

# ***LCR 2018/7EC - Compendium***



This cover sheet is provided for information only. It does not form part of *LCR 2018/7EC - Compendium*

This edited version of the compendium of comments is not intended to be relied upon. It provides no protection from primary tax, penalties, interest or sanctions for non-compliance with the law.

Page status: **not legally binding**

Page 1 of 2

## **Public advice and guidance compendium – LCR 2018/7**

This is a compendium of responses to the issues raised by external parties to draft LCR 2018/D2 *Residential premises deductions: travel expenditure relating to rental investment properties*

This compendium of comments has been edited to maintain the anonymity of entities that have commented.

### **Summary of issues raised and responses**

| <b>Issue No.</b> | <b>Issue raised</b>                                                                                                                                                         | <b>ATO response / action taken</b>                                                                                                                                                                                                                                                                                               |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                | The Ruling would offer more certainty if it specified the minimum number of properties that must be held before the other indicia of carrying on a business are considered. | There is no 'bright line' test in determining whether a taxpayer is carrying on a business of property investing. Specifying a number would incorrectly suggest that this factor is the most important or the <i>only</i> factor to consider. It detracts from the importance of the other factors.                              |
| 2                | A flowchart outlining the interaction between sections 8-1 and 26-31 of the <i>Income Tax Assessment Act 1997</i> (ITAA 1997) would be helpful.                             | An expense that satisfies the positive and negative limbs of section 8-1 of the ITAA 1997 is deductible, unless it is expressly excluded under another provision. We do not see how a flowchart would express this concept more clearly.                                                                                         |
| 3                | The Ruling should set out what travel expenses include/does not include, for example, toll charges, parking fees, meals and accommodation.                                  | Example 2 in the final Ruling has been amended to cover airfares, meals, accommodation and taxi fares. These types of expenditure are also referred to in the rental properties guide 2018 and at [1.21] of the Explanatory Memorandum (EM).                                                                                     |
| 4                | Additional real examples would assist taxpayers.                                                                                                                            | There are two examples in the rental properties guide 2018 and a further two examples on the ATO webpage titled 'Rental properties – travel expenses' (QC 22093). We consider that these examples along with the examples provided in the final Ruling cover basic scenarios and will assist taxpayers in understanding the law. |
| 5                | There is confusion over what a residential property used                                                                                                                    | Two examples are given in the EM, being hotels and boarding                                                                                                                                                                                                                                                                      |

This edited version of the compendium of comments is not intended to be relied upon. It provides no protection from primary tax, penalties, interest or sanctions for non-compliance with the law.

Page status: **not legally binding**

**Page 2 of 2**

| <b>Issue No.</b> | <b>Issue raised</b>                                  | <b>ATO response / action taken</b>                                                                                                                                                           |
|------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                  | for commercial purposes means.                       | houses.                                                                                                                                                                                      |
| 6                | The date of effect of the Ruling should be extended. | The Ruling interprets the law that is currently in force. Section 26-31 of the ITAA 1997 took effect from 1 January 2018 and applies to a loss or outgoing incurred on or after 1 July 2017. |