

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

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Page status: **not legally binding**

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	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.