

The Rental Property Edition

Caratti Accountants & Business Advisors



Owning a residential rental property is a long held Australian investor dream and investment reality for many. But did you know that this is one of the areas in tax returns that is most often audited and most likely to have errors in rental deduction claims? The ATO has indicated that deductions against rental properties will be a key audit area in the coming year. However, there are also a number of rental property deductions available that are often overlooked. In addition, the WA Government has recently legislated a raft of changes to what landlords can and can't do. This fact sheet provides some information on what these WA changes are, and what you can (and can't) claim as a tax deduction against your residential rental property.

OWNER/TENANT RIGHTS CHANGES

After much lobbying from both tenant and owner representatives, the WA Residential Tenancies Act ("RTA") has recently been amended to expand tenant rights. This only applies to residential tenancies (not commercial) and only to properties located in WA. If you have a rental property in another state, it is important that you review the legislation in that state as the rules are different.

Some of the key changes are:

- Rent bidding will no longer be allowed and you won't be able to ask potential tenants to pay more than the advertised rent, which must be a single price. That is, you cannot ask for a range or a "from" price.
- Simplification of the dispute resolution process.
- Tenants will be able to keep pets in most cases, subject to a pet bond. Owners will be allowed to refuse pets only if it would violate a written law, local law or strata by-law.
- Tenants will be allowed to make "minor modifications" with the owner able to refuse permission under very limited circumstances. However, they will be responsible for restoration and removal of the changes at the end of the tenancy.
- Rent increases will be allowed only once every 12 months.
- From early 2025, the bond disposal process will be simplified allowing the owner and tenant to apply separately.

Importantly, there were some proposed changes that did not get through. Specifically:

- There is still no rent capping, meaning that the rent amounts will still be dictated by the market, and
- No-grounds terminations are still available meaning that as owner, you will still be able to end a tenancy without a specific reason.

Further information on these changes can be found at <https://view.publitas.com/reiwa-1/rental-fact-sheets-what-they-mean-for-owners/page/1>

These changes are complex and if you have any specific queries in relation to these, please speak directly to your property manager.



COMMON RENTAL PROPERTY TAX ERRORS

The ATO have indicated that rental properties will be a key audit area in this coming tax year. Some of the common mistakes that they are targeting include:

- Claiming an outright deduction for items that are really capital such as initial repairs, improvements.
- Incorrectly claiming interest on your loan when the funds have been partially used for personal purposes eg purchasing your home. The key issue for determining deductibility is what the money from the loan were used for, not what security is provided. Please be careful when refinancing your loans and if unsure, please speak to me beforehand. Finance brokers are not always aware of these rules.
- Incorrectly claiming all of the loan repayments including the principal component. Only the interest component is deductible.
- Claiming 100% of borrowing or refinancing costs. Generally, these will need to be claimed over 5 years.
- Claiming 100% of strata fees. Generally, these are deductible EXCEPT where funds are being raised for a special purpose fund for major capital works. This component will need to be claimed over a number of years under the capital works provisions.
- Claiming 100% of deductions when the property is not available for rent (eg holiday home or not being advertised) or rented to family/friends at below market value. The property needs to be genuinely available for rent, not just at off-peak times excluding Christmas and Easter holidays.
- Claiming costs of certain second-hand depreciating items. For example, if you buy a new dishwasher for the rental property, this can only be claimed under depreciation if it was new. If you acquired it second hand from, say Facebook Marketplace, then you will NOT be able to claim depreciation on it.
- Claiming travel costs to the property, eg mileage or flights.
- Claiming deductions for repair work with a contractor who does not have an ABN.

Example: Withholding from suppliers

Sergio and Marcia own a rental property and need to make repairs to a wall.

Sergio gets a quote from Derek's Wall Repairs, a sole trader. Derek offers to do the job for \$2,500 with a tax invoice, or \$1,800 for cash. Sergio and Marcia opt to pay cash and not receive a tax invoice. They do not ask for Derek's ABN and Sergio does not withhold any amount from the \$1,800.

As no ABN is provided, Sergio should withhold 47% of the \$1,800 payment. That is, withholding the amount of \$846, and paying Derek \$954.

The payment of \$1,800 is non-compliant. As a result, Sergio and Marcia will not be able to claim a deduction for the repair.

- Not having the appropriate receipts and documentation to support your deductions.



RENTAL PROPERTY DEDUCTIONS YOU CAN CLAIM

Deductions for rental properties can be categorised into:

- a) Deductions you can claim immediately in the year you incur the expense or
- b) Deductions you can claim over a number of years.

RENTAL EXPENSES THAT MAY BE IMMEDIATELY DEDUCTIBLE	RENTAL EXPENSES YOU MAY BE ABLE TO CLAIM OVER A NUMBER OF YEARS
<ul style="list-style-type: none"> • advertising for tenants • bank charges • strata fees • cleaning • local council rates • electricity and gas <ul style="list-style-type: none"> ○ annual power guarantee fees • gardening and lawn mowing • in-house audio and video service charges • insurance <ul style="list-style-type: none"> ○ building ○ contents ○ public liability ○ loss of rent • interest on loans • land tax • lease document preparation for <ul style="list-style-type: none"> ○ preparation ○ registration ○ stamp duty • <u>legal</u> expenses (excluding acquisition costs and borrowing costs) • Mortgage discharge costs • pest control • property agent fees and commissions (including prior to the property being available to rent) • quantity surveyor's fees • costs incurred in relocating tenants into temporary accommodation if the property is unfit to occupy for a period of time • repairs and maintenance • cost of a defective building works report in connection to repairs and maintenance conducted • secretarial and bookkeeping fees • security patrol fees • servicing costs, for example, servicing a water heater • stationery and postage • telephone calls and rental • tax-related expenses • water charges. 	<ul style="list-style-type: none"> • Borrowing or refinancing expenses • Depreciation/decline in value of depreciating assets (excluding for second hand goods) • Capital works deductions - This is either 4% or 2.5% of the construction cost pa. The actual amount of this generally depends on the type of building and the date of construction. As a general rule, properties constructed before 1979 will not qualify. NB: If you do not have the details of the construction cost, you are able to obtain a quantity surveyor report to estimate these.

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