

TR 2025/D1 - Income tax: rental property income and deductions for individuals who are not in business

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 For information about the status of this draft Ruling, see item [4083] on our [Advice under development program](#).



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Draft Taxation Ruling

Income tax: rental property income and deductions for individuals who are not in business

❗ Relying on this draft Ruling

This publication is a draft for public comment. It represents the Commissioner's preliminary view on how a relevant provision could apply.

If this draft Ruling applies to you and you rely on it reasonably and in good faith, you will not have to pay any interest or penalties in respect of the matters covered, if this draft Ruling turns out to be incorrect and you underpay your tax as a result. However, you may still have to pay the correct amount of tax.

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What this draft Ruling is about

1. This draft Ruling¹ provides guidance for individuals that earn income from their rental property. It covers earning income from:
 - the short-term rental market (such as using online booking or sharing platforms), including renting out a holiday home or letting a room (or rooms) in a home
 - letting out a property, or part of a property to long-term tenants.
2. This Ruling explains:
 - when amounts you receive for the use of your rental property will be assessable income²
 - when losses or outgoings you incur relating to your rental property can be claimed as deductions

¹ For readability, all further references to 'this Ruling' refer to the Ruling as it will read when finalised. Note that this Ruling will not take effect until finalised.

² Under section 6-5 of the *Income Tax Assessment Act 1997*.

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- how to apportion your deductions when there are both income-producing and non-income-producing uses of your rental property
 - when certain deductions for your holiday home, that you also use as a rental property, will be denied because it is a 'leisure facility'.³
3. The appendixes to this Ruling provide explanations and a transitional compliance approach:
- Appendix 1 explains how the views in this Ruling may apply to your circumstances.
 - Appendix 2 contains a transitional compliance approach which explains our practical administrative approach to holiday homes for arrangements entered into prior to 12 November 2025.
4. The appendixes do not form part of the legally binding section of this Ruling. The examples in Appendix 1 to this Ruling are for illustrative purposes only. Your circumstances might include factors which are not included in the examples so you should not assume that your situation will have the same outcome as the examples. Differences in your particular arrangement, the type of rental property, and the relevance of your expenses to the earning of the income may produce different outcomes.
5. This Ruling does not provide comprehensive advice for individuals who use rental properties in carrying on a business or entities that are not individuals.⁴
6. Renting out your property, including on an online sharing platform, does not of itself mean you are carrying on a business. There are a range of factors which need to be considered in determining whether you are carrying on a business, see Taxation Ruling TR 97/11 *Income tax: am I carrying on a business of primary production?*⁵
7. All further legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.
8. This Ruling does not provide detailed advice on deductions for the following topics:
- section 26-31 (rental property travel)⁶
 - section 26-102 (holding vacant land)⁷
 - section 25-10 (repairs)⁸
 - section 40-25 (decline in value)
 - Division 43 (capital works deductions).

³ See paragraphs 29 to 33 and 80 to 87 of this Ruling.

⁴ For instance, this Ruling does not provide advice on deductions necessarily incurred in carrying on a business for the purpose of gaining or producing your assessable income (under paragraph 8-1(1)(b)) or the exceptions to section 26-50 that relate to entities carrying on a business.

⁵ See also *FFYS and Commissioner of Taxation* [2021] AATA 4844, where a couple who made rooms in their home available to guests using an online sharing platform were found to not be carrying on a business.

⁶ Refer to Law Companion Ruling LCR 2018/7 *Residential premises deductions: travel expenditure relating to rental investment properties*.

⁷ Refer to Taxation Ruling TR 2023/3 *Income tax: expenses associated with holding vacant land*.

⁸ Refer to Taxation Ruling TR 97/23 *Income tax: deductions for repairs*.

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9. Although not the subject of this Ruling, it is important to be aware that where you rent out some or all of your main residence, your ability to access the main residence capital gains tax exemption in full (on an eventual sale) may be compromised.⁹

Previous ruling

10. This Ruling replaces Taxation Ruling IT 2167 *Income Tax: Rental properties – non-economic rental, holiday home, share of residence, etc. cases, family trust cases* (now withdrawn).

Terms used in this Ruling

11. In this Ruling and for ease of expression:

- ‘Holiday home’ refers to a property that is used (or held for use) for your holidays or recreation (or the holidays or recreation of your family members and friends for no rent or at a reduced rate).
- ‘Property’ refers to land, a building, or part of a building or other structure that you own or lease.
- ‘Rental property’ refers to property which you provide to others under a lease or licence or similar agreement in return for rent, lease premiums, licence fees or other similar charges. Your residence or your holiday home may also be a ‘rental property’ if it is the subject of a similar arrangement or agreement.

How to use this Ruling

12. The following 3 steps explain how to use this Ruling.

Step 1: are you receiving assessable income from your rental property

13. Work out whether you are receiving assessable income from your rental property.

Note: if you are receiving payments for mixed reasons, work out the extent to which the payments relate to your rental property. See paragraphs 19 to 23 and 43 to 62 of this Ruling.

Step 2: work out if your rental property is a holiday home

14. To work out if your rental property is a holiday home, see paragraphs 29 to 40 and 80 to 121 of this Ruling.

15. If your rental property is not a holiday home, go to Step 3 of this Ruling.

16. If your rental property is a holiday home, work out if any deductions are denied. Step 3 of this Ruling does not apply to deductions that are denied. For any deductions that are not denied, go to Step 3.

⁹ Refer to Taxation Ruling IT 2673 *Income tax: capital gains tax – use of sole or principal residence for income producing purposes* and Taxation Determination TD 1999/71 *Income tax: capital gains: does section 118-190 of the Income Tax Assessment Act 1997 reduce your main residence exemption if part of your dwelling is used by someone else for an income producing purpose?*

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Note: deductions relating to the ownership of a holiday home are denied unless an exception applies (such as where your holiday home is used (or held) mainly to produce assessable rental income or similar – see paragraphs 35 to 38 and 95 to 112 of this Ruling).

Note: Draft Practical Compliance Guideline PCG 2025/D7 *Application of section 26-50 of the Income Tax Assessment Act 1997 to holiday homes that you also rent out – ATO compliance approach* explains our compliance approach to determining whether your holiday home is used (or held for use) mainly to produce such assessable income.

Step 3: work out what deductions you can claim, and apportion appropriately

17. Work out what deductions you can claim in relation to your rental property. You will then need to apportion them according to the extent they are incurred in producing your income – see paragraphs 63 to 79 of this Ruling.

Note: in working out the deductions you can claim, you will need to apportion the deductions to the extent of any non-income-producing use – see paragraphs 72 to 79 of this Ruling.

18. Draft Practical Compliance Guideline PCG 2025/D6 *Apportionment of rental property deductions – ATO compliance approach* explains methods for apportionment that we consider fair and reasonable.

Ruling

Income from rental properties

19. Your assessable income from your rental property includes amounts you derive from rent, lease premiums, licence fees or other similar charges. This includes amounts you receive from your property:

- through an agent
- through a sharing or other online platform
- directly from a tenant.

20. Amounts of rent, lease premiums, licence fees or other similar charges derived from your rental property form part of your assessable income even if the income is not received at commercial arm's length rates.

21. If you co-own your rental property with someone else, amounts from rent, lease premiums, licence fees or other similar charges must usually be attributed to each co-owner according to their legal interest in the property, except in very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title.¹⁰

Amounts received in household or family situations that are not assessable

22. Amounts received from householders or family members are not assessable income to the extent they relate to the provision of family care or shared responsibility for

¹⁰ See Taxation Ruling TR 93/32 *Income tax: rental property - division of net income or loss between co-owners*.

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household expenses. Whether an amount is for shared household expenses or provision of family care will depend on the facts and circumstances of its payment.

Amounts received in household or family situations that are assessable

23. Amounts received in a shared household or family situation may be included in your assessable income to the extent that they relate to providing a lease or licence for the use of your property. Whether, and to what extent, an amount is for a lease or licence will be fact dependent.

Deductions relating to rental property income

24. You can claim deductions for losses or outgoings relating to a rental property to the extent that they are incurred by you in gaining or producing your assessable income from the property, but not to the extent they are:

- capital (or of a capital nature)
- of a private or domestic nature
- prevented from being deducted under a provision in the *Income Tax Assessment Act 1997* (such as losses or outgoings related to holding your holiday home, under section 26-50).¹¹

25. A loss or outgoing is incurred when you actually pay an amount or when you have a definitive obligation to pay the amount. A loss or outgoing is not incurred if it is only anticipated or expected to arise when another event occurs.¹² If you co-own your rental property with someone else, expenses must be attributed to each owner according to their legal interest in the property, except in very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title.¹³

26. Losses or outgoings must be apportioned on a fair and reasonable basis so that they are only claimed as deductions to the extent that they are incurred in the course of gaining or producing your assessable income.

27. You will also need to apportion your losses or outgoings on a fair and reasonable basis accounting for the extent that they are capital or capital in nature, or are private or domestic in nature.

28. What is fair and reasonable depends on the particular facts and circumstances relating to the loss or outgoing.

Holiday homes

29. If your rental property is also your holiday home, certain deductions relating to holding it will be denied because it is a leisure facility (under subsection 26-50(1)) unless an exception applies.

¹¹ Paragraphs 29 to 40 of this Ruling explain how section 26-50 may prevent some deductions in relation to your holiday home.

¹² See Taxation Ruling TR 97/7 *Income tax: section 8-1 – meaning of ‘incurred’ – timing of deductions*.

¹³ See TR 93/32.

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30. Determining whether your rental property is a holiday home is a matter of fact which requires an objective analysis of how you use it (or hold it for use) for holidays or recreation:

- ‘Holiday’ takes its ordinary meaning as ‘a period of cessation from work, or of recreation; a vacation’.¹⁴
- ‘Recreation’ includes amusement, sport or similar leisure-time pursuits.¹⁵

31. Whether your property is used (or held for use) for holidays or recreation is determined from the pattern of how the property is used, or held for use, by you (including by your family members and friends for no rent or at a reduced rate) over a period of time, including periods when the property is not actively being used or is unoccupied.

32. A building, or part of a building or other structure, may still be your holiday home even when it is unoccupied if you hold it for use for holidays or recreation.

33. You cannot deduct losses or outgoings that relate to the ownership or use of a holiday home to the extent you incur them¹⁶:

- to acquire ownership
- to retain ownership
- to acquire rights to use it
- to retain rights to use it
- to use, operate, maintain, or repair it
- in relation to any obligation associated with your ownership
- in relation to any obligation associated with your rights to use it.

34. Expenses that do not relate to the ownership or use of a holiday home, such as advertising costs to rent the property or cleaning costs after a guest stay, are deductible to the extent they are incurred in gaining or producing your assessable income.

Allowable holiday home deductions

35. There are exceptions to the rule that denies a loss or outgoing that relates to your holiday home. If at all times during the income year you use your holiday home (or hold it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges, you are not prevented from claiming such a deduction related to your holiday home (because the exception in subparagraph 26-50(3)(b)(ii) applies).

36. Whether you use your holiday home (or hold it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges, will be determined based on a consideration of a number of factors including, but not limited to the:

- way your holiday home is actually used
- time your holiday home is dedicated to income-producing use

¹⁴ Pan Macmillan Australia (2025) *The Macquarie Dictionary online*, www.macquariedictionary.com.au, accessed 6 November 2025.

¹⁵ Subsection 995-1(1).

¹⁶ Subsection 26-50(1).

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- time your holiday home is used for private use, or held for potential private use
- extent to which your holiday home is actually available or used as a rental at a time when use of such a property is desirable for holiday pursuits (such as during school holidays, public holidays or peak seasonal demand periods).

37. No single factor on its own will determine if your holiday home is used, or held for use, mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges. All circumstances bearing on the degree, extent and prioritisation of the uses are to be considered. The question is one of fact and degree, to be approached on common sense basis. This involves enquiries into actual use of your holiday home and how it is held for use. It is not to be tested by your subjective intention regarding the main use of your holiday home.

38. When considering the factors together, an objective conclusion must be reached that your holiday home is used (or held for use) mainly to produce income in the nature of rents, lease premiums, licence fees or similar charges.

Clear change in main use of your holiday home

39. If you use your holiday home (or hold it for use) mainly to derive assessable income in the nature of rents, lease premiums, licence fees or similar charges at all times during all or part of an income year, you will not be denied deductions under subsection 26-50(1) for it in relation to that income year or part of the income year.

40. However, you may change the main use of your holiday home part-way through your ownership period or an income year. A change in its main use will not occur merely by a one-off use that is different from what is otherwise your main use, or due to the regular seasonal pattern of use of your holiday home. Rather, there will be a change in main use if there is a definite and sustained change in the pattern of how your holiday home is used (or held for use).

Date of effect

41. When the final Ruling is issued, it is proposed to apply to years of income commencing both before and after its date of issue, subject to the transitional compliance approach relating to section 26-50 in Appendix 2 to this Ruling.

42. The Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public rulings*).

Commissioner of Taxation

12 November 2025

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Appendix 1 – Explanation

❶ *This Explanation is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.*

Income from rental properties

43. Your assessable income from a rental property includes amounts you derive from leasing a property through an agent, privately or through an online booking or sharing platform. It also includes amounts that you receive from sub-leasing a property that you lease from someone else.

44. An amount you derive from a lease, licence or a similar agreement related to a rental property is ordinary income and forms part of your assessable income, even if the income is not received at arm's length.¹⁷

45. If you co-own your rental property with someone else, rental income must usually be attributed to each co-owner according to their legal interest in the property, except in very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title.¹⁸

46. The legal interests of co-owners in a property, including as joint tenants or tenants in common, will be shown in the deed¹⁹ for the property.²⁰ If your legal interest in co-owned property is as:

- joint tenants, split the income from the property equally between the co-owners
- tenants in common, split the income from the property based on your percentage ownership as shown in the deed for the property.

47. In the very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title, split the income from the property based on your percentage of the equitable interest.

48. You should keep records that support the claims you make in your tax return, including written evidence of your rental and similar income.

Amounts received in household or family situations that are not assessable

49. Amounts received in the context of household or family situations are not assessable income where they relate to the provision of family care or shared responsibility for household expenses.²¹

50. It is a matter of fact and circumstance whether an amount is for shared household expenses or a payment for the use of property under a lease or licence. You should be

¹⁷ Amounts you receive for the use of property are income, see *Commissioner of Taxation v McNeil* [2007] HCA 5 at [21]. See also *Federal Commissioner of Taxation v Kowal* 84 ATC 4001, where it was implicit that payments for the use of property were ordinary income.

¹⁸ See TR 93/32.

¹⁹ Certificate of title or similar record of legal ownership.

²⁰ See TR 93/32.

²¹ *The Commissioner of Taxation of the Commonwealth of Australia v Groser, Adrian Charles Noel* [1982] VicSc 352.

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able to show that amounts received to cover household expenses reasonably represent the householder's share of those costs.

Example 1 – familial care – payment of board to parent

51. *Brienne owns her home and her daughter Anna, who is currently doing an apprenticeship, is living with her. Brienne has 2 young sons who also live with her. Brienne and Anna agree that Anna will pay Brienne \$200 per week for board, which is used to cover Anna's share – roughly a quarter – of the outgoings. This includes food, electricity, and other household expenses. The arrangement between Brienne and Anna is a household or family arrangement as the money paid to Brienne is related to her daughter's share of household expenses rather than for Anna's use of Brienne's property.*

52. If householders have shared responsibility for expenses and contribute to a pool of money to meet them, this is not income. This includes situations where a group of flatmates have entered into a lease agreement where they each have a responsibility to pay a share of the rent, but one flatmate collects and pools the rent to be paid to the landlord.

Example 2 – shared responsibility for household expenses

53. *Coen and Djimon have taken on a lease together for an apartment and have connected electricity, gas and the internet. Djimon pays all the bills (including the lease payment) directly and Coen pays his share to Djimon. There is no income derived by Djimon as Coen is just paying his share of their common household expenses (including the lease expenses). Although this includes Coen's share of the lease payment, it is not included in Djimon's assessable income. It is not a payment that relates to the provision of a lease or licence by Djimon to Coen for the use of the apartment.*

Amounts received in household or family situations that are assessable

54. Some arrangements in a shared household may still have the character of income. This includes situations where there are sub-leasing or licencing arrangements for the use of a property.

55. If one occupant leases or owns a property and sub-leases it to the other occupants, to the extent the amounts received from the other occupants relate to the right to occupy the property, they are income derived from that property and therefore assessable. To the extent that the amount is a contribution towards a shared household expense, it is not assessable income.

Example 3 – no shared responsibility for household expenses

56. *Following on from Example 2 of this Ruling, if instead of taking on a lease together, Coen owns the apartment and charges Djimon an amount to live in the apartment, the amount Coen receives from Djimon will be income derived from the property and included in Coen's assessable income.*

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Example 4 – international student homestay – shared household costs

57. *Fatima and Raoul purchase their own home. They bring in a foreign student, Michelle, who lives in a room at their house and eats meals with the family. Michelle's sponsor pays \$80 per week to Fatima and Raoul to cover the cost of Michelle's household expenses, such as food and other amenities. As these amounts are calculated to only cover Michelle's part of shared household costs, they are not assessable, and Fatima and Raoul cannot claim any deductions. The \$80 does not relate to Michelle paying for the use of Fatima and Raoul's property. Rather, it is a contribution by Michelle for her share of the cost of the household expenses.*

Example 5 – international student homestay – income from rental property

58. *If, in the previous example, the payment is \$400 per week, which includes a rent component of \$320 in addition to the \$80 to cover the cost of Michelle's household expenses, this rent payment will be income from Fatima and Raoul's property and need to be declared as assessable income. The \$320 forms part of income derived from the property as it relates to Michelle's right to use and enjoy part of the property, which is in addition to sharing the cost of food and other amenities relating to her stay. Fatima and Raoul may be able to claim apportioned deductions for expenses related to ownership of the property, but not for Michelle's contribution to household expenses.²²*

59. When you rent to family members or friends, there may be considerations other than maximising the rent you receive from your property. In these situations, you might rent your property to family members or friends for below market rate, thereby using the property to also help them with their accommodation. When this happens, you are partly using the property to produce assessable income and partly using it to assist your family member or friend with their accommodation.

60. If you can show the amount you receive from your family member or friend is not for the use of your property at all, but it is simply a contribution towards the costs of upkeep of that person because you are responsible for that person's care, the amount will not be assessable income.²³ In these situations you would need to show that the amount you receive has no relationship to the use of your property and just relates to the costs of care of your family member or friend.

61. The amount you receive under a lease or licence from a family member or friend may be less than the full amount you could receive at commercial arm's length rates. These amounts, while non-arm's length, are still rent or licence fees and you need to include them in your assessable income.²⁴

Example 6 – renting to a family member at a non-arm's length amount

62. *Arnaud owns a rental property that he is currently leasing to his brother at a below market rate. The below market rate is because Arnaud wants to help his brother with his living expenses and so Arnaud is using the property to produce his assessable income and to help with his brother's accommodation. The amount that Arnaud receives from his*

²² Apportionment of deductions is explained in paragraphs 72 to 79 of this Ruling.

²³ See *The Commissioner of Taxation of the Commonwealth of Australia v Groser, Adrian Charles Noel* [1982] VicSc 352 and paragraphs 22 and 43 to 53 of this Ruling.

²⁴ See *Federal Commissioner of Taxation v Kowal* 84 ATC 4001.

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brother is still ordinary income and will form part of Arnaud's assessable income, even though the amount received is below the market rate. Arnaud will need to apportion deductions relating to the property because the reduction in rent represents a non-arm's length amount to help his brother with his accommodation.

Deductions relating to rental property income

63. You can claim deductions for losses or outgoings relating to a rental property to the extent that they are incurred by you in gaining or producing your assessable income from the property²⁵, but not to the extent that they are capital (or of a capital nature)²⁶, of a private or domestic nature²⁷ or not prevented from being deductible under another legislative provision²⁸ (for example, section 26-50 will prevent deductions for your holiday home unless an exception applies).

64. Keep records that support the claims you make in your tax return, including written evidence of your deductible expenses.

Incurred by you

65. Generally, a loss or outgoing is incurred when you actually pay an amount, or when you have a definitive obligation to pay the amount. For example, land tax is incurred when the assessment of tax is issued, rather than when it is paid. A loss or outgoing is not incurred if it is only anticipated or expected to arise in the future when another event occurs.²⁹ Taxation Ruling TR 97/7 *Income Tax: section 8-1 – meaning of 'incurred' – timing of deductions* has more detailed guidance on the meaning of 'incurred' and the timing of deductions.

66. If you co-own your rental property with someone else, expenses must usually be attributed to each co-owner according to their legal interest in the property, except in very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title.³⁰

67. The legal interests of co-owners in a property, including as joint tenants or tenants in common, will be shown in the deed for the property. If your legal interest in co-owned property is as:

- joint tenants, attribute the expenses from the property equally between the co-owners
- tenants in common, attribute the expenses from the property based on your percentage ownership as shown in the deed for the property.

68. In the very limited circumstances where there is sufficient evidence to establish that the equitable interest is different from the legal title, attribute the expenses from the property based on your percentage of the equitable interest.

²⁵ Paragraph 8-1(1)(a). This Ruling does not consider paragraph 8-1(1)(b) which applies to entities carrying on a business that necessarily incur losses or outgoings for the purpose of gaining or producing assessable income.

²⁶ Paragraph 8-1(2)(a) – for example, see TR 97/23.

²⁷ Paragraph 8-1(2)(b).

²⁸ Paragraph 8-1(2)(d).

²⁹ *Federal Commissioner of Taxation v James Flood Pty Ltd* [1953] HCA 65; *New Zealand Flax Investments Limited v Federal Commissioner of Taxation* [1938] HCA 60.

³⁰ See TR 93/32.

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69. Interest on money borrowed by only one of the co-owners which is exclusively used to acquire that person's interest in the rental property does not need to be divided between co-owners.

In gaining or producing assessable income

70. 'In gaining or producing assessable income' means that a loss or outgoing must be sufficiently connected³¹ to that income and not just be 'in connection with', or 'for the purpose' of, deriving assessable income.³² Courts have held that for a loss or outgoing to be sufficiently connected to gaining or producing assessable income 'it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income, or if none be produced, would be expected to produce assessable income'.³³

71. Whether a loss or outgoing is sufficiently connected to gaining or producing assessable income depends on all relevant facts and circumstances. There is no precise test. However, the following types of expenses are examples of losses or outgoings that may be sufficiently connected to gaining or producing income associated with a rental property if they are incurred by you (and, if the property is co-owned³⁴, relate to your share of the property):

- advertising for tenants
- body corporate or owners corporation administrative fund fees and charges
- council rates
- water charges
- land tax
- cleaning
- gardening and lawn mowing
- pest control
- insurance (building, contents, public liability, loss of rent)
- interest expenses on loans for rental properties³⁵
- property agent fees and commission
- repairs and maintenance.

'To the extent' incurred in gaining or producing your assessable income

72. Losses or outgoings that are sufficiently connected with gaining or producing your assessable income are only deductible to the extent that they are incurred in the course of producing assessable income. This means that losses or outgoings on a property may be deductible only in part if you incur them partly in gaining or producing assessable income

³¹ *Commissioner of Taxation v Day* [2008] HCA 53 at [21], *Commissioner of Taxation v Payne* [2001] HCA 3.

³² *Commissioner of Taxation v Day* [2008] HCA 53.

³³ *Ronpibon Tin NL and Tongkah Compound NL v Federal Commissioner of Taxation* [1949] HCA 15.

³⁴ Paragraphs 45 to 47 of this Ruling explains co-ownership.

³⁵ In accordance with Taxation Ruling TR 2000/2 *Income tax: deductibility of interest on moneys drawn down under line of credit facilities and redraw facilities*.

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and partly for some other purpose. For instance, where one part of the property is your residence and you rent the rest out.³⁶

73. Losses or outgoings must be apportioned in a fair and reasonable way between the activities for gaining and producing of assessable income and the other use or purpose.³⁷ What is fair and reasonable depends on the particular facts and circumstances relating to the loss or outgoing (see PCG 2025/D6 for further guidance).

Capital or capital in nature, or private or domestic in nature

74. You cannot deduct losses or outgoings that are capital or capital in nature.³⁸

75. Broadly, ‘capital or capital in nature’ means losses or outgoings that can be expected to have an enduring or lasting benefit.³⁹ For example, outgoings incurred on the construction of a pool or adding a separate unit of accommodation to a property.

76. If a loss or outgoing is private or domestic in nature, it is not sufficiently connected to gaining or producing your assessable income and is not deductible.

77. A property, or part of a property, may have mixed use for both private or domestic and income-producing purposes. In these circumstances, a deduction may be available to the extent that there is a sufficient connection between the loss or outgoing and gaining or producing assessable income. Apportionment of the loss or outgoing on a reasonable basis will be required between the private or domestic use and the income-producing use (see PCG 2025/D6 for guidance on what we consider are fair and reasonable apportionment methods).

Example 7 – mixed use property

78. *Prem owns a 2-storey house where the bottom floor is self-contained and the access between floors can be locked from both sides. Prem rents out the bottom floor from time to time at commercial rates. When it is not rented out, he uses it as part of his residence. While the bottom floor is rented out, its use is not for private or domestic purposes. When the bottom floor is used as part of Prem’s house at other times, its use is for private and domestic purposes.*⁴⁰

Example 8 – separate unit

79. *Caitlin has a separate self-contained studio apartment, which is on the same land as her house, that she uses exclusively as a rental unit. While Caitlin’s house is used for private or domestic purposes, the rental unit is not used for private or domestic purposes.*⁴¹

³⁶ *Kidston Goldmines Ltd v Commissioner of Taxation* [1991] FCA 351, see also Taxation Ruling TR 95/33 *Income tax: subsection 51(1) – relevance of subjective purpose, motive or intention in determining the deductibility of losses and outgoings.*

³⁷ *Ronpibon Tin NL and Tongkah Compound NL v Federal Commissioner of Taxation (Cth)* [1949] HCA 15.

³⁸ While not in the scope of this Ruling, deductions may be available under the capital allowance provisions of Division 40, or the capital works provisions of Division 43.

³⁹ *Sun Newspapers Limited v Federal Commissioner of Taxation* [1938] HCA 73.

⁴⁰ Prem may also need to apportion any deductions in relation to the rental property, see PCG 2025/D6.

⁴¹ Caitlin may also need to apportion any deductions in relation to the rental property, see PCG 2025/D6.

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Holiday homes

80. The rules relating to leisure facilities in section 26-50 apply to holiday homes, because a holiday home is a type of leisure facility. If you use your holiday home as a rental property, certain deductions relating to holding it may be denied unless an exception applies.

81. The intention of section 26-50 is to establish a firm rule that prevents taxpayers from obtaining a tax subsidy for expenditure on their own recreation. The Explanatory Memorandum which accompanied the introduction of the predecessor of section 26-50 (section 51AB of the *Income Tax Assessment Act 1936*), provides⁴²:

... this clause will insert in the Principal Act a new provision, section 51AB, to prohibit the allowance of income tax deductions ... in certain circumstances, for expenditure relating to ... other leisure facilities such as holiday cottages.

82. A leisure facility is land, a building, or part of a building or other structure, that is used (or held for use) for holidays or recreation.⁴³ Because a holiday home refers to a property that is used (or held for use) for your holidays or recreation (or the holidays or recreation of your family members and friends for no rent or at a reduced rate) it will be a leisure facility.

83. 'Used (or held for use)' requires identification of the use to which a property is dedicated to at a point in time, including periods when the property is not actively being used or is unoccupied. 'Holiday' takes its ordinary meaning as 'a period of cessation from work, or of recreation; a vacation'.⁴⁴ Recreation is defined as including 'amusement, sport or similar leisure-time pursuits'.⁴⁵

84. It is a matter of fact whether a property is a holiday home, which depends on how you use it or hold it for use. Whether a property is used (or held for use) for holidays or recreation is determined from the pattern of how the property is used, or held for use, by you over a period of time.

85. A building, or part of a building or other structure, may still be a holiday home even when it is unoccupied if you hold it for use for holidays or recreation.

86. You cannot deduct losses or outgoings that relate to the ownership or use of a holiday home to the extent you incur them⁴⁶:

- to acquire ownership
- to retain ownership
- to acquire rights to use it
- to retain rights to use it
- to use, operate, maintain, or repair it
- in relation to any obligation associated with your ownership

⁴² See Clause 9 of the Notes on Clauses in the Explanatory Memorandum to the Income Tax Assessment Bill (No. 2) 1974. Also see, Parsons RW (1985) *Income Taxation in Australia*, The Law Book Company Limited, Sydney, paragraph [10.303]:

The policy in denying deduction is to establish a firm rule against the taxpayer that will prevent the taxpayer enjoying a tax subsidy for what is in truth expenditure on [their] own recreation

⁴³ Subsection 26-50(2).

⁴⁴ Pan Macmillan Australia (2025) *The Macquarie Dictionary online*, www.macquariedictionary.com.au, accessed 6 November 2025.

⁴⁵ Subsection 995-1(1).

⁴⁶ Subsection 26-50(1).

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- in relation to any obligation associated with your rights to use it.
87. Common examples of ownership expenses include, but are not limited to:
- interest on borrowings to finance the property
 - council rates
 - land tax
 - repairs and maintenance.
88. Expenses that do not relate to the ownership or use of a holiday home, such as advertising costs to rent the property or cleaning costs after a guest stay, are deductible to the extent they are incurred in gaining or producing your assessable income.
89. Where a loss or outgoing relating to a holiday home is not covered in paragraph 86 of this Ruling, subsection 26-50(1) does not apply. You will still need to consider if the loss or outgoing is deductible under section 8-1.⁴⁷

Example 9 – deductible holiday home expenses

90. *John owns a cabin at a caravan park. John uses the cabin (and holds it for use) for holidays with his family so the cabin is a holiday home. John is paying a mortgage on the cabin as well as annual fees for its maintenance and repair.*
91. *Occasionally, when John knows he will not need the cabin for family use, he rents it out to guests through a sharing economy platform and pays a commission to the platform. The rent John receives is assessable income.*
92. *Even though John rents out the property throughout the year, he mainly uses the property for his family holidays.*
93. *The portion of the interest on John's mortgage and the costs of yearly maintenance and repair of the cabin which relate to gaining or producing rental income will not be deductible. They relate to acquiring ownership of a holiday home, retaining ownership of a holiday home, and maintaining a holiday home.⁴⁸*
94. *The commission paid to the sharing economy platform may still be deductible because it is a loss or outgoing related to renting the property out and not a loss or outgoing relating to the ownership of the cabin.*

Holiday home – exceptions

95. There are exceptions to the rule that operates to deny a loss or outgoing that relate to holiday homes.⁴⁹ If an exception applies, you will still need to apportion your deductions to the extent they do not relate to gaining or producing your assessable income⁵⁰, are capital or are private and domestic⁵¹ in nature, as explained in this Ruling.

⁴⁷ These expenses will most commonly be deductible under section 8-1, provided the conditions in section 8-1 are satisfied, as explained in paragraphs 70 to 71 of this Ruling.

⁴⁸ Paragraphs 33 and 86 of this Ruling explains which losses or outgoings relating to the ownership of the cabin would not be deductible.

⁴⁹ Subsection 26-50(3).

⁵⁰ Refer to paragraphs 24 to 28 and 70 to 73 of this Ruling.

⁵¹ Refer to paragraphs 74 to 79 of this Ruling.

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96. If at all times during the income year you use your holiday home (or hold it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges, you are not prevented from claiming a deduction related to it. There are other exceptions which relate to leisure facilities that are not relevant to this Ruling.⁵²

97. PCG 2025/D6 sets out how we will approach whether you are using your holiday home (or holding it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges under section 26-50.

98. The way a holiday home is actually used is highly relevant when determining whether it is used (or held for use) mainly to produce your assessable income from rents, lease premiums, licence fees or similar charges. However, a simple analysis of the times during an income year that a holiday home is actively used for rental purposes compared to other uses is inadequate by itself to establish that it is used (or held for use) mainly to produce assessable income. While an analysis of time is useful, it is not determinative.

99. Other less quantifiable factors are relevant, including the pattern of use of the holiday home and times when it is held for potential private use. The mere fact that you advertise a holiday home for rent at times when it is not actively being used is not enough on its own to establish that a holiday home is used (or held for use) mainly to produce your assessable income. Other factors (such as the use or availability of a holiday home during times desirable as a holiday destination) may be present which produce a different result than that indicated by a simple time analysis.

100. For example, if a holiday home was advertised for rent for more than half of the days in the year, but is not available or used as a rental for all or most of the time when it is desirable as a holiday destination (such as during school holidays, public holidays or peak seasonal demand periods), this will indicate that the main use for holding the holiday home throughout the year is not to produce your assessable income.

Example 10 – apartment solely used (or held for use) for rental is not a holiday home

101. *Cho owns an apartment on the Gold Coast that she markets to holidaymakers through a sharing economy platform. Cho provides services for her guests which include tours of the local area and airport transfers. Cho takes all reasonable steps (such as advertising the property, promptly following up on rental requests and not placing any unreasonable restrictions on rental) to ensure that the apartment is fully rented out and treats the apartment solely as an investment. Cho does not reserve the apartment for her private use at any time. Cho's apartment will not be Cho's holiday home because she does not use it for her holidays or recreation or the holidays or recreation of her family or friends. Cho will not be prevented from claiming deductions for expenses that relate to the ownership or use of her apartment as she only uses it to produce income from rent.*

Example 11 – minor private use of a holiday home

102. *Eve owns a property in a seaside location and rents it out using a sharing economy platform. Though there are other bookings during the year, most of her income is made*

⁵² Paragraph 26-50(3)(a) (which does not stop deductions for leisure facilities held by you for sale in the ordinary course of your business of selling leisure facilities), subparagraph 26-50(3)(b)(i) (which does not stop deductions for leisure facilities used in your business or providing leisure facilities for payment), subparagraph 26-50(3)(b)(iii) (which does not stop deductions for leisure facilities used or held for use by your employees) and subparagraph 26-50(3)(b)(iv) (which does not stop deductions for leisure facilities used or held for use for the care of your employees' children) are not considered by this Ruling.

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during the peak summer season when the property is most desirable as a holiday destination.

103. During off-peak periods, when there are no bookings, Eve will occasionally use the property for one or 2 nights each year while she is on holiday. Because Eve uses the property for her holidays or recreation, it will be a holiday home. She will only use the property if there is a limited chance that it will affect the opportunity for the property to derive income.

104. Eve does not reserve the apartment for her private use at any time. Eve would not be prevented from claiming deductions for expenses that relate to the ownership or use of her apartment because it is a holiday home, as she mainly uses it to produce income from rent. Eve will still need to apportion her deductions to account for the nights she uses the property.⁵³

Example 12 – holiday home not mainly used (or held for use) for rental

105. Carla, who lives with her family in Sydney, owns a beach house in the Whitsundays. The beach house is rented out through an agent and is advertised year-round. However, the beach house is always blocked out for use by Carla and her family and unavailable for rent during Easter, the Christmas and New Year period and school holidays. Although those dates are not always used by the family, the property is not available for paying guests. In addition, Carla rejects most applicants who attempt to rent the beach house and has, in the past, cancelled a couple of booking so she could use it herself. The beach house is rented out, on average, 5 days per year. Because the beach house is used by Carla for her (and her family's) holidays and recreation, it is a holiday home.

106. The beach house is a holiday home which is mainly used (or held for use) by Carla and her family, and the property is not used (or held for use) mainly to derive Carla's assessable income from rent. Carla must include any rent derived from the beach house in her assessable income but will be prevented from deducting any losses and outgoings relating to the ownership of the beach house.⁵⁴

107. Similar outcomes will arise if Carla lets her friends stay either rent-free or at a below market rate.

Example 13 – holiday home not mainly used (or held for use) for rental

108. Daniel and Kate have 2 school-aged children and own a house near the beach, though they live in an apartment closer to the city. The house is in an area that is popular with summer holidaymakers and during the year Daniel and Kate advertise the house through sharing economy platforms.

109. Daniel and Kate block out the school holidays for their personal use of the house. Because Daniel and Kate use the house for their holidays or recreation, it is a holiday home. If they decide not to use the house, they open it up for rentals. Every year they use the house for 2 weeks over the Christmas and New Year period and they generally use it for an additional 2 to 3 weeks throughout the year.

⁵³ Paragraphs 72 to 79 of this Ruling explain apportionment. See also Example 3 (at paragraph 21) of PCG 2025/D6.

⁵⁴ Paragraphs 33 and 86 of this Ruling explains which losses or outgoings relating to the ownership of the beach house would not be deductible.

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110. *As their own use (and the time they block out for their own use) often coincides with peak rental periods, they tend to only rent the house out for limited times throughout the year.*

111. *The house is a holiday home and is not mainly used to produce rental income. Daniel and Kate must include any rent derived from the house in assessable income but will be prevented from deducting any losses and outgoings to the extent they relate to the ownership of the house.*⁵⁵

112. *Daniel and Kate can still claim 100% of the expenses which are solely associated with renting out the house, such as the platform's service fees or commission.*

Clear change in use of a holiday home for part of the income year

113. You may change your main use of your holiday home part-way through your ownership period or an income year. If you use your holiday home (or hold it for use) mainly to derive assessable income in the nature of rents, lease premiums, licence fees or similar charges at all times during *part* of an income year, you will not be denied deductions under subsection 26-50(1) for it in relation to *that part* of the income year.⁵⁶ You will still need to apportion your deductions as explained in this Ruling to the extent they do not relate to gaining or producing your assessable income (paragraphs 24 to 28 and 72 to 73 of this Ruling), or are capital or private and domestic in nature (paragraphs 74 to 79 of this Ruling).

114. This change in use must be more than merely incidental to the pattern of regular seasonal changes relating to the desirability of your holiday home as a holiday destination – for example, a ski lodge being in high demand during winter months and in less demand during the summer months. The change must be a definite and sustained change in the pattern of how the holiday home is used (or held for use) for part of the income year.

115. The part-year use exception in subsection 26-50(4) refers to, and must be read in the context of, the general exception to the application of section 26-50 in subsection 26-50(3).⁵⁷ That test requires that at all times in the year you use the holiday home (or hold it for use) 'mainly' to provide it for an excepted purpose. It contemplates that any use of the holiday home for other purposes subservient to that main purpose will not unseat the main use.

116. The part-year use exception in subsection 26-50(4) applies when 'at all times during *part* of the income year', the holiday home is used or held for use 'mainly to provide it' for an excepted purpose. The only way of giving meaning to the term 'at all times' in the subsection 26-50(4) exception is to read the phrase 'use the [holiday home] (or hold it for use) mainly to provide it' in the subsection 26-50(3) exception as referring to a continuous state that includes periods when the property is being let out, and periods when there is some subservient (private) use. Therefore, the part-year exception in subsection 26-50(4) applies only when that ongoing state is broken by a definite and sustained change in the pattern of use of the holiday home for *part* of the income year, rather than just a pattern of seasonal changes *throughout* the year.

⁵⁵ Paragraphs 33 and 86 of this Ruling explains which losses or outgoings relating to the ownership of the house would not be deductible.

⁵⁶ Subsection 26-50(4).

⁵⁷ Described at paragraphs 35 to 38 and 95 to 112 of this Ruling.

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117. This interpretation of the exception in subsection 26-50(4) is supported by the Explanatory Memorandum which accompanied the introduction of section 51AB of the *Income Tax Assessment Act 1936* which states⁵⁸:

Sub-section (5) will allow account to be taken of situations where property is a leisure facility in relation to a year of income but would not have been a leisure facility if the use to which it was principally applied during a particular part of the year had extended over the whole year. An example would be a boat used principally for the purposes of commercial fishing operations for the first 3 months of a year of income and, following a cessation of the fishing business, used principally for pleasure during the other 9 months of the year.

118. A change in the pattern of how the holiday home is used (or held for use) might relate to parts of years where:

- a holiday home was purchased or disposed of
- there is a clear change in the main use of the asset, such as a change from using the holiday home privately to permanently renting it out.

Example 14 – clear change of use during part of the year

119. *In Example 12 of this Ruling, Carla and her family move overseas on 1 January. Once she moves, Carla will not be returning to Australia in the foreseeable future.*

120. *She does not intend to use the beach house privately.*

121. *From 1 January, Carla removes all restrictions on the use of her property as a holiday rental. Carla no longer blocks out periods for private use during peak periods and asks her agent to actively market her house as a holiday rental. From 1 January, the beach house is almost always occupied by paying guests. As there is a clear change in use, evidenced by Carla's circumstances and availability of the beach house as a holiday rental, the holiday home will be considered mainly used to produce assessable income from 1 January, and Carla will not be prevented from claiming deductions as a holiday home from that time. Although Carla will not be prevented from claiming deductions from 1 January, she may need to apportion her deductions to exclude any non-income-producing use, private and domestic use or capital items after that date.*⁵⁹

⁵⁸ See Clause 9 of the Notes on Clauses in the Explanatory Memorandum to the Income Tax Assessment Bill (No. 2) 1974.

⁵⁹ As explained in this Ruling, Carla's deductions will need to be apportioned to the extent they do not relate to gaining or producing her assessable income (paragraphs 24 to 28 and 72 to 73), are capital or are private and domestic in nature (paragraphs 74 to 79).

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Appendix 2 – Transitional compliance approach: holiday homes that you also rent out and section 26-50

❗ *This Appendix sets out a proposed practical administration approach to assist taxpayers in complying with relevant tax laws. When this Ruling is finalised, provided you follow the advice in this Appendix in good faith and consistently with the Ruling section, the Commissioner will administer the law in accordance with this approach.*

122. We acknowledge that views on section 26-50 have not previously been publicly expressed in relation to rental properties.

123. We also acknowledge that individuals who are not in business may have entered into arrangements that may fall under section 26-50 without realising that we would consider whether section 26-50, in addition to section 8-1, applied to an individual's circumstances. Therefore, it is appropriate to apply a transitional compliance approach to the views expressed in this Ruling.

124. The Commissioner will not devote compliance resources to reviewing whether section 26-50 will apply to expenses incurred in relation to holiday homes that are rental properties **before** 1 July 2026, if those expenses are incurred under an arrangement entered into prior to 12 November 2025.

125. However, where we are asked to issue or amend assessments or are asked or required to state a view (for example, in a private ruling), this will be done consistently with the views set out in this Ruling.

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Appendix 3 – Your comments

126. You are invited to comment on this draft Ruling. Please forward your comments to the contact officer by the due date.

127. A compendium of comments is prepared when finalising this Ruling, and an edited version (names and identifying information removed) is published to the Legal database on ato.gov.au. Please advise if you do not want your comments included in the edited version of the compendium.

Due date: 30 January 2026
Contact officer: Penny Hextall
Email: IAIPAG@ato.gov.au
Phone: 03 6221 0624

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References

Related rulings and determinations:

TR 93/32; TR 95/33; TR 97/7; TR 97/11; TR 97/23;
TR 2000/2; TR 2006/10; TR 2023/3; IT 2673; TD
1999/71; LCR 2018/7; PCG 2025/D6; PCG 2025/D7

Previous rulings and determinations:

IT 2167W

Legislative references:

- ITAA 1936 51(1)
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- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 8-1(1)(a)
- ITAA 1997 8-1(1)(b)
- ITAA 1997 8-1(2)(a)
- ITAA 1997 8-1(2)(b)
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- ITAA 1997 26-50(3)(b)(ii)
- ITAA 1997 26-50(3)(b)(iii)
- ITAA 1997 26-50(3)(b)(iv)
- ITAA 1997 26-50(4)
- ITAA 1997 26-102
- ITAA 1997 40-25
- ITAA 1997 995-1(1)
- ITAA 1997 Div 40
- ITAA 1997 Div 43

Cases relied on:

- Commissioner of Taxation v Day [2008] HCA 53; 236 CLR 163; 2008 ATC 20-064; 70 ATR 14; 83 ALJR 68; 250 ALR 388
- Federal Commissioner of Taxation v James Flood Pty Ltd [1953] HCA 65; 88 CLR 492; [1953] ALR 903; 10 ATD 240; 27 ALJ 481
- Commissioner of Taxation v McNeil [2007] HCA 5; 229 CLR 656; 2007 ATC 4223; 64 ATR 431

- Commissioner of Taxation v Payne [2001] HCA 3; 202 CLR 93; 2001 ATC 4027; 46 ATR 228; 75 ALJR 442
- Commissioner of Taxation of the Commonwealth of Australia v Groser, Adrian Charles Noel [1982] VicSc 352; 65 FLR 121; 82 ATC 4478; 13 ATR 445
- Commissioner of Taxation (Cth) v Kowal 79 FLR 75; 84 ATC 4001; 15 ATR 125
- FFYS and Commissioner of Taxation [2021] AATA 4844; 2021 ATC 10-608
- Kidston Goldmines Ltd v Commissioner of Taxation [1991] FCA 351; 30 FCR 77; 91 ATC 4538; 22 ATR 168
- New Zealand Flax Investments Limited v Federal Commissioner of Taxation [1938] HCA 60; 61 CLR 179; 5 ATD 36; (1938) 12 ALJR 313
- Ronpibon Tin NL v Commissioner of Taxation (Cth) [1949] HCA 15; 78 CLR 47; 23 ALJ 139; (1949) 8 ATD 431
- Sun Newspapers Limited v Federal Commissioner of Taxation [1938] HCA 73; 61 CLR 337; (1938) 5 ATD 87

Other references:

- Explanatory Memorandum to the Income Tax Assessment Bill (No. 2) 1974
- Parsons, RW (1985) *Income Taxation in Australia*, The Law Book Company Limited, Sydney
- Pan Macmillan Australia (2025), *The Macquarie Dictionary online*, www.macquariedictionary.com.au

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