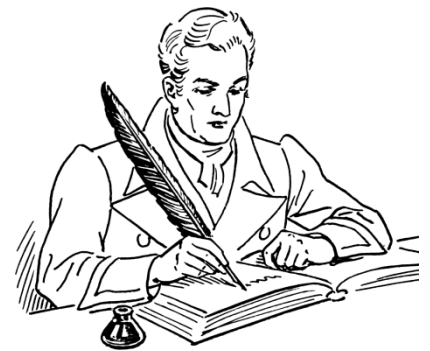


## Tax Related News

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### **A: The Tax Avoidance Taskforce has been expanded.**

**(From the ATO)** We are increasing our focus on supporting and ensuring private groups and high wealth individuals pay the right amount of tax....There are now three Tax performance programs for private groups:

1. The Top 500 private groups program expands our Top 320 program...
2. High wealth private groups program builds on our previous work with high wealth individuals. It includes Australian resident individuals who, together with their associates, control wealth of more than \$50 million... and a new group...
3. The Medium and emerging private groups program, which will use enhanced data and analytics to let us better understand your operating environment. This will help us identify developing trends and priority tax risks, and design tailored approaches to help you mitigate those risks so you can meet your tax obligations. Medium and emerging private groups represent about 97% of the total private group population.

**These include private groups linked to Australian resident individuals who, together with their associates, control wealth between \$5 million and \$50 million, and Businesses with an annual turnover of more than \$10 million, that are not public or foreign owned and are not linked to a wealthy individual...**

### **B: From the Tax Practitioners' Board: don't share your MyGov Password.**

A recent case highlights the risk of identity crime.....Benjamin Cox posed as a tax agent and lodged over a thousand individual tax returns using each taxpayer's personal myGov access. He charged clients for his services and also took some refunds his clients were due by using his own bank details to take the payments. Cox used his own bank account to receive refunds relating to these lodgments. 1,098 individual victims' deposits were received totaling \$109,800.

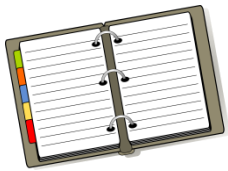


**C: From the Tax Practitioners' Board: Whistleblower legislation.**

New whistleblower laws commenced on 1 July 2019 to legally protect people who 'blow the whistle' about an entity that is not complying with the tax laws. The reforms aim to protect whistleblowers when they disclose information about an entity in relation to tax avoidance behaviour and other tax issues to an eligible recipient prescribed under the legislation.



**D: Tax Cases – You can lose big time if a logbook is incorrect.**



A recent AAT case (Reid) highlights the importance of completing a logbook correctly if you want to deduct car expenses using the logbook method. There are 2 statutory methods for an individual or partnership to work out car expense deductions – the logbook method and the cents-per-km method. The latter is the simplest – you just multiply the number of business kilometres travelled by the prescribed amount (currently 68 cents per km, irrespective of the size of the car). But there is one problem – the number of business kilometres that can be taken into account is capped at 5,000. So, if your business kilometres exceed 5,000, you should consider using the logbook method.

There are specific rules about maintaining a logbook. The logbook must show the date the journey began and ended, the odometer readings at the start and end of the journey and the number of kilometres travelled. For the first year in which car expenses are claimed, the logbook must be kept for a continuous 12-week period (unless the car is held for less than 12 weeks, in which case the logbook must cover the whole period).



The problem for Mr. Reid in the recent case was that his logbook did not comply with the rules, so the AAT agreed with the ATO that he could not use the logbook method. Instead, he was allowed a deduction using the cents-per-km method but, of course, only for a maximum of 5,000 km each year (2012, 2014 and 2015).

As a result, the car expense deductions he was allowed (\$11,450 in total – assuming Mr. Reid drove a large car) were about \$60,000 less than the amount he claimed using the logbook method. So where did Mr. Reid go wrong? Examples of problems with the logbook were: Inconsistencies between the day of the week and the date, the same odometer readings on different dates, dates stating "customer visit" when the employer's records show that he was sick and on personal leave, and dates repeated.

**E: Federal Court – Landmark case for ATO strips phoenix enabling liquidator of his registration.**

The Federal Court has disqualified Sydney man David Iannuzzi from practising as a registered liquidator for a period of 10 years. This is the first time the ATO has initiated Federal Court proceedings using Corporations Act provisions to take on the facilitators of schemes designed to avoid paying tax. The Federal Court found that Mr. Iannuzzi as the sole director of Veritas Advisory Pty Limited had been systemically negligent in his responsibilities as a liquidator over an extended period of time and across more than 23 companies.



**F: From the TIA – Early access to super.**



There are very limited circumstances when you can access your super early and are mainly related to specific medical conditions or severe financial hardship. Some promoters claim to offer early access to your super by transferring your super into a SMSF. These schemes are illegal and heavy penalties apply if you participate.

**G: From the TIA – SMSF bank accounts**

SMSFs need to have a bank account in the fund's name to accept contributions, rollovers of super and income from investments. The ATO will contact SMSF trustees to ask them to update their SMSF's bank account information if necessary.

**H: From the ATO: Common errors made by individuals that concern the ATO.**

We (the ATO) have a range of strategies in place to alert individual taxpayers and their agents to common errors we see and provide information about how to avoid them. However, based on the results of our compliance activities, we remain concerned about the level of incorrect reporting of deductions for work-related expenses and rental properties, and the extent to which these errors are occurring in returns prepared by tax agents.

Work-related expenses: While we understand that most individuals appreciate why they pay tax and make an effort to get it right, we see many instances of incorrect reporting of work-related expenses. Key principles are that individuals are (only) entitled to claim deductions for certain work-related expenses if: they spent the money and were not reimbursed by their employer, the expense was directly related to earning their income and not for a private purpose, and they have a record such as a receipt, bank statement or diary entry to prove the amount being claimed or how it was calculated. If the money was spent for both work and private purposes, only the work-related portion can be claimed as a deduction



Receipts: If an individual's total claim for work-related expenses is more than \$300, the person must keep receipts as evidence to prove the claim. If they claim below \$300 in total, receipts are not required. However if we ask them, the taxpayer must be able to show how the claim was worked out and demonstrate that the cost was related to earning their income.



Rental properties: Key principles: The results of our random enquiry program show 9 out of 10 returns contained an error at rental deduction labels, particularly for 'other' deductions and interest. People are entitled to claim certain deductions for rental properties but only for the period the property was rented or available for rent. Similarly, if only part of the property was used to earn rent, only the portion relating to the income earned may be claimed. People are also entitled to claim certain deductions for the decline in value of certain assets and, subject to the type and date of construction, certain capital works expenditure. They are also required to keep certain records to substantiate income and expenses relating to rental properties. The government has recently moved to restrict or remove specific types of rental income deductions, including travel to a residential investment property, as part of their Housing Tax Integrity measures.



Common errors:



For rental expenses include: claiming deductions for properties that are not genuinely available for rent, claiming deductions for loan interest expenses when a portion of the loan was used for private purposes, incorrect categorisation of capital works and capital allowances, not having records to substantiate income received and deductions claimed and incorrectly apportioned claims for interest deductions.

*These articles have been selected from the Newsletter of The Taxation Institute in Australia. Issue 44, was issued on 15 November 2019.*

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