Sutherland Tse & Co Pty Ltd

Month Year

ATO focus on rental property income and deductions

Income and tax deductions from rental properties is one of the four key areas that the ATO is focusing on this Tax Time.

About this newsletter

Welcome to Sutherland Tse's client information newsletter, your monhtly super and tax update. It is very important to keep you updated with the latest topics, news and changes you need to know. Should you require any further information for any of the topics covered please contact our office:

T: 02 9763 1628 | E: info@sutherlandtse.com.au

Content in partnership with TAX & SUPER AUSTRALIA

The ATO is urging rental property owners to ensure they carefully review their records before declaring income or claiming deductions this Tax Time, and for registered tax agents such as us to ask a few extra questions of our clients who own rental properties.

As your registered tax agent, we can only work with the information we gather from our clients, and we know some clients won't know everything they need to tell us (which is understandable).

continued on page 2

ATO focus on rental property income and deductions cont

INCLUDE ALL RENTAL INCOME

The ATO receives rental income data from a range of sources including sharing economy platforms, rental bond authorities, property management software providers, and state and territory revenue and land title authorities. The amount of data the ATO accesses grows each year, making it easier and faster for them to spot any rental income that you have charged your tenants, but haven't declared (even unintentionally). When preparing tax returns, all rental income must be included, such as from short-term rental arrangements, renting part of a home, and other rental-related income like insurance payouts and rental bond money retained.

Further, income and deductions must be in line with a rental property owner's ownership interest, which should generally mirror the legal documents.

GETTING YOUR EXPENSES RIGHT

Not all expenses are the same – some can be claimed straight away, such as rental management fees, council rates, repairs, interest on loans and insurance premiums. Other expenses such as borrowing expenses and capital works need to be claimed over a number of years. Capital works can include replacing a roof, or a new kitchen renovation. Depreciating assets such as a new dishwasher or new oven costing over $300 are claimed over their effective life.

Refinancing or redrawing on a rental property loan for private expenses such as holidays or a new car, means that the amount of interest relating to the loan for that private expense can't be claimed as a deduction.

If income from a rental property in a holiday location is earnt, it needs to be included in tax returns.

KEEP GOOD RECORDS TO PROVE IT ALL

Records of rental income and expenses should be kept for five years from the date of tax return lodgments or five years after the disposal of an asset, whichever is longer.

Adequate records should demonstrate how the expense was incurred for the rental property and the extent to which it relates to producing rental income. Records must include the name of the supplier, amount of the expense, the nature of the goods or services, the date the expense was incurred, and the date of the document. ■

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

COVID-19 relief for SMSF trustees now at an end

The ATO has reminded SMSF trustees that the COVID-19 relief and support offered to SMSFs ended on 30 June 2022.

At the peak of the COVID-19 pandemic, SMSF trustees that were financially or otherwise impacted by the recurring and prolonged lockdown periods were granted relief by the ATO.

The relief was offered to SMSFs for the 2019/20, 2020/21 and 2021/22 financial years where certain situations beyond their control may have caused SMSF trustees to contravene superannuation law.

For example, an SMSF trustee may have given tenant/s (including a related party tenant) a reduction in rent if they were financially impacted due to COVID-19. As charging a price that is less than market value will usually give rise to contraventions under the superannuation laws, the relief measures avoided this outcome if the arrangement met certain criteria (ie. the relief was offered on commercial terms and the arrangement was documented, etc).

The relief measures that were available

The table below shows the types of relief SMSF trustees were offered by the ATO.

Actions required for SMSF trustees

As the ATO's COVID-19 support has ended, the ATO expects:

- SMSF trustees to now comply with their obligations under the income tax and superannuation laws previously covered by the relief
- Approved SMSF auditors to report contraventions to the ATO via the Auditor/actuary contravention report (ACR) where the reporting criteria is met.

The ATO has also reminded SMSF trustees to ensure they document any relief they accessed and to provide their approved SMSF auditor with evidence to support their case for the purposes of their annual SMSF audit.

SMSF trustees have also been encouraged to take advantage of the ATO voluntary disclosure service and formulate a plan of rectification should any contraventions occur. ■

COVID-19 relief available	Examples of how superannuation laws could have been breached
SMSF residency relief	If SMSF trustees were stranded overseas due to COVID-19 and this caused them to be out of Australia for more than two years, this may have affected the fund's residency status for tax purposes.
Rental relief	Rental relief provided by a SMSF to a tenant in the form of a reduction, waiver or deferral may have breached the superannuation laws.
Loan repayment relief	The superannuation laws could have been breached where: ■ The SMSF was the lender and provided loan relief to a related or unrelated party, or ■ Where the SMSF was the borrower and received relief due to the financial impacts of COVID-19.
In-house asset relief	Where an SMSF exceeded the 5% in-house asset threshold at 30 June of a financial year due to the financial impacts of COVID-19 and could not execute a plan by 30 June of the following financial year to reduce the market value of the fund's in-house assets to below 5% because: ■ The market has not recovered in some areas, or ■ It may be unnecessary to implement the plan as the market has recovered.

Wash sale arrangements under scrutiny

The ATO is warning taxpayers not to engage in 'asset wash sales' to artificially increase their losses in order to reduce capital gains or expected gains. It cautions that they are a form of tax avoidance.

These arrangements typically involve the disposal of assets such as cryptocurrency and shares just before the end of the financial year where, after a short period of time, the taxpayer reacquires the same or substantially similar assets. This may be a wash sale and is done to create a loss to offset against a gain already derived, or expected to be derived, in certain circumstances, in a tax return.

Wash sales differ from the normal buying and selling of assets because wash sales are undertaken for the artificial purpose of generating a tax benefit for the current financial year. The taxpayer disposes of and quickly reacquires the asset for the deliberate purpose of realising a capital loss and obtaining an unfair tax benefit by offsetting it against a capital gain.

In terms of detection, the ATO states that its sophisticated data analytics can identify wash sales through access to data from share registries and crypto asset exchanges. When the ATO identifies this behaviour, the capital loss is rejected.

Of course, the selling and repurchase of the same CGT asset within a short period of time – resulting in a loss – can in some cases just be as a result of rational investing and not driven by tax. The disposal and acquisition may be explicable by reference to market changes, for instance the improvement in share price, and demand for the stock may also be regarded as consistent with the way in which taxpayers usually hold and realise investments. The disposal and reacquisition within a short period of time may be referable to a change in investor sentiment and market activity. This tends against the dominant purpose of obtaining a tax benefit – see example 6 of ATO tax ruling TR 2008/1.

This ATO ruling states that there is no set period of time between sale and reacquisition in order for a sale to be classed as a wash sale. It will depend on the overall circumstances, as it should. By contrast, in the United States by way of example, there is a 61-day rule. A loss from selling stock or mutual fund shares is disallowed for federal income tax purposes if, within the 61-day period beginning 30 days before the date of the loss sale and ending 30 days after that date, you buy substantially identical securities.

The take-home message is it's still ok to sell and quickly reacquire shares and cryptocurrency within a short period of time – provided it's not done to create an artificial loss. This can be a difficult topic to understand, therefore touch base with us if you are selling shares or crypto and are uncertain about how the law may apply. ■

GST Health Check

Now that the financial year has come to a close, it's a good time to check all things GST.

Registration

If you are not already registered, you may over the coming period need to register for GST if:

- your business or enterprise begins to have a GST turnover of $75,000 or more per year (gross income from all businesses minus GST)
- your non-profit organisation begins to have a GST turnover of $150,000 or more.

Even if you are under these thresholds, it may be advantageous to register for GST if you typically end up in a GST refund position each tax period. By registering, this will enable you to claim the GST tax credits on certain purchases rather than missing out on those credits because you are not registered. Talk with us further if you are uncertain around this.

Conversely, if your turnover drops below these thresholds or you are contemplating ceasing business, you may deregister from GST. There are certain consequences that flow from deregistering which we can run through with you.

If you are not registered for GST and therefore cannot claim GST credits on business-related purchases, you can claim the GST as a tax deduction – though this is not as profitable as claiming the credit in full if you were GST-registered.

Unclaimed GST credits

The end of financial year is a good time to check if you have missed claiming any GST credits. For example, you may have come into possession of, or found, tax invoices from prior periods which you haven't provided to us. Your entitlement to a GST credit ends four years after the due date of the earliest Activity Statement in which you could have claimed the credit.

Reporting period

If your business invariably ends up with GST refunds each tax quarter, consideration may need to be given for you to lodge monthly. This will assist cashflow by bringing forward your refunds – having them paid monthly rather than waiting three months to receive them from the ATO. We can review this with you.

continued page 7 ⇨

YourSuper comparison tool

Are you ready to take control and compare your superannuation fund's performance against other funds? You might be in luck if you have a MySuper fund as the ATO's YourSuper comparison tool can help you compare different MySuper products and choose a superannuation fund that meets your needs.

What is a MySuper fund?

A MySuper fund is a low-cost superannuation product and is usually the default account for people who don't choose their own superannuation fund when they start a new job.

Many large Australian Prudential Regulation Authority (APRA) regulated superannuation funds (ie, retail, industry and corporate funds) can all offer MySuper accounts to members in accumulation (ie, non-retirement) phase.

MySuper funds are simple accounts that generally have the following basic features:

- Simple investment strategy options – depending on the fund, you will be put into either a single diversified investment option or a lifecycle investment option based on your age
- Lower fees – you don't pay for unnecessary features that you don't need
- Default insurance options – you can easily opt out of the insurance arrangements if you wish
- Easy to compare – you can easily compare MySuper funds based on investment performance, cost and insurance.

YourSuper comparison tool

You can find out about and compare MySuper products by using:

- Your superannuation fund's product disclosure statement (PDS) for the MySuper product, or
- The ATO's YourSuper comparison tool.

If you can't find your current account type within the MySuper products list, your account may not be a MySuper product. The best way to confirm whether your account is a MySuper product is by contacting your superannuation fund directly.

What the YourSuper comparison tool does

The YourSuper comparison tool can compare MySuper products based on only a few key differences.

In particular, the YourSuper comparison tool:

- Displays a table of MySuper products ranked by fees and net returns (updated quarterly)

continued page 7 ⇨

GST Health Check cont.

Accounting method

It's an opportune time to re-evaluate whether your current method is right for your business needs. You can change your accounting method at the start of a new tax period.

Unless you are eligible to operate on a cash basis, you must use the accruals method of accounting. Under the accruals method, you account for the GST collected at the earlier of when the tax invoice is issued by you or when you receive payment for a sale. For GST payments, you attribute your credits to the earlier of the tax period that you made payment, or were issued a tax invoice. Note that regardless of the tax period to which you attribute a credit, you cannot actually claim the credit unless you have a tax invoice at the time of lodging your Activity Statement.

If an entity qualifies to account on a cash basis it will:

- Claim GST credits on its business purchases in the tax period in which it pays for those purchases. If it pays only part of the cost of a business purchase in a tax period and has a valid tax invoice, it will only claim GST credits for that part of the cost in that tax period
- Account for the GST payable on its sales in the tax period in which it receives payment. If it only receives part payment for a sale in the tax period, it will account only for the part of the GST payment that relates to that part of the sale in that tax period.

The cash basis is generally more appropriate where an entity does not rely on its circulating capital or consumables to produce supplies. Such entities normally have a less complex structure than those entities more dependent on their circulating capital or consumables. On the other hand, where an entity relies predominantly on circulating capital or consumables to produce supplies, it is appropriate that the entity adopts the accruals basis.

We can advise on whether a change would be beneficial and your business's eligibility to change. ■

YourSuper comparison tool cont.

- Allows you to select and compare in more detail up to four MySuper products at a time
- Links you to a superannuation fund's website when you select a MySuper product from the table
- Can show your current superannuation accounts alongside other MySuper products (if you access the personalised version through myGov)
- Provides links to help you consolidate your superannuation accounts.

APRA assesses the annual performance of each MySuper product. As such, the investment performance column will provide one of the following results for each fund:

- Performing – the product has met or exceeded the performance test benchmark
- Underperforming – the product has not met the performance test benchmark, or
- Not assessed – the product had less than 5 years of performance history and has not been rated by APRA.

Using the YourSuper comparison tool

To access a personalised version of the tool which allows you to view and compare your existing MySuper products:

- Log in to ATO online services through myGov, and
- Go to the Super drop-down menu and select Information, then select YourSuper comparison.

You can also access a non-personalised version of the YourSuper comparison tool without logging into myGov by:

- Visiting ato.gov.au and search for "YourSuper comparison tool" (or search for QC 66143 on the ATO website), and
- Start searching for your own MySuper product name.

Need more information?

If you need help comparing your superannuation fund or need assistance understanding how the comparison information relates to your circumstances, we are here to help, so please contact us for further information. ■

Switching home loans

With interest rates increasing quite rapidly, homeowners are being encouraged to look around for a better deal on their home loan. ASIC has recently released some tips if you are doing so.

Ask your current lender for a better deal

Tell your current lender you are planning to switch to a cheaper loan offered by a different lender. To keep your business, your lender may reduce the interest rate on your current loan.

If you have at least 20% equity in your home, you'll have more to bargain with. Having a good credit score will also help with negotiations.

Compare any loan they offer you with the other loans you're considering switching to.

Negotiate the length of the new loan

Some lenders will only refinance with a new 25- or 30-year loan term. You could end up with a longer loan term than the years left to pay off your current mortgage.

The longer you have a loan, the more you'll pay in interest. If you do decide to switch, negotiate a loan with a similar length to your current one.

Weigh up the cost of lender's mortgage insurance

If you have less than 20% equity in your home, you might have to pay lender's mortgage insurance (LMI). This can increase the cost of switching and outweigh the savings you'll get from a lower interest rate.

If you decide to switch, ask for a refund of some of the LMI from your current loan.

Multiple comparisons

Get at least two different quotes on home loans for your situation.

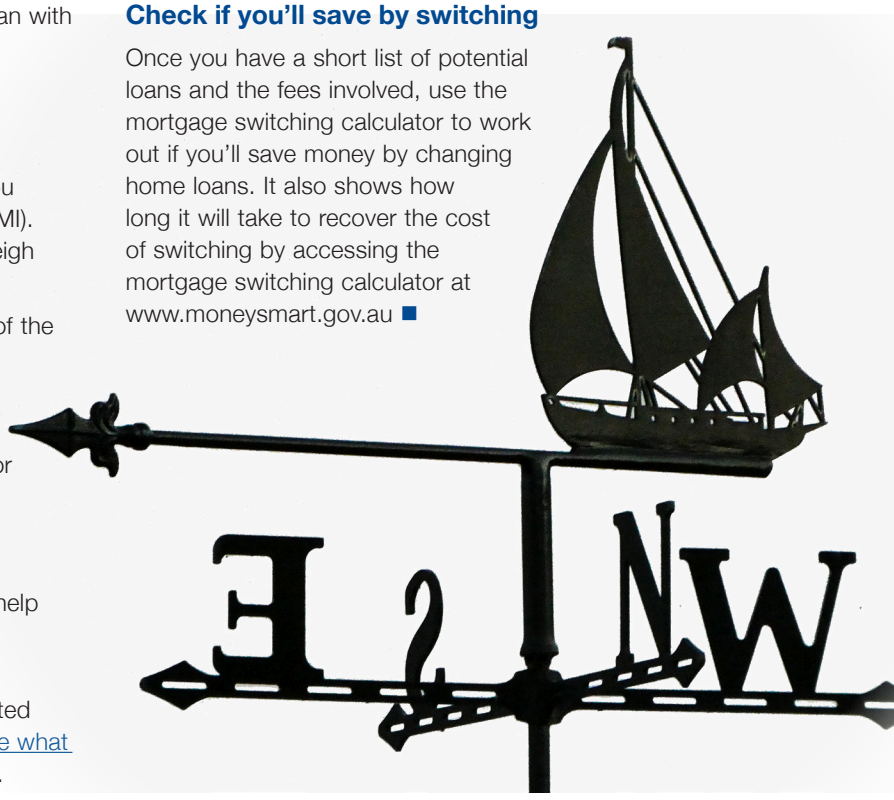
Compare the fees and charges

A mortgage broker or a comparison website can help you find out what's available.

Comparison websites can be useful, but they are businesses and may make money through promoted links. And they may not cover all your options. See what to keep in mind when using comparison websites.

Compare these fees and charges:

Fixed rate loan	You may be charged a break fee if you are on a fixed loan
Discharge (or termination) fee	A fee when you close your current loan
Application fee	Upfront fee when you apply for a new loan. You can perhaps ask your new lender to waive this in order to get your business
Switching fee	A fee for refinancing internally (staying with your current lender but switching to a different loan)
Stamp duty	You may be liable for stamp duty when refinancing. Check with your lender

Check if you'll save by switching

Once you have a short list of potential loans and the fees involved, use the mortgage switching calculator to work out if you'll save money by changing home loans. It also shows how long it will take to recover the cost of switching by accessing the mortgage switching calculator at www.moneysmart.gov.au ■