

Practice Update

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JULY 2016

ATO focuses on rental property owners

With Tax Time 2016 just around the corner, the ATO has stated it will be paying close attention to excessive interest expense claims, and incorrect apportionment of rental income and expenses between owners.

The ATO is also looking at holiday homes that are not genuinely available for rent, and incorrect claims for newly purchased rental properties.

An ATO spokesperson said that their ability to identify incorrect rental property claims is becoming more sophisticated due to enhancements in technology and the extensive use of data.

Case Studies

Holiday home not genuinely available for rent

John has a newly purchased rental property that had not returned any rental income.

He told the ATO that the property was occasionally advertised on community noticeboards and websites.

John was unable to prove there was a genuine arrangement in which he actively sought tenants, or had taken sufficient steps to genuinely advertise the property for rent.

A rental loss of almost \$60,000 was disallowed and penalties were applied.

Interest

Rental property owner Sarah reported high rental interest claims and was required to provide bank statements as evidence to the ATO.

The statements showed borrowings well in excess of the purchase price of the rental property.

The interest charges relating to the private part of the loan were disallowed.

Sarah was required to pay more than \$15,000 back to the ATO.

Incorrect claims for a newly purchased rental property and false claims

Nancy recently purchased a rental property and had her tax return amended by the ATO to remove deductions for repairs, capital works and incorrectly apportioned borrowing expenses.

Nancy had inappropriately claimed a deduction for repairs to defects present in the newly purchased property, and the capital works and borrowing expenses should have been spread over several years.

She also provided false receipts for property management fees undertaken by a family member.

Nancy was required to pay more than \$57,000 back to the ATO as well as over \$10,000 in penalties for making a false statement in her tax return.

Apportioning expenses between joint owners of a property

A rental property claim was investigated by the ATO where the rental expenses had not been apportioned correctly. The property was jointly owned by a couple but the higher income earner claimed the larger proportion of the expenses.

The expenses were adjusted to reflect the ownership interest and the higher earner had to pay back more than \$8,000 in tax.

GIC and SIC rates for the 2016 September quarter

The ATO has published the 2016 September quarter rates for the General Interest Charge (GIC) and the Shortfall Interest Charge (SIC):

| | |
|-----------------|-------------|
| GIC annual rate | 9.01% |
| GIC daily rate | 0.02461749% |
| SIC annual rate | 5.01% |
| SIC daily rate | 0.01368852% |

Car depreciation limit for 2016/17

The car limit is \$57,581 for the 2016/17 (up from \$57,466 for the previous year). This amount provides a limit on depreciation and GST input tax credit claims.

Goods taken from stock for private use: 2015/16

The ATO has provided an update of the amounts it will accept for 2015/16 as estimates of the value of goods taken from trading stock for private use by taxpayers in certain specified industries.

The amounts (which exclude GST) are:

| Type of Business | Adult/Child over 16 years | Child 4–16 years |
|--|---------------------------|------------------|
| Bakery | 1,350 | 675 |
| Butcher | 800 | 400 |
| Restaurant/cafe (licensed) | 4,580 | 1,750 |
| Restaurant/cafe (unlicensed) | 3,500 | 1,750 |
| Caterer | 3,790 | 1,895 |
| Delicatessen | 3,500 | 1,750 |
| Fruiterer/greengrocer | 790 | 395 |
| Takeaway food shop | 3,410 | 1,705 |
| Mixed business (includes milk bar, general store, and convenience store) | 4,230 | 2,115 |

The ATO recognises that greater or lesser values may be appropriate in particular cases. It says it will adjust the values annually.

ATO's deadline for non-arm's length LRBAs extended

The ATO is allowing SMSF trustees additional time until **31 January 2017** to ensure that any limited recourse borrowing arrangements (LRBAs) that their fund has are on terms consistent with an arm's length dealing, or alternatively are brought to an end.

Editor: The ATO had previously advised SMSF trustees they only had until 30 June 2016 to review the LRBAs in their fund.

As part of this extension, the ATO has advised that it will provide further information and illustrative examples, to assist SMSF trustees and advisers to make decisions about relevant arrangements, by 30 September 2016.

Tax implications for the sharing economy

The ATO is reminding taxpayers who earn income through the sharing economy that they have tax obligations they should consider.

Examples of sharing economy services include:

- ride-sourcing – providing taxi travel services to transport passengers for a fare;
- renting out a room or a whole house or unit on a short term basis;
- renting out parking spaces; or
- providing personal services, such as web or trade services, or completing odd jobs, errands, deliveries, etc.

As is usual under the GST and income tax law, the nature of the goods or services they provide and the extent of their activities will determine what they need to do for tax purposes.

SuperStream deadline extended!

With only days to go until the 30 June SuperStream deadline, the ATO noted that, while many small businesses had implemented the required changes, *"some small businesses may need extra time and help to become SuperStream compliant"*.

The ATO has announced that for small businesses that are not yet SuperStream ready, it will provide a further extension to 28 October 2016.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.