



MORE ON RENTAL PROPERTIES

Domestic rental property investment remains popular and continues to attract the ATO's attention.

There tends to be some confusion about how rental property ownership can impact on your tax. With that in mind, here is a checklist of some common tax issues for you to consider (especially before you commit to buying a rental property).

If I own a rental property, am I in business?

The answer to this question usually surprises people. If you simply own or co-own an investment property or even several properties, you are usually regarded by the Tax Office as an investor who is not carrying on a rental property business, either alone or with the other co-owners.

However, even if you are not carrying on a rental property business, this does not mean that you escape the tax net.

How can a rental property affect my tax?

- Acquisition and disposal costs generally are not immediately deductible (e.g., cost of purchasing the property, stamp duty on the transfer, conveyancing costs). Some of these costs may be relevant for capital gains purposes.
- When you rent out a property, the rent you collect and other rent related income (e.g., if you are entitled to retain rental bond money) is assessable for tax purposes. Against this income, you can claim deductions for a range of expenses you incur whilst this property is rented out (or available for rent).
- Where the total rental income exceeds the total allowable deductions, you will have a net assessable amount, which is added to your other taxable income. Where the total allowable deductions exceed the total rental income (this is a negatively geared property), you will generate a loss that may be off-set against your other taxable income.
- When you sell a rental property, you may need to pay capital gains tax on the net sale proceeds. You may also need to pay tax on gains made on the sale of any depreciated items that are sold with the property (e.g., where the property's fixtures and fittings have been depreciated).

What happens if I own the property with someone else?

If you own a property with someone else (co-ownership), your legal interest in the rental property determines your share of rental income and deductions.

The best place to look to work this out is the Title Deed to your property – this will usually identify what sort of legal interest you have:

- if you are a **joint tenant**, each of you holds an equal interest in the property (e.g., two joint tenants will each hold a 50% interest); or
- if you are a **tenant in common**, each of you may agree to hold unequal interests in the property (e.g., you may agree for one of you to hold a 70% interest and the other a 30% interest)



How does this type of ownership impact on my tax?

If you are a co-owners who are not carrying on a rental property business, you must divide the income and expenses for the rental property in line with your legal interests in the property:

- **joint tenants** always equally share income and expenses - you cannot vary this for tax purposes with some other agreement; or
- **tenants in common** share in the income and expenses in proportion to the their respective legal interests as set out in the Title Deed.

EXAMPLE

John and Mary own a profitable rental property as joint tenants (a 50% interest each) and are not regarded as being in business.

Mary earns no other taxable income, so Mary and John decide it would be a good idea for Mary to receive most of the net income from the rental property and any profit on its eventual sale, so they enter into an agreement to that effect (e.g., Mary 70% and John 30%).

Because John and Mary are joint tenants, this agreement has no effect and Mary and John will still each receive 50% of the net rental income and the net proceeds on any sale of the property.

However, if John and Mary owned the property as tenants in common and the Title Deed indicates that Mary holds a 70% interest and John a 30% interest, then these proportions will usually be applied for tax purposes.

Do I have to pay PAYG on my rental income?

Once you earn business or investment income (and this includes rental income), the ATO may notify you that you have to start paying your income tax in instalments (Pay As You Go (PAYG) instalments).

According to the ATO, as a general rule this instalment system will apply to individuals who have shown gross business or investment income of \$2,000 or more in your latest income tax return and the debt on your income tax assessment is more than \$500.

PAYG instalments are usually made at the end of each quarter, but in some cases you may be able to pay an annual PAYG instalment if the tax you would have paid on your business and investment income (excluding any capital gain) is less than \$8,000, based on your last income tax assessment.

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