Inland Revenue
Te Tari Taake

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QUESTIONS WE'VE BEEN ASKED | PĀTAI KUA UIA MAI

Income tax – How do the income tax rules apply when a close company provides short-stay accommodation?

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QB XX/XX

This "question we've been asked" (QWBA) explains how the income tax rules apply when a close company provides short-stay accommodation (eg, through Airbnb, Bookabach, Booking.com or Holiday Houses). It explains when and how the mixed-use asset rules and the standard tax rules apply, and when shareholders or employees will receive income from their use of the property.

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

Question | Pātai

How do the income tax rules apply when a close company provides short-stay accommodation?

Answer | Whakautu

The income tax consequences for a close company that provides short-stay accommodation depend on whether the mixed-use asset rules or the standard tax rules apply:

- **When the mixed-use asset rules apply, the company will have taxable income from the rental of its dwelling for short-stay accommodation. The company will have exempt income when the dwelling is used by an associated person such as a shareholder, or by a person for less than 80% of the market value rent. The mixed-use asset rules set out which expenses are deductible, and how mixed use expenses are apportioned.**
- **The standard tax rules apply when a close company is not required to apply the mixed-use asset rules. Under the standard tax rules, the company will have taxable income from the rental of its dwelling for short-stay accommodation and can claim deductions for costs incurred in this activity.**

There are also income tax consequences for shareholders or employees who have use of the dwelling without paying market rent. Shareholders are treated as receiving non-cash dividends and employees (including shareholder-employees) are treated as receiving employment income.

Key terms | Kīanga tau tāpua

Close company means a company with five or fewer shareholders that are individuals or trustees, the total of whose voting interests in the company is more than 50% (treating all natural persons associated at the time as 1 person).

Guest means a person provided with short-stay accommodation in return for payment.

Mixed-use asset means an asset that is used both privately and to earn income and is also not used for at least 62 days in the year. This would include many holiday homes.

Short-stay accommodation means accommodation provided for up to four consecutive weeks in a dwelling that is not the guest's ordinary residence. It does not include

accommodation provided to residential tenants, boarders or care home residents, and it does not include student or emergency accommodation.

Explanation | Whakamāramatanga

1. Short-stay accommodation may be provided by different entities such as individuals, trusts or companies. Different tax rules can apply depending on the entity used. This QWBA applies where a close company provides short-stay accommodation. It does not apply to a look-through company or qualifying company as these types of companies are subject to different rules.

For information on how the income tax rules apply where an individual or trust provides short-stay accommodation, see the following items:

- PUB00487a Income tax – Which rules apply if I rent out my home, part of my home, or a separate dwelling on my property as short-stay accommodation?
- PUB00487b Income tax – Which rules apply if I have a dwelling I sometimes rent out as short-stay accommodation and also sometimes use privately?
- PUB00487c Income tax – How do the mixed-use asset rules apply if I provide short-stay accommodation?
- PUB00487d Income tax – How do the standard tax rules apply if I provide short-stay accommodation?
- PUB00487e Income tax – If property held in a trust is rented out for short-stay accommodation, who declares the income and what deductions can be claimed?

2. This QWBA explains:

- whether the company or the shareholders are providing short-stay accommodation;
- the income tax treatment of flat-rate credits received from an electronic marketplace operator (and how this affects deductibility of expenses);
- when and how the mixed-use asset rules apply to a close company;
- how the standard tax rules apply to a close company; and
- when shareholders or employees are treated as deriving income from their use of a dwelling owned by the company.

Whether the company or the shareholders are providing short-stay accommodation

3. This QWBA applies to a company that derives income from providing short-stay accommodation. This will occur when:

   - the company owns a dwelling and hires a person (such as a property manager or an employee) to manage the short-stay accommodation activity; or
   - the shareholders own a dwelling and lease it to the company to provide short-stay accommodation. In this scenario, the company derives the income from the short-stay accommodation. The lease payments for the company's use of the dwelling are the shareholders' taxable income.

4. When the company owns a dwelling and leases it to a shareholder who separately provides the short-stay accommodation activity, the shareholder is the person who derives the income from the short-stay accommodation activity. The company will derive taxable income from any lease payments for the shareholder's use of the dwelling (s CC 1).[1] These shareholders should refer to the items that apply to individuals, as set out at [1].

The income tax treatment of flat-rate credits received from an electronic marketplace operator

5. Specific GST rules apply where short-stay accommodation is listed on an electronic marketplace (eg, Airbnb, Bookabach, Booking.com or Holiday Homes). Where a company who lists accommodation is not GST-registered, the marketplace operator will pay a flat-rate credit of 8.5% of the value of the supply of short-stay accommodation. GST-registered companies are not entitled to the flat-rate credit.

6. The receipt of a flat-rate credit is income as it is an amount the company derives in relation to providing short-stay accommodation. The company can treat the flat-rate credit as:

   - excluded income (which is not subject to income tax); or
   - assessable income (which is subject to income tax).[2]

[1] When a company or shareholder lease a dwelling from the other for providing short-stay accommodation, adequate rent must be paid. Generally, adequate rent will be the market rent for the dwelling at the relevant time (s GC 5).

[2] Any flat-rate credits are currently excluded income. Clause 14 of the Taxation (Annual Rates for 2024–2025, Emergency Response, and Remedial Measures) Bill contains a proposed amendment that gives non-GST registered suppliers of listed services this option to treat a flat-rate credit as assessable

7. This choice will affect the amount of income tax deductions that can be claimed. If the company opts to treat flat-rate credits as:

   - excluded income, expenses that relate to rental income from an electronic marketplace are deductible on a GST-exclusive basis and expenses that relate to rental income from other sources are deductible on a GST-inclusive basis.
   - assessable income, all expenses that relate to rental income are deductible on a GST-inclusive basis.

8. If the company is GST registered, expenses are deductible on a GST-exclusive basis.

When and how the mixed-use asset rules apply to a close company

9. The mixed-use asset rules may apply to a close company that owns a dwelling used for providing short-stay accommodation.[3] The mixed-use asset rules apply where, in an income year, a dwelling is:

   - used privately; and
   - used to earn income; and
   - not used for 62 days or more during the income year.

10. If the above requirements are not met, the close company will be subject to the standard tax rules discussed from [35].

11. A dwelling is used privately when:

    - a natural person associated with the company (such as a shareholder) uses the dwelling (whether or not they pay any rent); or
    - any person rents the dwelling for "mates' rates" that are less than 80% of the market value rent.

12. A person is associated with the company under these rules if their shareholding in the company gives them a right to use the dwelling. There is no requirement that the shareholder needs to hold a minimum percentage of the shares in the company to be an associate under these rules.

income instead of excluded income. This draft QWBA has been prepared on the basis that this amendment will be enacted prior to the QWBA being finalised.

[3] The mixed-use asset rules do not apply to companies that are not close companies.

13. A dwelling is not used privately on days a shareholder is required to stay at the dwelling to undertake repairs for damage caused by paying guests.

14. A dwelling is not used on days no one is staying in the dwelling (including when the dwelling is advertised as available but has not been rented).

15. It is important to note that a close company cannot choose to opt-out of the mixed-use asset rules. Also, a dwelling can move in and out of the mixed-use asset rules from one year to the next, depending on its use, so a company needs to reconsider whether these rules apply in each income year.

How the mixed-use asset rules apply to a close company

16. For detailed information on how to apply the mixed-use asset rules, see PUB00487/c. The following is a summary of how these rules apply to a close company that provides short stay accommodation.

Taxable income

17. Where the mixed-use asset rules apply, rental income is generally taxable. However, the following amounts are not included as taxable income:

- Amounts the company receives from renting the dwelling for private use (to associated persons such as the company's shareholders, or to anyone for less than 80% of the market value rent). These amounts are exempt income.
- Flat-rate credits received from an electronic marketplace operator, if the company has opted to treat them as excluded income (see from [5]).

Available deductions

18. General deductibility principles are explained from [38]. The mixed-use asset rules set out how to calculate the proportion of expenses the company can deduct against its income from providing short-stay accommodation.

19. Expenses that relate solely to renting out the dwelling for deriving income (not including any private use) are generally fully deductible. However, under the mixed-use asset rules, an expense may be fully deductible only if it:[4]

- is not a capital expense;

[4] Section DG 7

- relates solely to the use of the dwelling to derive taxable income (not including exempt income from private use); and
- is either reasonably incurred to meet a regulatory requirement to be able to use the dwelling to derive income or is one where no shareholder or associate of the company would be reasonably expected to receive a personal benefit from the expense.

20. These types of expenses may include:

- advertising costs, including any commission or fee paid by the company to an advertising platform or transaction facilitator (this does not include any service fee the guests pay the platform);
- fees paid to a property manager who manages the listing, bookings and dealing with guests;
- supplies used solely by guests (other than for private use periods);
- cleaning costs for the periods used by guests (other than for private use periods);
- any additional insurance premium or rates paid (over what the normal premium or rates would be) due to the dwelling being used for short-stay accommodation.

21. Any expenses that relate solely to the private use of the dwelling (which includes use by shareholders or use by anyone who pays less than 80% of the market rent) are not deductible.

22. Expenses that relate both to income-earning and private use of the dwelling are partly deductible, such as:

- repairs and maintenance of the dwelling (other than for capital improvements);
- house and contents insurance premiums;
- rates; and
- utilities such as power and internet.

23. Interest has special rules as discussed from [31].

24. Where a property manager is involved in general maintenance work on the dwelling, their fee is fully deductible if there is no private use of the dwelling. However, if there is private use, then part of this fee needs to be apportioned.

25. In some cases, expenses may be able to be split between a component that is solely related to income earning activity, and a component that is for mixed income earning and private use. For example, expenses like power may have both a fixed charge and actual usage charge. Mixed expenses usually need to be apportioned. However, where actual usage

charges can be identified for a period when the dwelling was used only for deriving income, the company may choose not to apportion the expense for that period – it is fully deductible. The fixed-charge component will still need to be apportioned if there is private use as it is necessary to maintain a power connection, which both paying guests and associates use. Alternatively, it may be easier to simply apportion the total expense for the year between private use and income earning use.

26. Where apportionment is required, the mixed-use asset rules provide that the deductible proportion is based on the number of income earning nights relative to the total number of nights the dwelling is used during the year (ie, income earning nights plus private use nights). That is:

    income earning nights / (income earning nights + private use nights)

27. This apportionment ignores the nights that no-one uses the dwelling, even if it is advertised as being available. This apportionment methodology differs to the standard tax apportionment rules, discussed from [48].

28. If the company's deductible expenses for the year exceed the income, expenditure quarantine rules may potentially apply to limit the deductions that can be claimed in that income year. Any excess deductions are carried forward to future years.[5]

29. For a more detailed discussion on how to apportion expenses under the mixed-use asset rules, and on how the expenditure quarantine rules apply, see PUB00487/c.

30. Example | Tauira 1 illustrates how the mixed-use asset rules apply to a close company.

Example | Tauira 1 – Mixed-use asset rules apply to a close company

Marama and Max are equal shareholders in Stay@Hahei Ltd, which owns a house in the Coromandel used for providing short-stay accommodation. A property manager was engaged to manage the short-stay accommodation.

In the 2024 income year, the house was rented to non-associates at market rates for 200 nights. Marama and Max didn't use the house at all. In February 2024, the house was rented to Max's friend, Luke. Luke paid $40 a night for 25 nights. The market value rent during that period was $150 a night.

The mixed-use asset rules apply in the 2024 income year, because:

- Stay@Hahei Ltd is a close company;

[5] Sections DG 15 to DG 19.

- the house was used for income earning purposes when it was rented for 200 nights;
- the house was used privately when Luke stayed 25 nights and paid less than 80% of the market value rent; and
- the house was not used for more than 62 days of the year.

The amount received from Luke is exempt income because Luke paid less than 80% of the market value rent. This means that any expenses incurred solely in relation to that period are not deductible.

Stay@Hahei Ltd's deductible expenses are apportioned based on the income earning use of the house compared with total use. Unused days are ignored. Luke's use of the house is not an income earning use because any income from private use is exempt.

The apportionment of expenses should be made on the following basis:

$$200/(200 + 25) = 89\%$$

Therefore, Stay@Hahei Ltd can:

- fully deduct expenses that are only incurred for income-earning use (such as advertising fees);
- deduct 89% of its expenses that are partly used for income-earning and partly for private use in the 2024 income year; and
- not deduct any expenses incurred solely in relation to Luke's use of the house, which counts as private use.

Treatment of interest

31. When a close company is subject to the mixed-use asset rules, those rules override the company's general ability to deduct interest under s DB 7. Instead, special rules for the treatment of interest apply. These rules also apply to the company's shareholders and any other companies in the same group of companies.

32. In summary, the company needs to compare the value of the asset (the property) with the company's "debt value" (which takes account of all of the company's debt). If the asset value is more than the debt value, all the company's interest cost is apportioned. If it is the other way around, there is a formula to identify the portion of interest that needs to be apportioned.

33. The mixed-use asset rules are also more complicated if the company is in a group of companies. For more information, see the Special report on mixed-use assets.

34. Example | Tauira 2 illustrates the treatment of interest under the mixed-use asset rules.

Example | Tauira 2 – Treatment of interest under mixed-use asset rules

Stay@Hahei Ltd from Example | Tauira 1 owns a single asset, the Coromandel property. The property has a rateable value of $700,000. Stay@Hahei Ltd has interest expenditure of $6,000.

Scenario One

Stay@Hahei has total debt of $100,000. Because the debt value is less than the asset value, all of the interest expenditure is apportioned using the same apportionment formula (89%) as in Example | Tauira 1.

Stay@Hahei Ltd can claim a deduction for interest of $5,340 (that is, 89% of $6,000).

Scenario Two

If the total debt value was $800,000, the apportionment would only apply to part of the interest expenditure. That is calculated using the following equation:

interest expenditure × asset value / debt value

This calculation would be: 6,000 × 700,000 / 800,000 = $5,250.

Stay@Hahei Ltd would then apportion this amount using the 89% apportionment formula and could claim a deduction for interest of $4,672.50.

How the standard tax rules apply

35. If the company is not subject to the mixed-use asset rules (for example, there is no private use, or the dwelling is unused for less than 62 days in the income year) then the standard tax rules apply.

Taxable income

36. Under the standard tax rules, all income a company derives from providing short-stay accommodation is taxable. If the company is carrying on a business, the income is taxable as business income under s CB 1. Otherwise, the income is taxable under general provisions such as s CC 1.

37. As noted earlier, if the company is not GST registered it can choose whether any flat-rate credits received from an electronic marketplace operator are taxable or excluded income (see from [6]).

Deductible expenses

38. Generally, a company can claim a deduction for expenses incurred in deriving income from providing short-stay accommodation.[6] However, some limits apply such as the limitation on capital expenses.

39. The limitation on deductibility for private expenditure does not apply to companies because companies do not incur private expenses. However, for expenses to be deductible, the company must still incur the expense in deriving its income or in carrying on business for the purpose of deriving its income.

40. For companies, interest is generally deductible under the standard income tax rules.[7]

41. A company that uses a dwelling to derive income from providing short-stay accommodation may deduct expenses related to the property such as rates, insurance, (non-capital) repairs and maintenance, and other expenses related to the short-stay accommodation activity such as advertising costs, property manager fees and cleaning costs that relate to periods the property was used to derive income.

42. A company may also claim depreciation of chattels in a dwelling used in deriving income from short-stay accommodation.

43. Companies must claim deductions based on the actual costs incurred (that is, they cannot use the standard-cost method).[8] More information on how to apply the actual cost method to the depreciation of chattels in the context of short-stay accommodation is provided in PUB00487/d.

44. A company may incur expenses in relation to a shareholder or employee. For example, the company may provide the use of a dwelling to a shareholder or employee for their personal use for no payment. Expenses related to this may be deductible to the company if they are salary, wages or fringe benefits of an employee, but are not deductible if they are dividends paid to a shareholder.[9] Whether an amount is a deemed dividend or employment income is discussed in more detail from [56].

[6] Sections DA 1 and DA 2.

[7] The interest limitation rules will cease to apply from 1 April 2025 but still apply for previous periods.

[8] Determination DET 19/02: Standard-cost household service for short-stay accommodation does not apply to companies.

[9] Although costs incurred in authorising, allocating or processing a payment of a dividend are deductible to a company under s DB 63.

When expenses need apportioning

45. Companies are able to claim deductions for interest under s DB 7 without satisfying the usual deductibility requirements. For other expenses, the use of the dwelling needs to be considered in each income year as its use may change from one year to the next. If the dwelling is used solely to earn rental income from providing short-stay accommodation, the relevant relationship with income will be satisfied and expenses are fully deductible. However, the extent to which expenses are deductible depends on whether there are non-income earning uses of the dwelling.

46. There may be non-income earning use when the dwelling is used by a shareholder without paying rent. When the shareholder's use is a non-cash dividend, related expenses are not deductible to the company. However, when the dwelling is used by an employee (including a shareholder-employee), related expenses will be considered to be an employment expense, so expenses remain deductible (see from [56] for a discussion on when an amount is a non-cash dividend and when it is employment income).

47. Even where there is non-income earning use of a dwelling, some expenses are still fully deductible because they relate only to an income producing activity, such as:

- advertising costs, including any commission or fee paid by the company to an advertising platform or transaction facilitator (this does not include any service fee the guests pay the platform);
- fees paid to a property manager who manages the listing, bookings and dealing with paying guests;
- supplies used solely by paying guests;
- cleaning costs for the rental periods;
- any additional insurance premium or rates paid (over what the company would otherwise pay) because the dwelling is being rented out.

48. General expenses that need apportioning where there is some non-income earning use of the dwelling include:

- repairs and maintenance (other than for capital improvements);
- house and contents insurance premiums and rates (excluding any additional premium or rates imposed because the property is used for short-stay accommodation as these amounts are fully deductible); and
- utilities such as power and internet.

49. Where a property manager is involved in general maintenance work on the dwelling, their fee is fully deductible if there is no non-income earning use of the dwelling. However, if

there is non-income earning use, such as shareholders using the dwelling without paying rent, then part of the property manager's fee needs to be apportioned for the non-income earning use of the dwelling.

50. In some cases, expenses may be able to be split between a component that is solely related to income earning activity, and a component that is for mixed income earning and private use. For example, expenses like power may have both a fixed charge and actual usage charge. Mixed expenses usually need to be apportioned. However, where actual usage charges can be identified for a period when the dwelling was used only for deriving income, the company may choose to not apportion the expense for that period – it is fully deductible. The fixed-charge component will still need to be apportioned if there is non-income earning use by shareholders, as it is necessary to maintain a power connection, which both paying guests and those shareholders use. Alternatively, it may be easier to simply apportion the total expense for the year between income earning and non-income earning use.

51. Similarly, where any consumables are available for guests as well as shareholders to use (eg, tea, coffee, olive oil, shampoo, and soap) those consumables are only partly deductible in relation to the use by paying guests.

52. To work out what proportion of expenses can be claimed, the company can deduct expenses for the periods where the dwelling is rented out to paying guests or is otherwise available to be rented out (ie, it is advertised as available and is not being used by shareholders). Deductions cannot be claimed for periods where the dwelling is not available to be rented out or is used by shareholders for no payment. The company will need to keep track of the number of nights the dwelling is rented out or is available to be rented out. This method of apportionment differs to that discussed earlier in relation to the mixed-use asset rules.

53. Example | Tauira 3 illustrates what deductions may be available when a dwelling is used both by paying guests and shareholders for no payment.

Example | Tauira 3 – Apportionment of expenses

Short Stay Vacay Ltd owns a beachside cottage near Nelson, which is used for short-stay accommodation. The cottage was rented to guests for 320 days in the 2024 income year. Siena and Arlo are equal shareholders of Short Stay Vacay Ltd and are not employees of the company. They used the cottage for 30 days in January without paying any rent.

Because the cottage was not vacant for 62 days or more, the standard rules will apply rather than the mixed-use asset rules.

During the 2024 income year, Short Stay Vacay Ltd paid the following expenses:

- cleaning and laundry expenses after paying guests used the cottage;
- fees for advertising the cottage on various booking sites;
- consumables including tea, coffee, and toiletries;
- monthly power bills, including both a usage component and a fixed monthly service fee; and
- rates of $5,000 per year (the local council charges standard rates regardless of what the cottage is used for).

Siena is the account holder for the cottage's internet account. Siena ended up paying this bill from her personal account, and Short Stay Vacay Ltd reimbursed her later in the year.

The expenses Short Stay Vacay Ltd incurred are deductible as follows:

- The cleaning and laundry expenses and fees for advertising the cottage are fully deductible, as they were incurred solely in deriving income.
- The consumables used and the usage portion of the power bill for the month that Siena and Arlo used the cottage are not deductible, as they were not incurred in deriving income.
- The rates need to be apportioned, as they were only partially incurred in deriving income. A reasonable basis for apportionment is on a time basis: 1/12 of the rates are non-deductible, and 11/12 are deductible. The amount of the rates payments that can be claimed is $5,000 * 11/12 = $4,583.
- The cost of reimbursing Siena for the internet bill also needs to be apportioned on the same basis.

Residential rental ring-fencing rules

54. The residential rental ring-fencing rules apply to a close company. Under the residential rental ring-fencing rules, expenses incurred on a residential property may be deducted in an income year only to the extent that income is earned from the property in that income year.[10] If the allowable deductions for the year exceed the income, the excess deductions must be carried forward to future income years; they cannot be used to offset other

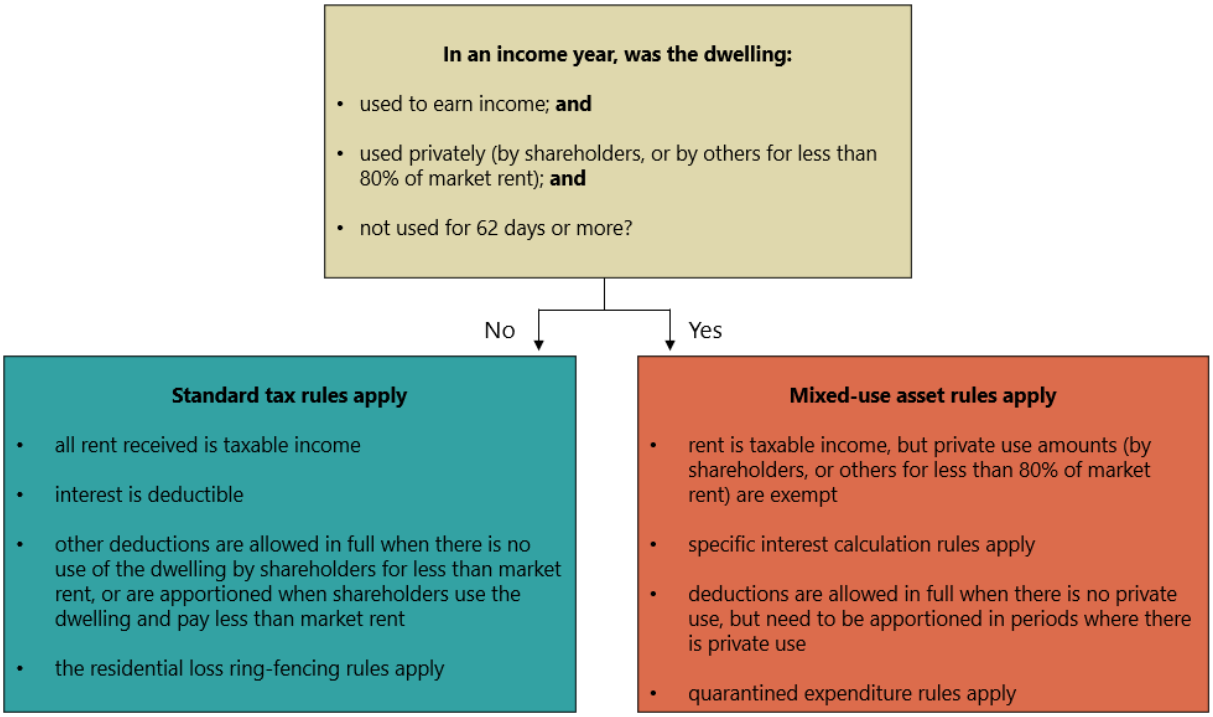
[10] Or a portfolio of properties, if there is one.

income. For information on how these rules apply, see *Ring-fencing of residential property deductions* TIB vol 31, No 8 from page 53.

Summary

55. Figure | Hoahoa 1 summarises how the mixed-use asset rules and the standard tax rules apply to a close company.

Figure | Hoahoa 1 – How the tax rules apply to a close company providing short-stay accommodation



Income that shareholders or employees derive for the use of the dwelling

56. Where shareholders or employees have use of a dwelling a company owns, they may be treated as receiving non-cash dividends or employment income. This is the case regardless of whether the standard tax rules or the mixed-use asset rules apply to the company.

Non-cash dividends

57. A dividend derived by a shareholder is their income. A dividend includes any transfer of value from the company to the shareholder that arises because of the shareholding

relationship.[11] A transfer of value includes both money and money's worth, so it does not have to be paid in cash.

58. In some cases, a transfer of value does not arise when a company provides services to the shareholder (unless a close company provides services that are the benefit of expenditure of the company).[12] However, this does not apply in the context of the provision of the use of a property. "Services" are defined in s YA 1 as anything that is not goods, money or a chose in action. A chose in action includes the right to use property. When a company allows shareholders the use of property that it owns, the company is providing the shareholders with a right to use property, which is a chose in action, and not a service for these purposes.

59. There are specific rules to calculate the amount of a dividend where a company makes property available to a person.[13] A company makes property available to a shareholder when it allows the shareholder to use property that the company owns for the shareholder's private purposes. The amount of the dividend is the price ordinarily charged as part of its business, reduced by any amount the shareholder pays.

60. Therefore, a shareholder receives a non-cash dividend when they have use of a dwelling the company owns, to the extent that the value of the accommodation provided to the shareholder exceeds the amount the shareholder pays. The shareholder needs to include this amount as income in their income tax return.

61. A non-cash dividend is treated as being paid by the company six months after the end of the company's income year (or on an earlier date notified by the company). The company can attach an imputation credit (reflecting tax it has paid) to this dividend at the time it is treated as being paid. However, it is not possible to attach an imputation credit after that period has passed.

62. For more information on non-cash dividends and which regime applies to shareholder-employees, see IS 21/05 **Non-cash dividends.**

63. Example | Tauira 4 illustrates a situation where shareholders derive non-cash dividends.

Example | Tauira 4 – Shareholders derive non-cash dividends

Siena and Arlo from Example | Tauira 3 had used the cottage for 30 days in January 2024 without paying any rent.

[11] Sections CD 1, CD 4, CD 5, CD 6.

[12] Section CD 5(3) and CD 5(4).

[13] Section CD 39.

The market rate for the cottage for that period was $200 per night (taking into account usual discounted rates for longer rental periods).

Siena and Arlo's use of the cottage is a transfer of value arising because of their shareholding in Short Stay Vacay Ltd. The market value of the use of the cottage will be a non-cash dividend of $6,000 ($3,000 each). Siena and Arlo will need to return this dividend in their income tax returns.

Employment income

64. Sometimes a company may employ its shareholders or others as employees to manage the short-stay accommodation services for the company (eg, assisting with booking queries, providing property access and help to guests, cleaning and providing fresh linen). Where a company employs a shareholder or other employee to manage the short-stay accommodation, the employee will derive employment income for providing these services.[14] The company is still the entity providing short-stay accommodation and is still the entity deriving the income from that activity.

65. The company may decide to provide an employee with the use of the dwelling for their personal use. Where a company provides accommodation to an employee who is also a shareholder, this benefit will usually be taxed as employment income rather than a deemed dividend. Employment income can include non-cash benefits, such as the provision of accommodation. Employment costs, including providing an employee with accommodation, are costs related to employment, and remain deductible to the company.

66. The market value of accommodation a company provides to an employee is taxable income of the employee if the company provided it in relation to their employment.[15] The meaning of "accommodation" includes the use of a house or part of a house.[16] The value of accommodation that an employer provides to an employee in connection with their employment or service is not a fringe benefit.[17] Where a shareholder-employee receives employment income under s CE 1B, the amount is not treated as a dividend.[18]

67. When a company provides an employee with accommodation, and the employee uses part of the accommodation wholly or mainly for work purposes related to their employment,

[14] The amount of employment income paid by a close company to shareholders may be subject to excessive remuneration rules in s GB 25.

[15] Section CE 1B.

[16] Section YA 1 definition of "accommodation".

[17] Section CX 28.

[18] Section CD 32.

the amount of employment income they receive may be apportioned for that business use. This apportionment could apply if the employee is required to stay at the property to undertake significant repair work on rooms that were damaged by guests (which the employee cannot use). It would not apply if, for example, an employee stays for a weekend and tidies up the property while there (as part of the accommodation is not provided wholly or mainly for work purposes).

68. Example | Tauira 5 illustrates a situation where a shareholder-employee's use of a dwelling is treated as employment income.

Example | Tauira 5 – Shareholder-employee's use of a house owned by the company

B&B Holidays Ltd owns several houses in a popular holiday area and undertakes the activity of providing short-stay accommodation. Georgie is a shareholder of B&B Holidays Ltd. B&B Holidays Ltd employs Georgie to manage bookings, prepare and clean the properties and deal with guests, and pays her market rates for these services.

If Georgie has occasional use of one of the company's houses without paying market rent and undertakes a few small jobs such as tidying up the property while she is there, she will be treated as receiving employment income equal to the short-stay accommodation market rental value for the whole house for that period. Part of the property is not used wholly or mainly for work purposes related to her employment.

References | Tohutoro

Legislative references | Tohutoro whakatureture

Goods and Services Tax Act 1985

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Other references | Tohutoro anō

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PUB00487a Income tax – Which rules apply if I rent out my home, part of my home, or a separate dwelling on my property as short-stay accommodation?

PUB00487b Income tax – Which rules apply if I have a dwelling I sometimes rent out as short-stay accommodation and also sometimes use privately?

PUB00487c Income tax – How do the mixed-use asset rules apply if I provide short-stay accommodation?

PUB00487d Income tax – How do the standard tax rules apply if I provide short-stay accommodation?

PUB00487e Income tax – If property held in a trust is rented out for short-stay accommodation, who declares the income and what deductions can be claimed?

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About this document | Mō tēnei tuhinga

Questions we've been asked (QWBAs) are issued by the Tax Counsel Office. QWBAs answer specific tax questions we have been asked that may be of general interest to taxpayers. While they set out the Commissioner's considered views, QWBAs are not binding on the Commissioner. However, taxpayers can generally rely on them in determining their tax affairs. See further Status of Commissioner's advice (Commissioner's statement, Inland Revenue, December 2012). It is important to note that a general similarity between a taxpayer's circumstances and an example in a QWBA will not necessarily lead to the same tax result. Each case must be considered on its own facts.