

# Loss of earnings benefits for self-employed people

Current from 1 July 2019

# About us

If your accident has affected your ability to work in your usual capacity, the TAC can pay loss of earnings benefits. This is a temporary income support while you recover from your injuries.

This brochure explains how TAC loss of earnings benefits works and how the TAC can help you return to work. For information on broader TAC support services, please call 1300 654 329 or visit [www.tac.vic.gov.au](http://www.tac.vic.gov.au)



1300 654 329



[www.tac.vic.gov.au](http://www.tac.vic.gov.au)



myTAC





# Loss of earnings benefits for self-employed people

**The TAC can pay you loss of earnings benefits if you are losing income as a result of your accident. To do this, the TAC needs to work out what your weekly earnings were before your accident. This process requires you, your accountant and the TAC to work together.**

To find out how the TAC calculates loss of earnings benefits, please turn to page 5.

## If you are receiving Centrelink benefits

It is the TAC's responsibility to pay you loss of earnings benefits while you recover from your accident injuries. If you are receiving or have applied for Centrelink benefits, you must contact them within 14 days and advise them of your change in circumstances.

## Keeping your business running

While the TAC can support you during your recovery, it is your responsibility to maintain your business while you are unable to work. This means you are responsible for any operating expenses your business continues to incur while you are away.

It is very important to talk to your accountant, bank or financial advisor about how you can best manage any cash-flow issues.

### What you need to do

You will need to have a conversation with the TAC about your eligibility for loss of earnings benefits. During this discussion you will be asked to provide some information about your business. This may include:

- Business details, including:
  - Business name
  - Type of business
  - ABN
- Contact details of your accountant
- Details about your pre-accident weekly earnings
- Bank account details including:
  - Bank, branch and account name
  - BSB and account number

The TAC will send you a loss of earnings benefits summary which outlines the information you provided during the conversation. It will also ask for the documents we need to complete your loss of earnings assessment. These documents may include:

- Business Activity Statement
- Individual income tax records
- Completed Tax File Number Declaration form

## How the TAC can support you to return to your business

The TAC understands that the best person to run your business is you.

There are a number of ways the TAC can help you return to your business, such as arranging advice from an occupational therapist or setting up a return to work program. You should regularly talk with your doctor about your options for returning to work, such as returning to alternative duties or reduced hours.

The TAC can pay for transport to get you to and from work if your accident injuries prevent you from getting to work by car or public transport. This benefit can be paid for the first 24 weeks of your return to work, up to a total of \$1,460.

It is your role to contact the TAC when your doctor advises you are ready to return to some form of work. Refer to the case study on page 6 for more information about returning to work.

**If you go back to your business independently and later experience difficulties that are related to your accident injuries, call the TAC for help.**

<p>If any of the situations below apply to you, please call the TAC on 1300 654 329. Together, we can work out a plan to support you to return to your business safely.</p>	<p><b>1. Your doctor advises you are fit to do some of your duties but not others.</b></p>	<p><b>2. Your doctor advises you can go back to work part-time and progress gradually to full-time hours and you are unsure how to do this.</b></p>
<p><b>3. You are worried about aggravating your accident-related injuries when you return to work.</b></p>	<p><b>4. You have returned to work but are finding some tasks difficult.</b></p>	<p><b>5. You have employed someone to do your work for you, but are now fit to do some of your duties again.</b></p>

**If you are worried that you may never be able to return to work, please call the TAC or talk to your accountant, bank or financial advisor to discuss your options.**



# How the TAC calculates your loss of earnings benefits

**When calculating loss of earnings benefits, the TAC follows Victorian legislation called the *Transport Accident Act 1986*. This sets out any conditions that apply and how much the TAC can pay.**

First the TAC calculates how much you were earning (less expenses) before your accident. Secondly, the TAC applies a formula which, in most cases, results in a TAC payment of 80% of your assessable income.

## Step 1:

**The most important person in your return to work is you.**

Before the TAC can pay you loss of earnings benefits, we need to work out what your income loss is as a result of your accident. The way the TAC works this out will depend on how your business is structured. Please read the section that applies to you.

### If you operated as a sole trader or in a partnership

As a sole trader or partner, your income loss may be a result of lost earnings, or having to pay someone to do the work you would normally do.

If you are claiming the costs of employing someone to work for you, you will need to provide all the required documentation, as outlined on page 7.

If your business is a partnership, your assessable income is usually your share of the profit. However, there are circumstances where your physical contribution can be taken into account (for example, read the case study on page 11).

The TAC employs specialist staff to assess applications for loss of earnings benefits and calculate payments for eligible clients.

The TAC will calculate your assessable income by looking at:

- your past three years of taxable earnings\*
- the costs you incurred to hire someone to replace you

If your business has been operating for less than three years, we will look at the whole period the business has been operating.

Generally, you cannot claim both lost income and the cost of hiring someone.

\* Exceptions may be made where there is a clear upward or downward trend prior to your accident.

### If your business is set up as a company or a trust

If your business operates as a proprietary limited company and you receive a salary or wage, the TAC will calculate your weekly earnings based on your salary or wages before the accident. If your business operates as a trust and you receive wages or distributions, the TAC will pay loss of earnings benefits in some cases.

**To find out if you are eligible for loss of earnings benefits call 1300 654 329.**

Please refer to page 7 for more information about what you need to provide to make a claim.

### When assessing your income, the TAC will NOT include:

- Cash payments or income that was not declared with the Australian Taxation Office
- Income you received from interest
- Rental income
- Income from dividends
- Any other income you received through non-personal exertion

## Andrew's story

**Concerned about his business, Andrew spoke to his doctor and called the TAC to discuss his options for returning to work. The doctor agreed that Andrew was able to do alternative duties.**

The TAC arranged and paid for an occupational therapist to assess Andrew's workplace to find out what kind of work Andrew could and could not do. Andrew was able to return to work part time, on alternative duties. Andrew employed someone to do the tasks he was unable to do.

Over two months, with support from his occupational therapist, Andrew returned to his normal duties and hours.

Andrew Sullivan is a builder who operates as a sole trader. Andrew fractured his shoulder in an accident.





## Step 2:

### Working out your TAC rate

Once the TAC has worked out your pre-accident weekly earnings, we follow a formula prescribed by the *Transport Accident Act 1986* that sets out how much the TAC can pay.

In most cases, the TAC pays 80% of your assessable income, to a maximum of \$1,390.

The following table is a guide to how the TAC works out your rate. The amounts listed below are based on weekly gross income.

- If your income is below \$686, you will be paid the full amount of your income
- If 80% of your income falls below \$686\*, you will be paid \$686
- If 80% of your income falls between \$686 and \$1,390, you will be paid 80% of your income
- If 80% of your income is greater than \$1,390 you will be paid \$1,390

\* \$686 applies to you if you have no dependants. If you have one dependant, your rate is \$880. For each additional dependant add \$62. Dependants include anyone who is reliant on you for financial support. The TAC can only pay you the dependant rate if it is less than 100% of your weekly income.

## Payment of your loss of earnings benefits

You will be provided with a detailed explanation of how the TAC has determined your income and loss of earnings benefits.

By law, the TAC cannot ordinarily pay for the first five working days after your accident. However, there may be exceptions in very special cases, if you can prove severe financial hardship.

Your loss of earnings benefit will be paid fortnightly into your nominated bank account. The benefit is taxable and the TAC will deduct tax on your behalf. You will be sent a Pay As You Go (PAYG) summary at the end of the financial year to include in your tax return.

## Information you must provide to claim loss of earnings benefits

Following your discussion with the TAC about your business, you will receive a loss of earnings benefits summary. This sets out the information you will need to send to us so that we can work out your loss of earnings benefits quickly and accurately.

### If you are a sole trader or in a partnership, you may be asked to provide:

- Personal income taxation returns for the last three years, including the corresponding notices of assessment
- Business activity statements for the three years prior to your accident
- Three years of partnership taxation returns with complete financial statements (if you are in a partnership), and/or
- Information about any person you hired to work for you because of your injuries, including the person's name, hours worked, rate of pay and evidence of payment

### If your business is set up as a company or trust

If your business operates as a proprietary limited company or trust and you receive a salary or wage, you will need to provide evidence of your wage or salary for the 12 months before your accident.

You may have already provided this information when you lodged your claim with the TAC.

If your business operates as a trust and you receive distributions, the TAC may request the distribution details you provided on your taxation returns.

# How long the TAC will pay loss of earnings benefits

## **Most people need loss of earnings benefits only for a short period of time.**

The TAC will stop paying loss of earnings benefits when there is no medical reason related to your accident injuries that prevents you from returning to work.

The TAC will also stop paying loss of earnings benefits if you return to work at full capacity.

The TAC will only pay you loss of earnings benefits when we have a certificate of capacity from your doctor that states your capacity to work is affected because of your accident injuries. It must also state how long your capacity to work will be affected.

If you are able to work reduced hours, you may be eligible for partial loss of earnings benefits.

The TAC can pay you partial loss of earnings when we have a certificate of capacity from your doctor detailing your capacity for work.

Please send original certificates of capacity. Faxed or photocopied certificates can only be accepted if sent from a doctor's office. The TAC will also require details of your ongoing earnings after your return to work.

Please take note of the date that your certificate of capacity finishes. To ensure continuous payment of your loss of earnings benefits, please send the TAC any further certificates of capacity at least five working days before your current certificate runs out.

**The TAC will only pay loss of earnings benefits when we have a certificate of capacity from your doctor.**

## Rebecca's story

**Rebecca Brown is a web designer and has been operating as a sole trader for the last four years. She is married with one child.**

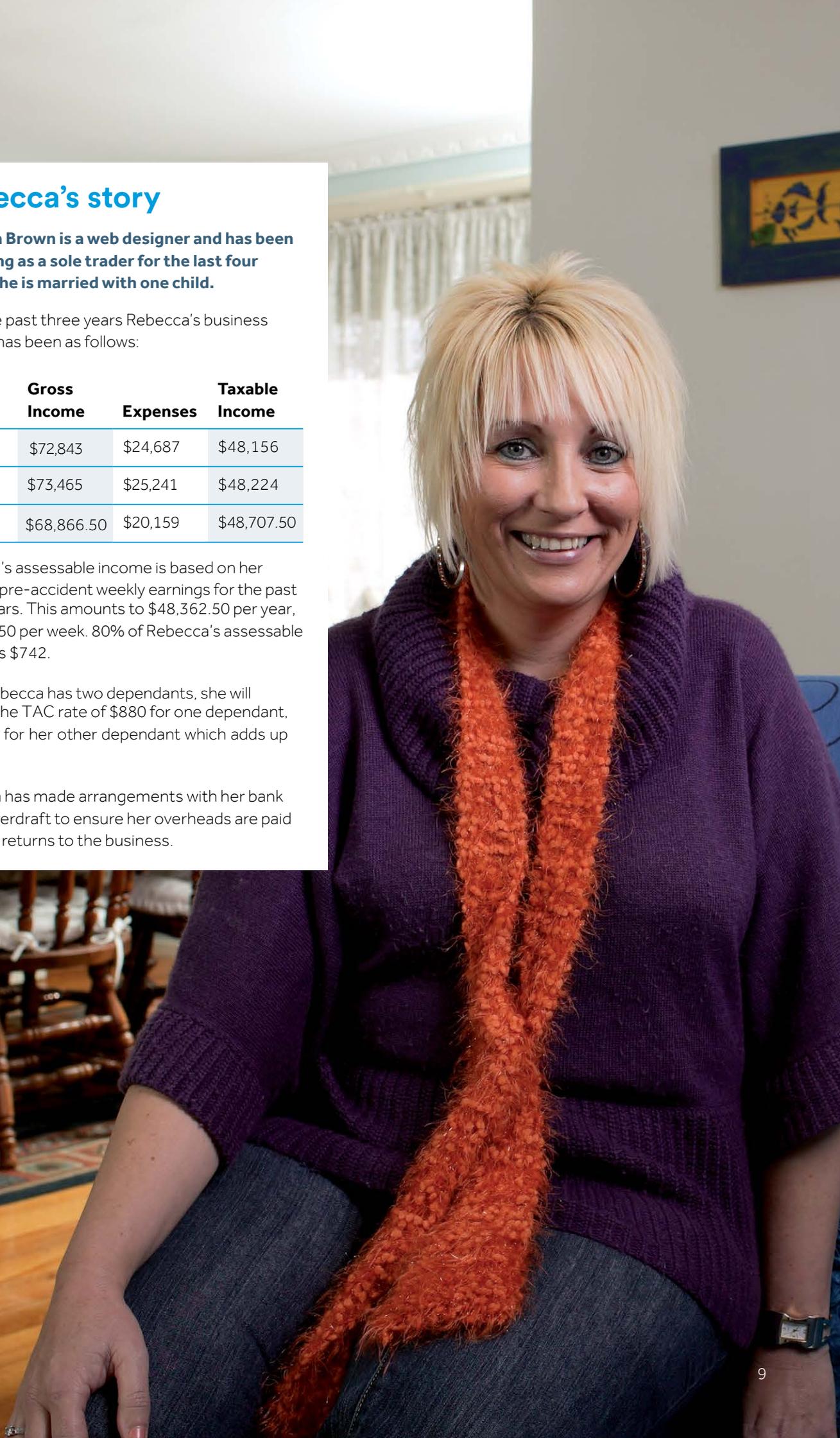
Over the past three years Rebecca's business income has been as follows:

Year	Gross Income	Expenses	Taxable Income
2017/18	\$72,843	\$24,687	\$48,156
2016/17	\$73,465	\$25,241	\$48,224
2015/16	\$68,866.50	\$20,159	\$48,707.50

Rebecca's assessable income is based on her average pre-accident weekly earnings for the past three years. This amounts to \$48,362.50 per year, or \$927.50 per week. 80% of Rebecca's assessable income is \$742.

Since Rebecca has two dependants, she will receive the TAC rate of \$880 for one dependant, plus \$62 for her other dependant which adds up to \$942.

Rebecca has made arrangements with her bank for an overdraft to ensure her overheads are paid until she returns to the business.



# Working together

## The TAC's commitment to you

The TAC will deliver your loss of earnings benefits as quickly and efficiently as possible. You will be advised of any decisions relating to your loss of earnings benefits and how you can have decisions reviewed.

## The TAC respects your privacy

The TAC understands that information about your income is highly personal and will treat this information confidentially. *The Transport Accident Act 1986*, and other legislation, regulates the use of information about you. The TAC is committed to protecting your privacy when collecting, using and maintaining information about you.

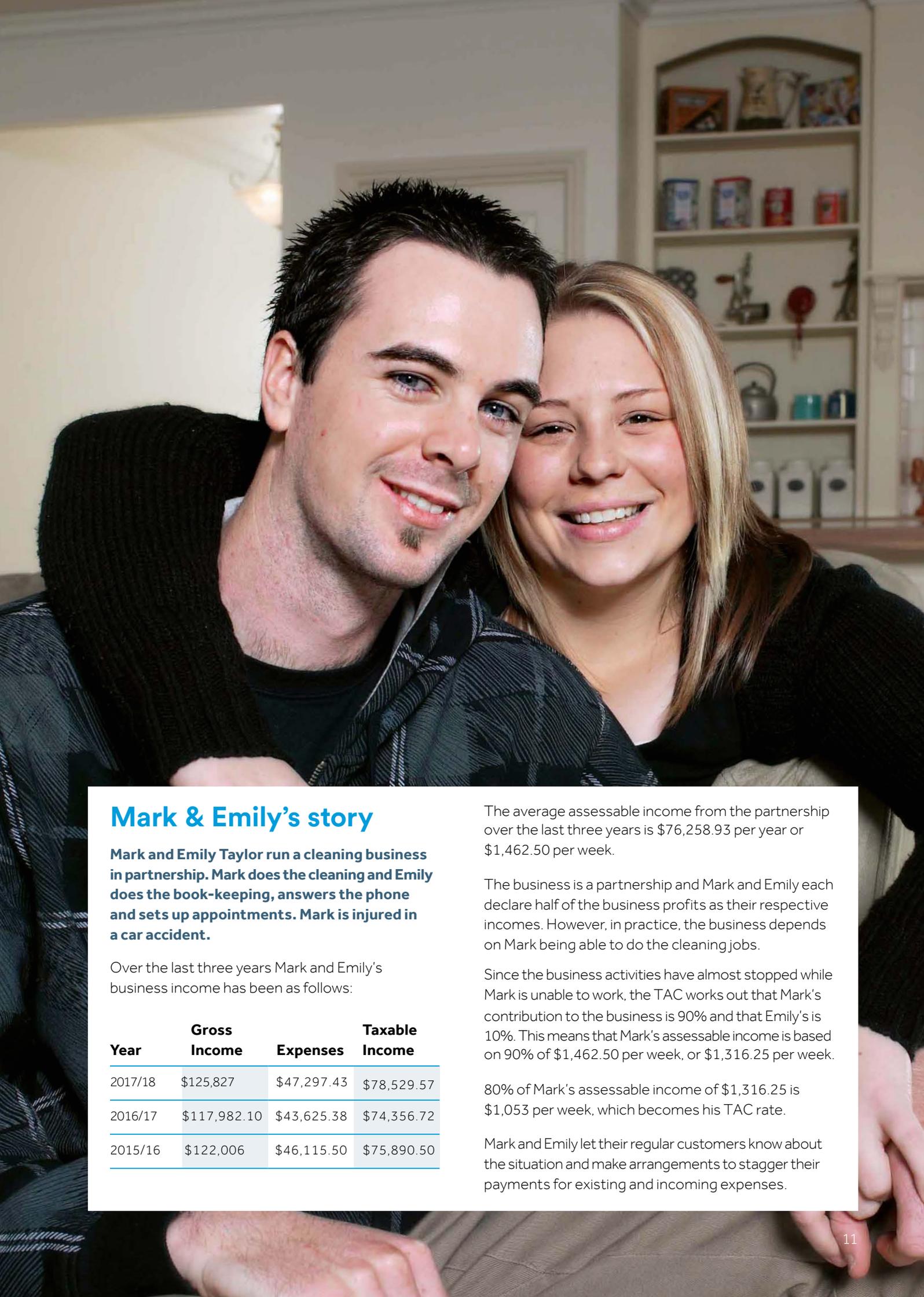
**For more information, refer to the brochure *Your Privacy and the TAC* available by calling the TAC on 1300 654 329 or visiting [www.tac.vic.gov.au](http://www.tac.vic.gov.au).**

## Your role

You have an important role to play. The TAC relies on you to provide the right information as quickly as possible. You need to ensure that you:

- Request your accountant to work with the TAC
- Provide your financial information (outlined on page 7) to the TAC as soon as possible, to avoid delays in your payments
- Continue to manage your business where possible
- Regularly talk to your doctor about what tasks you can do at work and about returning to your business
- Attend your treatment and work towards your recovery
- Call the TAC if you have any questions, and
- Tell the TAC immediately if you return to your business, or any other kind of work.

The TAC relies on you to provide the right information as quickly as possible.



## Mark & Emily's story

**Mark and Emily Taylor run a cleaning business in partnership. Mark does the cleaning and Emily does the book-keeping, answers the phone and sets up appointments. Mark is injured in a car accident.**

Over the last three years Mark and Emily's business income has been as follows:

Year	Gross Income	Expenses	Taxable Income
2017/18	\$125,827	\$47,297.43	\$78,529.57
2016/17	\$117,982.10	\$43,625.38	\$74,356.72
2015/16	\$122,006	\$46,115.50	\$75,890.50

The average assessable income from the partnership over the last three years is \$76,258.93 per year or \$1,462.50 per week.

The business is a partnership and Mark and Emily each declare half of the business profits as their respective incomes. However, in practice, the business depends on Mark being able to do the cleaning jobs.

Since the business activities have almost stopped while Mark is unable to work, the TAC works out that Mark's contribution to the business is 90% and that Emily's is 10%. This means that Mark's assessable income is based on 90% of \$1,462.50 per week, or \$1,316.25 per week.

80% of Mark's assessable income of \$1,316.25 is \$1,053 per week, which becomes his TAC rate.

Mark and Emily let their regular customers know about the situation and make arrangements to stagger their payments for existing and incoming expenses.

## Contact us

8.30am to 5.30pm, Monday to Friday



**1300 654 329** (local call from a landline)

**1800 332 556** (free call)



### Address

60 Brougham Street, Geelong VIC 3220



### Mailing address

TAC, Reply Paid 2751, Melbourne VIC 3001



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This booklet is current from 1 July 2019 to 30 June 2020.

For information about the TAC in your own language, call one of the numbers listed here:

العربية

1300 138 639

Ελληνικά

1300 138 642

廣東話

1300 138 640

Türkçe

1300 139 073

Polski

1300 139 072

Hrvatski

1300 138 641

Tiếng Việt

1300 139 074

English

1300 139 076

Italiano

1300 138 643

All other languages

1300 139 075

普通话

1300 139 071

