

HOUSING TAX INTEGRITY - DISALLOWING TRAVEL DEDUCTIONS AND LIMITING DEPRECIATION DEDUCTIONS

I, (name and address supplied), request that my name and address details be kept confidential.

Background

I am a former public servant who retired on invalidity grounds before reaching age 50. Around the turn of the century I used my lump sum on retirement, supplemented by CSS superannuation funds, as a deposit to invest in two small units in an Australian capital city. One unit is CBD location and fully furnished. The other is suburban and unfurnished. Both properties have been on the rental market ever since purchase. My disabilities are not life-threatening. I hope for the income from these investments, together with CSS superannuation fortnightly payments, to be sufficient to finance my retirement income without the need for either myself or my spouse ever to claim any Centrelink pensions. Therefore it has been important for me to monitor my residential property investments in as business-like a manner as possible, to maintain sufficient household income to avoid the need of an Age Pension, courtesy of Australian taxpayers. My spouse and I would probably be classified as typical lower to middle-income Australians, but our joint annual income is significantly less than \$87,000. The maximum marginal tax rate applying to me is 32.5%.

Health permitting, over the years I have paid for interstate flights at least once per year to attend body corporate meetings. I have appreciated the fact that until now my travel expenses to inspect my properties and attend body corporate meetings have been tax deductible. But the fact remains that the bulk of my property inspection and meeting attendance expenditure, 67.5%, is a direct cost to my spouse's and my joint disposable household income.

I fear that implementation of the May 2017 deduction disallowance proposals will have severe adverse impact for my spouse and me. I expect there will be many Australians similarly adversely affected should the Government's proposals pass in both Houses of Parliament. Further, I suggest that if the May 2017 Budget proposals become law, the expected savings, in the short-term, may be outweighed by disadvantages that potentially could arise in the years to come.

Issues

(a) Previously, wealthy investors benefitted more than the less well-off and this may continue

In the past, the benefit of tax-deductibility of travel expenses for residential property investors has depended upon their incomes. My marginal tax rate is 32.5% so for the tax years up to and including 2016/17, I have received tax deductions for 32.5% of my rental property travel expenditure, but 67.5% of my property inspection costs have been funded from my household's disposable income. However, for wealthier taxpayers whose annual taxable income might be, say, \$200,000 or more per annum, their marginal tax rate is 45% and so their actual outlay from their household's disposable income is only 55%. Under the past rules, clearly the wealthy have benefitted more than taxpayers with lower incomes.

Should the May 2017 Budget proposals be implemented, taxpayers with higher incomes may still be able to afford to fund travel to annual meetings of bodies corporate from their disposable income, but taxpayers who have only claimed deductions for 32.5% of their expenses in the past may find post-30 June 2017 travel unaffordable and so cease to travel to body corporate meetings. As a result, they will have far less knowledge of what is actually happening over time in relation to their investment(s) and consequently their properties may deteriorate at an accelerated rate in

comparison with the patterns of earlier years. Therefore, the less well off, who benefitted less than the wealthy investors before, will continue to benefit less, as travel to inspect and maintain their investment properties may be too expensive for them to finance. Therefore, their investment properties may deteriorate at a greater rate than the investment homes of wealthier property investors.

Should the Government choose to continue the scheme that applied up to 1 July 2017, but with greater fairness, the Government could legislate to maintain the existing deduction arrangements, but take action to ensure that all eligible taxpayers benefit equally - this could be achieved by limiting the tax deduction to, say, the 32.5% marginal tax rate. This would continue to promote fairness but still achieve some savings for the public purse.

(b) Investors acting in the most business-like manner

The Australian Taxation Office should promote policies that encourage taxpayers to handle their investments in as business-like a manner as possible. From my attendance at body corporate meetings over the past 17 years, I have observed that some owners, whether investors or owner-occupiers, might attend meetings so as to have the knowledge and understanding to maintain their unit, as economically as possible, at a reasonably high standard. However, other owners can be less committed to attending body corporate meetings. Removal of tax deductions for the costs of attending meetings of bodies corporate has potential to result in body corporate meetings being increasingly poorly attended. If owners do not inspect their units regularly, they risk failing to be aware of maintenance problems that might potentially arise. There is truth in the adage that a stitch in time saves nine. The May 2017 removal of tax deductibility for travel by residential housing investors has potential to result in investing owners rarely attending meetings, thus becoming unaware of looming building maintenance problems. This may lead to premature deterioration of unit complexes.

It is most unbusinesslike to fail to inspect an investment property and/or to allow it to deteriorate at an accelerated rate through lack of maintenance. Taxation law should encourage taxpayers to take a business-like approach to their investments. The May 2017 Budget proposals will, I suggest, have the opposite effect.

(c) Economic impact

Some taxpayers choose to purchase rental housing as a type of superannuation investment for their retirement years. The Australian Taxation Office (ATO) should have consistency in taxation provisions applying to the full range of potential superannuation mechanisms available to Australian superannuants.

Should disadvantageous rental housing deductibility taxation laws be in place for more than a very short time period, taxpayers who earlier invested in residential units could be tempted to sell their units and then invest the proceeds in, say, the Australian Share Market. This could have significant flow-on effects for the Australian economy. For instance, there could potentially be an oversupply of units for sale in the short-term, followed by a period of lack of choices for potential buyers and this will impact on market prices. Sharemarket prices could also be affected.

Other potential economic issues resulting from the May 2017 proposed changes would include some diminution in the number of people travelling, either by air, by rail or by road, to conduct maintenance, inspect units and/or attend meetings of bodies corporate. A decrease in demand for hotel/motel accommodation proximate to a taxpayer's investment property may also occur.

The findings of the August 2017 Housing Income and Labour Dynamics in Australia (HILDA) survey should also be taken into account. The HILDA survey found that the typical Australian family is taking home less today than it did in 2009, according to the report in "The Canberra Times" of 2 August 2017. Assuming the truth of the HILDA findings, ordinary Mum and Dad investors in residential housing will have greater hardship in 2017 in coping without investment travel expenditure being tax deductible than such people might have experienced in 2009. The ATO should be assisting such people rather than increasing the hardships that they face.

(d) Potential for taxpayers to claim deductions for travelling for private, rather than investment housing reasons

Documentation tendered earlier by Treasury officials claims the disallowance of tax deductibility for travel by investor owners for inspection, maintenance and/or meeting attendance is justifiable given that, in the past, some taxpayers have travelled primarily for personal, rather than business, reasons. I have no knowledge of the extent of such activity, though I tend to feel there would be few unjustifiable claims. But regardless of whether there are many or few wrongful claims, the ATO should consider alternative strategies to curtail wrongful claims in the future before cancelling the deductibility provisions that applied up to 30 June 2017. One strategy that might promote rightful rather than wrongful application of the previous provisions might be to make it a legal requirement that persons who claim tax deductions for attending meetings of bodies corporate be required, on request by the ATO, to supply the ATO with a copy of the minutes of any body corporate meeting for which they are claiming tax deductions for travel expenses. All such minutes are required to list the names of owners who attended. It would be reasonable for the ATO to assume that investors named in the minutes might have incurred travel expenses in order to be present at a meeting.

My observations during the years that I have owned my units are that owners, whether occupying units or leasing the units, tend to be apathetic with regard to attending meetings. Allowing tax deductibility provided that the official minutes prove that the taxpayer truly did attend might encourage more investors to attend meetings. This could promote more business-like decisions being made by bodies corporate, and lead to flow-on benefits to the economy as a whole.

Concluding comments

I believe that the examples that I have mentioned above indicate that there may be unforeseen adverse consequences arising from the May 2017 Budget decisions disallowing travel claims of taxpayers who have invested in residential housing. The points that I have raised above are intended as examples only - there may be many more negative consequences flowing on from the Government's proposals. I ask the Government to postpone enacting the proposed changes until the full range of relevant interest groups have been consulted and have advised the Government of their views.