The Next Move

August 2026

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"But I Can't Do My Job Without It"

The Three Questions Every Deduction Must Answer

Every accountant hears it. I have to wear a suit to see clients. The army makes me keep my hair short. I pay a parking fine most days because there is nowhere else to stop. I put the business logo on my car.

Every one of those statements can be completely true. The expense really is unavoidable. You really would be worse off at work without it. And it still may not be deductible.

That is the part that surprises people. There is no rule in the tax law that says if it is essential, you can claim it. Essential is not the test. It is only the first question of three, and plenty of expenses sail through the first one and fail the next two.

01 Question One: Is It Connected to Your Work?

Do you spend this money because of how you earn your income? For most of the examples above, the honest answer is yes. This is the question clients focus on, and it is usually the one they are right about.

02 Question Two: Is It Really a Private Cost, or Something You Are Buying to Keep?

The law will not let you claim an expense that is private in nature, or one that is really the purchase of a lasting asset.

A suit is conventional clothing — you have to be dressed for the day whether or not you are working, so it is treated as private. Keeping your hair short is grooming, and grooming stays private no matter who insists on it. Buying the car is acquiring an asset rather than incurring a running cost. And putting a logo on the door does not turn the drive to work into a work trip — that journey was private before the sticker went on, and it stays private afterwards.

03 Question Three: Is There a Rule That Specifically Blocks It?

Sometimes the law simply names an expense and says no. Fines and penalties are the clearest example: the daily parking ticket is not deductible, full stop, no matter how impossible your run would be without it. Entertaining clients, most club memberships and paying a partner's travel costs are blocked the same way.

An expense has to clear all three questions. Being unavoidable only helps with the first.

If you are certain you cannot earn your income without a particular expense, raise it with us before we lodge — not after the ATO asks. Sometimes the answer is yes, and where it is not, there is often a way to change how the cost is incurred so that it becomes deductible. Come and talk to us first.

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Borrowing to Invest Through Your Family Trust

Getting the Interest Deduction Right

There are two clean ways to fund a trust investment with borrowed money and keep the interest deductible. There is also a common approach that does not work — and it is worth understanding why before the ATO raises it with you.

It is a scenario we see regularly. You borrow money — perhaps against your home or an existing investment — and lend it to your family trust. The trust puts the money to work, earns income, and distributes that income back to you. At tax time, you claim the interest on your loan. The numbers look tidy. Job done?

Unfortunately, in most cases, no. The rule of thumb for claiming interest is straightforward: the borrowed money has to be earning you assessable income. The deduction follows the use of the funds. Lending the money to your family trust interest-free is different — that loan is not earning you anything. The distribution you later receive is not a return on your loan; it is the trustee choosing to share the trust's income with you, and with a discretionary trust no one is entitled to a distribution at all. Because the loan and the distribution are not genuinely connected, the legal link required — between your interest cost and your income — simply is not there. The ATO has examined exactly this kind of arrangement and takes a firm view: the interest is not deductible.

The good news is there are two clean ways to do it properly. Both depend on being set up correctly, in advance.

Option 1: A Genuine Loan to the Trust

The first clean approach is to treat it as a real loan. Your trust borrows the money from you and pays you interest at a commercial rate, properly documented. You declare that interest as income and claim your borrowing costs against it. The trust, in turn, can generally claim the interest it pays you, provided it is using the funds to earn its own income. The trade-off is that you carry interest income personally — which washes against your deduction but can quietly affect income-tested thresholds such as the Medicare levy surcharge.

Option 2: Let the Trust Do the Borrowing

The second — and often tidier — approach is for the trust to be the borrower from the outset. If the trust is going to own the investment and earn the income, the trust should carry the loan, so the deduction sits where it belongs: against the trust's own income.

The complication is that banks often will not lend to a trust directly; they want a real person on the loan, and usually security over your home. That is where an agency arrangement comes in. You sign for the loan as the trust's agent — meaning that, in law, the borrowing is the trust's, even though your name is on the facility because the bank requires it. The money goes to the trust, the trust uses it to earn income, and the trust pays the interest and claims the deduction. You declare no interest income and claim nothing personally.

The Catch — And It Is the Same for Both

Neither option can be fixed after the event. Both must be genuine and documented before you borrow. For the agency arrangement in particular, the trust deed must allow the trustee to borrow and to act through an agent; the trustee must resolve to appoint you as agent; and a written agency agreement must be signed before the loan is drawn down. You cannot create the agency retrospectively, and you cannot repair an interest claim once the money has already been borrowed the wrong way.

One thing neither option changes: you remain personally liable to the bank and will usually still provide the security. The structure changes who gets the tax deduction — not who the bank can chase.

If you are thinking about borrowing to invest through your family trust — whether to buy property, shares, or anything else the trust will hold — talk to us before you sign anything. The right structure must be in place before you borrow. It is straightforward to get right from the start, but impossible to fix after the fact.

The $30 Million "Gift" That Wasn't

What the Cheung Case Means If Family Overseas Is Sending You Money

If a family member overseas is planning to send you money, there is a Full Federal Court decision you should read about first.

Rene Cheung retired to Australia from Vanuatu in 2000. Over the next decade his older sister, Graziella Leong — the owner of a large Vanuatu supermarket chain — transferred him more than $30 million across 99 separate deposits. Rene said they were gifts. He declared the interest he earned on the money, but not the money itself.

The ATO disagreed and assessed the entire amount as income. Rene objected, lost at the Tribunal, and appealed to the Federal Court. In November 2024 he won. Justice Logan heard Mrs Leong give evidence, described her as a most impressive witness, and accepted the transfers were exactly what the family said they were — gifts of capital between siblings, made out of loyalty and a long family tradition of pooling money.

That should have been the end of it. It was not.

The Commissioner appealed, and in May 2026 the Full Federal Court overturned the decision. The Full Court found that the documentary evidence and the inconsistencies in the family's accounts had not been properly weighed. Rene had not discharged his onus of proving the assessments were excessive. The assessments were restored, and more than a decade of transfers became taxable income.

Honest witnesses and a genuine family relationship were not enough. In a tax dispute, the burden of proof sits with you — the ATO does not have to prove where the money came from. You have to prove it was not income.

What to Do Before the Money Arrives

The ATO has published guidance on documenting genuine gifts from overseas. Its position is that a genuine gift is one where the documentation supports the characterisation, the parties' behaviour is consistent with it, and the money comes from funds genuinely independent of you.

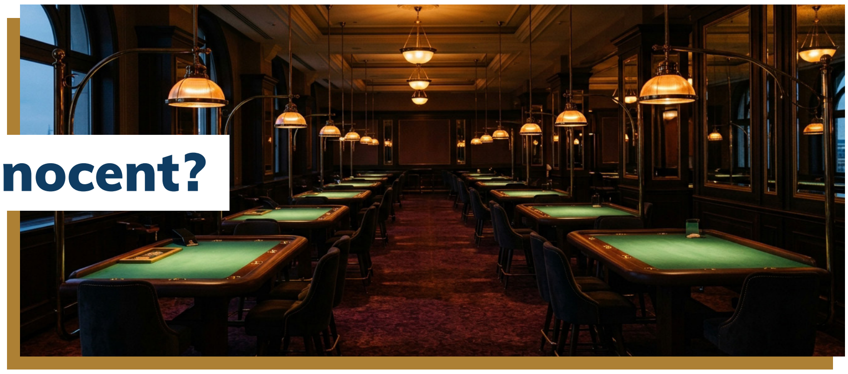
Practically, that means gathering the following at the time — not years later when a review lands:

- A deed of gift, prepared and signed by the donor before or when the money is sent
- Formal identification of the donor — passport or national identity card
- The donor's bank statements showing both the transfer and their wealth before they made it, so their capacity to give is evident
- Any declaration the donor has made in their own country about the transfer
- For an inheritance, a certified copy of the will or the estate's distribution statement
- Records tracing the money from the donor's account into yours, with no unexplained stops in between

Keep all of it. The ATO can review these transfers many years after the event, and every transfer over $10,000 into Australia is already reported to AUSTRAC. The paperwork is the cheap part; reconstructing the story a decade later is not.

If family overseas is planning to send you money — a gift, an inheritance, a loan, or help with a house deposit — contact us before the transfer. A short conversation and a properly executed deed of gift can save an argument worth more than the gift itself. Do not leave it until the money has arrived.

Guilty Until Proven Innocent?



A Gambler's $600,000 Tax Lesson

Most Australians assume gambling winnings are tax-free, and for the everyday punter having a flutter that is usually right — a casual win at the casino or on the punt is not assessable income. But a recent decision of the Administrative Review Tribunal shows how quickly that comfortable assumption can unravel, and how the burden of proof can land squarely on your shoulders.

The case involved a former grocery store worker whose tax return for the 2017 year declared income of just $42,018 in wages. The Tax Office formed the view that she had actually received assessable income of $587,394 — more than thirteen times her declared salary — and amended her assessment accordingly, with a penalty on top.

How the Commissioner Got to That Figure

Records obtained from The Star in Sydney and on the Gold Coast, and from Crown in Melbourne, showed that roughly $480,000 had been put through casino credit accounts in her name. She said the money came from social gambling, winnings, and loans from friends. The Commissioner's position was blunt: a person on a modest grocery-store wage simply could not have funded that level of casino activity from her declared income. The unexplained money, in his view, had to be undeclared income.

Here is the part every client needs to understand. Once the Tax Office asserts that you have received income, the law does not require the Commissioner to prove it. When you challenge an assessment, the onus of proof sits with you.

The Burden Falls on You

Under the tax legislation, a taxpayer disputing an assessment must prove that the assessment is excessive — and in practice that means proving where the money actually came from. It is not enough to say these were gambling winnings or a friend lent it to me. You need records, evidence, and a paper trail that stands up to scrutiny.

This taxpayer could not discharge that burden. Her recollection of individual wins and losses — ranging from a few thousand dollars up to $137,000 — was not backed by the documentation the Tribunal needed. Because she could not prove the deposits were not income, the Commissioner's assessment stood.

And Then the Penalty

On top of the tax, she was hit with a penalty. The Tax Office originally imposed a 75% penalty for intentional disregard of the law, later reduced to 50% for recklessness. On a shortfall of this size, that penalty alone runs to a very significant sum — before interest is even added.

The lesson is uncomfortable but important. In a dispute with the Tax Office, you are effectively guilty until proven innocent. If large sums move through your accounts — from gambling, gifts, loans, the sale of an asset, or a cash business — and you cannot document their source, you are exposed. Bank deposits that do not match your declared income are precisely what the ATO's data-matching is built to find.

If you have had an unusually large windfall this year, or money moving through your accounts that your tax return does not obviously explain, come and talk to us before the ATO comes calling. It is far cheaper to build the evidence now than to reconstruct it under audit.