

Personal services income schedule 2001

instructions and schedule

Introduction

The 'alienation of personal services income' measure

New rules for the income tax treatment of certain personal services income commenced on 1 July 2000. Personal services income is income that is mainly a reward for an individual's personal efforts or skills and is generally paid to an individual or to a company, partnership or trust (personal services entity) for services provided by an individual.

The rules are designed to improve the integrity of the tax system by:

- limiting and clarifying the deductions that can be claimed against personal services income at both the individual and personal services entity level and
- ensuring that, after allowing deductions to the personal services entity, any remaining personal services income is attributed to and included in the assessable income of the individual who provided the personal services.

The measure:

- will not apply where an individual or a personal services entity conducts a personal services business and
- does not affect the legal status of the personal services entity or deem an individual to be an employee for the purposes of any Australian law or instrument.

There are also transitional arrangements for the 2000–01 and 2001–02 income years. The measure will not apply for those 2 income years to payees under the prescribed payments system (PPS), who have a valid payee declaration that was in force on 13 April 2000 and which had been received by the Commissioner on or before that date. You have a valid payee declaration if you provided a signed PPS payee declaration to a PPS payer and that payer has acted in accordance with that declaration.

Are you a personal services business?

There are 3 tests to determine what is a personal services business. These tests are:

- the unrelated clients test
- the employment test and
- the business premises test.

If **80% or more** of an individual's personal services income comes from one source, and the entity receives the individual's personal services income in the course of conducting a personal services business, the personal services entity can apply to the Commissioner for a determination.

If the Commissioner makes a determination that a personal services business is being conducted, the new rules will not apply to the personal services income of that individual.

The Commissioner will normally consider the employment and business premises tests in making the determination. In some cases, the Commissioner can also have regard to unusual circumstances which affect the taxpayers ability to pass at least one of the 3 tests.

The Commissioner can, in certain circumstances, also make a determination based on further grounds regardless of whether the taxpayer meets any of the 3 personal services business tests.

If **less than 80%** of an individual's personal services income comes from each source, the individual or personal services entity can self assess whether they pass at least one of the three tests. However, they cannot consider unusual circumstances or further grounds in assessing whether they satisfy any of the tests.

Individuals who have 80% or more of their PSI from one source

Label **A** should only be completed if **80% or more** of the personal services income you receive for any individual has come from one source. Print **Y** for yes and **N** for no at label **A**.

Personal services business determination

Indicate at label **B** whether or not you hold a personal services business determination for all these individuals.

- indicate **Y** for Yes, if you do hold such determination/s, or
- indicate **N** for No if you do not hold such determination/s in respect of **all** these individuals.

If you answered **NO** at label **B**, you need to complete part **PS2** of the Personal services income schedule for any individuals for which you do not hold a personal services business determination.

Individuals who have less than 80% of their PSI from one source

Label **C** should only be completed if **less than 80%** of the personal services income you receive for any individual has come from one source. Print **Y** for yes and **N** for no at label **C**.

If you answered **YES** at label **C** you may be conducting a personal services business. You must indicate which of the personal services business tests you satisfy at labels **D**, **E** or **F**.

Unrelated clients test

If for any individual, **less than 80%** of the personal services income you (the entity) receive has come from each source, a personal services entity meets the unrelated clients tests if during the year:

- the personal services entity gains or produces income from providing services to 2 or more entities, that are not associates of each other, of the individual or of the personal services entity and
- the services are provided as a direct result of the personal services entity making offers or invitations to the public at large or to a section of the public, for provision of the services.

A personal services entity is not considered to have made offers or invitations for the provision of services merely by being available to provide the services through a labour hire firm or personnel agency.

If you satisfy this test, print an 'X' in the box beside label **D1**.

Employment test

If for any individual, **less than 80%** of the personal services income you (the entity) receive has come from each source, a personal services entity meets the employment test if it engages another entity or entities (except an individual whose personal services income is included in the income of that entity) and that other entity or those other entities together perform at least 20% (by market value) of the personal services entity's principal work.

The employment test is also met where you (the entity) has one or more apprentices for at least half the income year.

If you satisfy this test, place an 'X' in the box beside label **E1**.

Business premises test

If for any individual, **less than 80%** of the personal services income you receive has come from each source, you will meet the business premises test if at all times during the year of income you (the entity) maintain and use business premises:

- at which the entity mainly conducts activities from which personal services income is gained or produced
- of which the entity has exclusive use
- that are physically separate from any premises that the entity or any of their associates use for private purposes (premises includes the land on which a building is located) and
- that are physically separate from the premises of the entity or any associate of the entity to which the entity provides services.

The entity need not maintain and use the same business premises throughout the year.

If you satisfy this test, print an 'X' in the box beside label **F1**.

Important

You need to complete part PS2 of this schedule for any of these individuals for which you (the entity) do not satisfy at least one of the personal services business tests.

Do not complete part PS2 of this schedule for any individuals for which you satisfy one of the personal service business tests or for whom you hold a personal services business determination.

PS2 worksheet

Use the worksheet on page 6 of this publication to calculate the relevant information required to complete your PSI schedule.

For guidance in completing the worksheet and PSI schedule, please read the instructions and information provided in this publication.

Worksheet instructions

Step 1 Personal services income gained by each individual during the year

Include at label **G** the total amount of personal services income each individual gained during the year.

Include here all income (whether ordinary or statutory income) that is gained mainly as a reward for the personal efforts or skills of an individual. Income that is gained by an entity for the personal efforts or skills of an individual is personal services income.

Personal services income also includes income that is for producing a result where the result is produced mainly from an individual's personal effort or skill. This income would include any GST you received—see **Step 3** below.

Examples of personal services income, include;

- income derived by consultants for the exercise of personal expertise
- income derived by professional sports people for the exercise of their professional skill.

Do not include income which is ancillary to an entity supplying goods or granting a right to use property, or income which is principally generated by assets an entity holds.

Add the amounts from **Step 1** for each individual and write the total at label **G** on the worksheet.

Transfer the amount at label **G** to label **G** on your PSI schedule.

Step 2 Personal services income you (the entity) promptly paid as salary or wages during the year

For each individual, write at label **H** the amounts of personal services income from **Step 1** actually paid to individuals as salary before the end of the fourteenth day after the PAYG payment quarter, during which you (the entity) received the income.

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

Transfer the amount at label **H** to label **H** on your PSI schedule.

Step 3 The exempt component of personal services income gained during the year

For each individual, write at label **I** the amounts received that are either exempt or non-assessable. For example, if the entity received income (for the personal services 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 the worksheet.

Transfer the amount at label **I** to label **I** on your PSI schedule.

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

Subtract the amount at **Step 2** and **Step 3** from **Step 1**. Write the answer at **Step 4**.

This is the gross amount of personal services income attributable to the individual.

Add the amounts from **Step 4** for each individual.

Write the total at label **J** on the worksheet.

Transfer the amount at label **J** to label **J** on your PSI schedule.

Step 5 Deductions for payments to associates for principal work

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

As a general guide, the principal work of an individual can be described as that work that is central to meeting the individual's obligations under agreements between themselves, or a personal services entity, and the acquirer of the personal services. It is work that is essential to the generation of income of the relevant individual or entity from the personal services of an individual.

The concept of principal work does not include work which is ancillary in nature such as helping or aiding the work of the individual, unless this directly contributes to meeting the end result of the agreement.

Work that is associated with the administration of the personal services entity such as bookkeeping, answering telephones or other clerical work is considered to be ancillary to the principal work of the entity and therefore not the principal work.

Add the amounts for each individual from **Step 5** and write the total at label **K** on the worksheet.

Transfer the amount at label **K** to label **K** on your PSI schedule.

Step 6 Other deductions against personal services income

Include at label **L** the total amount of other deductions allowable to the entity. The entity may use these deductions to reduce each individual's personal services income. The deductions fall into 2 classes:

1. Personal services income deductions, which are deductions that can be claimed against personal services income.

Broadly, these are limited to amounts that an employee would be able to deduct in the same circumstances plus a number of specific deductions namely:

- (a) expenses incurred in gaining work—for example, advertising, tendering and quoting for work
- (b) insuring against loss of income or earning capacity—for example, sickness, accident and disability insurance

- (c) insuring against liability arising from acts or omissions in the course of earning income—for example, public liability insurance and professional indemnity insurance
- (d) engaging an entity that is not your associate to perform work
- (e) contributing to a fund in order to obtain superannuation benefits for individuals who provide their personal services and their dependants in the event of their death
- (f) 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 compensable work-related trauma
- (g) meeting your obligations, or exercising your rights, under the GST law
- (h) *certain car expenses
- (i) *superannuation
- (j) *depreciation of plant.

See details below

* certain car expenses

A personal services entity can deduct:

- a car expense for each car used solely for business purposes
- a 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 personal services income. 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 one to claim. The choice remains in effect until the personal services entity ceases to hold that car.

The 4 methods for working out deductions for car expenses, and the substantiation rules do not apply to a personal services entity unless that entity is a partnership.

* Superannuation

A personal services entity may deduct contributions it makes to a fund for the purpose of making provision for superannuation benefits payable for an individual whose personal services income is included in the entity's ordinary or statutory income. However, if:

- the individual performs less than 20% (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 ordinary or statutory income.

The entity's deduction 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.

* Depreciation of plant

A personal services entity can deduct an amount for depreciation of plant used or installed for the purpose of producing its ordinary or statutory income provided the individual would have been able to deduct the amount if he or she had used the plant in the same circumstances.

2. Entity maintenance deductions

These are:

- fees or charges associated with an account with an ADI (but not including interest or interest like amounts)
- tax related expenses
- preparation or lodgment of a document under corporations law
- statutory fees

Entity maintenance expenses may be offset against personal services income in the following circumstances:

- the other income of the entity—that is, income excluding personal services income—has been determined
- the entity maintenance deductions must first be offset against the entity's other income. (The other income deductions cannot be offset against the other income of the entity before the entity maintenance deductions)
- where the entity maintenance deductions exceed the other income, the excess of the entity maintenance deductions may be offset against personal services income attributable to the individual/s.

The sum of the excess entity maintenance deductions and the personal services income deductions will reduce the personal services income of the individual/s.

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

$$\text{Excess entity maintenance deductions} \times \frac{\text{Individual's personal services income}}{\text{Total personal services income}}$$

The entity cannot deduct amounts in respect of the personal services income of individuals, for:

- rent, mortgage interest, rates and land tax;
- payments to associate(s) or deductions for superannuation for associates, unless the associates performance of work forms part of the principal work for which the entity gains or produces its personal services income.

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.

Add the amounts for each individual from **Step 6** and write the total at label **L** on the worksheet.

Transfer the amount at label **L** to 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 personal services income attributable to each individual.

Note: Should the amount calculated be less than zero, the amount to include will be zero.

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

Step 8 Total net personal services income attributable to individuals (Label M)

Add the amounts for each individual from **Step 7** and write the total at label **M** on the worksheet.

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

Transfer the amount at label **M** to label **M** on your PSI schedule.

Note: For a personal services entity that is a partnership, if the amount of the deductions exceeds the amount of the personal services income, the partners may be entitled to a deduction under subsection 92(2) of the *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.

Other items to be completed on the PSI schedule

Label N

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

Labels O, P, Q and R

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

Transfer the tax file numbers at labels **O**, **P**, **Q**, and **R** in the worksheet, to the corresponding labels on the PSI schedule.

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

PS2 Worksheet

- across the top of the worksheet write the names and TFN's of all the individuals for whom the entity does not satisfy a personal service business test or does not hold a personal service business determination
- work down the column for each individual
- add the amounts for each Step and write the amounts in the **Totals** column

Name of individual		1		2		3		4	
TFN of individual		O		P		Q		R	
Step 1	Income gained by you during the year that is personal services income of an individual.								Totals
Step 2	Personal services income you promptly paid as salary or wages during the year to the individual.								
Step 3	The non-assessable component of personal services income—for example, GST—you gained.								
<i>Subtract Step 2 and Step 3 from Step 1. Write your answer at Step 4.</i>									
Step 4	The gross amount of personal services income attributable to individuals.								
Step 5	Deductions for payments to apprentices and associates for doing principal work.								
Step 6	Other deductions against personal services income.								
<i>Subtract Step 5 and Step 6 from Step 4. Write your answer at Step 7.</i>									
Step 7	Net personal services income attributable to individuals.	S \$	T \$	U \$	V \$	M \$			

Transfer the details at each label to the corresponding label on your attached PSI schedule.

Personal services income schedule 2001

Use the *Personal services income schedule 2001 instructions* to complete this schedule.
Please print neatly in BLOCK LETTERS with a black or blue ballpoint pen only.
Print one letter or number in each box. Do not use correction fluid or tape.

Tax file number (TFN) □ □ □ □ □ □ □ □ □ □

[illegible]

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?

For any individual, did **80% or more** of their PSI come from one source?

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

Note: You must provide an answer at label **A**.

If **YES** at label **A**, indicate if you hold a personal services business determination relating to each individual's PSI.

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

If **YES** at label **A** and **NO** at label **B**, complete **PS2** below for each of those individuals for whom you do not hold a personal services business determination.

For any individual, did **less than 80%** of their PSI come from each source?

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

Note: You must provide an answer at label **C**.

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** ☐

If you do not satisfy at least one of the personal services business tests in relation to any individual, you need to complete **PS2** below.

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 , , .
 - 2 Total amount of this income that you promptly paid as salary or wages during the year H , , .
 - 3 The exempt or non-assessable component of the PSI—for example, goods and services tax—you gained during the year I , , .

IN-CONFIDENCE—when completed

J , , .~~00~~

K , , .~~00~~

L , , .~~00~~

M , , .00

N		
---	--	--

[illegible]

