



5 August 2010

New rules for claiming business losses

If your income is \$250,000 or more you may be affected by changes to the non-commercial loss rules when working out whether you can claim your business loss.

Background of non-commercial loss rules:

The purpose of the non-commercial loss rules is to work out whether you can offset your business loss against income from other sources such as salary and wages.

Non-commercial loss rules only apply to individuals who conduct business as a sole trader or in a partnership.

Key changes:

The key change is the introduction of an income test. If your income for non-commercial loss purposes is \$250,000 or more, you may no longer be able to deduct your business losses against other income.

Your income for non-commercial loss purposes is the sum of your:

- taxable income (ignoring any business losses)
- total reportable fringe benefits amount
- reportable super contributions
- net financial investment loss, and
- net rental property loss.

Another change includes a new exception for business losses caused solely by deductions claimed for the small business and general business tax break.

The final change is a new Commissioner's discretion for individuals who do not meet the income test. This discretion is available where the loss occurs because there is a time lag between starting the business activity and the production of income.

These changes apply for the 2009-10 and later income years.

Exceptions to the income test:

Even if your income is \$250,000 or more you may still be able to deduct your business loss against other income if you satisfy one of the following:

- your business loss is from a primary production or professional arts business activity and your assessable income from other sources is less than \$40,000

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- your business loss was caused solely by deductions you claimed for the small business and general business tax break, or
- we exercise the Commissioner's discretion to allow you to deduct your business loss for that income year.

You can only apply to us to exercise the Commissioner's discretion in certain circumstances. If you have a Commissioner's discretion granted before 14 December 2009 for one or more income years that is still current you do not need to re-apply, even if you do not meet the income test.

More information:

For more information refer to www.ato.gov.au/ncl