TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

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ATO crackdown on rental property tax claims

The ATO is targeting those who rent out their property for a few weeks during the year but claim a full year's worth of tax deductions.

The tax office will be paying close attention to rental property owners, especially those who own a holiday home, who incorrectly claim for initial repairs to recently acquired rental properties.

Last year, the ATO sent out letters across Australia reminding people to only claim deductions that they are entitled to for the periods that their rental property was rented out or genuinely available for rent.

While the majority of taxpayers who received those letters reduced their claims, a key concern that remains is people making claims for expenses when a property is not genuinely available for rent.

With the ATO taking a more broad approach in monitoring rental deductions, now may be the perfect opportunity for holiday home investors to review the rules surrounding holiday home tax deductions to ensure that they can address any risks or issues in a timely manner.

Areas where rental property owners are incorrectly claiming deductions include:

- Claiming excessive deductions
- Partners splitting income and deductions
- Repairs or maintenance claims
- Claiming for interest deductions

Homeowners should be aware that it is not just holiday homes that are under focus by the ATO. The office will also commence addressing rental property owners who incorrectly claim deductions as well.

A common mistake that has risen among rental property owners is claiming for deductions for initial repairs to rectify damage, defects or deterioration that existed at the time of purchasing the property.

Taxpayers are not entitled to claim a deduction for any repairs made to their rental property for issues that existed when they purchased it, even if the repairs were carried out to make the property suitable for rent.

Instead, the cost of these repairs is used to work out any profit or capital gain, when the property is sold.

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Limits for FBT Benefits

The Government has announced the introduction of a separate grossed up cap of $5,000 for FBT salary packaged meal entertainment and entertainment facility leasing expenses.

The elective valuation rules are no longer to be used to calculate the taxable value of these benefits. Benefits exceeding the $5,000 grossed-up cap can be counted when calculating whether an employee exceeds thelr existing FBT exemption or rebate cap.

All salary packaged meal and other entertainment benefits will become reportable to the employee's payment summary if they exceed the reporting threshold.

At present, employees of public benevolent institutions and health promotion charities have a $30,000 FBT exemption cap (this will be $31,177 for the first year of the measure) and employees of public and not for profit hospitals and public ambulance services have a $17,000 FBT exemption cap (this will be $17,667 for the first year). These employees can also benefit from salary sacrifice meal and entertainment benefits with no FBT payable by the employer and without it being reported.

Those employees of rebatable non for profit organisations can salary sacrifice meal entertainment benefits, however, the employers only receive a partial FBT rebate, up to a standard $30,000 cap ($31,177 for the first year).

The changes will be effective from 1 April 2016 to coincide with the start of the FBT year.

Calculating your property's GST

When selling property registered for GST, the margin scheme can be used as an alternative way to work out the GST payable on a concessional basis.

Where the scheme is applied, GST is paid for one-eleventh of the margin of the sale rather than one-eleventh of the sale price. The margin scheme calculates GST on the increase in value since 1 July 2000, if the property was acquired before 1 July 2000; or the difference between the purchase price and the sale price, if the property was acquired after 1 July 2000.

The eligibility requirements for the scheme include the following:

- you are registered for GST (or required to be registered for GST)
- you are selling property in the course of your enterprise and GST applies to the sale

- the property is acquired before 1 July 2000, or
- the property is acquired after 1 July 2000 and the person who sold them the property met one of the following:
  - was not registered or required to be registered for GST
  - sold them the property using the margin scheme
  - sold the property to them as part of a GST-free going concern
  - sold the property to them as GST-free farmland

The scheme is not applicable if you are selling the property that you:

- purchased as a taxable sale and the GST on the sale was not calculated under the margin scheme
- inherited from a person who could not use the margin scheme
- obtained from a member of the same GST group who cannot use the margin scheme
- obtained, as a participant in a GST joint venture, from the joint venture operator who cannot use the margin scheme

Those intending to use the margin scheme must have a written agreement between the purchaser and the seller that states the sale has been made under the margin scheme. The agreement must be included on or prior to settlement to access the scheme.

When calculating the margin or when the supply is ineligible for the margin scheme, errors can be made. Margin prices should not include stamp duty, costs for developing the property or legal fees. In some situations, an approved valuation method to assess the market value of the property may be required as specific rules apply. Those who wish to use the margin scheme as an alternative way to determine the GST payable should seek professional financial advice.

Cutting tax on share transfers

There are ways individuals can minimise CGT when transferring shares to their super fund.

Individuals can transfer shares to an SMSF by completing an off-market transfer, also known as an in-specie transfer. It involves transferring securities between two parties without using a stockbroker and means that the shares in question do not have to be sold.

Because the sale involves changing the beneficial ownership structure of the shares from an individual's personal name to the name of the super fund, it may trigger a capital gains event.

A capital gains event means that an individual may have to pay capital gains tax if they made a profit on the shares being sold. One way to minimise this tax is to group transfers of shares with losses with any shares that have gains, which can offset the probability of paying tax.

Alternatively, individuals can maximise their concessional contributions in the year in which the share transfer occurs via salary sacrifice, which can lower their taxable income and thus lower their capital gains liability.

To manage their tax liability more efficiently, individuals should consider transferring different tranches or combinations of tranches over several financial years. Seek professional advice when calculating capital gains tax or using the combinations mentioned above.

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