

26 July 2021

Inland Revenue Department  
New Zealand

By email: [Public.Consultation@ird.govt.nz](mailto:Public.Consultation@ird.govt.nz)

Your reference: PUB00391

Dear Sir or Madam,

### **If I run a hotel, motel or boarding house and live on site, what expenditure can I claim?**

CPA Australia represents the diverse interests of more than 168,000 members, including over 2,700 members in New Zealand, working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

The Inland Revenue's (IRD) Exposure Draft **PUB00391: If I run a hotel, motel or boarding house and live on site, what expenditure can I claim (the Exposure Draft)** seeks CPA Australia's comments on its guidance on the deductibility of expenses commonly incurred by hotel, motel and boarding house proprietors who live on-site, particularly where the expenses have both a business and private character.

All legislative references are to the *Income Tax Act 2007* (ITA 2007) unless otherwise indicated.

Overall, we find the interpretation statement to be practical and clear. We raise the following for your consideration.

#### **Common Area**

We note in paragraph 14:

In addition, if you have mixed-use areas in your premises, you can claim a deduction for these spaces based on the portion of time those areas are used for business purposes. You need to work out how much time on average the mixed-use area is used for business purposes. In general, Inland Revenue will accept 50% as a baseline for the amount of time mixed-use areas are used for business purposes where there is about equal business and private use, or where the business and private uses are too intertwined to measure each separately. If the area is not often used for business purposes, then the business use is likely to be less than 50%.

We submit the Exposure Draft will benefit from additional commentary and example in defining mixed-use areas, including the common area, and determining the extent of business use. That is, commentary that notes that the common area is an area in the residence which would be readily suitable or adaptable for use for private or domestic purposes and could be used for domestic purposes when no guests are present.

Whether an area of the residence has the character of a place of business is a question of fact which depends on the particular circumstances of each case. We submit the following factors, none of which is necessarily conclusive on its own, may indicate whether or not an area set aside has the character of a place of business and its business use extent<sup>1</sup>:

1. the area is clearly identifiable as a place of business;
2. the area is not readily suitable or adaptable for use for private or domestic purposes in association with the residence generally;
3. the area is used exclusively or almost exclusively for carrying on a business; or
4. the area is used regularly for visits of clients or customers.

<sup>1</sup> Australian Taxation Office, [Taxation Ruling TR 93/30 Income Tax: deductions for home office expenses](#), Consolidated version 6 April 2011, paragraph 5

### **Example: Common area - business use apportionment**

Hyacinthe is currently constructing a residence for the purpose of a traditional bed and breakfast operation in which she lives on site.

Hyacinthe wishes to establish the business apportionments acceptable to the IRD.

Hyacinthe has provided a detailed plan of the residence being constructed.

The residence will have three fully isolated guest accommodations upstairs. There is one room of accommodation for Hyacinthe downstairs. There is also a common area for mixed-use.

The residence will cater for up to only three couples at any one time.

Hyacinthe has included with her application, documents showing her business and promotional activities.

Based on floor area calculations, Hyacinthe's business use apportionments for the respective areas are:

**36% of Floor Area (Guest accommodation):** 100% Guest use

**54% of Floor Area (Common area):** 50% Guest use:

**10% of Floor Area (Hyacinth's room):** 0% Guest use:

Based on floor area calculations, Hyacinthe's apportionment results in a total business usage percentage of 63%.

#### **Application of the Factors:**

The four factors to determine whether the common area of the residence has the character of a place of business are:

1. the area is clearly identifiable as a place of business;
2. the area is not readily suitable or adaptable for use for private or domestic purposes in association with the residence generally;
3. the area is used exclusively or almost exclusively for carrying on a business; or
4. the area is used regularly for visits of clients or customers.

The common area Hyacinthe has apportioned 50% for guest use may be considered to fully meet the first and fourth factors above. However the second and third factors would not be met. In other words, the common area would be readily suitable or adaptable for use for private or domestic purposes and could be used for domestic purposes when no guests are present.

#### **Conclusion:**

Based on the particular circumstances of Hyacinthe's case, in respect to the four factors listed above, her 50% apportionment of the common areas is considered as being reasonable, given two of the four factors are fully met.

Hyacinthe's total business apportionment of 63% for her bed and breakfast residence is considered to be reasonable and acceptable.

If you have any queries about this submission, contact Rick Jones, Country Head, New Zealand on +64 21 190 1039 or [rick.jones@cpaaustralia.com.au](mailto:rick.jones@cpaaustralia.com.au) or Elinor Kasapidis, Senior Manager Tax Policy on +61 3 9606 9666 or [elinor.kasapidis@cpaaustralia.com.au](mailto:elinor.kasapidis@cpaaustralia.com.au).

Yours sincerely,



Dr Gary Pflugrath  
Executive General Manager,  
Policy and Advocacy



Mr Rick Jones  
Country Head,  
New Zealand