



Tax Alert

DECEMBER
2018

ATO identifies 26,000 incorrect rental property travel expense claims

The ATO has identified 26,000 taxpayers who have claimed deductions during tax time 2018 for travel to their investment residential rental properties, despite recent changes to tax laws.

From 1 July 2017, investors cannot claim travel expenses relating to inspecting, maintaining or collecting rent for a residential rental property as deductions, subject to certain exceptions.

An exclusion does apply for this restriction if the expenditure is necessary for the income-producing purposes of carrying on a business (for example, a rental property business), or if the costs are incurred by an "excluded entity".

Small business corporate tax rates Bill is now law

The company tax rate for base rate entities will now reduce from 27.5% to 26% in 2020–2021, and then to 25% for 2021–2022 and later income years. This means eligible corporate taxpayers will pay 25% in 2021–2022, rather than from 2026–2027.

The new law also increases the small business income tax offset rate to 13% of the basic income tax liability that relates to small business income for 2020–2021. The offset rate will then increase to 16% for 2021–2022 and later income years.

The maximum available amount of the small business tax offset does not change – it will stay capped at \$1,000 per person, per year.

GST reporting: common errors and how to correct them

Some businesses are making simple mistakes reporting their GST. The ATO reminds taxpayers that avoid the following common GST reporting errors:

- *transposition and calculation errors* – these mistakes often happen when manually entering amounts, so it's important to double-check all figures and calculations before submitting your BAS;
- *no tax invoice* – you must keep tax invoices to be able to claim GST credits on business-related purchases;
- *transaction classifications* – it's important to check what GST applies for each transaction; for example, transactions involving food may be GST applicable; and
- *errors in accounting systems* – a system with one coding error can classify several transactions incorrectly.

Super work test exemption for recent retirees

The Government has released draft legislation and regulations to provide a one-year exemption from the work test for superannuation contributions by recent retirees aged 65–74 who have a total superannuation balance of less than \$300,000. This proposal was announced in the 2018–2019 Budget.

Currently, people aged 65–74 must pass the "work test" – working at least 40 hours in any 30-day period during the financial year – in order to make voluntary super contributions.

Bringing forward small business tax cuts by five years

The Prime Minister has announced that the Government will bring forward its planned tax cuts for small business by five years. The Labor Party has also indicated it supports bringing forward the tax cuts. This means businesses with a turnover below \$50 million will pay a tax rate of 25% in 2021–2022, rather than from 2026–2027 as currently legislated.

Government announces super refinements

The Government has announced it will amend the super tax laws to address some minor but important issues, as part of the ongoing super reforms. The changes include:

- deferring the start date for the comprehensive income product for retirement (CIPR) framework;
- adjusting the definition of "life expectancy period" to account for leap years in calculations, and amending the pension transfer balance cap rules to provide credits and debits when these products are paid off in instalments;
- adjusting the transfer balance cap valuation rules for defined benefit pensions to deal with certain pensions that are permanently reduced after an initial higher payment;
- correcting a valuation error under the transfer balance cap rules for market-linked pensions where a pension is commuted and rolled over, or involved in a successor fund transfer;
- making changes to ensure that



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death benefit rollovers involving insurance proceeds remain tax-free for dependants.

CGT on grant of easement or licence

Taxation Determination TD 2018/15, issued on 31 October 2018, considers the capital gains tax (CGT) consequences of granting an easement, profit à prendre or licence over an asset.

In the ATO's view, CGT event D1 (creating contractual or other rights) rather than CGT event A1 (disposing of an asset) happens when any of the following rights are granted over an asset:

- an easement, other than one arising by operation of the law;
- a right to enter and remove a product or part of the soil from a taxpayer's land (a profit à prendre); or
- a licence (which does not confer the exclusive right to possess the land).

First Home Super Saver scheme and downsizer super contributions: ATO guidance

In November 2018, the ATO issued a Super Guidance Note to provide people with general information about how the First Home Super Saver (FHSS) scheme works. The guidance note explains who is eligible to use the scheme, the kind

of contributions that can be made and then released from super for buying a first home, how to apply to the ATO for a FHSS determination, and the requirement to purchase a house.

The ATO also issued guidance on the recently enacted downsizer superannuation contribution measures, which allow people aged over 65 to contribute the proceeds from selling certain property into their super.

ATO scam alert: fake demands for tax payments

Although tax time 2018 is over, the ATO has warned taxpayers and their agents to remain on high alert for tax scams. Scammers are growing increasingly sophisticated and hope to exploit vulnerable people, often using aggressive tactics to swindle people out of their money or personal information.

Government to establish \$2 billion fund for small business lending

The Government has announced that it will establish a \$2 billion Australian Business Securitisation Fund and an Australian Business Growth Fund to provide longer-term equity funding for small businesses.

Treasurer Josh Frydenberg has said some small businesses currently find it difficult

to obtain finance on competitive terms unless it is secured against real estate. To overcome this, the proposed Australian Business Securitisation Fund will invest up to \$2 billion in the securitisation market, providing additional funding to smaller banks and non-bank lenders to on-lend to small businesses on more competitive terms.

ATO information-sharing: super assets in family law proceedings

Superannuation is often the most significant asset in a separated couple's property pool, particularly for low-income households with few assets. Parties to family law proceedings are already legally required to disclose all of their assets to the court, including superannuation, but in practice parties may forget, or deliberately withhold, information about their super assets.

The Government has announced an electronic information-sharing mechanism to be established between the ATO and the Family Law Courts to allow superannuation assets held by relevant parties during family law proceedings to be identified swiftly and more accurately from 2020. This measure was included as part of a broader financial support package for women announced on in November.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Tax Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Tax Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval. Liability limited by a scheme approved under Professional Standards Legislation.

Thomas Noble & Russell

31 Keen Street Lismore NSW 2480 Australia
Telephone +61 2 6621 8544 | Fax +61 2 6621 9035
Email: enquiries@tnr.com.au | Website: www.tnr.com.au

