

ATO'S UPCOMING RENTAL PROGRAM

The ATO will again be writing to tax agents and taxpayers over the next few weeks in relation to its ongoing rental audit program. With over a million taxpayers entering into the rental market, it's obviously a hot target for the ATO. Some of the more common problems the ATO finds are:-

Common Rental Deduction Problems

- ◆ Initial capital improvements claimed as repairs.
- ◆ Expenses claimed where a property is not available for rent.
- ◆ Taxpayers estimating their own construction costs of buildings rather than relying on cost estimates provided by independent qualified persons.
- ◆ Land value included as part of the construction cost.
- ◆ Interest claimed on loans that are partly or wholly for private use.
- ◆ Assets incorrectly classified as depreciating assets for uniform capital allowance purposes.
- ◆ Incorrect asset values used for calculating depreciation.
- ◆ Travel expenses not reasonably apportioned when the purpose of the trip is partly or predominantly private.
- ◆ Borrowing expenses not correctly apportioned.

Checklist of Deductions for Landlords

The following checklist summarises the common tax deductions that can generally be claimed by landlords against their assessable rental income.

<u>Item</u>	<u>Deductible</u>	<u>Non-Deductible</u>	<u>Reference</u>
Accountant's fees - preparing returns, tax advice and tax return lodgement costs.	✓		S.25-5
Adjustments for rates/land tax (in favour of vendor) - related to purchase of property.	✓		S.8-1 FCT v Morgan

<u>Item</u>	<u>Deductible</u>	<u>Non-Deductible</u>	<u>Reference</u>
Advertising expenses.	✓		S.8-1
Agent fees/commission - for managing the property and collecting rent.	✓		S.8-1
Bank charges - related to accounts used to deposit rent receipts and to meet deductible outgoings (including interest).	✓		S.8-1, IT 2084
Boarders costs - where the tenant is a boarder in the domestic residence of the taxpayer, a proportion of rates, gas/electricity, food costs, etc. may be deductible. Generally, floor area is used as the basis of apportionment.	✓		S.8-1, IT 2167
Body corporate fees: - for general maintenance, repairs etc. - for improvements, initial repairs etc.	✓	✓	S.8-1 Case W83 (89 ATC 731)
Borrowing expenses - search fees, valuation fees, survey and registration fees, etc.	✓		S.25-25
Buildings and structural improvements - a write-off could be available for the cost of constructing capital works. Construction must generally commence after:- - 17.07.1985 - for residential buildings; or - 26.02.1992 - for structural improvements	✓		Division 43
Deposit bond fee		✓	
Depreciation - assets in the rental property (e.g. carpets, blinds, hot water service, etc.)	✓		Division 40

<u>Item</u>	<u>Deductible</u>	<u>Non-Deductible</u>	<u>Reference</u>
Gardening/lawn mowing	✓		S.8-1
Initial repairs		✓	TR97/23
Insurance premiums			
- sickness/accident, building, fire, burglary, public liability, loss of rent.	✓		S.8-1
- life and trauma		✓	
Interest on money borrowed to purchase rental property.	✓		S.8-1
Land Tax	✓		S.8-1
Lease preparation, registration, stamping	✓		S.25-20
Lease incentive payment	✓		S.8-1, IT2631
Lease surrender payment		✓	S.8-1
Legal costs:-			
- recovering unpaid rent, seeking damages for breach of agency agreement, reviewing credit worthiness of proposed tenant.	✓		S.8-1
- to buy or sell the property, to defend title to the property, to oppose a neighbour's building application.		✓	S.8-1
Mortgage discharge expenses	✓		25-30
Mortgage insurance	✓		S.25-25
Penalty interest on early loan repayment	✓		S.8-1, S.25-30, and TR93/7
Pest control	✓		S.8-1
Postage and stationery	✓		S.8-1

<u>Item</u>	<u>Deductible</u>	<u>Non-Deductible</u>	<u>Reference</u>
Quantity surveyor report (cost estimate) - for Division 40 or Division 43 purposes	✓		S.25-5
Rates (council and water)	✓		S.8-1
Repair and maintenance (excluding initial repairs)	✓		S.8-1, S.25-10, and TR97/23
Telephone calls and rental - related to dealing with real estate agents, tenants, plumbers and other rental property matters.	✓		S.8-1
Travel:-			
- to prepare property for incoming tenants	✓		
- to collect rent	✓		S.8-1
- to inspect the property during, or at the conclusion of, a tenancy	✓		FCT v Green (81 CLR 313)
- to maintain/undertake repairs to property	✓		
- to inspect property prior to purchase		✓	
- to purchase property		✓	
- to undertake improvements to property		✓	