JULY 2019 NEWS

The Australian Tax Office hotspots 2019 — do they apply to you?

Every tax time, the ATO focuses on certain hotspots where taxpayers are prone — either accidentally or deliberately — to make errors. These are the areas it will concentrate its audit firepower on, and for those who have made claims in areas which the ATO will be targeting, they can be a wake-up call both to ensure that you get it right this year and that you go back and check that you did it right last year.

So, what is on the ATO's list this year? Well, essentially, they're looking at two main areas: work-related expenses and claims made by investment property owners.

The ATO recently claimed that there was an $8.7 billion shortfall between the tax individuals are expected to pay and the tax they actually are paying. The ATO believes that work-related expenses claims are the biggest element in that "tax gap" and have signalled that they'll be looking closely at these deductions this year. In particular, they'll be looking closely at:

- Claims for work-related clothing, dry cleaning and laundry expenses (for instance the ATO has flagged that it will be checking taxpayers who take advantage of the exemption from keeping receipts for people who spend less than $150 on laundry expenses; the ATO believes that too many people are claiming this without actually incurring the expense)
- Deductions for home office use, including claiming for "occupation" costs like rent, rates and mortgage interest, which are not allowable unless you're actually running a business from home.
- Overtime meal claims
- Union fees and subscriptions
- Mobile phone and internet costs, with a particular focus on people who are claiming the whole (or a substantial part) of the bill for their personal mobile as work-related
- Motor vehicle claims where taxpayers take advantage of the 68 cent per kilometre flat rate available for journeys up to 5,000kms (the ATO is concerned that too many taxpayers are automatically claiming the 5,000km limit regardless of the actual amount of travel)

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- Incorrectly claiming deductions under the rule that allows taxpayers who have incurred work-related expenses of $300 or less in total to make a claim without receipts (the ATO believes that some taxpayers are claiming this — or an amount just less than $300 — without actually incurring the expenses at all)

All these are areas where we know taxpayers often make mistakes, often not helped by misleading or vague advice from the ATO about how the law actually works. Our top tip before making any claim is to be confident that you understand what you can and can't claim, and that you have the necessary proof (invoices, receipts, diaries etc.) that you actually incurred the expenditure and that it was work or business-related.

Property spotlight

The other main focus this year is on people who make deduction claims in relation to investment properties and holiday homes. Over 1.8 million people — or about 8 per cent of the Australian population — own an investment property, according to ATO figures, so this is a large and growing population for them to focus on. The ATO believes errors in rental property claims are the second biggest component in the $8.7 billion tax gap (after work-related expenses), and indeed, they recently announced that in a series of audits, the ATO found errors in 90 per cent of returns reviewed. So, this year, expect them to focus on the following:

- The ATO has announced it will be paying close attention to excessive interest expense claims, such as where property owners have tried to claim borrowing costs on the family home as well as their rental property.
- They will also be looking at the incorrect apportionment of rental income and expenses between owners, such as where deductions on a jointly owned property are claimed by the owner with the higher taxable income, rather than jointly.
- They will be looking at holiday homes that are not genuinely available for rent. Rental property owners should only claim for the periods the property is rented out or is genuinely available for rent. Periods of personal use can't be claimed. This is particularly important for holiday homes, where the ATO regularly finds evidence of home owners claiming deductions for their holiday pad on the grounds that it is

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being rented out, when in reality the only people using it are the owners, their family and friends, often rent-free.

- They will be keeping a close eye on incorrect claims for newly purchased rental properties. The costs to repair damage and defects existing at the time of purchase or the costs of renovation cannot be claimed immediately. These costs are deductible instead over a number of years. Expect to see the ATO checking such claims and pushing back against claims which don't stack up.

Don't forget, the ATO has access to numerous sources of third-party data including access to popular holiday rental listing sites such as Stayz and Airbnb, so it is relatively easy for them to establish whether a claim that a property was "available for rent" is correct.

The key tip is to ensure that property owners keep good records. The golden rule is: if you can't substantiate it, you can't claim it, so it's essential to keep invoices, receipts and bank statements for all property expenditure, as well as proof that your property was available for rent, such as rental listings.

Other hotspots

Cryptocurrency

The ATO will also be taking a closer look at the booming market in investments in cryptocurrencies like Bitcoin. Increasing numbers of taxpayers are jumping on the bandwagon and the ATO believes that some of them are failing to declare the profits (and in some cases the losses) they are making on their investments. Remember, investing in cryptocurrencies can give rise to capital gains tax on profits. Traders can be taxed on their profits as business income.

To help them in their search, the ATO is collecting bulk records from Australian cryptocurrency-designated service providers (DSPs) as part of a data-matching program to ensure people trading in cryptocurrency are paying the right amount of tax. Data to be provided to the ATO will include cryptocurrency purchase and sale information. The data will identify taxpayers who fail to disclose their income details correctly.

The ATO estimates that there are between 500,000 and one million Australians that have invested in crypto assets.

Sharing economy

The ATO will also be looking closely at those working in the shared economy to ensure that income and expenses are correctly reported. Examples quoted by the ATO include services such as:

- ride-sourcing – transporting passengers for a fare (such as Uber drivers)
- renting out a room or house for accommodation (Airbnb hosts are the obvious example). The ATO is believed to be particularly concerned about taxpayers claiming the full CGT main residence exemption when part of their main residence has been rented out through Airbnb. The law prevents a full CGT exemption where part of a main residence has been used to earn income.
- renting out parking spaces
- providing skilled services – web or trade services etc. (Airtasker workers, for instance)
- supplying equipment, tools etc.
- completing odd jobs, errands, deliveries etc.
- renting out equipment such as tools, musical instruments, sports equipment etc.

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