



Non-deductibility of GIC and SIC from 1 July 2025

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Legislation introduced as part of the Treasury Laws Amendment (Tax Incentives and Integrity) Bill 2025 making the general interest charge (GIC) and the shortfall interest charge (SIC) non-deductible from 1 July 2025, has now passed both houses of Parliament and is set to affect taxpayers with tax liabilities that are overdue or arise due to tax shortfalls.

Taxpayers should carefully consider the effects of the new measure. In particular, they should be aware that although GIC or SIC can be calculated to accrue over a period of time, in many instances it is considered to be incurred on a single day.

Therefore, whether GIC or SIC is deductible at all may depend upon whether a notice of assessment is issued before or after 1 July 2025, regardless of whether any of the interest relates to a period before 1 July 2025. Additionally, certain taxpayers may consider financing the repayment of their tax debts so as not to accrue non-deductible GIC from 1 July 2025.

What are GIC and SIC?

The GIC—set at 11.17% p.a. for the fourth quarter of 2024/25—applies to various unpaid tax and superannuation liabilities¹ and accrues daily on the outstanding liability. Meanwhile, SIC—set at 7.17% p.a. for the fourth quarter of 2024/25—is generally imposed on the tax shortfall arising from an amended assessment. SIC is more limited as it primarily applies to income tax.² The SIC is calculated

so that it accrues daily from the date the tax was originally due to when an amended assessment is raised.

SIC is due 21 days after an amended assessment is issued. Thereafter, GIC accrues daily on any unpaid tax and SIC.

What changes are being made to the deductibility of GIC and SIC?

Until now there has been a specific deduction for GIC and SIC as “tax-related expenses” under section 25-5(1)(c) of the *Income Tax Assessment Act 1997* (ITAA 1997). All taxpayers were therefore entitled to deduct these charges, regardless of whether they could show a connection between the charge and their income-producing activities.

The amendments will remove this specific deduction from the legislation, by repealing section 25-5(1)(c) and inserting a new provision section 26-5(1A) which specifically makes GIC and SIC non-deductible.

When do the changes apply from?

The precise time that GIC or SIC is incurred generally depends on whether the interest relates to an assessment or not. In all cases, the outcome is not affected by whether the taxpayer accounts for income on a cash or accruals basis.

SIC

SIC should be incurred on the day the Australian Taxation Office (ATO) gives the taxpayer a notice of amended assessment. This is consistent with the ATO’s view expressed in Taxation Determination TD 2012/2.³

Critically, even though SIC is calculated as having accrued on a daily basis, the SIC related to a particular assessment is considered to be incurred all on one day.

Example

A taxpayer lodges an amended tax return for the 2021/22 income year and is issued with a notice of amended assessment on 28 June 2025 stating SIC of \$50,000 is payable on the shortfall. The entire SIC should be an allowable deduction in the 2024/25 income year, even if the SIC is due and payable—and in fact paid—in July 2025.

In the alternative, if the notice of amended assessment was issued on 2 July 2025, the entire amount of SIC *would not be deductible* due to the newly legislated changes, even though almost all of the SIC is calculated by reference to a period before 30 June 2025.

GIC: Late lodgment of income tax returns

Where lodgment of a return or statement is the subject of an assessment, GIC will be charged if there is an associated tax liability that becomes payable after the date it was originally due. The GIC related to the assessment should be incurred when the ATO issues—or is deemed to issue—the taxpayer with the notice of assessment.

Example

A taxpayer lodges their income tax return for the 2021/22 income year and is issued with an original notice of assessment on 28 June 2025 stating GIC of \$50,000 is payable on the tax assessed. The entire GIC should be an allowable deduction in the 2024/25 income year, even if the GIC is due and payable—and in fact paid—in July 2025.

In the alternative, if the notice of assessment was issued on 2 July 2025, the entire amount of GIC would not be deductible due to the newly legislated changes, even though almost all of the GIC is calculated by reference to a period before 30 June 2025.

GIC: Other taxes and liabilities

The time at which GIC is incurred for other liabilities depends on the nature of the liability and whether it is the subject of an assessment. For liabilities that are self-executing—do not require the Commissioner of Taxation (Commissioner) to make an assessment—whether a return or statement is lodged before or after 30 June 2025 should not result in an ‘all or nothing’ outcome regarding the deductibility of the associated GIC. Instead, this may result in only some part of the GIC being non-deductible. Examples of this kind of liability include GIC accruing for late payments of withholding tax or family trust distribution tax.

Since 2012, the goods and services tax (GST) is a tax liability that is assessed by the Commissioner. The assessment is taken to be made at the time of a lodging a business activity statement (BAS) for the tax period.

Example

A taxpayer makes a late lodgment of an outstanding BAS after 1 July 2025. The GIC imposed on any net GST owing should be considered incurred after 1 July 2025 and therefore not deductible.

If the late BAS was lodged on or before 30 June 2025, then the entire GIC should be deductible to the extent it accrues before that time. If it becomes an unpaid debt, then any additional GIC accruing from 1 July 2025 should not be deductible.

By contrast, liability to fringe benefits tax (FBT) is not dependent on the making of an assessment, with GIC accruing from the due date of the FBT liability, if paid late. Such GIC should be considered incurred on a daily basis.

Example

A return for the FBT year ended 31 March 2024 is lodged late on 15 July 2025 resulting in GIC of \$10,000 payable on FBT owing, a portion of the GIC should be considered incurred on or before 30 June 2025—and deductible—and a portion of the GIC should be considered incurred on or after 1 July 2025 (i.e. the last 15 days) and so non-deductible.

The same outcome should arise where the original return, that was lodged on time, is amended on 15 July 2025 resulting in a further FBT liability.

GIC: Unpaid debts

Where a tax, penalty or other liability has been assessed, including by amended assessment, and remains outstanding—including unpaid GIC or SIC, GIC accruing on such debts is considered to be incurred on a daily basis. Any such GIC accrued after 30 June 2025 should be incurred each day should therefore be non-deductible. Conversely, GIC on unpaid tax debts accruing prior to this should be considered deductible for the amount accrued up until 30 June 2025.

A taxpayer’s statement of account should generally provide details of any GIC imposed and what period it relates to, allowing taxpayers determine what amount will be deductible.

For those engaged in disputed assessments with the Commissioner, GIC will generally continue to accrue where a dispute is ongoing beyond 1 July 2025. Such GIC should now be considered non-deductible if the Commissioner’s position is ultimately upheld, regardless of whether any 50/50 arrangement is entered into or not.

Periods of review for deducting past GIC or SIC incurred

Standard periods of review apply to amending assessments to claim deductions for GIC and SIC.

A taxpayer who may be entitled to a deduction for GIC incurred in a prior year may not otherwise be able to amend their income tax return for that year to obtain the benefit of the deduction.



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The quote

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When the GIC deduction would result in a tax loss in a prior year, it may be the case that a later income year—in which the tax loss would be able to be used—is one for which an assessment can be amended.

Do the changes affect remissions of GIC and SIC?

The amendments do not change the rules regarding the remission of GIC or SIC, for which the Commissioner has a broad discretion to remit. However, GIC and SIC to which a taxpayer was entitled to a deduction is considered to be an assessable recoupment in the income year it is remitted.

From 1 July 2025, any non-deductible GIC and SIC—those amounts incurred on or after 1 July 2025—should therefore not give rise to an assessable recoupment if it is remitted.

The remission of GIC or SIC that was deductible to the taxpayer as it was incurred on or before 30 June 2025, should be assessable in the year it is remitted.

For GIC and SIC covering a period, but that is incurred at a point in time, the application of this principle should be straightforward, as the GIC and SIC will have either been deductible or non-deductible in full.

However, this become more complex where GIC continues to accrue on a daily basis—and is incurred for deductibility purposes. Where some but not all of the GIC is remitted, it may be necessary to determine which GIC is remitted, whether it is the GIC accrued before or after 1 July 2025.

Are any changes being made to the interest on overpayment rules?

No changes have been made to interest on overpayments. Interest earned on tax accounts in credit (e.g. for early payments of tax) remains assessable income of the taxpayer under section 15-35 of ITAA 1997. The current rate for interest on overpayments is 4.17% p.a.

Can taxpayers refinance their tax debts to maintain interest deductibility?

Business taxpayers who may be able to obtain a general deduction for interest expenses on borrowings to fund business tax debts may consider seeking finance to pay their tax debts to replace non-deductible GIC with deductible interest expenses.

Section 25-5(2)(c) of ITAA 1997 states that a specific deduction is not available for interest expenses on borrowing money to pay tax. However, this does not necessarily prohibit a general deduction for such expenses under section 8-1, which may be available to business taxpayers.

Taxation Ruling IT 2582 correctly provides the ATO's view that a company that carries on a business for the purpose of gaining or producing assessable income may be able to deduct interest on money borrowed to pay

its income tax which may be deductible as a normal incident of its business.

A similar view was held in ATO Interpretive Decision ATO ID 2006/269 (now withdrawn) in relation to sole traders in respect of interest on money borrowed to pay their income tax liability associated with their business income.

In our view, the law changes to deductibility of GIC and SIC should not impact on these general principles of deductibility of such costs as general deductions.

These views can be contrasted with interest on money borrowed to pay personal tax debts according to ATO website guidance and Taxation Determination TD 2000/24 for partners of a partnership who borrow to pay their personal tax liabilities arising from their partnership income.

Note: Other rules such as the thin capitalisation provisions may limit interest deductibility for taxpayers.

Next steps

It is critical that taxpayers consider their current and impending tax debts and how the changes to the deductibility of GIC and SIC will apply to them. In particular, GIC applies to an extremely wide range of tax and superannuation liabilities with the impact of the changes differing depending on the kind of tax to which the GIC relates and the reason why GIC accrues.

In situations where the deductibility of GIC or SIC in its entirety will depend on whether an assessment is issued on or before 30 June 2025—even for interest accruing in respect of past periods, individuals should consider taking appropriate action as soon as possible to be able to obtain a deduction for the interest charge. This may include seeking amendments, making voluntary disclosures or lodging overdue returns as soon as possible to ensure that the relevant assessments are received before 1 July 2025 so that any associated GIC or SIC becomes incurred during 2024/25 and deductible, rather than incurred in 2025/26 and non-deductible.

Where GIC is expected to continue to accrue after 1 July 2025, taxpayers should consider whether it is preferable to pay their tax liabilities as early as possible to mitigate the impact of non-deductible GIC and whether these tax payments can be financed in a deductible manner. **FS**

Notes

1. A full list of 71 liabilities to which GIC applies is contained in section 8AAB of the Taxation Administration Act 1953 (TAA).
2. Subdivision 280-B in Schedule 1 to the TAA lists eight taxes to which SIC applies, which includes Division 293 tax as an example.
3. Taxation Determination TD 2012/2: Income tax: when is the short-fall interest charge incurred for the purposes of paragraph 25-5(1)(c) of the Income Tax Assessment Act 1997?