



September 2022 Newsletter



REGISTER YOUR .AU DOMAIN!	1
HOW TO SELL YOUR BUSINESS	2
120% DEDUCTION FOR SKILLS TRAINING AND TECHNOLOGY COSTS	3
Technology Investment Boost	3
Skills and Training Boost	4
TAX REPRIEVE FOR DOUBLE TAXATION OF INDIAN TECHNICAL SUPPORT	5
QUOTE OF THE MONTH	5
ACQUIRING COLLECTIBLES INSIDE YOUR SMSF	6
'Why'?	6

Note: The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.

Register your .au domain!

23:59 UTC on 20 September 2022 is the cut-off to register for your .au direct domain. The .au domain is the new, general purpose, shorter Australian domain name option.

If you do not register the direct match of your existing domain for the direct .au domain, you risk your brand equity being consumed by someone else, rivals redirecting your clients to their products and services, squatters holding the domain, or cybercriminals impersonating your business. The opening of the new .au domain is the single biggest shift in Australian cyber real estate in decades and the risks for business are high.

If you are registering:

- an exact match of your existing domain name, for example, .com.au or net.au; and
- you held your domain name prior to 24 March 2022

then you have priority access but only up until 23:59 UTC on 20 September 2022 (9:59 am AEST on 21 September). Once this deadline has passed, the .au direct domain name will be

available to anyone with a connection to Australia to register from 21:00 UTC 3 October 2022 (8:00 am AEDT 4 Oct).

While you can register for the .au domain through [any number of providers](#), the most efficient method is to utilise your existing provider. To do this, you will need your domain's access information. If these details cannot be found, for example, the details were held by a former staff member, it can take some time to recover them so do not leave the registration process until the last minute.

Once you have applied for your matching .au domain, if your application is uncontested, you will be able to use the .au direct name soon after applying for priority status.

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Continued from page 1...

What happens if .com.au and .net.au both apply for the .au name?

If you share a domain name with another entity, for example, one entity owns .com.au and the other .net.au, the right to register the .au domain will cascade according to [priority](#). Category 1 are those that secured the domain on or before 4 February 2018. Category 1 applicants have priority over Category 2 applicants who registered their domain after 4 February 2018. If the name is contested by a Category 1 and a Category 2 applicant, the Category 1 applicant will secure the name. If two Category 2 applicants apply for the name, the name is allocated to the applicant with the earlier domain license creation date. But it gets tricky when two Category 1 applicants apply for the name. In these circumstances, both parties must agree on the allocation, or the name remains unallocated.

-End-

How to sell your business

We're often asked the best way to sell a business.

There are two key components at play in the sale of a business: structuring the transaction and positioning the business to the market. Both elements are important and can significantly impact your result.

Structuring the transaction covers areas such as pricing the business, the terms and conditions attaching to the sale, key terms in the contract, and ensuring the transaction structure is as tax effective as possible. Much of the structuring is about ensuring the vendors secure the most efficient and effective outcome from the sale. It is about maximising the vendor's position.

Positioning the business for sale is all about ensuring that you achieve a sale and maximise your price. It covers areas such as ensuring there are no hurdles within the business that will limit its saleability, identifying the competitive position of the business within its market segment, ensuring that operating performance is as good as it can be, and that the business benchmarks well in its market. Positioning also includes identifying the best time to take the business to the market, how to take it to the market, and who the most likely buyers will be.

Positioning is about doing everything needed to maximise the probability of a sale occurring, whereas structuring is about getting the best outcome from a transaction once it has occurred. A lot of people make the mistake of spending most of their energy on the structuring of the transaction. It is important but only becomes important if the sale is achieved.

Structuring should be addressed first to help identify any key decisions that need to be made but put most of your effort into positioning the business for sale. To do this, you need an objective assessment of how the business compares in its market, its competitive position, and what if any impediments to sale exist – all the things a buyer will look at and look for when they assess your business. Most buyers believe that we are currently in a buyer's market and will try to drive down price expectations. Whether or not you are in a buyer's market depends on your industry segment but regardless of this, you are in a competitive market. Buyers may be comparing your business to similar businesses but also opportunities in other industry segments. Securing a sale at the best possible price is about having your business positioned for sale. Preparation time is needed to achieve this well in advance of putting your business on the market.

Thinking of selling your business? Talk to us today about preparing your business for sale.

120% deduction for skills training and technology costs

The Government has reinvigorated the 120% skills training and technology costs deduction for small and medium businesses.

An election ago, the 2022-23 Budget proposed a 120% tax deduction for expenditure by small and medium businesses on technology, or skills and training for their staff. This proposal has now been adopted by the current Government and details released in recent exposure draft by Treasury.

Timing

Two investment 'boosts' will be available to small and medium businesses with an aggregated annual turnover of less than \$50 million:

- Skills & Training Boost
- Technology Investment Boost

The *Skills and Training Boost* is intended to apply to expenditure from 7.30 pm AEST time on Budget night, 29 March 2022 until 30 June 2024. The business, however, will not be able to start claiming the bonus deduction until the 2023 tax return. That is, for expenditure incurred between 29 March 2022 and 30 June 2022, the additional 20% 'boost' deduction will not be claimable until the 2022-23 tax return (assuming the announced start dates are maintained if and when the legislation passes Parliament).

The *Technology Investment Boost* is intended to apply to expenditure from 7.30 pm AEST time on Budget night, 29 March 2022 until 30 June 2023. As with the Skills and Training Boost, the additional 20% deduction for eligible

expenditure incurred by 30 June 2022 will be claimed in the 2023 tax return.

The boost for eligible expenditure incurred on or after 1 July 2022 will be included in the income year in which the expenditure is incurred.

When it comes to expenditure on depreciating assets, the bonus deduction is equal to 20% of the cost of the asset that is used for a taxable purpose. This means that, regardless of the method of deduction that the entity takes (i.e., whether immediate or over time), the bonus deduction in respect of a depreciating asset is calculated based on the asset's cost.

Technology Investment Boost

The Technology Investment Boost is a 120% tax deduction for expenditure incurred on business expenses and depreciating assets that support digital adoption, such as portable payment devices, cyber security systems, or subscriptions to cloud-based services.

The boost is capped at \$100,000 per income year with a maximum deduction of \$20,000.

To be eligible for the bonus deduction:

- The expenditure must be eligible for deduction (salary and wage costs are excluded for the purpose of these rules)
- The expenditure must have been incurred between 7.30 pm (AEST), 29 March 2022 and 30 June 2023

- If the expenditure is on a depreciating asset, the asset must be first used or installed ready for use by 30 June 2023.

To be eligible, the expenditure must be wholly or substantially for the entity's digital operations or digitising its operations. For example:

- **digital enabling items** – computer and telecommunications hardware and equipment, software, systems, and services that form and facilitate the use of computer networks.
- **digital media and marketing** – audio and visual content that can be created, accessed, stored, or viewed on digital devices; and
- **e-commerce** – supporting digitally ordered or platform-enabled online transactions.

Repair and maintenance costs can be claimed as long as the expenses meet the eligibility criteria.

Where the expenditure has mixed use (i.e., partly private), the bonus deduction applies to the proportion of the expenditure that is for an assessable income-producing purpose.

The bonus deduction is not intended to cover general operating costs relating to employing staff, raising capital, the construction of the business premises, and the cost of goods and services the business sells. The boost will not apply to:

- Assets that are sold while the boost is available
- Capital works costs (for example, improvements to a building used as business premises)
- Financing costs such as interest expenses
- Salary or wage costs
- Training or education costs
- Trading stock or the cost of trading stock

For example:

A Co Pty Ltd (A Co) is a small business entity. On 15 July 2022, A Co purchased multiple laptops to allow its employees to work from home. The total cost was \$100,000 (GST-exclusive). The laptops were delivered on 19 July 2022 and immediately issued to staff entirely for business use. As the holder of the assets, A Co is entitled

to claim a deduction for the depreciation of a capital expense.

A Co can claim the full purchase price of the laptops (\$100,000) as a deduction under temporary full expensing in its 2022-23 income tax return. It can also claim the maximum \$20,000 bonus deduction in its 2022-23 income tax return.

The \$20,000 bonus deduction is not paid to the business in cash but is used to offset against A Co's assessable income. If the company is in a loss position, then the bonus deduction would increase the tax loss. The cash value to the business of the bonus deduction will depend on whether it generates a taxable profit or loss during the relevant year and the rate of tax that applies.

Skills and Training Boost

The Skills and Training boost is a 120% tax deduction for expenditure incurred on external training courses provided to employees.

External training courses will need to be provided to employees in Australia or online and delivered by training organisations registered in Australia.

To be eligible for the bonus deduction:

- The expenditure must be for training employees, either in-person in Australia, or online
- The expenditure must be charged, directly or indirectly, by a registered training provider and be for training within the scope (if any) of the provider's registration
- The registered training provider must not be the small business or an associate of the small business
- The expenditure must be deductible
- Enrolment for the training must be on or after 7.30 pm, 29 March 2022.

The training must be necessarily incurred in carrying on a business for the purpose of gaining or producing income. That is, there needs to be a nexus between the training provided and how the business produces its income.

Only the amount charged by the training organisation is deductible. In some circumstances, this might include incidental costs such as manuals and books, but only if charged by the training organisation.

Some exclusions will apply, such as for in-house or on-the-job training and expenditure on external training courses for persons other than employees. The training boost is not available to:

- Sole traders, partners in a partnership, or independent contractors (who are not employees)
- Associates of the business such as a relative, spouse or partner of an entity or person, a trustee of a trust that benefits an entity or person and a company that is sufficiently influenced by an entity or person.

For example:

Cockablu Pets Pty Ltd is a small business entity that operates a veterinary centre. The business recently took on a new employee to assist with jobs across the centre. The employee has some prior experience in animal studies and is keen to upskill to become a veterinary nurse. The business pays \$3,500 (GST exclusive) for the employee to undertake external training in veterinary nursing. The training is delivered by a registered training provider, whose scope of registration includes veterinary nursing.

The bonus deduction is calculated as 20% of 100% of the amount of expenditure that can be deducted under another provision of the taxation law. In this case, the full \$3,500 is deductible under section 8-1 of the ITAA 1997 as a business operating expense. Assuming the other eligibility criteria for the bonus deduction are satisfied, the bonus deduction is calculated as 20% of \$3,500. That is \$700.

In this example, the bonus deduction available is \$700. That does not mean the business receives \$700 back from the ATO in cash, it means that the business is able to reduce its taxable income by \$700. If the company has a positive amount of taxable income for the year and is subject to a 25% tax rate, then the net impact is a reduction in the company's tax liability of \$175. This also means that the company will generate fewer franking

credits, which could mean more top-up tax needs to be paid when the company pays out its profits as dividends to the shareholders.

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Tax reprieve for double taxation of Indian technical support

The tax system currently allows Australia to tax payments made by an Australian customer in relation to technical services provided by an Indian firm, even when the services are provided remotely. This is due to the wording contained in the double tax agreement between Australia and India.

Under an agreement reached in connection with the Australia-India Economic Cooperation and Trade Agreement (AI-ECTA), these payments will no longer be taxed in Australia. The typical categories of services intended to be covered by the amendments include:

- engineering services;
- architectural services; and
- computer software development.

The amendment to the tax rules is in the consultation phase and not yet law. If enacted, it will apply once the amendments receive Royal Assent, assuming the AI-ECTA has been entered into force.

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Quote of the month

“Even if you're on the right track, you'll get run over if you just sit there.”

Will Rogers, actor

Acquiring collectibles inside your SMSF

Clients with self-managed superannuation funds (SMSF) often ask what assets the SMSF can acquire.

'Why'?

The golden rule for acquiring assets inside your SMSF is why? To be compliant, your fund must be maintained for the sole purpose of providing retirement benefits to members, or to their dependants if a member dies before retirement. The sole purpose test (section 62 of the *Superannuation Industry (Supervision) Act 1993*), is your starting point. If the collectible you are looking to acquire does not fulfil this purpose, then you have an immediate problem.

Let's assume you are looking to acquire vintage cars. The question to ask is, is the acquisition a viable investment or simply a desire of the members to own vintage cars. Does the investment 'stack up' relative to other forms of investment to build/protect the retirement savings of members?

The sole purpose test extends to how the collectible is managed once acquired. Given the asset is for the sole purpose of the member's retirement benefits, the members (or their associates) cannot use or enjoy the asset in any way. This means:

- Storage of the collectible cannot be at the trustee's residence or displayed at their office. The ATO says, "You can store (but not display) collectibles and personal use assets in premises owned by a related party provided it is not their private residence. They can't be displayed because this means they are being used by the related party. For example, if your SMSF invests in artwork it can't be hung in the business premises of a related party where it is visible to clients and employees."

- Leasing or use of the collectible can only be undertaken with an unrelated party.
- The collectible must have its own insurance policy owned by the SMSF (multiple items can be listed on the same policy i.e., wines of different brands). The insurance policy must be in place within 7 days of acquisition.
- Like all other assets, if a collectible is sold to a related party, then it must be sold at market value. Collectibles also require a qualified independent valuation if sold to a related party.

This means you cannot stay in a holiday home owned by your SMSF, you cannot drive a vehicle owned by the SMSF, and you cannot enjoy artwork held by the SMSF. And those bottles of Penfolds Grange owned by the SMSF that broke (wink, wink) are likely to trigger an audit as they should have been properly stored in a way that prevents breakage.

Your investment strategy

An SMSF investment strategy should articulate the plan trustees have for a fund and the investments they choose to hold. It should drill down into the reasons why certain assets will be acquired (or sold) and how these choices align to the retirement goals of the members. If your SMSF is considering purchasing collectibles, it is essential that your investment strategy is aligned to these types of investments and articulates why the asset fits within the strategy. This is particularly important if the collectible/s will dominate the types of assets held by the fund, its liquidity, and its diversity.

A common question is, can my SMSF purchase, let's say artwork, from a member or a related party of the fund? The answer is no. SMSFs are not allowed to purchase assets, other than listed shares and business real property, from related parties. But the SMSF could transfer the artwork to a member as an in-specie lump sum payment if the member meets a condition of release or sell the asset to the member but only if the transaction is at arm's length, and an independent valuation confirms the market value of the asset.

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