

**Is your business car available for private use?**

A car fringe benefit occurs when your business owns or leases a car and makes it available for your employees' private travel. In this case, directors might also be employees.

***Note!*** Generally, travel to and from work is private use of a vehicle.

For fringe benefits tax (FBT) purposes, a car is any of the following:

* a sedan or station wagon
* any other goods-carrying vehicle with a carrying capacity of less than one tonne – eg a panel van or utility (including four-wheel drive vehicles)
* any other passenger-carrying vehicle designed to carry fewer than nine passengers.

If the vehicle provided does not meet the definition of a car, and your employee has private use of the vehicle, the right to use the vehicle may be a residual fringe benefit.

**Providing car fringe benefits**

Some examples of providing a car fringe benefit include:

* employees using the car for private travel, such as travel between work and home;
* garaging the car at or near your employees' home, which makes it available for private use – even if it is not used privately.

***Note!***

* If a car is garaged at or near your employee's home, even if only for security reasons, it is taken to be available for their private use regardless of whether or not they have permission to use the car privately.
* Similarly, where the place of employment and residence are the same, the car is taken to be available for the private use of the employee.

**Working out the taxable value of a car fringe benefit**

To calculate a car fringe benefit, as an employer, you must work out the taxable value of the benefit using either:

* the statutory formula method (based on the car’s cost price)
* the operating cost method (based on the costs of operating the car).

You can choose whichever method yields the lowest taxable value, regardless of which method you used in a previous year.

***Note!*** If you have not kept the required documentation for the operating cost method (eg log books), you must use the statutory formula method. ■



**4 ways to avoid simple mistakes with GST reporting**

Businesses can make simple mistakes reporting their GST. To avoid errors, keep an eye out for the following common errors and ensure you report correctly.

1. **Transposition and calculation errors**

Transposition errors can occur when an amount is manually input. These errors can be easily eliminated by double checking all figures and calculations before submitting your BAS.

1. **No tax invoices**

You need to keep tax invoices to claim GST credits you have claimed on business related purchases.

1. **Transaction classification**

Make sure you check what's GST applicable. Transactions involving food may be GST applicable.

1. **Accounting systems**

Check your systems as one coding error can classify several transactions incorrectly.

If you find you've made a mistake on a previous return, you can:

* correct the error on a later activity statement – if you meet certain requirements;
* lodge an amendment; or
* contact your tax adviser or the ATO for advice. ■



**Do you hold vacant land? Your expenses may no longer be deductible**

Are you a property owner sitting on vacant land? The Government has recently released draft legislation to deny deductions for certain expenses associated with holding vacant land.

**The current law**

The current law allows you to claim the costs of holding vacant land if it is held for the purpose of gaining or producing assessable income or carrying on a business for the purpose of gaining such income.

**The proposed law**

From 1 July 2019, the proposed law will limit deductions for expenses associated with holding vacant land.

The proposed rules do not apply to expenses associated with holding vacant land that is used by the owner or a related entity to carry on a business. For example, the measure will not apply to a business of primary production or to a property developer that is carrying on a business and is holding land for the purpose of that business.

The proposed rules also do not apply to corporate tax entities, managed investment trusts, public unit trusts and unit trusts.

**Why the changes?**

This proposed measure was announced in the 2018-19 Federal Budget, and addresses concerns that deductions are being improperly claimed for holding vacant land where the land is not genuinely held for the purpose of earning assessable income.

**What is vacant land?**

Land is vacant if there is no building or other structure on the land that is substantial and permanent in nature and in use or ready for use.

In this context, land does not have to refer to the whole of the land on a property title but could refer to part of the land on a property title. For example, if a property title includes two areas of land, one containing a factory and the other undeveloped, the part of the property title containing the factory has ceased to be vacant land, while the undeveloped area remains vacant land.

**What does ‘substantive’ in nature mean?**

To be substantive, a building or structure needs to be:

* substantial in size; and
* have an independent purpose or function (not ancillary in nature to other structures or proposed structures on the land such as is the case for retaining walls or fences).

***Case study***

Deborah owns a block of land. She intends to eventually build a rental property on the land. However, while the block of land is fenced and has a large retaining wall, it currently does not contain any substantial or permanent building or other structure.

As the property does not have a substantial permanent building or structure on it, it is vacant land and Deborah cannot deduct any holding costs she may incur in relation to the land.

**What if land does not have a substantive permanent building or structure?**

There are many genuine commercial reasons land may not have a substantive permanent building or structure (eg holding yards for goods that are awaiting transport or customs clearance, parking areas for trucks/buses for a logistics company) as not all business operations require structures and buildings.

If the owner of land used for these purposes is a private trust or individual who does not have the requisite connection to the business being carried on (especially where there is a genuine commercial lease to an unrelated third party), all deductions will be denied even though the “vacant land” is an essential part of the business activities.

***Tip!*** Speak to your tax adviser to find out more about how these proposed changes may affect you or your business. ■



**Did you incorrectly claim deductions for travel to your residential rental property?**

This tax time, the ATO has identified 26,000 taxpayers who have incorrectly claimed deductions for travel to their residential rental properties, despite recent changes to tax laws.

From 1 July 2017, you are no long able to claim travel expenses relating to inspecting, maintaining or collecting rent for a residential rental property as deductions unless you are carrying on a business of letting rental properties or are an excluded entity.

As with prior years, the travel expenditure cannot be included in the cost base for calculating your capital gain or capital loss when you sell the property.

***Note!*** The new changes only apply to residential rental property. You may still be able to claim deductions in relation to your commercial property.

**‘In the business of letting rental properties’**

Generally, owning one or several rental properties will not be considered being in the business of letting rental properties.

The receipt of income by an individual from the letting of property to a tenant, or multiple tenants, will not typically amount to the carrying on of a business of letting rental properties.

This means that as their activities are generally considered a form of investment rather than a business, deductions for travel expenses are not allowed.

**Excluded entities**

An excluded entity is a:

* corporate tax entity
* superannuation plan that is not a self-managed superannuation fund (SMSF)
* public unit trust
* managed investment trust
* unit trust or a partnership, all of the members of which are entities of a type listed above.

***Case study***

Tara's Tyres Pty Ltd incurred travel expenses in 2017-18 when the property manager was tasked with inspecting a residential property investment that is currently tenanted. Tara's Tyres Pty Ltd is a corporate tax entity (a company) and can claim a deduction for rental travel expenses.

**ATO and data analytics**

The ATO has announced that it will be using sophisticated data analytics to assess a range of other deductions and work-related expenses.

Remember that when making a claim, you must follow the 4 golden rules:

1. You must have spent the money;
2. The expenditure must not have been reimbursed to you either directly or indirectly;
3. The expense must be directly related to earning your income; and
4. You must have some sort of record to prove that the expense was incurred (which can be produced if asked).

**Made a mistake?**

Rental property investors: you should check if you fall into one of these exceptions before you lodge and claim for rental travel.

If you have already lodged and made a mistake, you can lodge an amendment. Speak to your tax adviser for more information. ■



**Key tax dates**

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| **Date** | **Obligation** |
| 21 Nov 2018 | Oct monthly BAS due |
| 28 Nov 2018 | Sep quarter SG charge statement due |
| 21 Jan 2019 | Dec monthly BAS due |
| 28 Jan 2019 | Dec quarter SG due |
| 4 Feb 2019 | Feb fuel tax credit rates change |
| 21 Feb 2019 | Jan monthly BAS due |
| 28 Feb 2019 | * Dec quarterly BAS due * Dec quarter SGC statement due * Dec quarter PAYG instalment due |

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