ASK THE EXPERT

Tax Return Lodgement Requirement

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Q I have a property in Australia but my expenses are more than the rent, do I need to lodge a tax return?

A It is a common misconception that if you are not making any profit from renting your Australian property out, that you don't need to lodge a tax return.

This is completely incorrect. It is a requirement to lodge a tax return if you receive any taxable income, such as the rent, so the fact that you may have more expenses from owning the property than the income does not stop the need to lodge.

This is the case for Australian Citizens and Permanent Resident Visa holders as well as any foreign national owning a property in Australia for investment.

Many years ago, if you had more expenses than income, there was no penalty if you forgot to lodge your return and caught up with the arrears at some stage.

That ended in June 2000 when a new Late Lodgement Penalty of up to A$550 was introduced even where no tax was payable. This has been increased over the years to now be $900 per year outstanding, per taxpayer.

This can add up to a significant annual cost to anyone that is innocently not lodging their returns on the assumption that it isn't necessary due to no tax being due. The Australian Taxation Office (ATO) can be flexible with the penalty and will often reduce it where a valid reason is provided, however simply forgetting to lodge may not be sufficient reasoning to permit a reduction.

For anyone not lodging their returns, the cost may be even greater than the potential penalty issued by the ATO.

If your expenses are indeed greater than the rental, then the subsequent short fall is permitted to carry forward into future years to offset any future surpluses on the rent, sale of the property or indeed future salary if you return or relocate to Australia.

All expenses relating to the property are allowed as a tax deduction including rates, management fees, maintenance and interest on borrowings used to help purchase the property. You can also claim travel costs for inspection of the property.

Another main issue for property investors is claiming their depreciation allowances on the property. This includes the normal items such as stoves, curtains and carpets which are able to be claimed at generous amortisation rates.

In Australia, property investors also have a significant incentive where the property was built after 1985. Any property rented and constructed after 1985 are allowed to claim an annual write off for the original construction cost. This can be a sizeable amount each year and prove very tax effective.

The largest claims are obviously available on brand new housing, however even if you acquire an established property there will still be some construction cost write off available as it passes from the previous owner to the new one over the period of claim, which can extend out up to 40 years.

You need to be mindful that if you bought the property after 1997 this building write off may be clawed back on sale of the property and increase your capital gains, but it is still very much in your favour to claim it each year.

The combination of all of the ownership expenses, loan interest, travel and depreciation make it normal for many offshore base Australian property owners to actually have a surplus taxable income and as such it is unlikely that any tax would be payable.

But you need to be sure that you lodge your required tax return each year to avoid the A$900 of potential penalties per owner, per year outstanding.

If you lodge your return yourself, then the due date is the 31st October following the Australian year end which is 30th June each year. If you use a Registered Tax Agent like ourselves, then the due date is usually extended to April of the following year, giving ample time to gather your records for us to complete the returns on time.

Contact us at tax@smats.net with any specific question you may have or to get our professional team to assist you with your Australian Taxation requirements.