JBC Corporate

Rental Property Changes on or after 1 July 2019

This information sheet aims to provide a brief overview of the changes that were implemented for payments made on or after 1 July 2019 and how it affects rental property expenses.

Changes

From 1 July 2019, when you make a payment to a contractor (such as a tradesperson) for services connected with your rental property, you should check that they have an Australian Business Number ("ABN"). If they do not provide you with an ABN, you may have to withhold 47% from that payment and pay it to the Australian Taxation Office ("ATO").

For payments made on or after 1 July 2019, if you do not withhold when you are required to, you may not be able to claim the respective expenses as tax deductions.

Expenses Prior to Property being Genuinely Available for Rent

You can claim expenditure such as interest on loans, local council, water and sewerage rates, land taxes and emergency services levies on land you have purchased to build a rental property or incurred during renovations to a property you intend to rent out. However, you cannot claim deductions from the time your intention changes, for example, if you decide to use the property for private purposes.

Apportionment of Rental Expenses

There may be situations where not all your expenses are deductible, and you need to work out the deductible portion. To do this you subtract any non-deductible expenses from the total amount you have for each category of expense; what remains is your deductible expense.

You will need to apportion your expenses if any of the following apply to you:

- Your property is genuinely available for rent for only part of the year;
- Your property is used for private purposes for part of the year;
- Only part of your property is used to earn rent;
- You rent your property at non-commercial rates; or
- Your investment loan is partially used for private purposes.

Genuinely Available for Rent

Rental expenses are deductible to the extent that they are incurred for the purpose of producing rental income.

Expenses may be deductible for periods when the property is not rented out, providing the property is genuinely available for rent – that is:

- The property is advertised in ways which give it broad exposure to potential tenants; and

- Having regard to all the circumstances, tenants are reasonably likely to rent it.

The absence of these factors generally indicates the owner does not have a genuine intention to make income from the property and may have other purposes – such as using it or reserving it for private use.

Factors that may indicate a property is not genuinely available for rent include:

- It is advertised in ways that limit its exposure to potential tenants – for example, the property is only advertised
  - » At your workplace;
  - » By word of mouth;
  - » Outside annual holiday periods when the likelihood of it being rented out is very low
- The location, condition of the property, or accessibility to the property, mean that it is unlikely tenants will seek to rent it
- You place unreasonable or stringent conditions on renting out the property that restrict the likelihood of the property being rented out such as:
  - » Setting the rent above the rate of comparable properties in the area;
  - » Placing a combination of restrictions on renting out the property – such as requiring prospective tenants to provide references for short holidays stays as well as having conditions such as 'no children' and 'no pets'.
- You refuse to rent out the property to interest people without adequate reasons.

Property Available for Part-year Rental

If you use your property for both private purposes and to produce rental income, you cannot claim a deduction for the portion of any expenditure that relates to your private use. Examples of properties you may use for both private and rental purposes are holiday homes and time-share units. In cases such as these, you cannot claim a deduction for any expenditure incurred for those periods when the home or unit was not genuinely available for rent – including when it was used by you, your relatives or your friends for private purposes.

In some circumstances, it may be easy to decide which expenditure is private in nature. For example, council rates paid for a full year would need to be apportioned based on the total time the property was rented out and genuinely available for rent during the year as a proportion of the total year.

It may not be appropriate to apportion all your expenses on the same basis. For example, expenses that relate solely to the renting of your property are fully deductible and you would not apportion them based on the time the property was rented out. Such costs might include:

- Real estate agents – commissions;
- Costs of advertising for tenants;
- Phone calls you make to a tradesperson to fix damage caused by a tenant, or
- The cost of removing rubbish left by tenants.

On the other hand, no part of certain expenses that relate solely to periods when the property is not rented out are deductible. This would include the cost of phone calls you make to a tradesperson to fix damage caused when you were using the property for private purposes.

Only Part of your Property is used to Earn Rent

If only part of your property is used to earn rent, you can claim only that part of the expenses that relates to the rental income. As a general guide, apportionment should be made on a floor-area basis that is, by reference to the floor area of that part of the residence solely occupied by the tenant, together with a reasonable figure for tenant access to the general living areas, including garage and outdoor areas if applicable.

Non-commercial Rental

If you let a property or part of a property, at less than normal commercial rates, this may limit the amount of deductions you can claim.

Investment Loan used for Private Purposes

If you take out a loan to purchase a rental property, you can claim the interest charged on that loan as a deduction. However, to the extent that the loan is used or refinanced for a private purpose, you must apportion the interest expense to account for the private use.

Co-owner Rents Property

If you own a property:

- As a tenant in common with another person;
- You do not live in the property; and
- You let your part of a property to your co-owner at a commercial rental rate

Then the rent received is assessable income. Accordingly, you may deduct any losses or outgoings incurred in gaining rental income, provided the losses or outgoings are not of a capital, domestic or private nature.

Asbestos Remediation

Work undertaken to an investment property in dealing with asbestos may, in some cases, be a deductible repair as described above. This depends on the nature or extent of the remediation process.

Where the expenditure is not otherwise deductible as a repair, a deduction may be available as an 'environmental protection activity'.

Should you have any questions or require further information on this subject please don't hesitate to get in touch.

+61 (0) 8 6323 7000

41 – 47 Colin Street, West Perth, WA, 6005

info@jbccorp.com.au

www.jbccorp.com.au

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