

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

Issue No.	Issue raised	ATO response / action taken
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

Issue No.	Issue raised	ATO response / action taken
	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.