

(PERSONAL SERVICES INCOME)

This topic assists in determining whether business income of consultants and contractors is to be taxed under personal services income rules.

Personal Services Income

The personal services income regime (PSI) effectively taxes consultants and contractors on a similar basis to employees when the majority of their income is for their skills, knowledge, expertise or their efforts performing the services. This applies regardless of what industry or occupation they are in and whether the income is received directly by the individual or is received by a company, trust or partnership. If the PSI rules apply, your

PSI income will be treated as your own income and you must include it in your individual tax return.

The most significant issue with these rules for clients is the restriction of income splitting amongst the family group, and restriction of expenses, including wages and super paid on behalf of other family members.

These rules do not apply to PSI that is earned in the course of conducting a personal services business.

To qualify as a personal services business you need to:

- Meet the results test (see side), or
- Less than 80% of your PSI in an income year must come from each client and you must meet one of the other three tests (the unrelated clients test, employment test or business premises test) or
- You can obtain a determination from the ATO confirming you are a personal services business

Results Test

You will meet this test in an income year if, for at least 75% of the PSI income, you are able to answer yes to all three conditions below:-

- You are paid to achieve a specified result or outcome
- You have to provide the tools or equipment necessary (if any) to do your work
- You are liable for rectifying defects in your work

80% Income test

You will meet this test in an income year if, for at least 75% of the PSI income, you are able to answer yes to all three conditions below:

Unrelated Client Test

To meet this test you must answer yes to the following question:-

- Does the individual doing the personal services work have PSI from two or more clients who are not associated with each other or with you?

Employment Test

You will meet the employment test if :-

- You have employees or engage sub-contractors or entities to perform at least 20% of the principal work, or
- You have apprentices for at least half the year

Business Premises Test

You will meet this test in an income year if you answer yes to all of the following questions:-

At all times in the income year, are your business premises:

- Owned or leased by you?
- Mainly used for personal services work (eg more than 50% 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?
- Physically separate from the business address of your clients, or their associates?

Use the flow chart to see if your income is affected

To work out if your income is affected by the PSI rules, follow the steps outlined in the flow chart on the back of this sheet.

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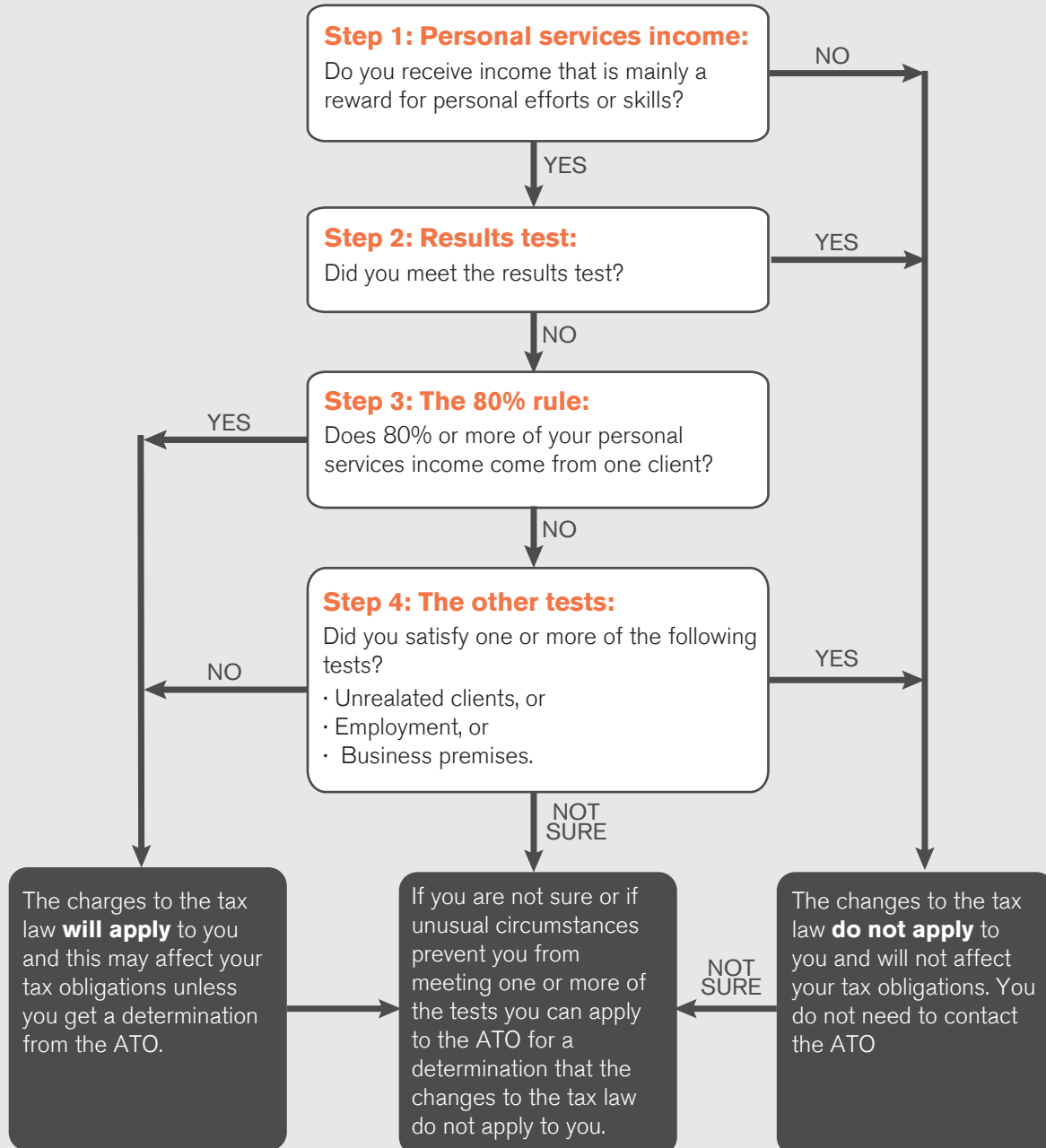
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