ATO Crackdown 2024

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The latest news, views, and announcements on the ATO's standpoint and targets in its firing line.

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Key areas of focus from the ATO

Each year the ATO sets eyes on what it believes is contributing to the tax gap in Australia. It is estimated that the tax gap as it sits at the end of the 2021 financial year was quite significant. Having the ability to utilize data matching sources to cross check taxpayers gives the ATO a significant level of information to analyse where taxpayers are getting it wrong.

There have been significant updates occurring in the 2024 financial year with respect to the targeted areas for individual taxpayers.

Line of Sight from an ATO Standpoint

- Rental property deductions and expenses
- Work-related expenses
- Income Declarations

Key Updates into the 2025 financial year

- Stage three Tax Cuts
- Super Guarantee increases and changes

The Brief

With respect to income and expenses that a taxpayer incurs, it is extremely important to determine whether the taxpayer is allowed to claim a tax deduction under section 8-1 of the Tax Act. The biggest issue that is faced by a taxpayer is that everything that is spent for work purposes is deductible and can be claimed even if there is a private component to it.

Another common misconception is that just because they spent for example, $300 of which considered an allowable deduction, that they are going to get $300 back in their pockets. Unfortunately, it does not work that way. What it does is it reduces your taxable income by the amount that has been claimed.

Let's just say that you spent $300 that is an allowable deduction under the s8-1. If your marginal tax bracket as it currently sits is 32.5%, the deduction is only worth $32.5%. You may ask, what do you mean Louie?! What I mean is that your tax liability itself is reduced by 32.5% (Not factoring in any Medicare Levy) and you do not get $300 back in your pocket.

Another common misconception is that capital gains tax is a separate tax entirely. This is not the case. Capital Gains Tax is incorporated within the Income Tax Act and dependent on which entity has made a capital gain, it will be reported on that taxpayer's tax return. This could be an individual, trust, company or SMSF.

What is the ATO eyeing in the 2024 financial year?

Rental Property Deductions

The ATO has various data matching capabilities to determine what type of income a taxpayer has derived in a particular income year and then crosscheck against their own resources to see if has been reported correctly and appropriately. If it doesn't line up, it can raise some eyebrows.

The tax office has formed the view that 90% of taxpayers are getting it wrong when it comes to their investment properties with respect to claiming allowable deductions against the income derived by the property.

Red Flag #1

Is travelling to investment properties and claiming tax deductions for these travel costs including flights, accommodation or whatever other expenses come to mind. This deduction was disallowed from July 2017 and these expenses cannot be claimed for investment properties. The only way travel expenses can be claimed is if the taxpayer is in the business of letting properties. It is also NOT recognised in the cost base of the property when calculating the taxable capital gain or loss.

Red Flag #2

Is when a taxpayer incorrectly deducts the interest expenses on a loan in respect to their investment property. Interest rates have spiked significantly, and we can keep thanking the RBA and the government collectively for that one. However, it is still very important to understand what can and cannot be claimed as an interest expense. One of the biggest aspects that sticks out to me and accountants in general is when the interest year on year has significantly increased. Yes, this may be genuine due to rate hikes etc, however there are other reasons why this may have increased.

Let's say you have a $400,000 loan on your investment property of which continues to produce assessable income. However, during the year, you draw down on that loan for $100,000 which now makes your loan $500,000. If the drawdown was used for private purposes such as buying a car or renovating your own main residence or any activity that is not used to produce assessable income and is for private use, the interest on the drawdown cannot be claimed as a tax deduction because that portion does not have any nexus to assessable income.

Red Flag #3

Is when a taxpayer incorrectly claims deductions for investment properties of which are not rented out to a tenant or genuinely available for rent. For a property to be genuinely available for rent, it must do a few things such as but not limited to the below:

- Be available to the open market
- Not so restrictive to the point where it is almost impossible for a tenant to lease

- The property is in a rentable condition

Red Flag #4

Is where a taxpayer does not charge market rental prices for the property they are leasing out. An abundance of problems can arise with this and sit in the ATO's line of sight with an increased audit risk. Rental income must be derived at market value to be able to claim actual expenses associated with the income. The problem with not charging market rent is that deductions could only be limited to the amount of rent that was received, this results in $0 income and no negative gearing to offset other income in that tax year.

Red Flag #5

Is another common area that gets a lot of attention, and this is repairs vs capital works when it comes to claiming allowable tax deductions in respect of any repairs or improvements that have been made to a taxpayer's investment property.

The ATO argues in many cases where they see a significant claim in the repairs and maintenance label within the tax return for individual taxpayers' income tax returns could and perhaps should have not been claimed as a tax deduction under s 25-10 of the ITAA 1997.

The reason for this is because perhaps the claim that was made potentially should not have been classed as a repair but rather a capital improvement to the property itself. This gets a different tax treatment all together under s 43.15 of the ITAA 1997.

Division 43 under s 43.10 deals with costs that have been incurred to improve the appearance of the rental property and contains expenses that go directly to the structure of the building itself rather than simply repairing and restoring to original condition under s 25-10.

It is extremely important to understand the definition of this legislation and treating expenses as required under the tax law.

Division 43 also comes with CGT implications which reduce the cost base of the property resulting in a larger capital gain or lower capital loss.

Work-Related Expenses

The ATO raises the point that simply copying and pasting last year's tax deduction for work-related expenses is not the right thing to do and I would agree with them profusely. When claiming tax deductions for work-related expenses, you need to be able to substantiate your claims (just like any other deduction).

You can raise a lot of eyebrows from the ATO if deductions are simply being copied and pasted into tax returns from prior years. This includes everything from stationery costs, union fees and many more.

You must be able to substantiate any claims you make on your tax return because at the end of the day, the burden of proof falls on the taxpayer if proof for claims was ever asked for by the ATO during an audit. Trust me, you want to steer clear of these!

Key Area – Work from Home Expenses

The fixed rate method per hour allows a claim of 67 cents per hour worked from. Therefore, if you worked 1,000 hours in the year at home you will be eligible to claim a deduction of $670 on your tax return. However, as we know the ATO loves a good catch. If you decide to use this method, you

cannot claim the below costs **separately**. The fixed rate method includes the below expenses in it such as:

- Home and Mobile Data Expenses
- Mobile and home phone usage expenses
- Electricity and Gas except heating, cooling and lighting
- Stationery and computer consumables

In limited circumstances there could be room to claim occupancy expenses such as mortgage and rent

Again, substantiation for any hours worked at home will need to be readily available if questioned. This can include a diary of the hours worked from home.

Income Declaration

Taxpayers have a duty to report all income that is derived in the year. This includes capital gains on assets such as investment properties, share sales, managed funds, trust distributions and dividends etc. I have seen various situations where clients have not reported their income appropriately and then the tax office was able to data match and find out what was not included, and issue amended assessments.

Cryptocurrency is a big one and a lot of taxpayers struggle to understand what can arise from a cryptocurrency transaction and if it potentially results in a capital gain or loss. There are various sources out there to help you keep on top of this such as Koinly, this is a good one.

The other area is a potential capital gains tax liability on your main residence, yes, you read that correctly, your main residence. Hear me out.

Now, your main residence is generally completely exempt from capital gains tax under the main residence exemption. So even if you bought it for $1 and sold it for $50 million and it has never been used to produce assessable income, this capital gain is disregarded in its entirety.

The issue at play is when your main residence was used to produce income and deductions were claimed against it. This includes things like perhaps having a dedicated home office from which 20% of occupancy expenses were claimed let's say. Yes, there will be an apportionment to calculate the capital gain, but there will be CGT payable because of this. Therefore, only a partial CGT exemption on your main residence can be applied. This is something to be aware of when calculating a potential CGT liability on your main residence.

Single Touch Payroll

Single Touch Payroll or STP has been around now for a while. Each time you are paid from your employer (Assuming you are an employee). This payment is reported directly to the ATO straight away once it has been filed in the accounting software that your employer uses. This means, the ATO know about it straight away. There have been some mistakes with STP from the employer's end which may not necessarily line up to what the ATO has a record of, which can raise some issues if the tax return is prepared with a variance of income as to what has gone through STP.

Trust Distributions

Trust Distributions that you receive as a beneficiary of a trust must be reported on your personal tax return. For example, if you are a beneficiary of a discretionary trust of which the trustee has resolved via a resolution minute that you as a taxpayer are presently entitled to $x income. This must be reported when you lodged your return. Trust distributions can have various components to them such as interest, small business income, capital gains and more. Getting the tax treatment right is highly important when declaring it on your individual tax return.

Dividends

When you invest in shares, you as a shareholder could be paid dividends out of retained profits from the company that made an investment in. Sometimes these dividends are paid out as franked or unfranked. A franked dividend is a dividend that is paid out to shareholders where tax has already been paid on this profit. Because the company has already paid tax on it at the tax rate of let's say 30%. You will receive a dividend of $x along with $x in franking credits. The cash component and the franking credit form part of your assessable income but the franking credit then gets taken straight off your tax liability directly.

Onto more exciting news for the 2025 financial year.

There have been significant changes to our marginal tax rates from the 2024 year and then moving forward into the 2025 financial year. Currently in the 2024 year the tax rates have not changed for a few years. These tax rates are as follows:

Resident tax rates 2023–24

Taxable income	Tax on this income
0 – $18,200	Nil
$18,201 – $45,000	19c for each $1 over $18,200
$45,001 – $120,000	$5,092 plus 32.5c for each $1 over $45,000
$120,001 – $180,000	$29,467 plus 37c for each $1 over $120,000
$180,001 and over	$51,667 plus 45c for each $1 over $180,000

(ATO,2024)

They are now moving to the below from 1 July 2024:

Resident tax rates 2024–25

Taxable income	Tax on this income
0 – $18,200	Nil
$18,201 – $45,000	16c for each $1 over $18,200
$45,001 – $135,000	$4,288 plus 30c for each $1 over $45,000
$135,001 – $190,000	$31,288 plus 37c for each $1 over $135,000
$190,001 and over	$51,638 plus 45c for each $1 over $190,000

(ATO, 2024)

Super Guarantee Increases & Changes

The other aspect is the super guaranteed rate which is increasing to 11.5% from 1 July 2024 with an increase of 0.5% from the 2024 financial year of 11%. This is a good thing and allows for an extra boost in super contributions for employees and contractors for superannuation guarantee purposes.

I will also touch on the concession contribution cap is last increase to $30,000 from 1 July 2024 along with the Non-Concessional contribution cap to $120,000.

This is an increase of $2,500 for the concessional cap and $10,000 for the non-concessional cap.

Wrap Up

The Tax System is a complicated system and requires a significant amount of attention to detail when it comes to reporting income and claiming allowable tax deductions for individuals and small businesses. I know I have not touched on small businesses in this update however there will be an update coming….So stay tuned for that!

I wish you all the very best and I look forward to working with you to ensure that you are complying with all your taxation obligations.

Kindest Regards,

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