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The new rules for gift cards – what you need to know

In Australia, around 34 million gift cards are sold each year with an estimated value of $2.5 billion. On average, an estimated $70 million is lost because of expiry dates.

Until recently, there was no national regulation for the minimum length of time a gift card should last. In late 2017, New South Wales introduced laws* requiring a minimum three year expiry period for gift cards sold in that state and South Australia was in the process of enacting laws, but no uniform standard applied across Australia.

Applying from 1 November 2019, new laws are in effect that introduce a regime for the regulation of gift cards including:

- A minimum 3 year expiry period
- Bolstering disclosure requirements, and
- Banning post-supply fees.

Travelling to and from your investment property

From 1 July 2017, new rules came into effect that prevent taxpayers claiming a deduction for expenses they incur travelling to and from their residential investment property.

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The Government restricted travel deductions to curb “widespread abuse around excessive travel expense claims relating to residential investment properties….This will stop residential property investors from using the tax system to pay for their holidays by claiming costs as a rental expense.”

The new rules prevent a deduction from being claimed for a loss or outgoing if it relates to travel and the expense is incurred in gaining or producing assessable income from the use of residential premises as residential accommodation.

The purpose of the travel is not really relevant under these rules. They simply prevent a deduction from being claimed if the travel is undertaken in connection with a residential rental property, which could include travel to inspect the property, undertake repairs, collect rent or meet with real estate agents.

The restriction applies to transport costs (regardless of the mode of transport used), meals and accommodation expenses incurred in relation to a residential rental property.

There are some exceptions to these changes.

Firstly, the rules will not prevent a deduction from being claimed if the expense is necessarily incurred in carrying on a business. This means that if you carry on a business of renting properties, you can continue claiming travel deductions if you carry on a business of property investing or a business of providing retirement living, aged care, student accommodation or property management services.

The distinction between someone merely investing in property and someone carrying on a business of property investing is a matter of fact. The ATO will look at the characteristics of the business including:

- the total number of residential properties that are rented out
- the average number of hours per week you spend actively engaged in managing the rental properties
- the skill and expertise exercised in undertaking these activities, and
- whether professional records are kept and maintained in a business-like manner.

The fact that a taxpayer has multiple properties does not necessarily mean that they are in business. It will really depend on whether you can prove that you actively manage the properties like a business. In a recent case, the Administrative Appeals Tribunal found that a taxpayer with 9 rental properties was considered to be carrying on a business of property rental largely because the taxpayer actively supervised the real estate agent employed and managed issues associated with the properties (thus having a discernible pattern of trading to their activities), the capital employed was significant and they had conducted property rental activities for a number of years.

Also, the rules do not apply to certain entities including:

- Companies;
- Superannuation funds, except SMSFs;
- Managed investment trusts;
- Public unit trusts;
- Unit trusts or partnerships, but only if all unit holders or partners fall within one of the categories above.

In addition to the rules that prevent a deduction from being claimed, the changes also ensure that these travel expenses cannot be included in the cost base or reduced cost base of a property. This means that they cannot be used to reduce a capital gain or increase a capital loss made on sale of the property.

What does the China/US trade war mean to Australia?

As the bilateral trade war between the US and China heats up, we look at what this might mean to Australia caught between its cultural and military ties to the US and its strong economic relationship with China.

At the annual United Nations General Assembly President Donald Trump threw fuel on the trade war fire by stating that "…regrettably we found that China has been attempting to interfere in our upcoming 2018 election…against my administration. They do not want me or us to win because I am the first President ever to challenge China on trade….and we are winning on trade …we are winning at every level." Following the speech President Trump told a press conference that, "China has total respect for Donald Trump and for Donald Trump's very, very large brain." China's Foreign Minister Wang Yi stated that, "We did not and will not interfere in any country's internal affairs and we refuse to accept any allegation of interference." It was just another day in the media juggernaut for President Trump.

In 2017, the US imported well over $500bn worth of products from China. The US trade deficit in the same year was over $811bn of which China accounted for around 46%. From China's perspective, the US market accounts for 19% of all Chinese exports and US imports represent 8% of China's imports.

The trade war between the US and China escalated in September when the US imposed a further round of tariffs on US$200bn worth of Chinese goods, bringing the total value of Chinese goods impacted by the trade war to approximately US$250bn. The tariffs start at 10% and rise to 25% on 1 January 2019. President Trump has threatened to impose tariffs on a further US$267bn worth of goods if China retaliates.

China has responded by imposing tariffs of between 5% and 10% on a further round of US goods bringing the total value of imports targeted to US$110bn. China has released a White Paper on the China-US trade friction that states, "China is the world's biggest developing country and the United States is the biggest developed country" and both have benefited from the development of relations. The paper points out that "China represents the No. 1 export market for US airplanes and soybeans, and the No. 2 export market for US automobiles, IC products and cotton." But, the new administration has "abandoned the fundamental norms of mutual respect and equal consultation that guide international relations."

Economists predict that the trade war may continue to the point where all Chinese goods imported into the US and all US goods imported in China will be impacted.

To date, Australia has avoided any significant impact from the trade war. This is not the case for Canada that saw the Trump administration impose a 25% tariff on steel imports and 10% on aluminium imports. The US imports approximately US$29bn of steel with 17% of that from Canada (accounting for approximately 88% of total Canadian steel exports). Australia was one of the few countries excluded from the tariffs although the US only accounts for 0.8% of Australian steel and 1.5% of aluminium exports.

The issue for Australia is the potential reduction in China's GDP growth. Currently, mainland China is Australia's largest two-way trading partner representing over 28% of Australia's export market (the US represents 6.3%) and over 18% of our imports. A slowdown in China's growth spells a slowdown in imports reducing the value of Australia's export market and impacting Australia's growth.

While Australia is not directly impacted by the bilateral trade war, there is a potential danger that consumer sentiment might be damaged with consumers unwilling to spend and instead taking a 'wait and see' approach.

Reminder on cents per km car expenses rate

The cents per kilometre car expense rate increased from 66 cents to 68 cents per kilometre from 1 July 2018. Employers who use the cents per kilometre rate to pay car allowances for employees should ensure that car allowance rates are up to date. If more than 68 cents per kilometre is paid, employers need to withhold tax on the excess amount under the PAYG withholding system.

Quote of the month

"Learn from the mistakes of others. You can't live long enough to make them all yourself."

Eleanor Roosevelt

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.