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Do you operate your business through a company or trust?

It is fairly common for professionals, such as IT specialists, engineers and business consultants, to operate their business through a company or a trust. If you are in this position, you need to be aware of the rules that will treat the income earned by the company or trust from the provision of your own services (personal services income or PSI) as your personal income. These rules (the PSI rules) also deny a deduction for certain types of expenditure.

The ATO has issued a draft ruling (TR 2021/D2) providing general guidance on the operation of the rules. The draft ruling considers a number of issues including:

- the meaning of PSI and income that does not qualify as PSI;
- determining whose PSI it is;
- the effect of the PSI rules; and
- the various tests to determine if a PSB is being carried on (the results, unrelated clients, employment and business premises tests).

Even if the PSI rules do not apply where your services are hired out through a company or trust, the ATO points out that the general anti-avoidance rules may still apply to the arrangement.

George Samaras

Principal

gsamaras@samaraslawyers.com.au

Taxation, Family and Business Lawyers

Taren Point: Suite 5C, 1 Box Road, Taren Point NSW 2229

Sydney CBD: Level 35, International Tower One, 100 Barangaroo Avenue, Sydney NSW 2000

All correspondence: PO Box 2717 Taren Point NSW 2229

T: 02 9247 1111 | **F:** 02 9247 2222 | **E:** office@samaraslawyers.com.au

W: www.samaraslawyers.com.au