing the details of the taxpayers with 4 highest combined amounts of income attributed and promptly paid salary or wages.

Step 1 Total PSI gained by you during the year

Include at label **G** the total amount of income gained by you during the income year that is the PSI of one or more individuals and that is not earned in the course of conducting a personal services business.

The total should include any GST you received—see Step 3.

Examples of PSI include:

- income derived by consultants for the exercise of personal expertise
- income derived by professional sports people for the exercise of their professional skill. This does not include income from the endorsement by the person of a sponsor's products.

Add the amounts from Step 1 for each individual (including any not shown on the schedule) and write the total at label **G** on your PSI schedule.

Step 2 Personal services income promptly paid as salary or wages during the year

Include at label **H** the total amount of PSI from Step 1 that has actually been paid to the individual as salary or wages before the end of the fourteenth day after the PAYG payment period, during which you received the income.

Add the amounts from Step 2 for each individual and write the total at label **H** on your PSI schedule.

Note: Paying salary or wages creates an obligation in respect of Pay As You Go Withholding and a *PAYG payment summary—individual non-business* must be completed.

An individual in receipt of such salary or wages must complete item 1—Gross salary or wages on their Individual tax return.

Step 3 The exempt or non-assessable component of PSI gained during the year

Write at label **I** the amounts received that are non-assessable for each individual.

For example, if the entity received PSI in respect of an individual for a service on which GST was payable, the amount of GST is included here because GST is not assessable.

Add the amounts from Step 3 for each individual and write the total at label **I** on your PSI schedule.

Step 4 The gross amount of personal services income attributable to individuals

Subtract the amounts at Step 2 and Step 3 from Step 1.

Write the answer at Step 4 for each individual.

Add the amounts from Step 4 for each individual (including any not shown on the schedule) and write the total at label **J** on your PSI schedule.

Step 5 Deductions for payments to associates for doing principal work

Write at label **K** the amounts paid to each associate to perform work that forms part of the principal work from which each individual gained or produced PSI.

Add the amounts for each individual (including any not shown on the schedule) and write the total at label **K** on your PSI schedule.

Step 6 Other deductions against personal services income

Write at label **L** the total amount of other deductions allowable to you.

The sum of the excess entity maintenance deductions and the PSI deductions will reduce the PSI of the individual(s).

Add the amounts from Step 6 for each individual (including any not shown on the schedule) and write the total at label **L** on your PSI schedule.

Step 7 Net personal services income attributable to individuals

For each individual, subtract the amount from Step 5 and Step 6 from Step 4.

Write the answer at Step 7. This is the amount of PSI attributable to each individual.

Note: If the amount calculated is less than zero, the amount you should include is zero.

Transfer the amounts from labels **S**, **T**, **U** and **V** to your PSI schedule.

Add the amounts from Step 7 for each individual (including any not shown on the schedule) and write the total at label **M** on the schedule.

If there are more than 4 individuals that have PSI attributed make sure that **all** the attributed amounts are included in the total you write at label **M** on your PSI schedule.

Note: If you are a partnership and the amount of the deductions exceeds the amount of the PSI, the partners may be entitled to a deduction under subsection 92(2) of *Income Tax Assessment Act 1936*. This means that the partnership claims the loss, and this loss in turn is distributed to the respective partners according to their share of the partnership income.

The attribution of PSI creates obligations for Pay As You Go Withholding. Refer to fact sheet NAT 3517-08.2001.

The Payment summary—personal services attributed income guidelines form must be completed by the payer.

Step 8 Add the amount from step 2 to step 7 write the answer at step 8

This is the combined amount of income attributable and promptly paid as salary or wages to each individual.

Step 9 Type of income

Write **A**, **P** or **B** in respect of each individual to indicate whether the amount from Step 8 is either attributable PSI (**A**) or promptly paid salary or wages (**P**) or both (**B**).

Transfer the amounts from labels **S**, **T**, **U** and **V** to your PSI schedule.

Transfer the codes from Step 9 to the corresponding type boxes at item 9 on the PSI schedule.

Other items to be completed on the PSI schedule

Include at label **N** on the PSI schedule, the total number of individuals to whom the net PSI (stated at label **M**) is attributable.

Include at labels **O**, **P**, **Q** and **R** the tax file number of each individual named in the schedule (if known).

Note: The law does not require you to provide this information but providing it will assist in processing your tax return.

Remember to sign the signature block at the bottom of page 2 of the PSI schedule.

Treatment of attributed PSI in your income tax return

Where PSI is attributed to an individual, the income is not assessable to the personal services entity.

The appropriate adjustments should be made as follows:

- for a partnership or trust at item 5, Reconciliation items and Worksheet 3—Reconciliation statement, item K—Personal services income included in the assessable income of an individual (attributed amount)
- for a company at label **Q**—**Other income not included in assessable income**, (page 2 of the return form) and Worksheet 3—Other reconciliation items—PSI included in the assessable income of an individual (gross amount).

The following examples are designed to help you complete the PSI schedule and entity tax return in respect of PSI.

Examples

Company tax return

Where some salary and wages has been promptly paid and some PSI, which has not been promptly paid as salary and wages, is attributed to an individual

A company derives PSI from the efforts of a director. Part of the PSI has been promptly paid as salary and wages within 14 days of the end of the relevant PAYG withholding periods. The company's profit and loss statement is comprises:

Income (all PSI of the director)	\$100 000	
Less		
Expenses		
Salary and wages	\$ 30 000	
Rent for director's home that is a place of business	\$ 5 000	
Other expenses (all deductible)	\$ 25 000	\$ 60 000
Net profit		\$ 40 000

The rent paid for the director's home that is used as a place of business is not deductible under the Alienation of Personal Services Income provisions. The net profit is PSI of the director and is attributed to him for income tax purposes (together with the amount representing non deductible rent expense).

The information is entered into the following labels at item 6—Calculation of total profit or loss, of the *Company tax return 2002*:

Income		
Other gross income (label R)	\$100 000	
Total income (label S)	\$100 000	
Expenses		
Rent expenses (label H)	\$ 5 000	
All other expenses (label S)	\$ 55 000	
Total expenses (label Q)	\$ 60 000	
Operating profit or loss (subtract Total expenses from Total income) (label R)	\$ 40 000	
Total profit or loss (label T)	\$ 40 000	

Item 7—Reconciliation to taxable income or loss, of the *Company tax return 2002*, would then be completed as follows:

Total profit or loss amount shown at label T , item 6:	\$ 40 000
Add	
Non-deductible expenses: rent (label W)	\$ 5 000
Subtotal	\$ 45 000
Less	
Other income not included in assessable income (label Q)	\$ 45 000
Subtraction items subtotal	\$ 45 000
Taxable income or loss (label T)	\$0

Partnership tax return

Where income of the partnership comprises PSI which is attributed to the partners

A partnership derives PSI from the efforts of its 2 partners, however the PSI is mainly derived by the efforts of partner A. The partnership's profit and loss statement comprises:

Income (all PSI of the partners)	\$100 000
Less Expenses	
Rent for home that is a place of business	\$ 5 000
Other expenses (all deductible)	\$ 55 000
Net profit	\$ 40 000

There are 2 partners, A and B. The business is conducted from the home of partner A. The rent paid for partner A's home that is used as a place of business is not deductible under the alienation of personal services income provisions. The net profit is PSI of the partners and will be attributed for income tax purposes (together with the amount representing non-deductible rent expense).

The information is then entered into the following labels of item 5—Business income and expenses, of the *Partnership tax return 2002*:

Note: It is assumed the income is non-primary production income.

Income	
Other business income (label H)	\$100 000
Total business income	\$100 000
Expenses	
Rent expenses (label H)	\$ 5 000
All other expenses (label N)	\$ 55 000
Total expenses (label O)	\$ 60 000
Reconciliation items	
Add	
Income reconciliation adjustments: attributed income (label A)	\$ 45 000 /L ¹
Add	
Expense reconciliation adjustments: rent (label B)	\$ 5 000
Net income or loss from business (labels R and S)	\$0
Item 13 Total of items 5 to 12	\$0
(Assuming no other amounts in items 6–12 are relevant to the tax return)	
Item 17 Net Australian income or loss	\$0
(Assuming no other amounts in items 14–16 are relevant to the tax return)	
¹ This figure is a loss and is deducted from the net income figure	

Trust tax return

Where all PSI has been promptly paid as salary and wages

A unit trust derives PSI from the efforts of its unit holder. As at 30 June, the trust's profit and loss statement comprises:

Income (all PSI of the unit holder)		\$100 000
Less Expenses		
Salary and wages	\$ 35 000	
Rent for home that is a place of business	\$ 5 000	
Other expenses (all deductible)	\$ 20 000	\$ 60 000
Net profit		\$ 40 000

The business is conducted from the home of the unit holder. The rent paid for the unit holder's home that is used as a place of business is not deductible under the alienation of personal services income provisions. The unit holder's salary and wages have been promptly paid within 14 days of the end of the relevant PAYG withholding periods.

The balance of Net profit, \$40 000, plus the non-deductible rent of \$5 000, (\$45 000 in total) was paid as salary and wages to the unit holder by the 14th July. This removed the need to attribute this income.

The information is then entered into the following labels at item 5—Business income and expenses, of the *Trust Tax return 2002*:

Note: It is assumed the income is non-primary production income.

Income		
Other business income (label H)	\$100 000	
Total business income	\$100 000	
Expenses		
All other expenses (label N)	\$100 000	
Total expenses (label O)	\$100 000	
Net income or loss from business (labels R and S)	\$0	
Item 13 Total of items 5 to 12 (Assuming no other amounts in items 6–12 are relevant to the tax return)	\$0	
Item 17 Net Australian income or loss (Assuming no other amounts in items 14–16 are relevant to the tax return)	\$0	



Personal services income schedule 2002

Use the *Personal services income schedule 2002 instructions* to complete this schedule.

This version is intended primarily for your or your client's record—not for lodgment. If you have to lodge this schedule with your clients tax return and that tax return is not being lodged via ELS, please use the preprinted schedule provided by the Australian Taxation Office for that purpose.

Tax file number (TFN)

Name of
personal
services entity

Australian Business Number

Complete this schedule only if you have income that is an individual's personal service income (PSI) and you did not have a valid prescribed payments system payee declaration that was in force and received by the Commissioner as at 13 April 2000.

PS1 Are you conducting a personal services business?

Do you satisfy the results test in respect of any individual?

W Print **Y** for yes or **N** for no.

Do you hold a personal services business (PSB) determination(s) in respect of any individual?

B Print **Y** for yes or **N** for no.

If you printed Y at either label W or label B, or at both labels, and this answer applies to all individuals, you do not have to complete any other labels on this schedule. Go to the signature block on the next page. Otherwise go to the next question.

For any individual who did not satisfy the results test or hold a PSB determination, did 80% or more of their PSI come from one source?

A Print **Y** for yes or **N** for no.

Complete **PS2** below for each individual for whom you printed **Y** at label **A**.

You must provide an answer at label **A** if you printed **N** at both labels **W** and **B**.

For any individual who did not satisfy the results test or hold a PSB determination, did each source of their PSI yield less than 80% of their total PSI?

C Print **Y** for yes or **N** for no.

You must provide an answer at label **C** if you printed **N** at both labels **W** and **B**.

If **YES** at label **C**, indicate if you satisfy any of the following personal services business tests. Print **X** in the appropriate box(es).

Unrelated clients test **D1**

Employment test **E1**

Business premises test **F1**

Complete **PS2** below for each individual who does not satisfy the results test, hold a PSB determination or satisfy at least one of the personal services business tests.

PS2 Personal services income details

1 Total amount of income gained by you during the year that is PSI of one or more individuals

G .00

2 Total amount of income that you promptly paid as salary or wages

H .00

3 The exempt or non-assessable component of the PSI—for example, goods and services tax—you gained during the year

I .00

IN-CONFIDENCE—when completed

Personal services income schedule 2002

TFN

4 The gross amount of PSI attributable to individuals labels **G - H - I = J** **J** .00

5 Total amount of deductions for payments to associates for principal work **K** .00

6 Total amount of other deductions against PSI **L** .00

7 Net PSI attributable to individuals labels **J - K - L = M** **M** .00

8 Total number of individuals to whom income is attributable or was promptly paid as salary and wages **N**

9 Individuals to whom PSI is attributable or promptly paid as salary and wages
List details of the 4 individuals with the highest amounts.

	TFN of individual		Amount	Type
O	<input type="text"/>	S	<input type="text"/> .00	<input type="text"/>
Family name	<input type="text"/>			
Given name	<input type="text"/>			

	TFN of individual		Amount	Type
P	<input type="text"/>	T	<input type="text"/> .00	<input type="text"/>
Family name	<input type="text"/>			
Given name	<input type="text"/>			

	TFN of individual		Amount	Type
Q	<input type="text"/>	U	<input type="text"/> .00	<input type="text"/>
Family name	<input type="text"/>			
Given name	<input type="text"/>			

	TFN of individual		Amount	Type
R	<input type="text"/>	V	<input type="text"/> .00	<input type="text"/>
Family name	<input type="text"/>			
Given name	<input type="text"/>			

Note regarding labels O to R—It is not an offence not to quote a TFN. However, the TFN will help the Australian Taxation Office to correctly identify each individual's tax records.

Signature as prescribed in tax return

IN-CONFIDENCE—when completed