



PCG 2026/3 - Application of section 26-50 of the Income Tax Assessment Act 1997 to holiday homes that you also rent out - ATO compliance approach

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 There is a Compendium for this document: **PCG 2026/3EC** .



Practical Compliance Guideline

Application of section 26-50 of the *Income Tax Assessment Act 1997* to holiday homes that you also rent out – ATO compliance approach

📌 Relying on this Guideline

This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this Guideline in good faith, the Commissioner will administer the law in accordance with this approach.

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What this Guideline is about

1. The purpose of this Guideline is to support taxpayers with managing their compliance risks with respect to section 26-50 of the *Income Tax Assessment Act 1997*, which is a tax law integrity provision.
2. All further legislative references in this Guideline are to *Income Tax Assessment Act 1997*, unless otherwise indicated.

3. Taxation Ruling TR 2026/1 *Income tax: rental property income and deductions for individuals who are not in business* expresses our view on section 26-50, which outlines that the intention of section 26-50 is to establish a firm rule to deny deductions for taxpayers obtaining a tax subsidy for what is in truth expenditure on their own recreation.

4. Section 26-50 denies deductions for losses or outgoings that relate to the ownership or use¹ of a holiday home unless an exception applies. Section 26-50 may be relevant to a broad range of properties that are a 'holiday home'. While the term holiday home² is broad, there is a significant exception if you mainly use a holiday home (or hold it for use) to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges.³ This Guideline is concerned with the application of this exception.

5. This Guideline sets out how we differentiate risk and how we manage that risk for a range of rental property arrangements to which section 26-50 may apply. We aim to give you more certainty by setting out how we will engage with you, including how we:

- assess the level of risk regarding the claiming of certain deductions in particular rental property situations involving a holiday home
- determine the level of engagement you can expect from us
- may allocate compliance resources to consider the application of section 26-50 to your arrangement.

6. This Guideline uses 3 coloured zones to denote risk ratings in relation to how section 26-50 may apply to your arrangements. Refer to Table 2 of this Guideline to see a summary of these zones and the corresponding compliance approach. The coloured zones in this Guideline represent a spectrum of behaviours as illustrated in Table 1 of this Guideline.

Table 1: Behaviour spectrum for the coloured zones for section 26-50

Risk zone	Behaviour for section 26-50
Green zone (low risk)	<ul style="list-style-type: none"> • high levels of income-producing occupancy, particularly during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods • limited personal or other non-commercial use of the property • prioritising deriving income from the property over other purposes • commercial terms for renting out the property • attempts to maximise income from the use of the property to derive rents, lease premiums, licence fees or similar charges
Amber zone (medium risk)	<ul style="list-style-type: none"> • increased personal use of the property by the taxpayer and friends (for no cost or below market rates) • forgoing income generation from the property so it is available for personal use (actual use or mere availability for personal use) • using the property (or holding it as available) for personal non-income-producing use during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods • limited attempts to exploit the property to gain rents, lease premiums, licence fees or similar charges

¹ Paragraphs 35 and 94 of TR 2026/1 explain which losses and outgoings relate to the ownership and use of a holiday home.

² See paragraphs 12, 30 to 34 and 86 to 93 of TR 2026/1.

³ Subparagraph 26-50(3)(b)(ii), see paragraphs 37 to 43 and 103 to 126 of TR 2026/1 for more information.

Risk zone	Behaviour for section 26-50
Red zone (high risk)	<ul style="list-style-type: none"> • prioritising personal use of the property, by blocking out times for personal use each year, particularly during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods • limited attempts to rent out the property • major features of the property, or parts of the property rented out, are inaccessible even when the property is being used by guests • unreasonable restrictions being placed on potential renters that contribute to low overall occupancy • limited to no attempt to increase occupancy to gain rents, lease premiums, licence fees or similar charges • advertising the property at a price above the market rate

7. This Guideline is designed to give you confidence that, if your circumstances align with the principles in the green zone set out in this Guideline, the Commissioner will not have cause to apply compliance resources to consider the application of section 26-50 to your arrangements, except to confirm that your arrangements meet the requirements of the green zone. In addition to the green zone, paragraph 18 of this Guideline describes our compliance approach where arrangements fall in the amber zone or red zone.

8. This Guideline may be updated from time to time to reflect changes in identified risks relating to the application of section 26-50.

9. Note: this Guideline does not replace, alter or affect the ATO's interpretation of the law in any way. It complements, and should be read together with, TR 2026/1, which sets out the ATO's interpretative position on the application of section 26-50. This means that if, under this Guideline, we allocate compliance resources to consider section 26-50, our consideration of section 26-50 will be in accordance with our interpretation set out in TR 2026/1.

What is not covered by this Guideline

10. This Guideline does not apply to:

- individuals who use rental properties in carrying on a business⁴, or
- entities that are not individuals.

Date of effect

11. This Guideline will apply both before and after its date of issue.

12. We acknowledge that paragraph 138 of TR 2026/1 states that we will not devote compliance resources to reviewing whether section 26-50 will apply to expenses incurred in relation to holiday homes that are rental properties, if the expenses are incurred before 1 July 2026.

13. Therefore, the Commissioner will not devote compliance resources to apply the compliance approach outlined in this Guideline to consider the application of section 26-50 for expenses incurred before 1 July 2026.

⁴ See paragraphs 12 to 17 in Taxation Ruling TR 97/11 *Income tax: am I carrying on a business of primary production?* for indicators of being in business if you are unsure.

Terms used in this Guideline

14. For the purposes of this Guideline, and for ease of expression:
- 'Holiday home' refers to a property, which is a type of leisure facility⁵, that is used (or held for use) for your holidays or recreation (or the holidays or recreation of your family members and friends for no rent or at a reduced rate).⁶
 - 'Property' refers to land, a building, or part of a building or other structure that you own or lease.
 - 'Rental property' refers to property which you provide to others under a lease or licence or similar agreement in return for rent, lease premiums, licence fees or other similar charges. Your residence or your holiday home may also be a 'rental property' if it is the subject of a similar arrangement or agreement.

Background

15. Setting out our approach to the application of section 26-50 in this Guideline allows us to deal with the increasing risk of taxpayers inappropriately using the tax system to subsidise their private recreation through the utilisation of modern arrangements in the rental property market. Such arrangements include allowing property owners to easily and inexpensively list their holiday homes as available for rent through sharing platforms.

16. Our approach to the application of section 26-50 will not impact property owners who legitimately use their property (or hold it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges as explained in TR 2026/1. In these situations, you can choose to use the apportionment methods outlined in Practical Compliance Guideline PCG 2026/2 *Apportionment of rental property deductions – ATO compliance approach* to apportion your deductions for any private use of your rental property.

17. Rental investment by taxpayers in Australia is very common. This Guideline provides practical guidance to assist taxpayers who rent out their holiday homes in complying with their obligations. This Guideline provides support to individuals in determining whether the exception in subparagraph 26-50(3)(b)(ii)⁷, for using their holiday home (or holding it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges, may apply to their circumstances.

Our compliance approach

18. Table 2 of this Guideline describes our compliance approach to the application of section 26-50 for arrangements involving holiday homes, specifically whether the exception, where you use (or hold for use) your holiday home to mainly produce rents, lease premiums, licence fees or similar charges, applies to your holiday home.⁸ You may need to determine whether the exception applies in relation to a whole income year or for parts of an income year in situations where there is a clear change of use of your holiday home.⁹

⁵ A leisure facility is land, a building, or part of a building or other structure, that is used (or held for use) for holidays or recreation.

⁶ Holiday homes are explained in paragraphs 12, 30 to 34 and 86 to 93 of TR 2026/1.

⁷ Paragraphs 37 to 43 and 103 to 126 of TR 2026/1 explain the exception in subparagraph 26-50(3)(b)(ii).

⁸ The exception is explained in paragraphs 37 to 43 and 103 to 126 of TR 2026/1.

⁹ 'Clear change of use of a holiday home' is explained in paragraph 46 to 47 and 127 to 135 of TR 2026/1.

Table 2: Compliance approach: application of section 26-50

Risk zone	Description and compliance approach
Green zone (low risk)	The green zone applies to arrangements that are described in paragraphs 23 to 40 of this Guideline. The Commissioner would not have cause to apply compliance resources to consider the application of section 26-50 to arrangements in the green zone, other than to confirm that the features of the relevant scenario are present in your circumstances.
Amber zone (medium risk)	The amber zone applies to arrangements that are described in paragraphs 41 to 54 of this Guideline. If your arrangement is in the amber zone, the Commissioner may have cause to apply compliance resources to consider the application of 26-50.
Red zone (high risk)	The red zone applies to arrangements that are described in paragraphs 55 to 71 of this Guideline. Arrangements in this zone will attract our attention and we may conduct further analysis of the facts and circumstances of your arrangement to consider the application of section 26-50 as a matter of priority. If further analysis confirms the facts and circumstances of your arrangement are high risk, we may proceed to audit.

19. Where an arrangement that is not in the green zone is subject to compliance activities, we may engage with you to better understand your arrangement, including the likelihood that section 26-50 applies to deny deductions for expenses relating to your holiday home.

Balance of factors

20. When assessing in which zone an arrangement lies in relation to section 26-50, we will look to the whole of the ownership period and the usage of the property during that time, including periods where there has been a clear change in use of the property.¹⁰ The determination of the zone in which your arrangement lies will be based on a consideration of the factors explained in this Guideline, and no single factor will be determinative.

21. The factors may have different weighting depending on the factual circumstances in each case. It is important to consider the examples in this Guideline as illustrative only. They use a simplified factual arrangement to demonstrate concepts, rather than providing a template for behavioural patterns.

22. The examples show how the question of whether a holiday home is mainly used (or held for use) for rental purposes is to be answered by both the amount of time that it is dedicated to an income-earning use as well as other less quantifiable considerations. While any factor that is relevant will be considered, they can be broadly considered in 2 main groupings:

- commercial exploitation of the property – which reflects the extent to which you use (or hold) your property to produce income in preference to any other use of the property, and

¹⁰ 'Clear change in use of a holiday home' is explained in paragraphs 46 to 47 and 127 to 135 of TR 2026/1.

- non-income-producing use of the property – which reflects the extent to which you use (or hold) your property for other uses in preference to gaining rents, lease premiums, licence fees or similar charges.¹¹

Green zone factors and arrangements

23. Green zone arrangements are usually characterised by high level usage of a property to produce rents, lease premiums, licence fees or similar charges, combined with limited or no non-income-producing use.

24. Factors that could point to a green zone arrangement can include, but are not limited to:

- high levels of income-producing occupancy, particularly during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods
- limited personal or other non-commercial use of the property
- prioritisation of deriving income from the property over other purposes
- commercial terms for renting out the property
- attempts to maximise income from the use of the property to derive rents, lease premiums, licence fees or similar charges.

25. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

Example 1 – limited personal use with high occupancy

26. *Eric lives in Victoria and owns an apartment on the Gold Coast, Queensland. The property is near the beach and is managed by property managers as part of the apartment complex rental pool. All rental enquiries are managed and responded to by a dedicated property manager. The property is regularly rented on a short-stay basis and consistently has a high occupancy rate. Eric usually blocks out 4 weeks a year for personal use of the apartment for his annual holiday when rental demand for the property is low.*

27. *Eric lives interstate but will also occasionally stay at the apartment when visiting the area if the apartment happens not to be already booked out or rented.*

28. *Because Eric uses the apartment for his holidays and recreation, the apartment is a holiday home. Eric's claim for deductions relating to the Gold Coast apartment would not be denied because it is a holiday home that he uses (or holds for use) mainly to produce income from rent. Eric's use of the property shows clear prioritisation of income-producing activity over personal use. He will be required to apportion deductions under section 8-1 for his incidental personal use of the property.*

Example 2 – limited personal use of seasonal property with high occupancy

29. *Natalie and Scott own a house in the Barossa Valley. They advertise the property year-round on a sharing economy platform. The property has a high occupancy rate during the usual 4-month peak period, and a low occupancy rate at other times.*

¹¹ 'Commercial exploitation of the property' and 'non-income-producing use of the property' are explained in more detail under each of the risk zones.

30. *Each year, while on holiday, Natalie and Scott stay at the property for one week during peak period, otherwise they actively manage the property to maximise rental income.*

31. *Because Natalie and Scott use the house for their holidays and recreation, the house is a holiday home. Natalie and Scott's claim for deductions for their house would not be denied because it is a holiday home that they use (or hold for use) mainly to produce income from rent. Natalie and Scott's attitude towards the marketing of the property shows an intent to prioritise income derived from the property, and their personal use is incidental to this. If Natalie and Scott do stay at the property, they will be required to apportion deductions under section 8-1 for their personal use of the property.*

Example 3 – limited personal use with high occupancy during peak periods

32. *Ricky lives in Perth and owns a beach house in Busselton, Western Australia. The beach house is managed by a property manager and is advertised for rent year-round on sharing economy platforms. The beach house is highly desirable during the summer months and is rented at a higher rate during this time. The beach house has a high occupancy rate over the summer months and the school holidays.*

33. *Ricky usually blocks out one week a year for personal use of the house for his annual holiday when rental demand for the property is low. In addition, throughout the year, including during the summer months, Ricky occasionally uses the property for short stays of 2 or 3 days when it is not already booked or rented. His decision to use the property is generally made around 3 days in advance. If a booking is made within that 3-day period after he has decided to use the property, Ricky accepts the booking, even if it means changing his plans.*

34. *Because Ricky uses the beach house for his holidays and recreation, it is a holiday home. Ricky's claim for deductions relating to the beach house would not be denied because it is a holiday home that he uses (or holds for use) mainly to produce income from rent. Ricky's use of the property shows clear prioritisation of income-producing use over personal use. He will be required to apportion deductions under section 8-1 for his personal use of the property.*

Example 4 – limited personal use with high occupancy during peak periods and short-term rental restrictions

35. *Bindi and Ash live in Sydney and own a house in a regional town close to several bushwalking tracks. The local government where the property is located has rules for short-term rental properties which only allow Bindi and Ash to rent out their property for a maximum of 180 days per year. However, where a booking is for 21 or more consecutive days, those days do not count towards the applicable day limits.*

36. *Tourist demand is highest during the warmer summer months up to the end of the Easter school holidays, allowing the property to be rented at higher market rates. To maximise occupancy and rental income, Bindi and Ash advertise the property through a local real estate agent specialising in holiday accommodation and list it on several sharing economy platforms. The property has a high occupancy rate during this period.*

37. *During periods of high rental demand, Bindi and Ash do not block out the property for personal use. However, they stay at the property for one week when it is not already booked or rented.*

38. *Outside peak periods, when demand for the property is low, Bindi and Ash block out a total of 4 weeks for personal use. At all other times, they actively manage the property to maximise rental income.*

39. *Once the 180-day limit is reached, Bindi and Ash continue to advertise the property for rent but restrict bookings to stays of 21 or more consecutive days. They vary the rental rate to attract bookings while maximising the rental income received.*

40. *Because Bindi and Ash use the house for their holidays and recreation, it is a holiday home. Bindi and Ash's claim for deductions relating to the beach house would not be denied because it is a holiday home that they use (or hold for use) mainly to produce income from rent. Their use of the property shows clear prioritisation of income-producing use over personal use. They will be required to apportion deductions under section 8-1 for their personal use of the property.*

Amber zone factors and arrangements

41. Amber zone arrangements usually have factors that point to lower commercial exploitation of a property to produce rents, lease premiums, licence fees or similar charges and an increase in other uses, most commonly, personal use.

42. Factors that could point to an amber zone arrangement include, but are not limited to:

- increased personal use of the property by the taxpayer and friends (for no cost or below market rates)
- forgoing income generation from the property so it is available for personal use (actual use or mere availability for personal use)
- using the property (or holding it as available) for personal non-income-producing use during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods
- limited attempts to exploit the property to gain rents, lease premiums, licence fees or similar charges.

43. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

Example 5 – personal use during peak period

44. *Leonie owns an apartment in Hobart which she markets on a sharing economy platform. When the property is available to guests, it is occupied more often than not.*

45. *For a few months each year during peak periods, Leonie uses the apartment as a retreat while she is on holiday. Leonie does not respond to enquiries from potential tenants for the periods she wants to use it. Because Leonie uses the apartment for her holidays and recreation, the apartment is a holiday home.*

46. *Should Leonie want to shift to the green zone, she could reconsider her private usage and make attempts to maximise income from the use of the property by more actively managing the apartment year-round to ensure that it remains used (or held for use) mainly to produce income at all times in the year.*

Example 6 – prioritising personal use during peak periods

47. Ryan and Tom live in Adelaide and own an apartment in the Melbourne central business district which they have available for short-term rentals on various sharing economy platforms.

48. Ryan and Tom are sports fans and use the apartment at specific times when there is a sporting event taking place in Melbourne, including the Australian Open tennis tournament, the Formula 1 Australian Grand Prix, and numerous major Australian football league games.

49. When not needed by Ryan and Tom, the apartment is mostly booked out for rental for full weeks during other periods when the property has high income-earning potential. There are other incidental bookings throughout the year.

50. Because Ryan and Tom use the apartment for their holidays and recreation, the apartment is a holiday home. If Ryan and Tom want to shift to the green zone, they could reconsider their current position of prioritising their personal usage of the property during peak periods and reduce their use of the apartment to attend sporting events when the property has high income-earning potential.

Example 7 – prioritising personal use of seasonal property

51. Ling owns a luxury ski chalet in Thredbo, New South Wales. The property is advertised online via sharing economy platforms.

52. During the ski season, which lasts around 4 months, Ling uses the property for a few days per fortnight, blocking it out for her personal use so she can enjoy skiing. When the property is not used by Ling during the ski season, it is consistently booked. In the off-season, the chalet attracts occasional weekend bookings.

53. Ling's approach to the chalet indicates an intention to produce some income from it. However, she extensively uses the chalet privately during the ski season which is a peak income-earning period.

54. Ling's chalet is a holiday home because she uses it for holidays or recreation. If Ling wants to shift to the green zone, she could reconsider her personal usage of the property during peak ski season when the property has the highest income-earning potential.

Red zone factors and arrangements

55. Red zone arrangements for the purposes of section 26-50 are ones where there is little or no commercial exploitation of the property to produce income through rents, lease premiums, licence fees or similar charges and the non-income-producing use is usually prioritised.

56. Factors that could point to a red zone arrangement include, but are not limited to:

- the property having times blocked out for personal use each year, particularly during times when it is desirable as a destination for holidays or recreation, such as during school holidays, public holidays, or peak seasonal demand periods
- limited attempts to rent out the property
- major features of the property, or parts of property rented out, being inaccessible even when the property is being used by guests

- unreasonable restrictions being placed on potential renters, contributing to low overall occupancy
- limited to no attempt to increase occupancy to gain rents, lease premiums, licence fees or similar charges.

57. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

Example 8 – major features inaccessible with limited attempt to rent

58. *Kristoff purchases a luxury property in Sorrento, Victoria. Rental demand for the property is at its highest during the summer months. Typically, Kristoff rents the property for 3 or 4 weeks per year.*

59. *The house is listed on one sharing economy platform and is managed by Kristoff, who does not respond to queries in a timely manner, if at all.*

60. *Kristoff stays at the property for 1 or 2 weeks each year while he is on leave, around the New Year's Eve holiday period. The property is furnished with high-end furniture, and houses Kristoff's extensive wine and fine art collections as well as his boat and jet-ski, which are all inaccessible to guests.*

61. *Because Kristoff uses the house for holidays or recreation, it is a holiday home. Kristoff cannot rely on the exception to the application of subsection 26-50(1) in subparagraph 26-50(3)(b)(ii) because the property is a holiday home that is not mainly being used to produce assessable income. Kristoff's action of blocking off guests' access to his wine and fine art collections, boat and jet-ski, reduces the appeal of the property to guests and points to prioritising his use of the property for his holidays and recreation. Subsection 26-50(1) will therefore apply to deny deductions relating to property ownership.¹²*

Example 9 – prioritising private use, times blocked out for personal use

62. *Josh lives in Perth and owns a beach house in Busselton, Western Australia. The beach house is advertised for rent year-round through an agent and on sharing economy platforms. The beach house is highly desirable during the summer months and is rented at a higher rate during this time. The beach house is always blocked out for use by Josh and his family and friends at Christmas and Easter, and during summer school holiday periods.*

63. *Josh and his family do not always use the property for the blocked-out dates, but Josh has instructed his agent not to let the property during these times just in case they wish to use it at short notice. Josh is very selective about who can rent the property and rejects many of the booking enquiries he receives. On average, the beach house is rented out to unrelated guests about 10 weeks per year.*

64. *Because Josh uses the beach house for holidays and recreation, it is a holiday home. Josh is prioritising his personal use of the property over any income-earning use. The beach house is a holiday home that is not mainly being used to produce assessable income. The exception in subparagraph 26-50(3)(b)(ii) will not apply and subsection 26-50(1) will apply to deny deductions relating to property ownership.¹³*

¹² See paragraphs 30 to 35 and 86 to 95 of TR 2026/1 for more information.

¹³ See paragraphs 30 to 35 and 86 to 95 of TR 2026/1 for more information.

Example 10 – unreasonable restrictions, prioritising private use

65. *Andy is an avid golfer. He purchases a property on a golf course in the Hunter Valley, New South Wales. The property is advertised online via sharing economy platforms. Andy stays at the property approximately 1 or 2 Sundays each month to play golf.*

66. *The property has a minimum stay requirement of 4 nights but has a recurring block-out period on Sundays to allow Andy to use the property when he wishes on those days. Andy also ensures that prospective tenants are made aware that the property has poor mobile phone reception and does not have any internet available for use by tenants. The property is let approximately 5 or 6 times per year for the minimum 4-night stay.*

67. *Because the property is used for Andy's holidays or recreation, it is a holiday home. Andy is prioritising his personal use of the property over any income-producing use. The property is a holiday home that is not mainly being used to produce assessable income, and subsection 26-50(1) will apply to deny deductions relating to property ownership.¹⁴*

Example 11 – mainly used for holidays and recreation by owners

68. *Shane and Carmen live in rural South Australia, and own a property in Glenelg Beach, South Australia. They have owned the property for many years, and it has always been let as an income-producing long-term rental property.*

69. *Shane and Carmen both retire from work and begin to travel more. They decide to evict their long-term tenants and shift their rental strategy for the property to short-term rentals so that they can visit the property on weekends and for holidays on a regular basis.*

70. *The property is only very occasionally rented out via several sharing economy platforms, with Shane and Carmen seldom responding to enquiries. They tend to make their holiday and travel plans at the last minute, so rarely block out specific dates, but will cancel a booking if it conflicts with their plans to utilise the property.*

71. *Because Shane and Carmen use the property for their holidays and recreation, it is a holiday home. Because of their prioritisation of their personal use of the property over any income-producing use, Shane and Carmen will not be able to rely on the exception in subparagraph 26-50(3)(b)(ii). Subsection 26-50(1) will apply to deny deductions relating to property ownership.¹⁵*

Commissioner of Taxation20 May 2026

¹⁴ See paragraphs 30 to 35 and 86 to 95 of TR 2026/1 for more information.

¹⁵ See paragraphs 30 to 35 and 86 to 95 of TR 2026/1 for more information.

References

Previous draft:

PCG 2025/D7

ITAA 1997 26-50

ITAA 1997 26-50(1)

ITAA 1997 26-50(3)(b)(ii)

Related rulings and determinations:

TR 97/11; TR 2026/1

Other references:

PCG 2026/2

Legislative references:

ITAA 1997 8-1

ATO references

NO: 1-10J4TWQ6

ISSN: 2209-1297

BSL: IAI

ATOlaw topic: Income tax ~~ Deductions ~~ Rental property expenses ~~ Other

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