# Tax News & Insights

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OmniTax Professionals

## Rental Properties & Holiday Homes – new draft ruling & PCGs

With effect from 12 November 2025, the ATO has withdrawn its existing ruling on rental property deductions (Taxation Ruling IT 2167) and released draft Taxation Ruling TR 2025/D1 *Income tax: rental property income and deductions for individuals who are not in business*.

TR 2025/D1 modernises the views expressed in IT 2167 by providing guidance for taxpayers that earn income from the short-term rental market (e.g. online booking or sharing platforms, including renting out a holiday home or letting a room in a home) and letting out a property, or part of a property, to long-term tenants.

The ATO has also released the following draft Practical Compliance Guidelines:

- PCG 2025/D6 – which provides the ATO's proposed compliance approach to the apportionment of rental property deductions.
- PCG 2025/D7 – which explains the ATO's compliance approach to determining whether your holiday home is used (or held for use) mainly to produce assessable income.

When the final ruling and PCGs are issued, they are proposed to apply to years of income commencing both before and after their date of issue, subject to the transitional compliance approach in respect of holiday homes that are rental properties before 1 July 2026 if expenses were incurred under an arrangement entered into prior to 12 November 2025. The ruling and PCGs are subject to public consultation until 30 January 2026.

Our key observations from the draft ruling and PCGs are as follows:

- **Stricter rules for deductions relating to mixed-use properties such as holiday homes and short-stay rentals** – this is the first time the ATO has publicly applied the "leisure facility rules" to holiday homes. Under these rules, if your rental property is also a holiday home, costs relating to the ownership or use of the property are non-deductible unless at all times during the relevant income year, you use your holiday home (or hold it for use) mainly to produce assessable income (rent). Such costs include interest on borrowings to finance the property, council rates, land tax and repairs and maintenance.

- **Broad concept of "holiday home"** – any use of a property for holiday or recreation will *prima facie* regard the property as a holiday home. This includes the occasional use of the property for one or 2 nights in a year for a holiday.

- **Availability for rental during peak seasons – a key factor** – if a holiday home is not available or used as a rental for all or most of the time when it is desirable as a holiday destination (e.g. school holidays, public holidays or peak seasonal demand periods), this will indicate that the main use for holding the holiday home throughout the year is not to produce assessable income. This may result in the denial of deductions under the "leisure facility rules".

- **Tougher tests on commercial intent and rental availability** – simple analysis of "rental days" versus "private use days" and being able to show the property is advertised for rent (while helpful) are not enough to demonstrate that a holiday home is used (or held for use) mainly for producing assessable income. Other qualitative factors need to be considered including pattern of use of the holiday home and times when it is held for potential private use. Personal use or family / friend use rent-free or at below market rate indicates that the main use of the property is not to produce assessable income.

- **Apportionment of expenses and unoccupied property being available for rent on commercial terms** – for unoccupied properties, demonstrating that the property is available for rent on commercial terms requires consideration of various factors including the property being advertised in a way which gives it broad exposure to potential clients, the rental terms (including the rental rate), being similar to comparable properties in the same area, genuine attempts to rent out the property, requests to rent the property being actively monitored and any restrictions which may turn away guests.

- **Taxpayers must maintain good record-keeping and clear evidence to support tax deductions** – the draft ruling and PCGs require taxpayers to be able to clearly demonstrate (*inter alia*) the stay history of their properties, the property being genuinely available for rent during peak periods, genuine / realistic advertising at market rates and on commercial terms and active monitoring and acceptance of reasonable rental requests.

With the release of the draft ruling and PCGs and the ATO's focus on holiday homes and rental properties, taxpayers should closely review the circumstances of their own rental properties each year, especially where there is any private use of such property. Each property should be analysed to determine whether it is mainly used to produce assessable income (in light of the ATO guidance) and for its availability for rent on commercial terms. Proper and clear documentation should be retained to support tax positions.

## ATO issues GST Build-To-Rent clarification

The ATO has issued draft changes to Goods and Services Tax Ruling GSTR 2012/6DC, which deals with the GST treatment of commercial residential premises. The updates are designed to provide clearer guidance for property developers, landlords, and advisers, particularly in light of the growth in build-to-rent ("BTR") developments.

The draft ruling outlines the key factors the Commissioner considers will determine whether a BTR development is of residential premises (input taxed). These include apartments that are self-contained (bedroom, bathroom, kitchen, living areas), rented on a long-term basis, and that give tenants exclusive possession with rights to quiet enjoyment. The absence of hotel-style services (such as shared meals or communal kitchens) means these developments are treated as residential accommodation and are not subject to GST in the same way as hotels or motels. Critically, for BTR projects for residential premises, while input-taxed treatment means no GST is payable on rent, the recovery of GST on construction and operating costs is also denied.

In addition to BTR, the Commissioner also outlines his view that hostels and boarding houses are generally transient or short-term accommodation, and even if someone stays for months (e.g., a student hostel), the arrangement is not permanent and does not give the same rights as a tenant. This distinction reinforces that hostels and boarding houses fall within the definition of commercial residential premises.

For developers and landlords, the draft ruling clarification means that long-term residential leases in BTR projects are treated like standard residential tenancies (no GST on rent). At the same time, short-term or transient accommodation, such as hostels, remains taxable. This provides greater certainty for structuring projects and applying correct positions.

## Reportable Tax Position Schedule – Super Funds & CIVs

The ATO has announced that from the 2026 income year, large superannuation funds and collective investment vehicles (CIVs) will also be required to complete the Reportable Tax Position (RTP) Schedule. The schedule is currently completed by Australia's largest public and private companies.

CIVs include managed funds (e.g. MITs, AMITs) and Corporate Collective Investment Vehicles.

The ATO will publish content and instructions on how to complete the schedule before 2026 tax returns are due.

## YTL Power case – Appeal

The Commissioner has appealed to the Full Federal Court against a decision in the Federal Court in *YTL Power Investments Ltd v FC of T [2025] FCA 1317*, involving a foreign resident's capital gain from the disposal of membership interests in an Australian entity.

In this case, the Federal Court held that the taxpayer could disregard a capital gain of over $947 million on the sale of its shares in ElectraNet Pty Ltd. The court held that the term "real property" held its ordinary meaning and rejected the Commissioner's broad construction of Division 855.

Refer to OTP Tax News & Insights from 17 November 2025 for further details.

## $20,000 Instant Asset Write-Off

The Bill containing changes to extend the instant asset write-off for small business entities has been passed by the Senate and now awaits assent.

The Bill extends the $20,000 instant asset write-off for small businesses (with annual turnover under $10 million) by 12 months until 30 June 2026. To be eligible, the relevant asset must first be used or installed ready for use on or before 30 June 2026.

## Contact

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