Property Rental Companies

Expenses of Management and Directors’ Remuneration

Part 04-08-03

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

1. Investment companies

Section 83(1) Taxes Consolidation Act 1997 (TCA) defines an "investment company" as:

> any company whose business consists wholly or mainly of the making of investments, and the principal part of whose income is derived from the making of investments but includes any savings bank or other bank for savings.

Property rental companies may come within this definition. While it is not possible to be definitive about the characteristics which would allow a property rental company to be classed as an investment company, the following should be noted:

- Generally, a rental company which holds more than one property will be regarded as an investment company.
- A rental company which holds only one property but also holds other classes of investments in more than nominal amounts (for example, government bonds, quoted shares) will also be regarded as an investment company.
- Revenue will not seek to distinguish between the making of and the holding of investments. However, the nature of the operations of the property rental company should be such that its main business is the making of investments and the principal part of its income is derived from those investments.

2. Expenses of management

Where a property rental company is considered to be an investment company, it will be entitled to claim deductions for any expenses of management which are additional to expenses deductible as costs of management (of premises) under section 97(2)(d) TCA in computing rental income. However, in the case of companies which derive all their income from rents, no additional deductions for the costs of management of premises should be due. For example, as outlined in Tax and Duty Manual Part 04-08-04, accountancy fees are allowed as a deduction under section 97(2)(d) TCA in computing rental income and should not also be deducted as a cost of management.

3. Directors' remuneration

Revenue takes the view that directors' remuneration in property rental companies is an admissible deduction to the extent that it is reasonable having regard to the services rendered or the duties performed.[1] In practice no objection will be raised to payments that do not exceed 10% of the gross rents. Where the directors devote a substantial part of their time to the management of a company's properties and there is not a separate management charge, payments that do not exceed 15% of gross rents will not be questioned.

[1] For examples of this please see TDM Part 04-06-11.

There is a long-standing Revenue practice to accept as admissible an amount of directors' remuneration which does not exceed 10% of the company's gross income (including franked investment income). Therefore, where the income of an investment company includes rental income to which the 15% limit would be applicable, the 15% limit will be applied to the rental income only and the 10% limit will be applicable to the other income of the company.

Directors' remuneration within the limits mentioned will not be aggregated with other admissible expenses of management, irrespective of whether the rental company comes within the definition of "investment company" in section 83(1) TCA. The percentage limits of 10% or 15%, as appropriate, are to be applied only in determining the level of directors' remuneration that would be regarded as admissible. Those limits are not to be regarded as inclusive of other expenses of management, nor are they to be applied to other expenses of management.