TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

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chartered accountants + business advisors

Does Having Two Jobs Mean More Tax Is Paid?

It's a common misconception that working two or more jobs will increase the tax you pay at the end of the year.

However, the Australian Taxation Office (ATO) only needs to know much your total taxable income is. They do not care how many jobs you have or how many different sources of income you have.

The only truth is that the more income you earn, the more tax you pay. Due to Australia's tax system, the rate of tax for some of your income may be higher.

When you commence a job, you have to fill out a form that helps determine how much tax is taken out of your pay each cycle (depending on whether you get paid weekly, fortnightly etc.).

Generally, within the form, you would tick a box to indicate that you are eligible for the tax-free threshold of $18,200; this applies to all Australian residents.

This then sets how much 'Pay As You Go' (PAYG) tax is deducted from pay each week/fortnight. The PAYG schedule is set by the ATO and must be followed by the employer.

For a second, subsequent job you would not tick that box about claiming the tax-free threshold as that has already been taken into account. You can only claim the tax-free threshold for one job. Therefore, the PAYG rate would be higher, so it can seem as though you are paying a higher tax rate.

At the end of the financial year, when you or your accountant do your tax return, the income from all of your jobs is added together to work out how much tax is payable, less the PAYG tax you have already paid.

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Deductions Landlords Should Be Wary Of

Property investors are warned to have sufficient and correct records when declaring rental income and deductions as the tax office is keeping a close eye on real estate claims once again.

In an announcement earlier this year, the Australian Tax Office announced that rental incomes and deductions are to be a key focus of tax time this year.

With more than 2.2 million Australians holding rental property investments and as much as $50 billion claimed in deductions each year (according to the latest 2018-19 taxation statistics), this area of taxation will be under particular scrutiny in the 2021-22 tax returns.

According to the Australian taxation office, four key areas will be closely examined as tax returns are lodged this year. These include

- Rental property income (such as undeclared income from renting out rooms or homes on a part-time basis)
- Expenses that property investors have incurred in owning their property, including repairs, maintenance & interest payments.
- If investors are residing in their second property for part of the year (such as holiday homes)
- That investors are not overclaiming or claiming on items that they are not entitled to.
- If any relief (in the form of grants or state government support) was claimed by the investors for the home.

Rental Property Income

The Australian Taxation Office will be looking for items on your tax return this year that could include undeclared income from renting out rooms or homes on a part-time basis, or an inconsistency in the rental schedule of the property with the income declared on your return.

You should also be wary of over-claiming when leasing your property to friends or family at below-market rents. You will not be able to claim the interest, as you will only be able to claim up to the rental income you receive.

Residing In The Secondary Property

Tax returns can become complicated if investors reside in their second property for part of the year (such as in a holiday home). These properties must be made available for rent and on the market prior to claims being made.

You cannot claim expenses for periods in which the property was being used by friends or family. You are only allowed to claim on the parts that are associated with any rent.

Repairs, Maintenance & Improvements - What Can Be Claimed?

Repairs, maintenance and expenses spent on improvements have different tax treatments when it comes to rental properties.

EXAMPLES OF WHAT CAN BE CLAIMED

Repairs & Maintenance (Deductible)

- painting
- conditioning gutters
- maintaining plumbing
- repairing electrical appliances
- mending leaks
- replacing broken parts of fences or broken glass in windows
- repairing machinery.

Improvements (Depreciation Claimed)

Improvements include work that:

- provides something new – for example, adding a gazebo or carport
- generally improves the income-producing ability or expected life of the property
- goes beyond restoring the efficient functioning of the property.

Improvements can be either capital works, where it's a structural improvement or capital allowances where the item is a depreciable asset.

It's important to correctly categorise each expense incurred to ensure it's treated correctly for tax purposes

Keep Accurate Records

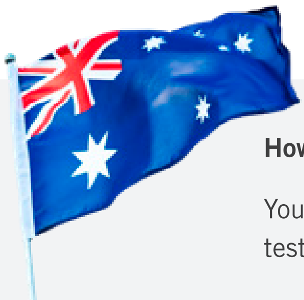
As the ATO steps up its auditing capabilities each year, you want to be sure that your records are accurate and match what you are looking to claim. If the ATO calls to ask a question about your claim, they already know the answer.

Avoid making common mistakes as a landlord when it comes to property-related claims and deductions on your return. Work together with a trusted adviser to maximise your deduction capabilities and remain compliant this tax return season.

How Do I Know I'm A Tax Resident Of Australia?

Are you a resident of Australia for tax purposes? While the answer may seem simple to you, in the eyes of the ATO it can be a complicated matter entirely.

Being an Australian resident for tax purposes is not necessarily the same as being an Australian resident for other purposes. Generally, an Australian resident for tax purposes is someone whose usual place of abode is in Australia.



How Do I Know If I Am An Australian Resident For Tax Purposes?

You can work out your tax residency status by passing a 'resides' test, meaning that your usual place of abode is in Australia.

Amongst the things that will be taken into account to determine whether you pass the 'resides' test are:

- The intention and purpose of your stay in Australia
- Your family and business/employment ties
- Where most of your assets are located
- Where you live and where you socialize
- Whether you are physically present in Australia

Taking a residency test can also help you determine whether you are:

- An Australian resident for tax purposes (which means that you have to declare all of your income from all sources worldwide)
- A foreign resident (no tax-free threshold, only declare tax on income and gains derived in Australia and may not have to pay the Medicare levy) or
- A temporary resident

You don't need to be an Australian citizen or a permanent resident for immigration purposes to be considered a tax resident. And you can also be an Australian citizen and be considered a foreign resident for tax purposes.

The withholding requirements for foreign resident employees are similar to those that apply to Australian workers. However, a foreign resident:

- can't claim the tax-free threshold
- is subject to special rates of withholding.

If you're a working holidaymaker, you'll usually be considered a foreign resident for tax purposes and taxed at a rate of 15% on the first $45,000 you earn in Australia, with the balance then taxed at ordinary rates.

If you're a dual resident of both Australia and a foreign country with which Australia has a double tax treaty, a treaty tie-breaker test will be used to work out which country has the right to charge you tax.

Don't Make These Mistakes At Tax Time!

These days, your tax return is almost like an honesty test. From Centrelink payments to health insurance, child support to bank interest, the ATO sees all and seemingly knows all.

This is because of the amount of information that is provided to them through data-matching platforms, new technologies and greater access granted each year.

One thing they don't have access to though is your tax deductions.

It's important to lodge an accurate tax return so you can avoid getting into hot water with the ATO. Exaggerated or "guesstimated" expense claims, or a lack of receipts and evidence, will often be flagged for investigation at the ATO.

Avoid these common mistakes involving your tax return, and you'll be far less likely to raise a red flag with the ATO.

1 Do NOT Guess Or Estimate Your Income & Tax Paid

On your tax return, ensure you use accurate figures when you enter your income and the amount of tax you've paid.

The ATO has records of this, and they compare what you submit against the information they already have. They might not have records of some types of income like consulting or solo work, but they can see your accounts.

All of your entries must be correct and complete as out-of-place money can attract the ATO's attention.

2 Do NOT Guess Or Estimate Your Tax Deductions

Deductions are something only you can keep track of. Don't be "creative" with tax deductions, as the ATO analyses every item you claim. They then compare your deductions against others in your line of work, location, industry, age group, and their own benchmarks.

If your deductions look too high for the ATO, watch out!

It's also best to have a receipt sorted for these deductions as the ATO has a knack for asking about them.

- Save receipts into a folder on your computer, a shoebox, or on your phone – and save the receipts right when you make a purchase so you don't have to hunt for them later.
- Enter the exact amounts from your receipts into your tax return.
- Tax agents know what the ATO is looking at and know exactly what is allowed in your deductions. Consult about your return with them if you have doubts.

3 Do NOT Fail To Declare Overseas Income

If you are an Australian resident for tax purposes (which is more complicated than just being here), you should still lodge an annual tax return in Australia even if you live and work overseas at the moment. You need to declare all your foreign employment income AND any other income you receive from that country.

Foreign income includes

- pensions and annuities
- employment income
- investment income
- business income
- capital gains on overseas assets

4 Do NOT Overclaim Expenses For A Rental Property Or Holiday Rental Property

There are strict rules applied to when you can and cannot claim tax deductions for the property-related expenses over the year - not all expenses can be claimed!

5 Do NOT Fail To Have Proof Of Purchase For Deductions

Paying money for work-related items and keeping no receipt is a costly mistake that many people make.

Basically, **without receipts for your expenses, you can only claim up to a maximum of $300 worth of work-related expenses.** But even then, it's not just a "free" tax deduction. The ATO doesn't like that. It has to be real expenses.

Remember: If you over-claim your deductions and get a bigger tax refund than you're entitled to, the ATO can ask you to repay some or all of your refund – plus interest charges and other possible penalties as well. That also goes for claiming significant deductions that you can't prove.

Finding The Right Tax Strategy For Life Insurance

The type of cover, deductibility of premiums and treatment of claims make life insurance a complex topic for tax. It's a topic that professionals and businesses alike seek assistance from accountants.

The deductibility of premiums and treatment of claims payouts can be a complex, nuanced topic. The opportunities and traps hidden in those complexities are significantly amplified for professionals with higher incomes and greater-than-average wealth.

For professionals who want to structure their life insurance to optimise the balance between cash flow, tax treatment and robust protection, here's a high-level look at the issues.

TAX CONSIDERATIONS – COVER OUTSIDE SUPER

While premiums for death, TPD and trauma cover are not tax-deductible outside of superannuation, premiums for income protection and business expenses protection are.

On the flip side of that, claims payments from death, TPD and trauma policies are entirely tax-free, regardless of whom they are paid to, while income protection and business expense benefits are classed as income and need to be declared (business expenses payments would naturally offset the actual expenses they are intended to cover).

SPECIAL TAX TREATMENT OF POLICIES HELD FOR BUSINESS PURPOSES

Some tax concessions are available to life insurance policies held for business purposes, including buy/sell agreements and those covering revenue lost in the event of the death or disablement of a key person.

In such cases, policies are generally held by the business with premiums tax-deductible to the business. However, claim payments are generally regarded as income or a capital gain, depending on the purpose of the cover, and therefore subject to appropriate tax. FBT can also apply where a business pays ownership protection premiums on behalf of individual owners.

TAX ON LIFE CLAIMS PAID THROUGH SUPER

Death benefits paid through super are generally tax-free if paid to a dependent (a term strictly defined under the law). Benefits paid to non-dependents may include a tax-free component but are likely to be subject to tax on at least some of the balance. Depending on the circumstances, the applicable rate will either be 15 or 30 per cent.

With TPD lump sum benefits, a portion is likely to be assessed as tax-free, depending on the member's eligible service period. The remainder is subject to a tax rate that varies according to the member's age.

Other tax-optimising strategies include taking benefits as an income stream to qualify for tax offsets, maximising the uplift in the tax-free portion of the benefit, and washing out taxable components.

What Is The Tax Treatment Of Insurance Payouts From A Natural Disaster?

The weather in Australia can be unpredictable, resulting in intense conditions that can cause damage and harm to their surroundings.

Over the last few years, extreme weather conditions (such as fire, floods and intense storms) in some parts of the country have resulted in extreme damage. If this occurs, individuals need to determine the tax treatment of any insurance payouts or relief payments they may receive.

Usually, individuals are unlikely to experience tax consequences for payments for personal property or assets in events such as these. Personal property or assets include your family home and household assets.

There are special rules though for

$10,000+ Personal assets that cost more than $10,000

Collectables that cost more than $500 such as paintings, jewellery, antiques or coins **$500+**

These rules only apply if the insurance payout exceeds the asset's original cost.

For example, Peter owned a painting by a famous artist worth $750 that is a collectible, which was destroyed in a bushfire. The insurance payout for this painting will be included in his tax return when he works out his capital gain or loss at the end of the year.

However, if an individual's income-producing assets incur damage, then they will need to determine the proper tax treatment of the payouts or relief payments that they receive and the costs involved in repairing or replacing the assets.

An insurance payout for a property used to produce income will have tax consequences, for example, if you used a part of your home to run a home business or you rented out a room.

The insurance payout amount will be relevant when you work out if you have a capital gain or capital loss to include in your tax return. If you are a small business operator, you may be entitled to small business capital gains tax (CGT) concessions. If your asset is destroyed, you can roll over the CGT liability.

If you have been working from home and using personal assets to produce income (such as a personal laptop you are repurposing) then determining which tax treatment applies could get complicated. You may have to talk to the ATO or us to clarify the specificities of your situation.

What If The Tax Office Gets It Wrong?

The only two certainties in life are death and taxes, or so the saying goes.

Some may believe that the Australian Taxation Office (ATO) lives by that as its mantra. However, sometimes they may make a decision that we as tax professionals and your trusted advisers may disagree with.

So what is the process if we believe the tax office has it wrong?

First of all, a formal objection must be lodged with regard to an assessment or a decision made by the tax office. The objection must be in writing and must state the reasons why we (your tax adviser) think that the ATO got it wrong. The onus is on us to prove that the ATO is mistaken in how they've decided.

There are different forms for lodging an objection, and it is recommended to leave these things to the professionals (us).

Often though, the ATO will stand by their decision, but we (your tax adviser) may still not agree with it. So how do we proceed?

There is a multitude of paths you can take to seek an external review of a decision made by the ATO. The most common is via the Administrative Appeals Tribunal (AAT).

The AAT conducts reviews of the decisions made by a number of Commonwealth Government departments, and while it is not a court as such, it is still able to provide you with an answer. A solicitor is not required to represent you when dealing with the AAT, but it is recommended due to the higher success rate of having representation when presenting your situation.

Further to the AAT, if you or the ATO still disagree about the situation's answer, the matter can be progressed to the Federal Court. This is an expensive process that does require legal representation.

A matter that progresses to the Federal Court is usually reserved for disputes of many tens of thousands of dollars (at the very least). If you so desire, you can bypass the AAT and opt to take it straight to the Federal Court.

A single judge will hear your case initially in the Federal Court. If one of the parties still does not like what the answer is, they may allow you to appeal to the full Federal Court where there will be three judges to listen to your case.

If leave is granted, your matter may be heard by the highest court in the land, aptly named the 'High Court'. In The Castle, this is the court where Darryl Kerrigan presented his case to save his home.