client alert | explanatory memorandum

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> **CURRENCY:**
> This issue of **Client Alert** takes into account developments up to and including 24 June 2024.

Tax time scams: be on guard

Despite preventative approaches by the ATO and the National Anti-Scam Centre (NASC) to take down fraudulent websites and block scam text messages, ATO impersonation scams are on the rise as tax time approaches. Using unsolicited contact via SMS, email or on social media, ATO impersonators frequently offer refunds or assistance in resolving tax issues or suggest suspicious activity on a taxpayer's account. The ATO recommends not engaging with unsolicited contact and instead looking up the ATO's contact numbers to verify the genuine nature of the communication.

The Government has recently announced that the NASC will join a cutting-edge intelligence exchange between Australian banks, telcos, digital platforms and the Australian Financial Crimes Exchange (AFCX). The AFCX intel loop enables near real-time data sharing between participants about the latest tactics and tools used by scammers, and the new partnership will increase the capacity to disrupt and intercept scammer contact with consumers and help to identify and take down scammer websites.

The creation of NASC, funding for the Australian Securities and Investments Commission (ASIC) and the Australian Communications and Media Authority (ACMA) to take down fake investment websites, and establishing the SMS Sender ID register to stop scammers from spoofing trusted brand names have already had some success: over 5,000 website takedowns occurred and 100 million scam text messages were blocked in the final quarter of 2023. However, the lead-up to tax time still poses a risk – updated figures for May 2024 show a 31% increase in reports from the previous month for ATO impersonation scams across SMS, email, phone contact and social media channels.

The ATO is working on preventative measures to help the community to recognise legitimate ATO SMS interactions. As of January 2024, the ATO has been in the process of removing hyperlinks from all its outbound unsolicited SMSs by Tax Time 2024. Cybercriminals often use hyperlinks in SMS phishing scams, directing individuals to highly sophisticated websites – for example a fake myGov login page – in order to steal personal information or install malware.

The ATO has a dedicated team to monitor for scams and to assist taxpayers who have fallen prey to scammers, and provides detailed information about email and SMS scams, phone scams and social media scams on the ATO website. The ATO also offers a reporting service where people can report an ATO impersonation scam if they encounter one.

People and businesses should exercise caution and be vigilant in protecting their personal information, and recognise some of the common warning signs of an attempted scam:

- the ATO will sometimes contact a taxpayer by phone, email, SMS or post to advise of suspicious activity on an account but will never ask for personal information to be provided through these channels;
- the ATO will never send an email or unsolicited SMS with a hyperlink or QR code prompting a login to online services;
- calls from the ATO show as "No Caller ID" and not a number, and the ATO will never: threaten a taxpayer with arrest or make a conference call with a third-party claiming to be law enforcement; demand immediate payment while on the line; send unsolicited pre-recorded voice messages; ask for fees for refunds; threaten to cancel a TFN; or request payment via Apple or Google Play gift cards, cryptocurrency or cash; and
- the ATO will never use a social media platform (eg Facebook, Instagram, X or LinkedIn) to contact a taxpayer directly to discuss their personal ATO account.

If a taxpayer receives an unsolicited contact from the ATO and is unsure if it is legitimate, they should not reply but instead contact the ATO directly to verify the details. If a scam is identified they should report the scam through one of the ATO's specific reporting avenues.

Source: www.ato.gov.au/using-our-website/easier-to-read-information/is-it-a-scam-easy-read
www.ato.gov.au/online-services/scams-cyber-safety-and-identity-protection/verify-or-report-a-scam

Tax time 2024: claiming working from home expenses

Claiming work-related expenses is an area where taxpayers frequently make mistakes, and the ATO has flagged it a primary area of focus for tax time 2024. More than eight million taxpayers claimed a work-related deduction in 2023, with around half of those claiming a deduction related to working from home costs, so it's clear having an understanding of the actual cost method and fixed rate method for calculating working from home deductions is important to help taxpayers avoid incorrect claims and get their lodgment right the first time.

"Copying and pasting your working from home claim from last year may be tempting, but this will likely mean we will be contacting you for a 'please explain'", ATO Assistant Commissioner Rob Thomson has said. "Your deductions will be disallowed if you're not eligible or you don't keep the right records."

There are two methods for calculating work from home expenses: the actual cost method and the fixed rate method. Both methods require a taxpayer to keep detailed records and follow the ATO's three golden rules: the money must have been spent by the taxpayer without reimbursement, the expense must be directly related to earning their income, and the taxpayer must have a record to prove the expense (eg a receipt). The two methods can't be used in combination – a taxpayer needs to pick one or the other each year – so it's important to consider which method will best suit your individual circumstances.

To be eligible to claim working from home expenses by either method, when working from home a taxpayer must be fulfilling employment duties (not just minimal tasks like taking calls or checking emails); incur additional running expenses as a result of working from home (eg increased electricity or gas costs for heating/cooling or lighting); and keep detailed records showing how these expenses were incurred.

Actual costs

The actual costs method works by calculating the additional costs incurred while working from home. Taxpayers must keep records showing either the number of actual hours worked from home during the entire income year (eg a timesheet or spreadsheet); or a record, like a diary, for a continuous four-week period that represents their usual working from home pattern.

The taxpayer also needs to keep records (receipts, bills, and other documents) to prove what additional running expenses were incurred in working from home and how they worked out the amount of their deduction. Expenses can include the decline in depreciating assets (eg office furniture, computers); heating/cooling and lighting; home and mobile phone, data and internet costs; stationery and computer consumables; and cleaning of a dedicated home office. Where running expenses are incurred for both private and work purposes, the taxpayer must apportion the expenses and only claim the work-related portion as a deduction.

Fixed rate

The ATO revised the fixed rate method for calculating a working from home deduction in 2023, and the changes are now in full effect for the 2023–2024 financial year. As with the actual costs method, taxpayers choosing to apply the fixed rate method must have detailed records of the total number of hours worked from home (eg diaries, calendars, or spreadsheets) and the expenses incurred (eg copies of electricity or internet bills), and also have records for expenses the fixed rate per hour doesn't cover that show the work-related component of those expenses.

The claimable fixed rate of 67c per hour while working from home covers all the additional running expenses incurred by the taxpayer for home and mobile internet or data expenses; mobile and home phone usage; energy expenses (eg electricity/gas for heating/cooling and lighting); and stationery and computer consumables (eg printer ink and paper). It is important to remember that a taxpayer can't claim additional separate actual cost deductions for these expenses. However, they can separately claim a deduction for the work-related portion of depreciating assets (eg chairs, desks, computers) that are used for both work and private purposes.

Source: www.ato.gov.au/individuals-and-families/income-deductions-offsets-and-records/deductions-you-can-claim/working-from-home-expenses

ATO focuses on rental property owners' tax returns

Tax time 2024 sees the ATO continuing to turn the spotlight on rental property owners and inflated claims to offset increases in rental income. ATO data shows the majority of rental property owners are continuing to get information in their income tax returns wrong, even with most using a registered tax agent to complete their tax returns. The most common mistakes include overclaimed deductions; inadequate documentation to substantiate claimed expenses; and not understanding what expenses can be claimed and when.

To determine the accuracy of tax returns lodged by rental property owners, the ATO cross-checks data from a range of sources including banks, land title offices, insurance companies, property managers and sharing economy providers. Incomplete documentation and the inability to substantiate claims for expenses and deduction are major causes of errors. Records should include receipts, invoices and bank statements, and details of the calculation of deductions and any apportionments. Rental property owners need to make sure that they are keeping accurate records and are letting their tax agent (where they have one) know what is going on with their rental property so their return can be prepared correctly.

Not understanding what expenses can be claimed and when, particularly the difference between what can be claimed for repairs or maintenance versus capital expenditure, is the most common mistake rental property owners make on their returns. Deductions can be claimed only to the extent that they are incurred in producing income – which means costs incurred in generating their rental income annually may be claimed for that period. But there are some exceptions.

For example, repairs (eg fixing a broken window) can usually be claimed straight away while capital items can only be claimed immediately if they cost $300 or less. Expenses such as improvements and capital items or works, like buying a new dishwasher or oven, or remodelling a bathroom, must be claimed over time. In most cases, capital works expenses are claimed at 2.5% over 40 years. Unclaimed capital works expenses are added to the cost base of the property for CGT purposes when the property is sold.

Other common deductions that rental property owners often claim incorrectly, or overclaim, are:

- interest deductions that include interest for loans (from redrawing or refinance) that are used for private purposes – interest payments must be apportioned between the private and investment components over the life of the loan;
- levy payments to body corporate administration and general-purpose sinking funds for routine maintenance of common property can be claimed as a deduction when incurred, but payments to special purpose funds for a particular capital expense are not deductible until the works are complete and the body corporate billed;
- costs relating to borrowing expenses, including loan establishment fees, lender's mortgage insurance and title search fees – these expenses are generally claimed over a five-year period or the life of the loan, whichever is less; and
- state or territory stamp duty can't be claimed as a deduction if it relates to a rental property (except in the ACT). It can be added to the cost base to reduce capital gains upon sale.

Source: www.ato.gov.au/media-centre/ato-warning-to-rental-property-owners-dont-let-your-tax-return-be-a-fixer-upper
www.ato.gov.au/individuals-and-families/investments-and-assets/residential-rental-properties/rental-expenses-to-claim

Tax time reminders for small businesses from the ATO

Tax time is upon us, and the ATO has reminded small businesses of a number of areas they should be thinking about in the lead up to preparing their tax return and looking forward to 1 July, including Single Touch Payroll (STP) obligations; PAYG instalments; and reviewing their tax-deductible expenses, eligibility for small business concessions and their overall record-keeping. The ATO has also highlighted its self-paced online learning platform for small businesses to help small businesses understand their tax obligations.

The ATO is encouraging small business owners to prepare for their 2024 tax return lodgment by considering the following:

- *Purchase and keep records of tax-deductible items:* The end of the financial year on 30 June represents the last chance to purchase any tax-deductible items that the business intends to claim for 2023–2024. Small businesses should ensure that any tax-deductible items can be documented both for cost and usage, including apportionment for work and private use where relevant.
- *Check small business concessions:* Check if the business is eligible for any small business concessions. Small businesses, depending on eligibility, may be able to access a range of concessions based on their aggregated turnover – this applies to sole traders, partnerships, companies and trusts – including CGT concessions, the small business income tax offset or the small business restructure roll-over.

- *Finalise STP records:* The ATO reminds small businesses that if they have employees, the 2023–2024 STP information must be finalised by 14 July. This important end-of-year obligation ensures that employees have the correct information required to lodge their income tax return. STP information for all employees paid in the financial year, even terminated employees, must be finalised.
- *Check your PAYG withholding and instalments:* The Stage 3 income tax cuts became law earlier this year. From 1 July, individual rates and thresholds will change and will impact PAYG withholding for the 2025 financial year. Small businesses should check that the correct PAYG withholding tax tables are being used and that their software has updated to the new withholding rates from 1 July. If a small business thinks that their PAYG instalments could result in paying too little or too much tax, instalments may be varied. This can be done when lodging the activity statement through Online Services for Business or via a registered tax agent. The variation should be lodged on or before the day the PAYG instalment is due and before lodging the tax return for the following financial year.
- *Review record-keeping*: Looking toward the next financial year, small businesses should review their record-keeping from the past year and see if anything needs to be done differently in the future.

As part of tax time preparation, the ATO encourages small business owners to consider the self-paced courses offered on the ATO's *Essentials to strengthen your small business* online learning platform. Launched in February of this year, the platform offers free courses to help small business owners understand their tax and superannuation obligations and is a useful resource for tax practitioners to share and use with staff and clients. Co-created by the ATO with small businesses and educational experts, the platform offers more than 20 courses including videos, case studies, audio content and written information, quizzes, and learning pathways that can be customised. Courses include:

- life cycle stages – idea, start-up, day-to-day, change and exit;
- reporting obligations – for example, GST, FBT, employees;
- claiming small business tax deductions; and
- small business concessions.

Source: www.ato.gov.au/businesses-and-organisations/small-business-newsroom/small-business---get-ready-for-tax-time

Scam alert: fake ASIC branding on social media

The Australian Securities and Investments Commission (ASIC) has issued a scam alert warning consumers that there has been an increase in the use of ASIC's logo in social media scams promoting fake investments and stock market trading courses; cold calling scams; and impersonation accounts on Telegram. ASIC is working with the National Anti-Scam Centre (NASC) and social media platforms to remove such content and reminds consumers that it does not endorse or promote investment training or platforms, doesn't cold call consumers, and is not associated with any investment offerings.

Scammers are adept at using convincing marketing (including the logos of government organisations like ASIC) and new technology to convince consumers to act on money-making opportunities that are just too good to be true. Social media is a clear target for scammers, with the NASC report on scams activity for 2023 showing reports to Scamwatch regarding social media increased by 30.6% during the year, with $93.5 million in losses.

ASIC's warning to consumers covers three main areas of concern.

- *Advertisements on social media platforms*: ASIC has received reports of ads on social media platforms displaying the ASIC logo and claiming ASIC sponsorship for a "Stock Trading Master Class". The ads link to a private WhatsApp group called "Lonton Wealth Management Center" – an entity listed by ASIC on the Investor Alert List in May 2024. These ads are misleading, as ASIC is not associated with the entity, and ASIC does not sponsor the class.
- *Cold calling:* Repeated cold calls from someone purporting to be from ASIC have been reported by consumers. The caller tries to engage with consumers about obtaining a refund on an investment. ASIC does not cold call consumers about investments.
- *Fake Telegram account:* An account on Telegram is impersonating an ASIC social media account, with the operators asking investors for money to release their investment funds held in Australia. ASIC does not have a Telegram account as part of its social media presence and will never ask consumers for upfront payments or taxes to release Australian-held investments.

The regulator has provided a quick checklist to confirm that these types of social media ads are not associated with ASIC:

- ads using the ASIC logo to promote investing or financial products and services – ASIC will never endorse products or training courses;
- ads claiming the organisation or product is “supported” or “sponsored” by ASIC;
- ads that claim to be from ASIC but then refer instead to another party;
- ads that send consumers to a recently created social media account that uses the ASIC logo but has no post history or isn’t using one of ASIC’s recognised social media handles. ASIC currently has official social media accounts on Facebook (MoneysmartAU), X/Twitter (@MoneySmartTeam, @asic_connect, @asicmedia), Instagram (MoneysmartAU) and LinkedIn (ASIC).

ASIC is working with the National Anti-Scam Centre and social media platforms to remove the fake content. If consumers encounter the fake social media ads, ASIC says they should employ the STOP, THINK and PROTECT approach. That is: do not click through on the ads; check that the social media handles are ASIC’s official accounts and check for any scam warnings on ASIC’s official accounts; and, if possible, report the ads to the relevant social media platform and follow up by reporting the ad to Scamwatch. If a consumer thinks that they have been scammed, ASIC, Moneysmart, Scamwatch and IDCARE all offer information on what to do and the next steps to take.

Source: https://asic.gov.au/about-asic/news-centre/news-items/scam-alert-fake-asic-branding-is-appearing-on-social-media-scams

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