

PCG 2025/D7 (Finalised) - Application of section 26-50 of the Income Tax Assessment Act 1997 to holiday homes that you also rent out - ATO compliance approach

⚠ This cover sheet is provided for information only. It does not form part of *PCG 2025/D7 (Finalised) - Application of section 26-50 of the Income Tax Assessment Act 1997 to holiday homes that you also rent out - ATO compliance approach*

⚠ There is a Compendium for this document: **PCG 2026/3EC** .
This document has been finalised by PCG 2026/3.



Status: **draft only – for comment**

Draft Practical Compliance Guideline

Application of section 26-50 of the *Income Tax Assessment Act 1997* to holiday homes that you also rent out – ATO compliance approach

📌 Relying on this draft Guideline

This Practical Compliance Guideline is a draft for consultation purposes only. When the final Guideline issues, it will have the following preamble:

This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided that you follow this Guideline in good faith, the Commissioner will administer the law in accordance with this Guideline.

Table of Contents	Paragraph
What this draft Guideline is about	1
What is not covered by this Guideline	10
Date of effect	11
Terms used in this Guideline	14
Background	15
Our compliance approach	18
Balance of factors	20
Green zone factors and arrangements	23
<u>Example 1 – limited personal use with high occupancy</u>	26
<u>Example 2 – limited personal use of seasonal property with high occupancy</u>	29
Amber zone factors and arrangements	32
<u>Example 3 – personal use during peak period</u>	35
<u>Example 4 – prioritising personal use during peak periods</u>	38
<u>Example 5 – prioritising personal use of seasonal property</u>	42
Red zone factors and arrangements	46
<u>Example 6 – major features inaccessible with limited attempt to rent</u>	49
<u>Example 7 – prioritising private use, times blocked out for personal use</u>	53
<u>Example 8 – unreasonable restrictions, prioritising private use</u>	56
<u>Example 9 – mainly used for holidays and recreation by owners</u>	59
Your comments	63

Status: **draft only – for comment**

What this draft Guideline is about

1. The purpose of this draft Guideline¹ is to support taxpayers with managing their compliance risks with respect to section 26-50 of the *Income Tax Assessment Act 1997*, which is a tax law integrity provision.
2. All further legislative references in this Guideline are to *Income Tax Assessment Act 1997*, unless otherwise indicated.
3. Draft Taxation Ruling TR 2025/D1 *Income tax: rental property income and deductions for individuals who are not in business* expresses our view on section 26-50, which outlines that the intention of section 26-50 is to establish a firm rule to deny deductions for taxpayers obtaining a tax subsidy for what is in truth expenditure on their own recreation.
4. Section 26-50 denies deductions for losses or outgoings that relate to the ownership or use² of a holiday home unless an exception applies. Section 26-50 may be relevant to a broad range of properties that are a 'holiday home'. While the term 'holiday home'³ is broad, there is a significant exception if you mainly use a holiday home (or hold it for use) to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges.⁴ This Guideline is concerned with the application of this exception.
5. This Guideline sets out how we differentiate risk and how we manage that risk for a range of rental property arrangements to which section 26-50 may apply. We aim to give you more certainty by setting out how we will engage with you, including how we:
 - assess the level of risk regarding the claiming of certain deductions in particular rental property situations involving a holiday home
 - determine the level of engagement you can expect from us
 - may allocate compliance resources to consider the application of section 26-50 to your arrangement.
6. This Guideline uses 3 coloured zones to denote risk ratings in relation to how section 26-50 may apply to your arrangements. Refer to Table 2 at paragraph 18 of this Guideline to see a summary of these zones and the corresponding compliance approach. The coloured zones in this Guideline represent a spectrum of behaviours as illustrated in Table 1 of this Guideline.

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

² Paragraphs 33 to 34 and 86 to 87 of TR 2025/D1 explain which losses and outgoings relate to the ownership and use of a holiday home.

³ See paragraphs 11, 29 to 32 and 80 to 83 of TR 2025/D1.

⁴ Subparagraph 26-50(3)(b)(ii), see paragraphs 35 to 38 and 95 to 100 of TR 2025/D1 for more information.

Status: **draft only – for comment**

Table 1: Behaviour spectrum for the coloured zones for section 26-50

Risk zone	Behaviour for section 26-50
Green zone (low risk)	<ul style="list-style-type: none"> high levels of income-producing occupancy, particularly around peak holiday seasons where the property is most desirable as a holiday destination limited personal or other non-commercial use of the property prioritising deriving income from the property over other purposes commercial terms for renting out the property attempts to maximise income from the use of the property to derive rents, lease premiums, licence fees or similar charges
Amber zone (medium risk)	<ul style="list-style-type: none"> increased personal use of the property by the taxpayer and friends (for no cost or below market rates) forgoing income generation from the property so it is available for personal use (actual use or mere availability for personal use) using the property (or holding it as available) for personal non-income-producing use in peak income-producing periods limited attempts to exploit the property to gain rents, lease premiums, licence fees or similar charges
Red zone (high risk)	<ul style="list-style-type: none"> prioritising personal use of the property, by blocking out times for personal use each year, particularly during periods of high rental demand limited attempts to rent out the property major features of the property, or parts of the property rented out, are inaccessible even when the property is being used by guests unreasonable restrictions being placed on potential renters that contribute to low overall occupancy limited to no attempt to increase occupancy to gain rents, lease premiums, licence fees or similar charges advertising the property at a price above the market rate

7. This Guideline is designed to give you confidence that, if your circumstances align with the principles in the green zone set out in this Guideline, the Commissioner will not have cause to apply compliance resources to consider the application of section 26-50 to your arrangements, except to confirm that your arrangements meet the requirements of the green zone.

8. This Guideline may be updated from time to time to reflect changes in identified risks relating to the application of section 26-50.

9. Note: this Guideline does not replace, alter or affect the ATO's interpretation of the law in any way. It complements, and should be read together with, TR 2025/D1, which sets out the ATO's interpretative position on the application of section 26-50. This means that if, under this Guideline, we allocate compliance resources to consider section 26-50, our consideration of section 26-50 will be in accordance with our interpretation set out in TR 2025/D1.

Status: **draft only – for comment**

What is not covered by this Guideline

10. This Guideline does not apply to:
- individuals who use rental properties in carrying on a business⁵, or
 - entities that are not individuals.

Date of effect

11. When finalised, it is proposed that this Guideline will apply both before and after its date of issue.
12. We acknowledge that paragraph 124 of TR 2025/D1 states that we will not devote compliance resources to consider the application of section 26-50, in relation to holiday homes that are rental properties before 1 July 2026, if the expenses relating to that holiday home were incurred under an arrangement entered into prior to 12 November 2025.
13. Therefore, the Commissioner will not devote compliance resources to apply the compliance approach outlined in this Guideline to consider the application of section 26-50 for expenses incurred before 1 July 2026 under an arrangement to which paragraph 124 of TR 2025/D1 applies.

Terms used in this Guideline

14. For the purposes of this Guideline, 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).⁶
 - ‘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.

Background

15. Setting out our approach to the application of section 26-50 in this Guideline allows us to deal with the increasing risk of taxpayers inappropriately using the tax system to subsidise their private recreation through the utilisation of modern arrangements in the rental property market. Such arrangements include allowing property owners to easily and inexpensively list their holiday homes as available for rent through sharing platforms.
16. Rental investment by taxpayers in Australia is very common. This Guideline provides practical guidance to assist taxpayers who rent out their holiday homes in complying with their obligations. This Guideline provides support to individuals in determining whether the exception in subparagraph 26-50(3)(b)(ii)⁷, for using their holiday

⁵ See paragraphs 12 to 17 in Taxation Ruling TR 97/11 *Income tax: am I carrying on a business of primary production?* for indicators of being in business if you are unsure.

⁶ Holiday homes are explained in paragraphs 11, 29 to 32 and 80 to 85 of TR 2025/D1.

⁷ Paragraphs 35 to 38 and 95 to 100 of TR 2025/D1 explain the exception in subparagraph 26-50(3)(b)(ii).

Status: **draft only – for comment**

home (or holding it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges, may apply to their circumstances.

17. Our approach to the application of section 26-50 will not impact property owners who legitimately use their property (or hold it for use) mainly to produce assessable income in the nature of rents, lease premiums, licence fees or similar charges as explained in TR 2025/D1. In these situations, you can choose to use the apportionment methods outlined in Draft Practical Compliance Guideline PCG 2025/D6 *Apportionment of rental property deductions – ATO compliance approach* to apportion your deductions for any private use of your rental property.

Our compliance approach

18. Table 2 of this Guideline describes our compliance approach to the application of section 26-50 for arrangements involving holiday homes, specifically whether the exception, where you use (or hold for use) your holiday home to mainly produce rents, lease premiums, licence fees or similar charges, applies to your holiday home.⁸ You may need to determine whether the exception applies in relation to a whole income year or for parts of an income year in situations where there is a clear change of use of your holiday home.⁹

Table 2: Compliance approach: application of section 26-50

Risk zone	Description and compliance approach
Green zone (low risk)	The green zone applies to arrangements that are described in paragraphs 23 to 31 of this Guideline. The Commissioner would not have cause to apply compliance resources to consider the application of section 26-50 to arrangements in the green zone, other than to confirm that the features of the relevant scenario are present in your circumstances.
Amber zone (medium risk)	The amber zone applies to arrangements that are described in paragraphs 32 to 45 of this Guideline. If your arrangement is in the amber zone, the Commissioner may have cause to apply compliance resources to consider the application of 26-50.
Red zone (high risk)	The red zone applies to arrangements that are described in paragraphs 46 to 62 of this Guideline. Arrangements in this zone will attract our attention and we may conduct further analysis of the facts and circumstances of your arrangement to consider the application of section 26-50 as a matter of priority. If further analysis confirms the facts and circumstances of your arrangement are high risk, we may proceed to audit.

19. Where an arrangement that is not in the green zone is subject to compliance activities, we may engage with you to better understand your arrangement, including the likelihood that section 26-50 applies to deny deductions for expenses relating to your holiday home.

⁸ The exception is explained in paragraphs 35 to 38 and 95 to 100 of TR 2025/D1.

⁹ 'Clear change of use of a holiday home' is explained in paragraph 39 to 40 and 113 to 118 of TR 2025/D1.

Status: **draft only – for comment**

Balance of factors

20. When assessing in which zone an arrangement lies in relation to section 26-50, we will look to the whole of the ownership period and the usage of the property during that time, including periods where there has been a clear change in use of the property.¹⁰ The determination of the zone in which your arrangement lies will be based on a consideration of the factors explained in this Guideline, and no single factor will be determinative.

21. The factors may have different weighting depending on the factual circumstances in each case. It is important to consider the examples in this Guideline as illustrative only. They use a simplified factual arrangement to demonstrate concepts, rather than providing a template for behavioural patterns.

22. The examples show how the question of whether a holiday home is mainly used (or held for use) for rental purposes is to be answered by both the amount of time that it is dedicated to an income-earning use as well as other less quantifiable considerations. While any factor that is relevant will be considered, they can be broadly considered in 2 main groupings:

- commercial exploitation of the property – which reflects the extent to which you use (or hold) your property to produce income in preference to any other use of the property, and
- non-income-producing use of the property – which reflects the extent to which you use (or hold) your property for other uses in preference to gaining rents, lease premiums, licence fees or similar charges.¹¹

Green zone factors and arrangements

23. Green zone arrangements are usually characterised by high level usage of a property to produce rents, lease premiums, licence fees or similar charges, combined with limited or no non-income-producing use.

24. Factors that could point to a green zone arrangement can include, but are not limited to:

- high levels of income-producing occupancy, particularly around peak holiday seasons where the property is most desirable as a holiday destination
- limited personal or other non-commercial use of the property
- prioritisation of deriving income from the property over other purposes
- commercial terms for renting out the property
- attempts to maximise income from the use of the property to derive rents, lease premiums, licence fees or similar charges.

25. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

¹⁰ 'Clear change in use of a holiday home' is explained in paragraphs 39 to 40 and 113 to 118 of TR 2025/D1.

¹¹ 'Commercial exploitation of the property' and 'non-income-producing use of the property' are explained in more detail under each of the risk zones.

Status: **draft only – for comment**

Example 1 – limited personal use with high occupancy

26. *Eric lives in Victoria and owns an apartment on the Gold Coast, Queensland. The property is near the beach and is managed by property managers as part of the apartment complex rental pool. All rental enquiries are managed and responded to by a dedicated property manager. The property is regularly rented on a short-stay basis and consistently has a high occupancy rate. Eric usually blocks out 4 weeks a year for personal use of the apartment for his annual holiday when rental demand for the property is low.*

27. *Eric lives interstate but will also occasionally stay at the apartment when visiting the area if the apartment happens not to be already booked out or rented.*

28. *Eric's claim for deductions relating to the Gold Coast apartment would not be denied because it is a holiday home that he uses (or holds for use) mainly to produce income from rent. Eric's use of the property shows clear prioritisation of income-producing activity over personal use. He will be required to apportion deductions under section 8-1 for his incidental personal use of the property.*

Example 2 – limited personal use of seasonal property with high occupancy

29. *Natalie and Scott own a house in the Barossa Valley. They advertise the property year-round on a sharing economy platform. The property has a high occupancy rate during the usual 4-month peak period, and a low occupancy rate at other times.*

30. *Each year, while on holiday, Natalie and Scott stay at the property for one week during peak period, otherwise they actively manage the property to maximise rental income.*

31. *Natalie and Scott's claim for deductions for their house would not be denied because it is a holiday home that they use (or hold for use) mainly to produce income from rent. Natalie and Scott's attitude towards the marketing of the property shows an intent to prioritise income derived from the property, and their personal use is incidental to this. If Natalie and Scott do stay at the property, they will be required to apportion deductions under section 8-1 for their personal use of the property.*

Amber zone factors and arrangements

32. Amber zone arrangements usually have factors that point to lower commercial exploitation of a property to produce rents, lease premiums, licence fees or similar charges and an increase in other uses, most commonly, personal use.

33. Factors that could point to an amber zone arrangement include, but are not limited to:

- increased personal use of the property by the taxpayer and friends (for no cost or below market rates)
- forgoing income generation from the property so it is available for personal use (actual use or mere availability for personal use)
- using the property (or holding it as available) for personal non-income-producing use in peak income-producing periods

Status: **draft only – for comment**

- limited attempts to exploit the property to gain rents, lease premiums, licence fees or similar charges.

34. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

Example 3 – personal use during peak period

35. *Leonie owns an apartment in Hobart which she markets on a sharing economy platform. When the property is available to guests, it is occupied more often than not.*

36. *For a few months each year during peak periods, Leonie uses the apartment as a retreat while she is on holiday. Leonie does not respond to enquiries from potential tenants for the periods she wants to use it. Because Leonie uses the apartment for her holidays and recreation, the apartment is a holiday home.*

37. *Should Leonie want to shift to the green zone, she could reconsider her private usage and make attempts to maximise income from the use of the property by more actively managing the apartment year-round to ensure that it remains used (or held for use) mainly to produce income at all times in the year.*

Example 4 – prioritising personal use during peak periods

38. *Ryan and Tom live in Adelaide and own an apartment in the Melbourne central business district which they have available for short-term rentals on various sharing economy platforms.*

39. *Ryan and Tom are sports fans and use the apartment at specific times when there is a sporting event taking place in Melbourne, such as the Australian Open tennis tournament, the Formula 1 Australian Grand Prix, and major Australian football league games. Because Ryan and Tom use the apartment for their holidays and recreation, the apartment is a holiday home.*

40. *When not needed by Ryan and Tom the apartment is mostly booked out for rental for full weeks during school holiday periods. There are other incidental bookings throughout the year.*

41. *If Ryan and Tom want to shift to the green zone, they could reconsider their current position of prioritising their personal usage of the property during peak periods.*

Example 5 – prioritising personal use of seasonal property

42. *Ling owns a luxury ski chalet in Thredbo, New South Wales. The property is advertised online via sharing economy platforms.*

43. *During the ski season, which lasts around 4 months, Ling uses the property for a few days per fortnight, blocking it out for her personal use so she can enjoy skiing. When the property is not used by Ling during the ski season, it is consistently booked. In the off-season, the chalet attracts occasional weekend bookings.*

44. *Ling's chalet is a holiday home because she uses it for holidays or recreation. Ling's approach to the chalet indicates an intention to produce some income from it. However, she extensively uses the chalet privately during the ski season which is a peak income-earning period.*

Status: **draft only – for comment**

45. *If Ling wants to shift to the green zone, she could reconsider her personal usage of the property during peak ski season when the property has the highest income-earning potential.*

Red zone factors and arrangements

46. Red zone arrangements for the purposes of section 26-50 are ones where there is little or no commercial exploitation of the property to produce income through rents, lease premiums, licence fees or similar charges and the non-income-producing use is usually prioritised.

47. Factors that could point to a red zone arrangement include, but are not limited to:

- the property having times blocked out for personal use each year, particularly during periods of high rental demand
- limited attempts to rent out the property
- major features of the property, or parts of property rented out, being inaccessible even when the property is being used by guests
- unreasonable restrictions being placed on potential renters, contributing to low overall occupancy
- limited to no attempt to increase occupancy to gain rents, lease premiums, licence fees or similar charges.

48. No single factor is decisive, and the weight given to each of these (or other) factors will vary depending on your individual circumstances.

Example 6 – major features inaccessible with limited attempt to rent

49. *Kristoff purchases a luxury property in Sorrento, Victoria. Rental demand for the property is at its highest during the summer months. Typically, Kristoff rents the property for 3 or 4 weeks per year.*

50. *The house is listed on one sharing economy platform and is managed by Kristoff, who does not respond to queries in a timely manner, if at all.*

51. *Kristoff stays at the property for 1 or 2 weeks each year while he is on leave, around the New Year's Eve holiday period. The property is furnished with high-end furniture, and houses Kristoff's extensive wine and fine art collections as well as his boat and jet-ski, which are all inaccessible to guests.*

52. *Because Kristoff uses the house for holidays or recreation, it is a holiday home. Kristoff cannot rely on the exception to the application of subsection 26-50(1) in subparagraph 26-50(3)(b)(ii). Subsection 26-50(1) will therefore apply to deny deductions relating to property ownership.¹²*

Example 7 – prioritising private use, times blocked out for personal use

53. *Josh lives in Perth and owns a beach house in Busselton, Western Australia. The beach house is advertised for rent year-round through an agent and on sharing economy*

¹² See paragraphs 29 to 34 and 80 to 89 of TR 2025/D1 for more information.

Status: **draft only – for comment**

platforms. The beach house is highly desirable during the summer months and is rented at a higher rate during this time. The beach house is always blocked out for use by Josh and his family and friends at Christmas and Easter, and during summer school holiday periods.

54. Josh and his family do not always use the property for the blocked-out dates, but Josh has instructed his agent not to let the property during these times just in case they wish to use it at short notice. Josh is very selective about who can rent the property and rejects many of the booking enquiries he receives. On average, the beach house is rented out to unrelated guests about 10 weeks per year.

55. Because Josh uses the beach house for holidays and recreation, it is a holiday home. Josh is prioritising his personal use of the property over any income-earning use. The beach house is a holiday home that is not mainly being used to produce assessable income. The exception in subparagraph 26-50(3)(b)(ii) will not apply and subsection 26-50(1) will apply to deny deductions relating to property ownership.¹³

Example 8 – unreasonable restrictions, prioritising private use

56. Andy is an avid golfer. He purchases a property on a golf course in the Hunter Valley, New South Wales. The property is advertised online via sharing economy platforms. Andy stays at the property approximately 1 or 2 Sundays each month to play golf.

57. The property has a minimum stay requirement of 4 nights but has a recurring block-out period on Sundays to allow Andy to use the property when he wishes on those days. Andy also ensures that prospective tenants are made aware that the property has poor mobile phone reception and does not have any internet available for use by tenants. The property is let approximately 5 or 6 times per year for the minimum 4-night stay.

58. Because the property is used for Andy's holidays or recreation, it is a holiday home. Andy is prioritising his personal use of the property over any income-producing use. The property is a holiday home that is not mainly being used to produce assessable income, and subsection 26-50(1) will apply to deny deductions relating to property ownership.¹⁴

Example 9 – mainly used for holidays and recreation by owners

59. Shane and Carmen live in rural South Australia, and own a property in Glenelg Beach, South Australia. They have owned the property for many years, and it has always been let as an income-producing long-term rental property.

60. Shane and Carmen both retire from work and begin to travel more. They decide to evict their long-term tenants and shift their rental strategy for the property to short-term rentals so that they can visit the property on weekends and for holidays on a regular basis.

61. The property is only very occasionally rented out via several sharing economy platforms, with Shane and Carmen seldom responding to enquiries. They tend to make their holiday and travel plans at the last minute, so rarely block out specific dates, but will cancel a booking if it conflicts with their plans to utilise the property.

62. The property is considered a holiday home. Because of their prioritisation of their personal use of the property over any income-producing use, Shane and Carmen will not

¹³ See paragraphs 29 to 34 and 80 to 89 of TR 2025/D1 for more information.

¹⁴ See paragraphs 29 to 34 and 80 to 89 of TR 2025/D1 for more information.

PCG 2025/D7

Status: **draft only – for comment**

be able to rely on the exception in subparagraph 26-50(3)(b)(ii). Subsection 26-50(1) will apply to deny deductions relating to property ownership.¹⁵

Commissioner of Taxation

12 November 2025

¹⁵ See paragraphs 29 to 34 and 80 to 89 of TR 2025/D1 for more information.

Status: **draft only – for comment**

Your comments

63. You are invited to comment on this draft Guideline including the proposed date of effect. Please forward your comments to the contact officer by the due date.

64. A compendium of comments is prepared when finalising this Guideline, and an edited version (names and identifying information removed) may be 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 details have been removed as the comments period has ended.

Status: **draft only – for comment**

References

Previous draft:

Not previously issued as a draft

Related rulings:

TR 97/11; TR 2025/D1

Legislative references:

ITAA 1997 8-1
ITAA 1997 26-50
ITAA 1997 26-50(1)
ITAA 1997 26-50(3)(b)(ii)

Other references:

PCG 2025/D6

ATO references

NO: 1-19BFBN95
ISSN: 2209-1297
BSL: IAI
ATOlaw topic: Income tax ~~ Deductions ~~ Rental property expenses ~~ Other

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).