

Other articles in this issue:

Tertiary Access Payment (TAP)

Farmland in a SMSF: Is it too "Gnarly"

Audits and Increased Penalties

DUTTON'S TAX DEDUCTIBLE LUNCHES

Glenn Waldock | Byfields Director

You may have seen or read in the press about Peter Dutton's election policy to give small businesses a tax deduction for staff or client meals and entertainment.

If he's successful, it could be a return to the "long lunch" as it was known in the 1980's, when things like this were once tax deductible, until the Hawke government squashed it in the mid 80s, with the introduction of Fringe Benefit Tax (FBT).



So what are the current rules on business lunches I hear you ask?

Great question. Here they are...

- Taking staff out to a meal at a restaurant is subject to FBT if it takes the form of 'entertainment' (FBT is taxed to the employer at the highest marginal tax rate).
- There is an exception if the value of the meal/drinks is less than \$300 per head or consumed on the business premises on a work day.
- Here's some factors when determining what is 'entertainment':

Also in this edition:

Byfields Webinar Registration

Work experience at Byfields

Upcoming Key Dates

Byfields Staff Anniversary

Factor	Less likely to be entertainment	More likely to be entertainment
Why are you providing the food or drink for employees?	So employees can complete the working day in comfort	In a social situation where the purpose is for employees to enjoy themselves
What type of food or drink are you providing?	Light food and refreshments, no alcohol	Elaborate food or meal, alcohol
When are you providing the food or drink?	During work time or overtime, or while employee is travelling for work	Outside work time
Where are you providing the food or drink?	On your business premises or at the employee's usual workplace	Off your business premises, such as at a function room, hotel or restaurant, or consumed with other forms of entertainment

It is common for meal outings to fall under the 'less than \$300 per head' exemption. However, when this occurs, the amount spent is not tax deductible.

There is a myriad of other rules under the FBT regime, and they can be a minefield to navigate!

Please contact your accountant if you would like to know more.

TERTIARY ACCESS PAYMENT (TAP)

Craig Lane | Byfields Director

The Tertiary Access Payment (TAP) is a one-off payment of up to \$5,000 to assist eligible students with the cost of moving for tertiary study after completing year 12 or its equivalent.

To be eligible, you must meet the following criteria:

- Move from a regional or remote area for tertiary study.
- Start tertiary study in the year after completing year 12 or equivalent.
- Be under 22 years old on the day you start your course.
- Study a course at certificate IV or above.
- Study at a tertiary institution at least 90 minutes away by public transport.
- Your parents or guardians' combined income must be under \$250,000.



You can claim TAP once in your first year of tertiary study, between 1 January and 31 December. TAP is available even if you receive ABSTUDY, Youth Allowance, or Relocation Scholarship.

Eligible study includes University, Vocational Education and Training (VET), and other higher education courses, provided you:

- Study full-time (75% or more of the full-time load).
- Enrol in a course lasting at least one academic year.
- Participate in face-to-face or a combination of face-to-face and online study.

[Who can get Tertiary Access Payment - Tertiary Access Payment - Services Australia](#)

FARMLAND IN A SMSF: IS IT TOO “GNARLY”

Corey Bavin | Byfields Associate

A Self-Managed Superannuation Fund (SMSF) has the ability to purchase farmland and lease it back to the member or a related party. The key benefits of owning farmland within an SMSF include favourable tax rates on lease income and reduced capital gains tax (CGT) when the land is sold or vested out. In the accumulation phase, superannuation earnings are taxed at 15%, and in the pension phase, they are taxed at 0%. If an asset is held for more than 12 months, a 1/3rd discount on CGT applies, resulting in an effective tax rate of 10% in the accumulation phase.

A related party in an SMSF includes the member(s) or a Part 8 associate, such as a spouse, children, parents, uncles, aunts, grandparents, or entities controlled by the member. When leasing farmland to a related party, it's crucial to ensure that the income and expenses are consistent with arm's length terms. This means the lease must reflect market rates, and an independent valuation from a qualified expert can be used to verify the lease income.

Non-Arms Length Income (NALI), pronounced “gnarly”, occurs when the income from an investment with a related party deviates from what would be expected in an arm's length transaction.



For example, if the farm lease terms differ from those that would be agreed upon by independent parties, the lease income could be classified as NALI. The Australian Taxation Office (ATO) recently issued TD 2024/5, which clarifies how NALI impacts CGT provisions. If NALI is identified, both ordinary income (such as lease income) and statutory income (like CGT) are taxed at a higher rate of 45%.

Recent amendments to section 295-550 of the Income Tax Assessment Act 1997 have provided greater clarity regarding how NALI/E (non-arm's length income and expenditure) affects SMSFs. A "specific expense" refers to costs directly associated with generating income from a specific asset, like farm property expenses. If a shortfall occurs in a specific expense, the entire income from that asset, as well as any potential CGT on its sale in the future, could be subject to NALI taxation at 45%. NALI on a specific expense is capped at taxable income of the fund excluding assessable contributions and any deductions against them. For instance, if farm lease income is \$200,000 with eligible deductions of \$50,000, NALI would apply to the remaining \$150,000.

To mitigate the risks of NALI/E, SMSF trustees should ensure they engage third-party contractors and suppliers for property-related expenses. Regular independent market valuations should be conducted, and all lease agreements should be well-documented for audit purposes. Trustees should also consult professional advisors with expertise in superannuation law to ensure transactions are structured appropriately and comply with regulations.

In November 2024, the ATO updated draft rulings LCR 2021/2DC and TR 2010/2DC regarding NALI/E and requested submissions by January 2025. These updates may allow some shortfalls in "specific expenses" to be addressed by recording a contribution within the fund. We are awaiting further guidance from the ATO following this submission period.

In conclusion, SMSF trustees need to be mindful of NALI/E risks, as they could lead to a 45% tax rate. **At Byfields, our dedicated and specialist SMSF team will help you navigate the complexities of Superannuation, particularly in owning farmland within an SMSF.**

AUDITS AND INCREASED PENALTIES

Danielle McNamee | ProcessWorx | Managing Director

The Australian Taxation Office (ATO), Fair Work Ombudsman (FWO) and Department of Home Affairs have begun investigations into suspected unlawful conduct in the agriculture industry (including labour hire providers) through surprise visits in the Gatton region in Queensland.

The audits are being conducted to ensure businesses are complying with relevant tax, super, workplace and immigration laws, including whether:

- Workers are being correctly engaged as employees or contractors.
- Employers are paying workers their correct wages and entitlements, keeping accurate records and issuing lawful pay slips.
- Employers and migrant workers are complying with their responsibilities and obligations under the Migration Act.
- Super guarantee is being paid to eligible employees.
- Employers are correctly withholding tax from payments made to workers and paying those amounts to the ATO.

In addition to this, penalties have been increased for breaches of the Fair Work Act and are set to increase for non-small business employers from 1 January 2025 in certain circumstances, found [here](#).



Maximum penalties for failing to pay employee entitlements under the Fair Work Act are now (for each individual breach):

	An Individual*	Less than 15 employees	15 or more employees
Per contravention	\$19,800	\$99,000	\$495,000
Per serious contravention	\$198,000	\$990,000	\$4,950,000

***A person involved in the company can include a: director, manager, accountant, or business involved in the supply chain.**

Furthermore, as a reminder from 1 January 2025, intentionally underpaying an employee's wages or entitlements may be a criminal offence. Fair Work has created a [small business employer's compliance checklist](#) to assist small businesses, with less than 15 employees to remain compliant.

In consideration of the above ProcessWorx recommends all employers to:

1. Review your current workplace arrangements including employee working rights, pay rates, and employment documentation.
2. Continue to utilise your **ProcessWorxShield**.
3. Contact ProcessWorx for any assistance.

If you would like to discuss this, or any other HR issue, please call (08) 9316 9896, or email enquiries@processworx.com.au.



ProcessWorx

How ProcessWorx can help your business:

With over 10 years of experience working with small businesses, ProcessWorx knows the importance of understanding and protecting your business from ongoing changes to the Industrial Relations landscape, while ensuring you remain compliant.

If you need assistance implementing any changes in your business or would like a review of your current workforce planning and contracts, please contact ProcessWorx and they can assist you with your IR compliance.

If you would like more information about Industrial Relations for your business, please contact ProcessWorx on **(08) 9316 9896** or email enquiries@processworx.com.au

BYFIELDS WEBINAR

Have you registered for the upcoming Byfields webinar, **Valuing your Business** presented by **Director, Glenn Waldock**?

Scan the QR code below, or click this [link](#) to register!


 **WEBINAR**

Valuing your Business
Presented by Byfields Director, Glenn Waldock

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Methods of valuation
Industry norms
Factors influencing business value
When a valuation can be required


March 12th 2025
9am - 10am




Glenn Waldock
Director

Scan to register below:

Register via QR code or link!

UPCOMING KEY DATES

WHAT IS DUE?	DUE DATE:
PAYROLL TAX FEBRUARY	7 MARCH
PAYROLL TAX MARCH QUARTER	7 APRIL
SUPER FOR EMPLOYEES- MARCH QUARTER	28 APRIL
MARCH QUARTER BAS	28 APRIL

BYFIELDS STAFF ANNIVERSARIES



WORK EXPERIENCE AT BYFIELDS

Byfields is always looking to provide on the job learning and mentoring to those studying a business degree. Work experience is available across the Byfields network. If you know someone who is studying, we would love to hear from them. We will tailor a work experience program to fit with their availability and to ensure exposure to the different services we offer. Please contact our People & Culture Manager, Yolandi Nagel on (08) 6274 6400 OR yolandin@byfields.com.au or speak to your Byfields accountant.

