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Residential Rental Properties Working Group

Access information from meetings of our Residential Rental Properties Working Group.

Residential Rental Properties Working Group key messages 12 December 2024



Key topics discussed at the Residential Rental Properties Working Group meeting 12 December 2024.

Residential Rental Properties Working Group key messages 13 June 2024



Key topics discussed at the Residential Rental Properties Working Group meeting 13 June 2024.

Residential Rental Properties Group key messages 4 April 2024



Key topics discussed at the Residential Rental Properties Working Group meeting 4 April 2024.

Residential Rental Properties Group key messages 8 December 2023



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Residential Rental Properties Working Group key messages 12 December 2024

Key topics discussed at the Residential Rental Properties
Working Group meeting 12 December 2024.

Published 21 February 2025

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Welcome

Claiming interest expenses presentation and discussions

Around the grounds

Welcome

Members were welcomed, apologies and proxies noted, and no conflicts of interest were declared.

Claiming interest expenses presentation and discussions

A presentation providing insights into observations on the tax implications of mixed purpose loans, manifesting in the population, was delivered to gain a better understanding of how the Australian Taxation Office (ATO) and members can better work together to address this.

Member comments

There is member interest in the detail behind the case studies presented, including if the same agent was used during the entire ownership period, as one case was over 30 years. Members confirmed

that interest calculations lodged today require an understanding of the history, and that incorrect apportionment can have a significant and long-standing impact.

An ATO investigation showed that approximately 30% of residential rental property owners have a mixed purpose loan which was surprising to members.

There is a general lack of understanding about loan products (notably the differences between offsetting accounts and redraw facilities), which highlights low levels of financial literacy in the community. It was noted we could utilise education products to articulate the tax consequences of loan types earlier in the process, that is via banks at loan application rather than via tax agents at tax time to address this.

ATO officers requested ideas for other intermediaries or influencers to engage. Lawyers and conveyancers were identified as a key group, and utilising banking apps was also mentioned.

A suggestion that one or 2-page information sheets would be useful when explaining to clients. Included examples of different loans for the same circumstances could assist clients understand how the loan structure makes a difference to the tax treatment. Other topics suggested for education products were matching the names on mortgage documents and names on the property title, and the related topic of 'tenants in common' versus 'joint tenants' and the impact on the tax treatment.

Information on the use of residential investment property loan data, specifically that is not suitable for prefill was provided. Members noted this data might be useful as a prompt for conversations with clients, as is currently the case with crypto asset information, so there could be a case for including it without prefilling in returns.

Around the grounds

Changes to the foreign resident capital gains tax withholding legislation have now passed and will apply to contracts entered on and after 1 January 2025.

Member comments

Members requested to see the updated examples which they had provided feedback on, before they are published and would like to see a prototype of the interest calculator.

Members felt future discussions on the following important topics would be useful:

- effectiveness of the working group in 'shifting the dial'
- sharing economy, short-term rental accommodation
- 6-year rule.

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Residential Rental Properties Working Group key messages 13 June 2024

Key topics discussed at the Residential Rental Properties Working Group meeting 13 June 2024.

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Showcase of 2024 tax time products

Repairs versus capital presentation

Showcase of 2024 tax time products

The Australian Taxation Office (ATO) presented a range of education and communication products including public advice and mail outs. Members were invited to share how they use these products including practitioners and how their clients will respond to them.

The presentation included links to all the tools and guidance material that will be part of the help file in the 2024 myTax instructions, available from 1 July.

Members discussed the consultation questions below:

- What are some of the more difficult conversations you need to have with investors around their rental investments?
- Do our online tools and guidance adequately support you in having these conversations?
- Feedback was welcomed on the draft lodgment checklist.
- Forward planning – any ideas for tools and support we can develop to add to our plan?
- Any ideas on other channels we can use to get messages across?
- Do you see any opportunities for changes to keep up with modern property investing arrangements?

Member comments

- Repairs and maintenance related matters can be challenging, and misconceptions over what can be instantly written off.
- When there is a change in tenants, repairs and maintenance are often carried out at that time. Members recognised this was a good time to remind clients of obligations to get the right information about the works completed from the contractor.
- Guidance such as the tax time toolkit supports client conversations, and the Rentals guide was identified as an effective resource.
- Providing as many examples as possible is useful, supported by an easy way to locate them on ato.gov.au would greatly assist.
- The explanation of replacing in 'entirety' contained in **Taxation Ruling TR 97/23 *Income tax: deductions for repairs*** was thorough, however the content on ato.gov.au could be more comprehensive.
- Some members would prefer a comprehensive checklist with everything in it than a shorter one and would find it useful in client conversations. Other members preferred an uncomplicated checklist that links to further detail.
- Guidance on gardening and landscaping expenses, and guidance for tradespeople as to what to include into their invoices for repairs would be helpful.
- Clients don't always seek tax advice prior to purchasing an investment, impacting on the ability to provide advice.

- Member ideas on channels to include messaging, and ideas on changes to keep up with modern property investment arrangements were captured by the working group lead for further consideration.

Repairs versus capital presentation

The ATO provided an outline of where public advice and guidance on the repairs and maintenance versus capital distinction can be found, and common themes in private ruling applications.

Members discussed the consultation questions below:

- Are current topic examples in our public advice and guidance on point? Are there enough examples cited and are they the type of arrangements members are seeing?
- Are they easy to find and apply?

Member comments

- A range of examples relating to the things that could be repairs, maintenance, or capital to highlight the tipping point and timing issues.
- Examples that explore the impact of body corporate involvement, for example use of sinking funds.
- Guidance around the part use of home for a taxable purpose, and, on the replacement of outdated materials with something modern.
- The rentals page on ato.gov.au needs clearer navigation, members couldn't find it and thought there was no one spot to find all the rental properties content.
- Some of the communication did not appeal to younger tax practitioners, shorter format videos are appealing.
- Private rulings are viewed as cost prohibitive and take time, practitioners would prefer to have guidance rather than needing to do requests.

Residential Rental Properties Group key messages 4 April 2024

Key topics discussed at the Residential Rental Properties Working Group meeting 4 April 2024.

Published 14 August 2024

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Rental third party data

Tax gap findings

Rental third party data

The Australian Taxation Office (ATO) gave a presentation outlining the focus of the Data Acquisition and Optimisation program on collection of new third-party rental data to support correct reporting.

The future vision is a tax system driven by verifiable data to drive a reduction in the tax gap and improve the client experience.

Property management data is being analysed for its application in managing the rentals risk based on its accuracy, reliability and value.

Members discussed and considered the following:

- How rental transactional data could be used and presented.
- Data sets such as property management data where the client may have a secondary source.
- Nudge/prompter messages.
- Embedding rules into system to flag risks.
- Enhanced real time analytics for areas of concern.

Member comments

- Pre-filling labels is great, but just having the data visible on the pre-fill report is 98% of the job done as far as tax agents are concerned.

- Local authorities' data divides properties into categories based on use.
- Property managers' categorisation (particularly depreciation, repairs and maintenance) may not reflect correct tax treatment – need the ability to change that data where we know it's incorrect.

Tax gap findings

The ATO outlined the Random Enquiry Program results, emphasising that while amounts overclaimed or under-reported by individuals is relatively small, collectively the overall revenue impact is significant.

For rental deductions some cases had a lack of or incorrect apportionment of expenses where property was only available to rent part year or interest expenses when a portion of the loan was used for private purposes.

Mistakes were seen relating to capital works and capital allowance deductions.

Some investors were unable to locate records to substantiate claims or had no response to requests for information.

Members discussed consultation questions in small groups. Issues the groups were asked to consider included:

- What are the types of interactions you typically have with your client throughout the lodgment process?
- Are there ways the ATO could support you to ensure your clients provide you with all the necessary information to lodge an accurate return?
- What do you see as your role in reducing the Individuals not in business tax gap?

Member comments

- Where an amount cannot be substantiated it counts as an adjustment. In such instances multiple ways to substantiate amounts are investigated.
- It was noted that one member organisation has a checklist for rental properties which their member's send to their clients. The checklist includes the question of apportionment.

- Prompting questions are important when agents are talking with clients, for example, 'Have you had re-drawdowns on interest? Were these damages evident at purchase? Did you replace with better quality, fix the problem, or replace the whole thing?'
- It was noted that the ATO's Rental guide that is given to taxpayers 'is the best booklet the ATO has ever produced'.

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Residential Rental Properties Group key messages 8 December 2023

Key topics discussed at the Residential Rental Properties Working Group meeting 8 December 2023.

Published 17 May 2024

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Working Group agendas

An overview of future Working Group meeting agenda topics was discussed, including:

- omitted income and insufficient evidence to substantiate claims (optimising how we use third party data)
- lack of apportionment of

- interest expense when a portion of the loan was used for private purposes
- income and expenses according to ownership interest
- lack or incorrect apportionment of
 - expenses where property was only available to rent part of the year
 - expenses where only part of the property is being used to earn income
- Mistakes relating to incorrect claiming of initial repairs and capital improvements, and the distinction between repairs and other capital expenditure (for example capital works and capital allowance deductions)
- recommendations and next steps education and awareness of products and channels.

Multidisciplinary team

The Australian Taxation Office (ATO) presented an overview of the proposed ATO Multidisciplinary Team (MDT) to improve rentals reporting, and ways members of the working group can influence the form and function of the MDT.

Improving rental reporting

The ATO provided an update on the current rental landscape, including:

- the ATO's strategic approach to facilitate correct rental reporting and common areas of concern
- a brief overview of the tax gap findings
- a high-level overview of our rental third party data program.

Rental property reporting

Members considered the challenges and opportunities for the reporting of rental properties.

Members used the following topics to explore what is working well, what has potential and what is not working well:

- Natural systems thinking
- Trends
- Communications from the ATO (including interventions)
- Third party data
- Sharing economy
- Guidance materials and tools
- Pressure Points
- Policy.

Member comments

Natural systems

- Members noted the ATO is increasingly more sophisticated in obtaining and using third party data.

Third party data

Members noted the ATO can work more closely with:

- banks for mortgage statements
- real estate agents for data and to educate them on how to provide correct data to clients (property management statements)
- lawyers to educate on the tax implications of decisions
- quantity surveyors for a more uniform information statement (site inspections)
- software developers to make it easier to report on apportionment and split usage.

Pressure points

- Members noted there is currently no registration for quantity surveyors, anyone can use the term.

- Property managers do not always provide information their clients require for taxation purposes. Their annual statements are difficult to understand and are not prepared with tax compliance in mind. It was suggested that a proforma statement, designed by the ATO, might improve the quality and completeness of the information property managers provide clients.
- Expectations of agents needs to be more clearly defined, as agents are receiving clients with incorrect information given by previous agents.

Online content - External communications

- Publishing error rates serve no purpose other than to undermine confidence in tax agents unless the behaviours behind these rates are also published. These rates indicate the errors were made by the tax agent.
- Online content needs to range from new-to-rent, to English as a second language, to tax agents.

Tax returns – Rental schedule

- There needs to be a feedback loop for nudge messages – incorrect nudges can cause stress to clients. There is no way for the tax agent to reply or correct this misplaced nudge message.
- Opportunities to provide substantiation at time of lodgment will save time and expenses for clients and agents.
- The ATO can link the length of ownership to the character of the repairs to reduce capital vs repairs confusion.
- The ATO should arm tax agents with information to determine whether the client is giving them the correct amount of documentation/information to correctly lodge the statement.
- The rental schedule should be simplified for properties with multiple owners, and for those needing apportionment due to private use.

Better guidance materials needed on:

- holiday homes and 'genuinely available for rent'
- apportionment of deductions for non-arms-length rental income

- capital improvements vs repairs, including more complex examples that align with realistic client circumstances
- the impacts on interest apportionment when redrawing loans.

QC 102097

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