top tax tactics for real estate

FY2023

Muscle up + raise the bar in your real estate business

business DEPOT real estate



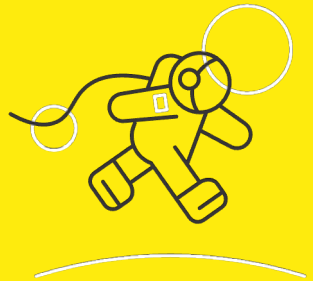
a bit about this ebook

> They say the best thing about paying tax is that it means you are making money. Nevertheless, no one likes to pay a dollar more tax than they have to.

Over the years, we have been asked about claiming some pretty dubious costs as tax deductions for real estate agents and real estate businesses. Many things are deductible when discussed over the BBQ, but in reality a lot are just myths.

At businessDEPOT we love working with the real estate industry and seeing businesses and individuals get great results. Whether you're an established real estate professional or just starting out in the industry, understanding the nuances of tax planning can make a significant difference to your bottom line.

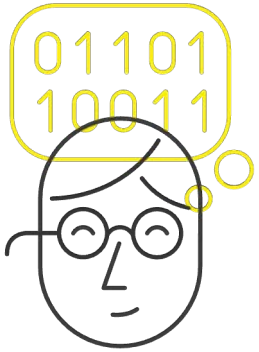
So to help ensure you get the best results, we've summarised the top [and legit] tax tactics for real estate businesses and the people behind them.



having your accounts in order is an awesome launchpad for your business

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new asset purchases
temporary full expensing

The government has introduced Temporary Full Expensing measures that enable businesses with a turnover of less than $5 billion to immediately deduct the business portion of new eligible depreciating assets.

The eligible new assets must be first held, and first used or installed ready for use for a taxable purpose between 6 October 2020 and 30 June 2023.
[Note: Temporary full expensing is set to end on 30 June 2023]

For businesses with turnover less than $50 million, temporary full expensing also applies to second-hand assets.



temporary full expenses + cars

Yes, you can use the temporary full expensing to write-off the purchase of a car but please note:

- The write-off is limited to the car cost limit which is currently $64,741
    - The allowable depreciable amount for cars is capped at the car cost limit. It may not be a tax tactic, but spending below the car cost limit will increase how much of your car you can claim.

- If you purchase the car in a company or trust that qualifies for and has chosen to use the simplified deduction rules, FBT may be payable on the car [some exemptions apply for electric vehicles].]. For companies the private use of the car may also attract tax rules that apply to loans and payments to shareholders [Division 7A] where FBT does not apply

- To find out more, go to our recent blog on FBT for electric vehicles.

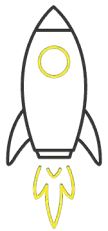


write-off previously purchased assets

One of the flow-on effects of temporary full expensing is that if you have chosen to apply small business simplified depreciation rules, you can now also write-off any accumulated balance of other depreciable assets that have been allocated to your small business pool, under the temporary full expensing measures.

The simplified depreciation rules apply if you have an aggregated turnover for your group of less than $10 million.





instant asset write-offs
after 30 June 2023

Temporary full expensing ends on 30 June 2023 and instant asset write-off allowances revert to pre-Covid rules.

Businesses with an aggregated turnover less than $10million will be eligible for an immediate write-off for assets costing less than **$20,000.**

This is a per asset limit, so you can claim the $20,000 for multiple assets one they are installed and ready to use.



scrap underperforming business assets

Review your depreciation schedule and scrap any old assets. Any loss on the scrapping of these assets can be used to reduce other trading income. However, if you have already fully depreciated or written off these assets then there will be no benefit in doing this.

If you have moved offices, you can write-off any remaining fit-out costs and get a big tax deduction in that year.



consider other ways to remunerate directors + shareholders

> You must understand your tax timeline to avoid any nasty surprises down the track

If you are a shareholder or director of the business, you can consider pushing out the timing of tax payments to the ATO by reducing the amount of wages you take and taking dividends/drawings instead

This is often not commercially possible when you have unrelated parties in business together.



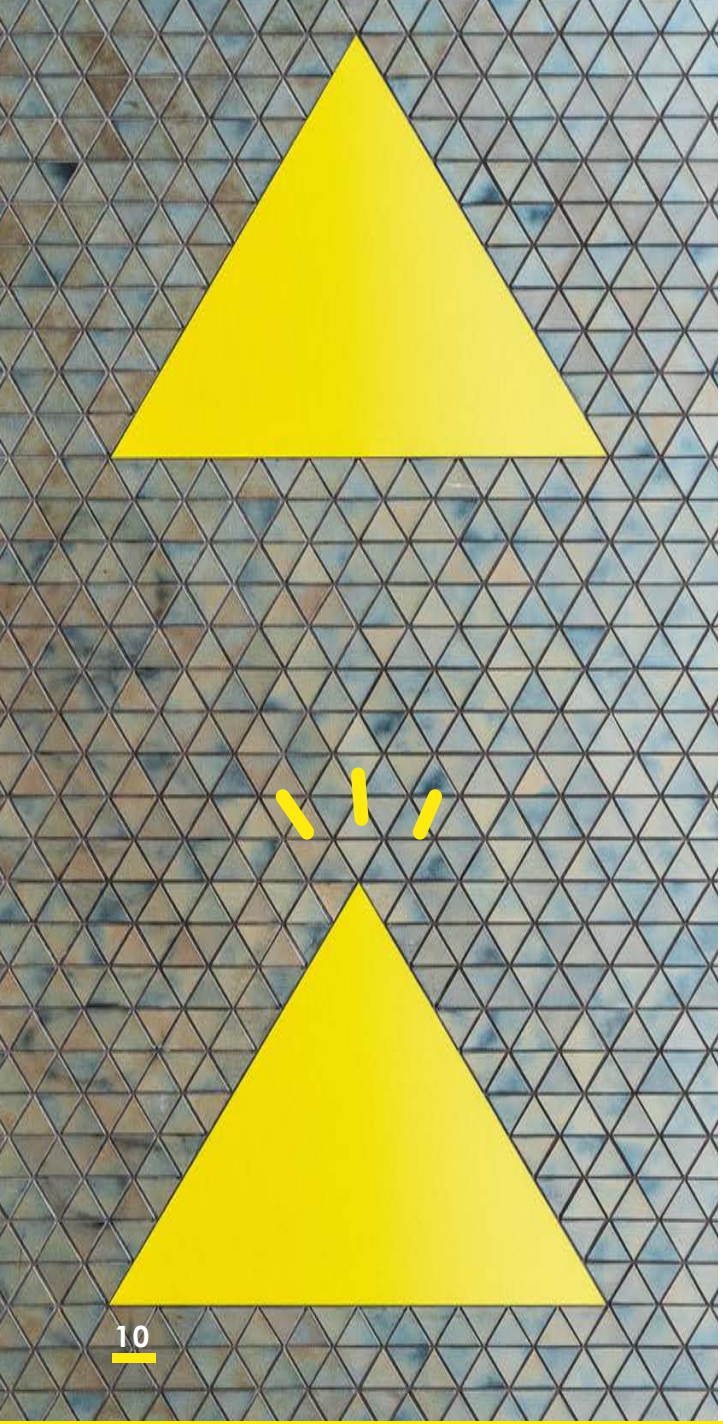
push income out

The oldest tax planning tricks in the book involve pushing income into the next financial year and bringing forward expenses into June.

However to delay income don't forget to consider what impact this will have on cashflow.

Remember if your business accounts for income on an accruals basis [raise an invoice and wait for payment], just delaying the cash inflow will not be sufficient. You will need to delay invoicing until the next financial year for a tax effect, which may not be possible if you have already derived the income.

If the income is derived [you have already delivered the goods or provided the service], the income will be taxable whether an invoice has been raised or not.



pull expenses forward

Small & medium business entities [turnover of your business and related parties of less than $50 million] may be eligible to claim an immediate deduction on certain prepaid expenses.

The expenses you bring forward or prepay must be deductible expense. A reminder that where you are purchasing assets prior to 30 June 2023 to take advantage of temporary full expensing, the assets must be delivered and installed ready for use to be eligible for the immediate deduction.

Prepaying interest on a loan or for services like insurance and IT maintenance for 12 months in advance is a tax tactic for small real estate businesses. Beware, if you do not do it again next year, the timing benefit will catch up on you.

If you own an investment property, [we know you love property] you may also be able to prepay interest on an investment property loan for 12 months in advance and get a tax deduction in the year paid.



deductions for bonuses + commissions owed at 30 june

If you pay commissions, bonuses and wages either monthly or fortnightly, review any amount you are legally committed to paying and accrue these as an expense this financial year.

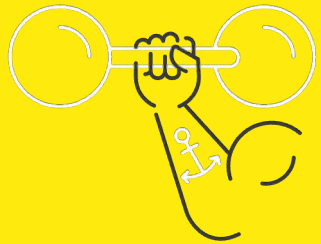
A reminder in respect of bonuses, in order to be deductible before paid, there must be a definitive legal commitment to pay the liability and the employee have a legal entitlement to be paid the bonus. Simply accruing an expected bonus will not be sufficient to claim a tax deduction before the bonus has been paid.

This matches the cost to the income that it relates to and makes sure you are getting every dollar of tax deductions you are entitled to.

write-off non-recoverable items like advertising, bad debts + employee advances

Write-off any bad debts [such as non-recoverable advertising or employee advances] before 30 June.

A debt is considered bad when a commercial decision has been made that the debt is no longer recoverable. It is not sufficient for the debt to merely be 'doubtful'. If you classify the advertising as an asset in the books of the business, the expense may still be deductible – even if not yet recovered from the vendor.



top up your super
contribution to $27,500

As a real estate business owner there is nothing wrong with looking at topping up your super before the end of the financial year. You could save as much as 47% of every dollar contributed in total for the year in your own name and only pay 15% in your super fund.

The general concessional contribution cap is $27,500 for the 2023 year. This includes your employer contributions, salary sacrifice and personal concessional contributions.

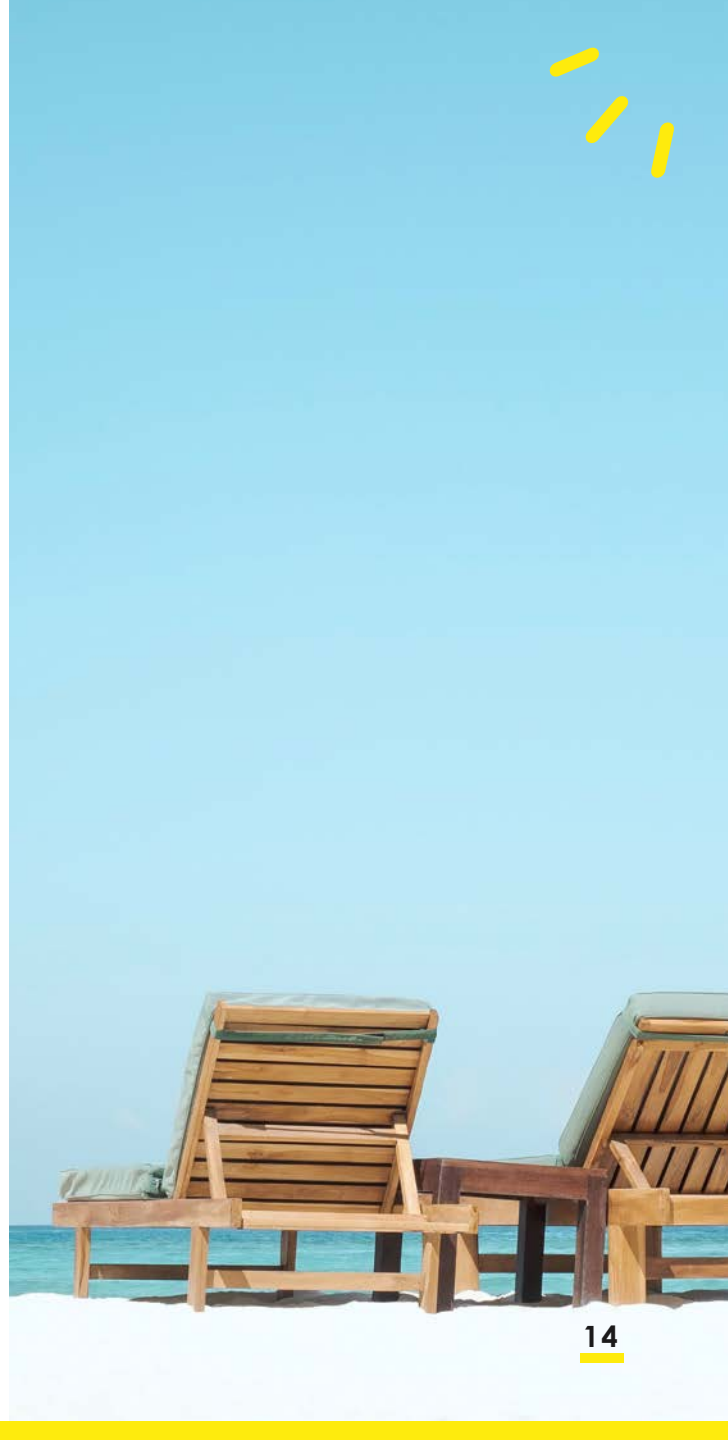
The timing of super payments will be critical as they must hit your super account by 30 June to receive a deduction in the current year. We recommend making the payments no later than 10 June to meet most clearing house cut off dates.

> **the fund must receive the money by 30 june** each year in order for the contribution to be deductible

even more into superannuation

You may be able to contribute even more than the $27,500 concessional contributions cap if you have unused contribution thresholds from previous years.

This is only available if your super balance is less than $500,000 and is somewhat complicated depending on your personal situation, so please seek advice before making any contributions.





superannuation salespeople, property managers + other employees

Excess contribution tax

From 1 July 2017 employed individuals can claim a personal tax deduction for superannuation contributions [up to a limit of $27,500 including superannuation paid by your employer]. There's no need for complex salary sacrifice arrangements.

If you earn over $250,000 [after adding back rental property losses, salary sacrificed or deductible super] the ATO will hit you with an extra 15% excess contribution tax in the super fund, taking the total tax on the contribution to 30% [still better than 47%].

This is quite possible for some of the high performing salespeople out there so be aware that the tax benefit of putting more into super may not be as great as you first expected.



superannuation + health insurance
for high income earners

If you earn over $250,000 [after adding back rental property losses, salary sacrificed or deductible super and reportable fringe benefits], the ATO will hit you with an extra 15% excess contribution tax in the super fund, taking the total tax on the contribution to 30% [still better than 47%].

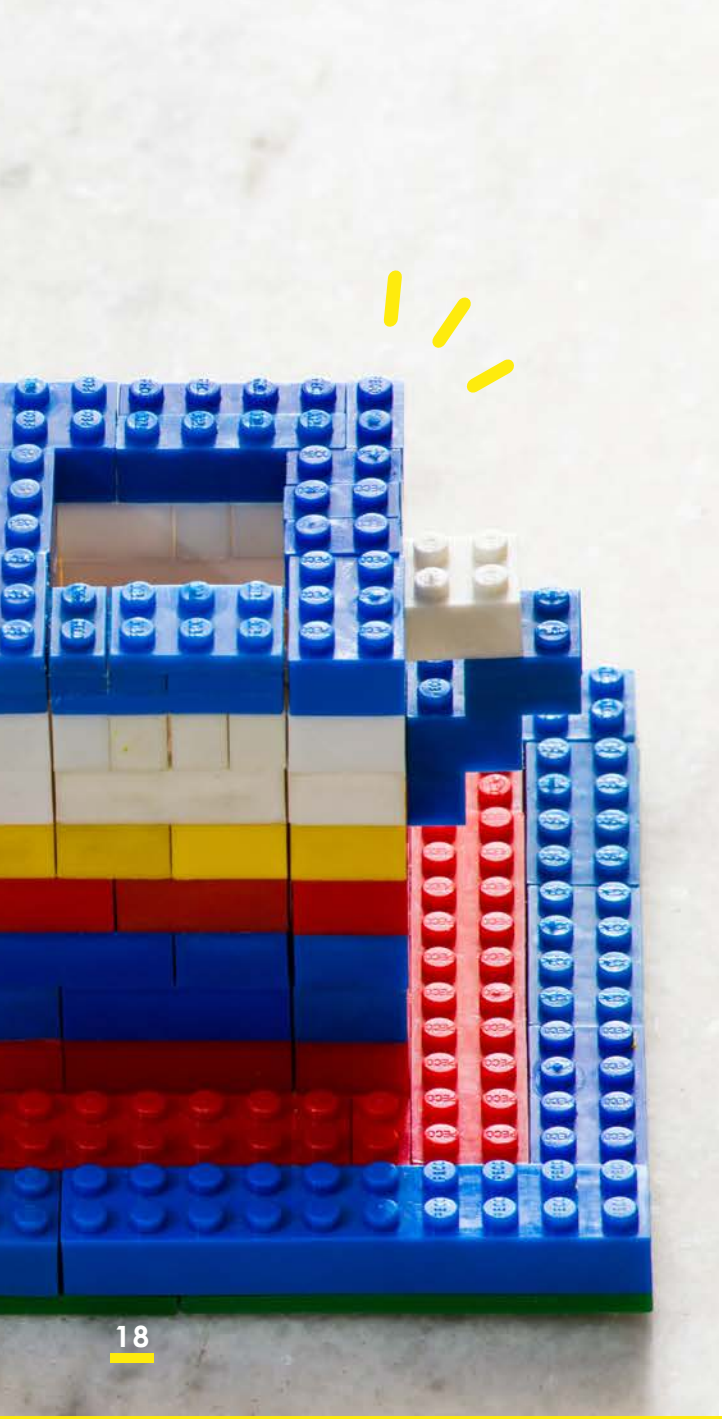
High income earners will also be hit with an additional Medicare Levy Surcharge if you do not have an appropriate level of health insurance. If you are single and earning above $90,000 [or part of a couple with joint income of $180,000], you will be charged an additional 1-1.5% of your taxable income if you don't have probate health insurance that includes hospital cover.



super only deductible if paid

You are only able to claim a tax deduction for superannuation contributions when the payment is made. For employers, this means you need to pay your compulsory 10.5% employee super to ensure they hit the superfund accounts by 30 June 2023 to get a tax deduction in the 2023 financial year.

Please note from 1 July 2023 the compulsory super contribution will increase from 10.5% to 11%.



get your legal structure right

The best way to minimise tax in the long-term is to get your structure right from the beginning. The right structure for you will depend on your strategic plans, funding and ownership mix.

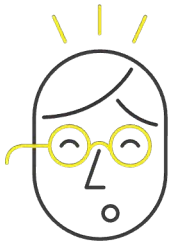
The most common structure we use for trading businesses is a company structure with a discretionary trust as shareholder/s - but it will always depend on your personal situation.

The company tax rate is 25% for those with turnover less than $50 million. Those with turnover greater than $50 million are subject to a tax rate of 30%.

The second most common structure would be trading as a discretionary trust with a company as trustee but this is limited as it cannot be used when you have unrelated parties in business together.

Unit trusts are another option when you need different parties to have a fixed entitlement to income/capital but can have some negative stamp duty implications in some states and additional CGT applicable. A hybrid model is a partnerships of discretionary trusts which can work well but has its limitations.

> the lower company tax rate is making it more and more appealing to be trading through a company structure



don’t forget to be effective, trust distributions minutes must be made before 30 june each year

[some exceptions depending on your trust deed]

trigger a sale of your business

The small business CGT concessions are available to businesses with turnover less than $2 million or individuals with net market value of their assets [excluding super and family home] less than $6 million.

There are 4 small business CGT concessions you may be eligible for:

- 50% Active Asset Exemption
- Retirement exemption [lifetime limit of $500,000 per person]
- 15-year exemption
- Replacement asset rollover

real estate businesses have a great opportunity with these concessions! there's a lot to them though and they are complex – you must get the detail right

negative gearing - what the?!

Being in the real estate industry, we're sure you are across the tax benefits of negative gearing – essentially the tax deduction takes the sting out of having a loss-making asset.

From an investment perspective though you should still only consider a negative gearing strategy if the expected capital growth is greater than the net after tax holding costs.



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“you can no longer claim a deduction for travel expenses to **and from your rental property**



tax on properties owned

Being in real estate, you probably like property as an investment too and may undertake your own developments.

A few key considerations:

- Main residence not subject to CGT [but must be purchased in individual name/s]
- If you are considered a developer [business approach] the gains are 100% taxable as income and GST payable on the sale [consider a company structure]
- If you buy a property with a profit-making intention, gains are 100% taxable for income tax purposes
- If you have a mix of the above, it's complicated [seek expert advice].
- Rental properties are subject to CGT and eligible for 50% CGT discount when owned for more than 12 months
- The beach house costs are only deductible to the extent the property is available for rent [i.e. private portion not deductible].



vary your PAYG instalments

If your PAYG Instalment for the June quarter has jumped up considerably, or profits in the year have dropped compared to the previous year, look at varying your PAYG instalment. By doing this you will get the cash benefit in July/August rather than waiting until you lodge your tax return – which can be as late as May the next year.

Remember, you need to have a valid reason to do this as you can be penalised for varying instalments inappropriately, so please talk to your accountant first.



“tax avoidance is illegal
but tax planning
[or minimisation] is not

car logbooks pretty much a must

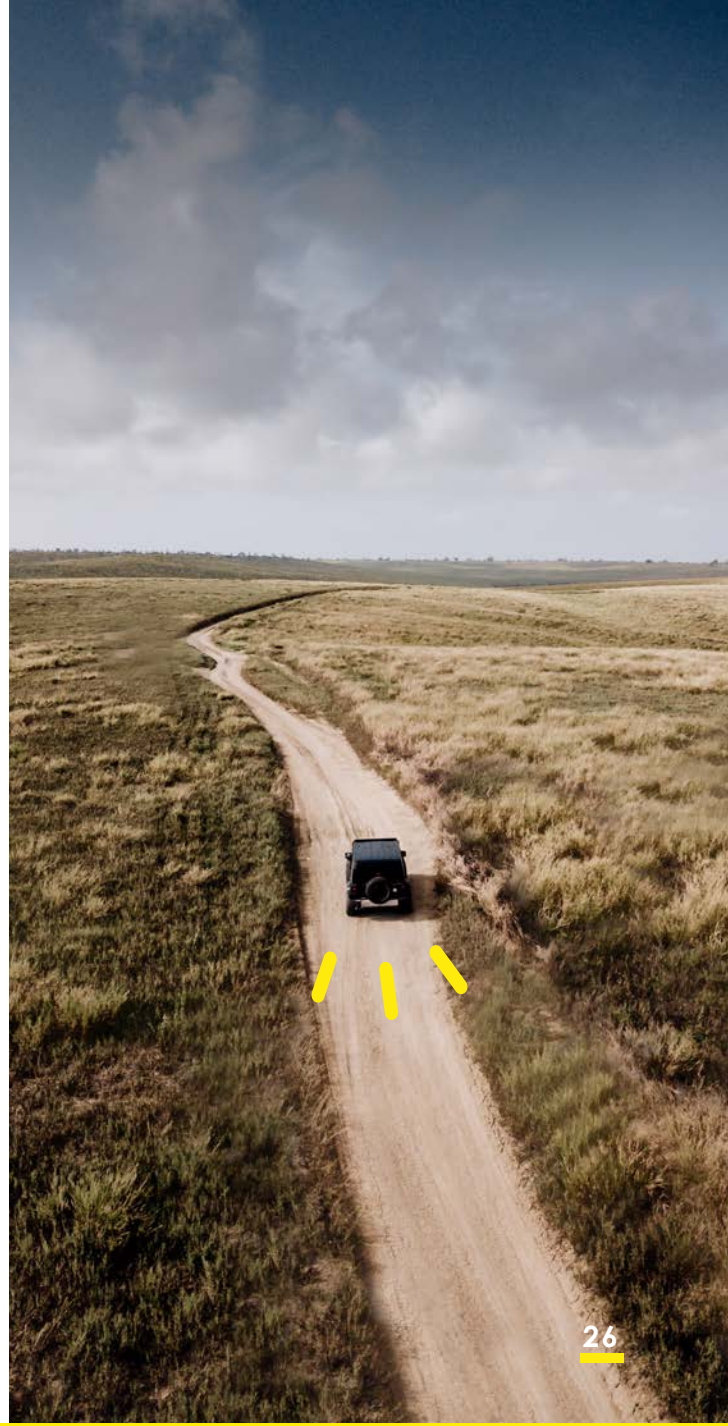
The ATO expect those in the real estate industry to have a high business/work usage but you must keep a log book for a 3-month period to evidence your usage.

This way you can claim a percentage of all costs [up to the MV cost car limit] including interest on loans, lease payments, repairs, registration, insurance and fuel.

Without a logbook your deduction is limited to $3,900 using the cents per kilometre method of 78 cents per kilometre for 2022/2023 capped at 5,000 kilometres [assuming you can justify that you travelled 5,000 kilometres for business/ work in the year].

You need to do a new logbook every 5 years or when your usage changes materially [e.g. you move homes]. We have seen far more ATO logbook checks recently with more expected in the future.

Luxury cars are considered those worth more than $64,741 [for the 2021/22 financial year]. It may not be a tax tactic, but spending below the luxury car limit will save you loads!





fancy or not,
make sure you are
claiming what you can

entertainment

Anything regarded as entertainment is generally not tax deductible. There are a couple of exceptions to this rule, but these essentially require you to pay at least some FBT.

A few notes on entertainment deductions:

- Generally, where alcohol involved, you are having too much fun and therefore it is considered 'entertainment' - even if the event is business related
- Food while travelling is generally fine, unless there is client or other staff entertainment involved while travelling for business
- Food for events, training, workshops is fine as long as no alcohol
- Long lunch with the team is potentially subject to Fringe Benefits Tax
- Long lunch with clients and prospects is generally not deductible.
- Corporate box at the footy – depends on who went but still considered entertainment [not deductible].



independent contractors is one of the great tax discussions in real estate

Independent contractor arrangements only work when they are on truly commercial terms – think of them more as a conjunctional agent.

As a minimum [in our view] they need to have a company structure, be licensed with the appropriate body in each state, have their own professional indemnity insurance, have their own ABN and be registered for GST [just like any other real estate business].

There are potential savings and benefits for all parties but rules are very broad and can deem payments as wages [exposing the deemed employer to the Fair Work Act and potential catch-up of income tax, superannuation and payroll tax].



lastly, keep those darn receipts

Boring we know, but the Australian tax system is a 'self-assessment' system so you need to keep evidence to substantiate any claims [minor exception for individuals claiming less than $300 in total]. If in doubt, keep the receipt and ask your accountant.

Other evidence requirements include:

- For capital assets you need to keep purchase documents until you sell the item and then a further five years after lodging the sale year tax return
- If travelling overseas for business or work purposes you need to keep a diary of your activities while overseas
- If you are paid a travel allowance you do not need to keep receipts if your claim is limited to the allowance amount and it is paid in accordance with the ATO guidelines.



say hello to our real estate crew



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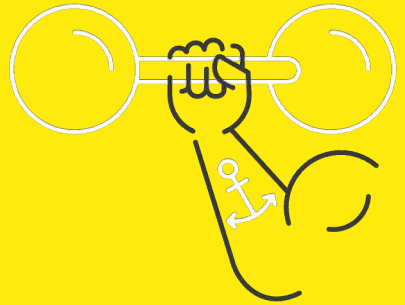


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one place to
muscle up + raise the bar in your real estate business.



We love getting nerdy with the numbers and saving you tax so if you have questions, we're here to help and happy to kick things off with a coffee and a chat about your goals.

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