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## ANNOUNCEMENT



We are proud to announce that Ivan Yeung has joined us as a Partner in the practice.

Since joining the firm in 2011 Ivan has obtained his CPA and CA qualifications, become a registered tax agent and has proven to be an asset to the business.

His dedication to the business and its clients is undeniable and have played a significant role in our growth and the enrichment of our client relationships.

We look forward to Ivan continuing his career journey with us.

## WELCOME TO THE LATEST EDITION OF THE PRACTITIONER



By Andrew Goldman

In this edition of The Practitioner we speak with team member Kushal Sharma to see what makes him tick and we also cover some important and at times complex taxation, business and estate planning topics.

We hope you find the content in this edition to be both entertaining and informative.

On the horizon we have the Christmas and New Year break – what a perfect time to consider some important issues before we enjoy these special times of the year with family and friends.

Kushal and I had a quick Q & A session recently and below you can learn a few things about Kushal that even I didn't know!

**Q: What can you share with us about your family?**

**A:** I am lucky enough to live very close to my family. In fact, I live next door to my brother and his family. My father who was a businessman and mother who was a school teacher retired to Australia from India and live with us. My son is enjoying his first year at school.

**Q: What do you like the most about working at GFM Gruchy?**

**A:** Simply working together with clients and assisting them with their affairs. The trust and confidence our clients show towards the whole team is very satisfying. Working with the GFM Gruchy team gives me immense pleasure.

**Q: What do you like to do when you are not working?**

**A:** When I manage to finish the to-do list around the home with my wife, you can find me either dancing or singing and usually spending time with Sohum.

**Q: What are some things you couldn't live without?**

**A:** Apart from the obvious things like food and water, it would be my family.

**Q: If you could meet anyone in the world, past or present, who would it be and why?**

**A:** Most definitely it would be my late grandfather. He passed away when I was quite young and most of what I have learned about him has been through talking with family and his peers. He was a respected member of his community and I know I could have learned a great deal from him.

## TEAM MEMBER PROFILE: Q&A WITH KUSHAL SHARMA



By Andrew Goldman

Kushal joined GFM Gruchy in February 2009. He is an accredited SMSF Specialist Advisor™, CPA and an integral part of our SMSF team in his role as Senior Accountant – SMSF.



Pictured here with his wife who works in hospitality and six-year-old son Sohum,

**Q: What is your favourite book, movie or TV show?**

**A:** "The Crystal Maze". This is a British game show aired in the 1990's and is my all-time favourite.

**Q: What's something about you that people may not know?**

**A:** I am a poet and a chef! These are things I enjoy very much. Until now, only my friends knew this about me.



## ATO FOCUS ON RENTAL PROPERTY INCOME AND DEDUCTIONS



By Andrew Goldman

Income and tax deductions from rental properties is one of the four key areas that the ATO is focusing on this year.

The ATO is urging rental property owners to ensure they carefully review their records before declaring income or claiming deductions. For registered tax agents such as ourselves, they are requesting we ask a few extra questions of our clients who own rental properties.

As registered tax agents, we can only work with the information we receive from our clients. We appreciate some clients won't know everything they need to tell us (which is understandable).

## Include all rental income

The ATO receives rental income data from a range of sources including sharing economy platforms, rental bond authorities, property management software providers, and state and territory revenue and land title authorities. The amount of data the ATO accesses grows each year, making it easier and faster for them to spot any rental income that you have charged your tenants, but haven't declared (even unintentionally). When preparing tax returns, all rental income must be included, such as from short-term rental arrangements, renting part of a home, and other rental-related income like insurance payouts and rental bond money retained.

Further, income and deductions must be in line with a rental property owner's ownership interest, which should generally mirror the legal documents.

## Getting your expenses right

Not all expenses are the same – some can be claimed straight away, such as rental management fees, council rates, repairs, interest on loans and insurance premiums. Other expenses such as borrowing expenses and capital works need to be claimed over a number of years. Capital works can include replacing a roof, or a new kitchen renovation. Depreciating assets such as a new dishwasher or new oven are claimed over their effective life.

Refinancing or redrawing on a rental property loan for private expenses such as holidays or a new car, means that the amount of interest relating to the loan for that private expense can't be claimed as a deduction.

If income from a rental property in a holiday location is earned, it needs to be included in tax returns.

## Keep good records to prove it all

Records of rental income and expenses should be kept for five years from the date of tax return lodgements or five years after the disposal of an asset, whichever is longer.

Adequate records should demonstrate how the expense was incurred for the rental property and the extent to which it relates to producing rental income. Records must include the name of the supplier, amount of the expense, the nature of the goods or services, the date the expense was incurred, and the date of the document.



## WASH SALE ARRANGEMENTS UNDER SCRUTINY



By Kerry Taylor

The ATO is warning taxpayers not to engage in 'asset wash sales' to artificially increase their losses in order to reduce capital gains or expected gains. It cautions that these may be seen as a form of tax avoidance.

These arrangements typically involve the disposal of assets such as cryptocurrency and shares where, after a short period of time, the taxpayer reacquires the same or substantially similar assets. This may be a wash sale and is done to create a loss to offset against a gain already derived, or expected to be derived, in certain circumstances, in a tax return.

Wash sales differ from the normal buying and selling of assets because wash sales are undertaken for the artificial purpose of generating a tax benefit for the current financial year. The taxpayer disposes of and quickly reacquires the asset for the deliberate purpose of realising a capital loss and obtaining a tax benefit by offsetting it against a capital gain.

In terms of detection, the ATO states that its sophisticated data analytics can identify wash sales through access to data from share registries and crypto asset exchanges. When the ATO identifies this behaviour, the capital loss can be rejected.

Of course, the selling and repurchasing of the same CGT asset within a short period of time – resulting in a loss – can in some cases just be as a result of rational investing and not driven by tax. The disposal and acquisition may be explicable by reference to market changes, for instance the improvement in share price and demand for the stock may also be regarded as consistent with the way in which taxpayers usually hold and realise investments. The disposal and reacquisition within a short period of time may be due to a change in investor

sentiment and market activity. This tends against the dominant purpose of obtaining a tax benefit.

The ATO states that there is no set period of time between sale and reacquisition in order for a sale to be classed as a wash sale. It will depend on the overall circumstances, as it should.

The take-home message is that it's still OK to sell and reacquire shares and cryptocurrency within a short period of time – provided it's not done to create an artificial loss. This can be a difficult topic to understand, therefore touch base with us if you are selling shares or crypto and are uncertain about how the law may apply.

## USING BUSINESS STOCK FOR PRIVATE PURPOSES?

By Philip Gruchy



The ATO has issued a reminder to sole traders and partners in a partnership.

If you take goods from your business for your private use, make sure you accurately record this in your stock on hand.

Accessing your trading stock for private use is permissible from a tax perspective, however you need to account for the stock correctly:

- each time you use it (as you would if you sold it)
- at year's end.

By way of background, trading stock is anything your business acquires, produces or manufactures, for the purpose of manufacturing, selling or exchanging. Livestock is also trading stock. Trading stock does not include:

- standing or growing crops, timber or fruit – these only become trading stock when they are harvested, felled or picked
- stocks of spare parts held for repairs or maintenance to plant and equipment
- goods owned by a lending business where the goods are used to earn income by hire or rental, rather than manufacture, sale or exchange, for example furniture, DVDs, catering equipment, tools, vehicles etc.
- consumables used in manufacturing trading stock, such as cleaning agents or sandpaper.

If you don't adjust the actual cost of goods sold to reflect the goods you used for private consumption, you could be incorrectly claiming expenses you're not entitled to.

A good plan is to set up regular reconciliation processes to help you keep track of each time you take stock for private use. Keep a record which shows:

- the date
- a description of what was taken
- the reason stock was taken

- the cost or market value of the item (excluding GST).

At the end of the financial year, any goods taken for your own use should not be accounted for as stock on hand.

### ATO Example

John runs a grocery store. At the end of each week, he takes food from his grocery store for his wife and three children.

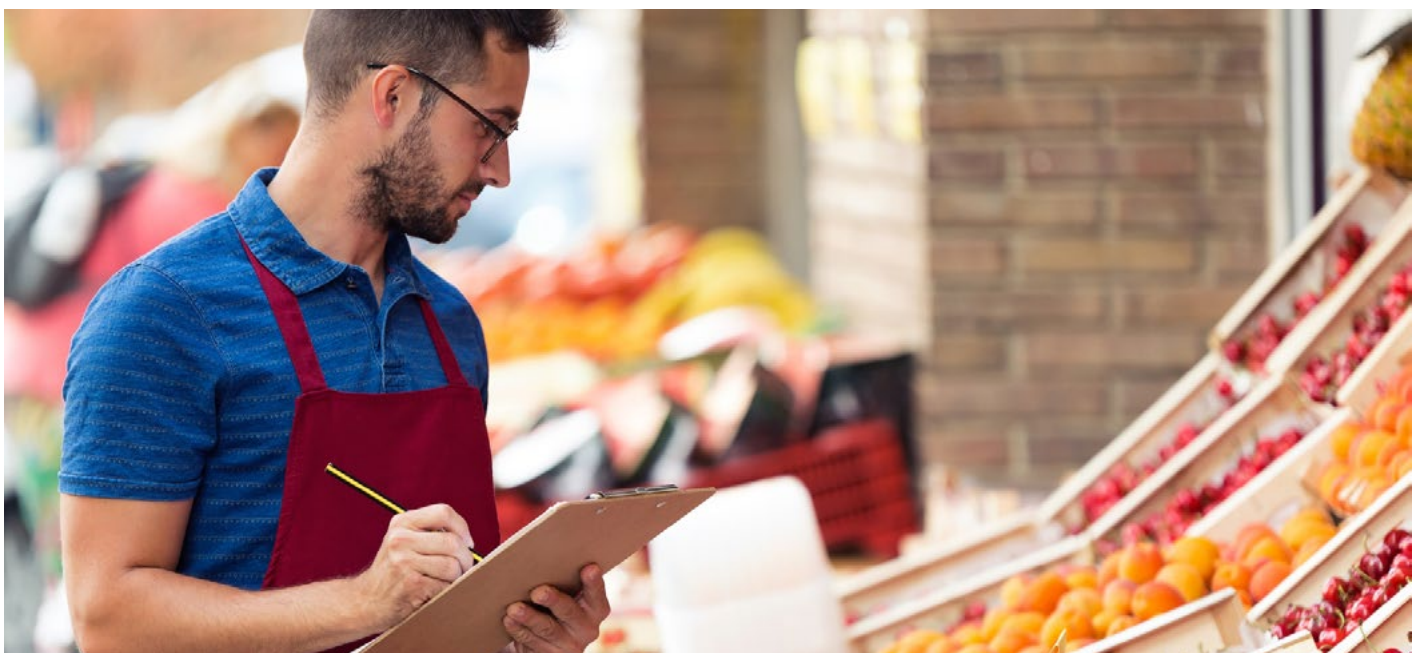
John records the value of these goods and reports the amount as income in his business accounts. His records include:

- the date
- a description of what was taken
- the reason stock was taken
- the cost or market value of the item (excluding GST).

There are two ways you can value your stock. You can either:

- keep records of the actual value of goods you take from your trading stock for your own private use and report that amount, or
- use the amounts the tax office provides as estimates of the value of goods you have taken (updated annually), which are available in our taxation determination.

We can help you set up systems to account for your trading stock.





## GST HEALTH CHECK

By Ivan Yeung

### Registration

If you are not already registered, you may over the coming period need to register for GST if:

- your business or enterprise begins to have a GST turnover of \$75,000 or more per year (gross income from all businesses minus GST)
- your non-profit organisation begins to have a GST turnover of \$150,000 or more.

Even if you are under these thresholds, it may be advantageous to register for GST if you could typically end up in a GST refund position each tax period. By registering, this will enable you to claim the GST tax credits on certain purchases rather than missing out on those credits because you are not registered. Talk with us further if you are uncertain around this.

Conversely, if your turnover drops below these thresholds or you are contemplating ceasing business, you may deregister from GST. There are certain consequences that flow from deregistering which we can run through with you.

If you are not registered for GST and therefore cannot claim GST credits on business-related purchases, you can claim the GST on expenses (not capital expenditure) as a tax deduction as part of the total expense – though this is not as beneficial from a cash flow perspective as claiming the credit in full if you were GST-registered.

### Unclaimed GST credits

A good time to check if you have missed claiming any GST credits is at the end of the financial year and at the end of each quarter or month, depending on your

lodgement frequency. For example, you may have come into possession of, or found, tax invoices from prior periods which you haven't claimed the GST on. Your entitlement to a GST credit ends four years after the due date of the earliest Activity Statement in which you could have claimed the credit.

### Reporting period

If your business invariably ends up with GST refunds each quarter, consideration may need to be given for you to lodge monthly. This will assist cashflow by bringing forward your refunds – having them paid monthly rather than waiting three months to receive them from the ATO. We can review this with you.

## DIRECTOR IDENTIFICATION NUMBERS... ANOTHER REMINDER

By Miryam Schejtman



All existing directors of a company, registered Australian body, registered foreign company, or a director of corporate trustees of an SMSF are required to apply for a director identification number (director ID) by 30 November 2022.

To be clear, if you are currently a director, or plan to become one in the next 12 months, you'll need a director ID.

Directors must apply for their director ID personally – we as your tax agent cannot apply on your behalf, but we can help you understand the new requirement, if you need to apply, and by when.

A director ID is a unique 15-digit identifier that all directors or people intending to become directors must apply for. It's free to apply and you only need to apply once – you keep your director ID forever. A director must apply for their own director ID and verify their identity using their personal records.

Date you first become a director	Date you must apply
On or before 31 October 2021	By 30 November 2022
Between 1 November 2021 and 4 April 2022	Within 28 days of appointment
From 5 April 2022	Before appointment



## CLAIMING BUSINESS LOSSES

By Andrew Goldman

You may be able to offset your business loss against other income (such as salary and wages) if you're a sole trader or a partner in a partnership.

Firstly, however, your loss must not be non-commercial. A non-commercial business loss is a loss you incur, either as a sole trader or in partnership, from a business activity that is not related to your primary source of income. This type of business activity could be a hobby or lifestyle benefit.

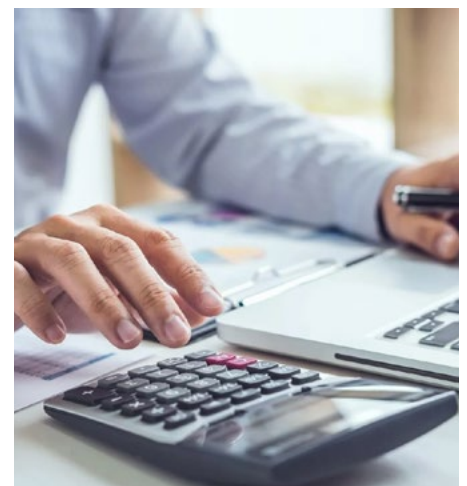
Even if it has business-like characteristics, if it is unlikely to ever make a profit and doesn't have a significant commercial purpose or character, you can't offset this non-commercial business loss against your other income. In this case, you can defer the loss until you make a profit from the business activity. This applies whether your business loss is from an Australian or a foreign source.

If your loss is indeed commercial, and your adjusted taxable income (taxable income + reportable fringe benefits + reportable super contributions + net investment losses) is below the relevant threshold (currently \$250,000) then that is just the first step to potentially claiming your losses.

Generally, at least one of the following tests must also be met (though they differ slightly for partnerships).

### 1. Assessable income test

To pass the assessable income test, assessable income from your business activity during the financial year must be at least \$20,000.



## 2. Profits test

Your business will pass the profits tests if it has made a tax profit in three out of the past five years (including the current year).

## 3. Real property test

You will pass the real property test if real property of at least \$500,000 in value is used in your business activity on a continuing basis. Real property includes: land, structures fixed to the land, a property lease

## 4. Other assets test

You will pass the other assets test if the value of the "other assets" you use in your business on a continuing basis is at least \$100,000. Only certain assets are included in this test and some are specifically excluded. Included are: plant & equipment, trading stock, leased assets, trademarks.

If you do not have adjusted taxable income below the relevant threshold AND pass at least one of the above tests your loss may be deferred until you meet the requirements detailed above.

To sum up, if you're an individual in business, as either a sole trader or in a partnership, and your business activity makes a loss, we can help you work out if you need to:

- claim and offset the loss against your other income, such as salary and wages
- defer the loss and claim it in a later year – if you do not pass the non-commercial loss rules above.



## THE TAX CONSEQUENCES OF LAND SUBDIVISION

By Ivan Yeung

It's quite common for individuals to subdivide land they own, and then sell off one of the blocks. Depending on the circumstances, this can have capital gains tax (CGT) and GST implications.

### Capital gains tax

If you subdivide a block of land, each resulting block is registered with a separate title. For capital gains tax (CGT) purposes, the original land parcel is divided into two or more separate assets.

The profit from selling subdivided land may be a capital gain or ordinary income, depending on the circumstances.

If you subdivide a block of land and sell the new block, any profit is generally treated as a capital gain subject to CGT.

However, any profit you make is treated as ordinary income (not a capital gain) if both of the following apply:

- your intention or purpose in subdividing was to make a profit
- the profit was made in the course of carrying on a business, a business operation or commercial transaction.

This is true even if you aren't in business (for example, if it's a one-off transaction by an individual).

Where the amount is treated as ordinary income, CGT concessions (such as the 50% discount) are not available.

If you sell any land separately from your home, it is invariably subject to CGT. Only land sold with the home that is your main residence can receive the main residence exemption. Land is adjacent to your home if it is close to, near, adjoining or neighbouring it.

### Goods and services tax

You may have GST obligations and entitlements if you sell with the intention of making a profit:

- in the course of carrying on a business, or
- as a business or commercial transaction.

If you're unsure whether your subdivision falls into the above categories, consult with us.

Even with a one-off transaction, you may still be required to register for GST because your transaction may have the characteristics of a business deal/enterprise. Whether an enterprise is being carried on (and therefore whether you

need to register for and charge GST) will depend on a range of factors.

If several of these factors are present it may be an indication that an enterprise is being carried on (as distinct from the land being sold as is):

- there is a change of purpose for which the land is held
- additional land is acquired to be added to the original parcel of land
- the parcel of land is brought into account as a business asset
- there is a coherent plan for the subdivision of the land
- there is a business organisation - for example a manager, office and letterhead
- borrowed funds financed the acquisition or subdivision
- interest on money borrowed to defray subdivisional costs was claimed as a business expense
- there is a level of development of the land beyond that necessary to secure council approval for the subdivision and
- buildings have been erected on the land.

Once registered for GST, you will:

- need to include GST in the price of goods you sell, including land that you've subdivided
- be able to claim credits for the GST included in the price of most of your business purchases (subject to the normal GST rules)
- report these transactions by completing an activity statement.

If you are considering subdividing and selling, or even just selling vacant land, we can advise you of both the CGT and GST consequences.





## ESTATE PLANNING EXPLAINED

By Philip Gruchy

Estate Planning means different things to different people. Ultimately, it is about ensuring that you have the right mechanisms in place to ensure that in the event of your death, your assets pass in the manner you intend.

Broadly speaking, there are five key steps in the estate planning process:

Firstly, identify which assets are to be dealt with as part of your estate plan. This can be more extensive than you think and could involve:

- Savings accounts
- Shares
- Businesses
- Properties
- Vehicles
- Collectibles
- Items with sentimental value
- Superannuation savings.

Next, who owns those assets? Assets can be owned individually, jointly, within superannuation, or by a related entity such as a company or trust.

Third, how do you want those assets distributed on your death? This is a question only you can answer: who should get what and when?

How do you bring about this outcome? An estate plan brings together the answers to the above questions. It will usually include Wills and Powers of Attorney but in many cases will also involve succession planning strategies to deal with related entities and superannuation balances. Additionally, steps may also be necessary to provide for children and blended families.

The final key step is choosing your Executor. This is the person who will carry out your final wishes after you die. An Executor should be someone you trust who has some financial knowledge as they will be responsible for paying off debts and managing your Estate according to the terms set out in your Will. An Executor can be a family member, close friend, a lawyer, Public Trustee or other corporate provider.

Here are a few questions to help you decide whether you might have some gaps that need filling in your estate planning:

- Do you have a Will?
- If you do, when was it last updated?

- Could you (or your spouse) locate your Will if you had to?
- Do you have a Power of Attorney in place in case you were unable to make your own decisions?
- If you and your spouse leave everything to one another in your Wills, have you considered what would happen in the event of your simultaneous death?
- Do you realise that superannuation and family trusts don't form part of your Estate and thus other strategies (besides a Will) are needed to properly deal with these?
- Do you know that special, tax-effective structures known as Testamentary Trusts can be used to pass wealth securely to family members, but they are most effective when documented in your Will?
- Have you properly considered who should be the Executor of your Will (sometimes the people closest to you, such as a spouse, may be in no fit state to play the role)?
- Once in place, any good Estate plan should be reviewed and updated regularly. Major life events like marriages, divorces or deaths are a good opportunity to go back through your Estate plan and make sure the right people will be protected.



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