

Can't claim \$20k loss: Share trading not a business

In a tough decision, the Tribunal has refused a \$20k deduction for losses in share trading activities for a casual childcare educator in the 2011 tax year (Devi v FCT [2016 AATA 67]).

In that year, the taxpayer earned \$40k in childcare wages working between 25 and 30 hours per week and commenced trading shares using \$60k of savings and a \$40k margin loan.

71 purchases of bank, mining and smaller company shares were made to a value of \$380k. 37 sales to a value of \$315k were made. Most transactions took place in the first half of the year.

The Tribunal did not accept that Ms Devi spent between 15 and 25 hours per week on share trading and determined that she did not carry on a business as a share trader even though the turnover was substantial, particularly in comparison to her wages, and the fact that a home office was maintained for the share trading purpose.

The Tribunal said the factors against the carrying on of a share trading business were:

- Transactions were not regularly nor systematically undertaken;
- The activities were basic and unsophisticated;
- There was no demonstrated pattern of trading; and
- Ms Devi had no skills or experience in share trading.

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