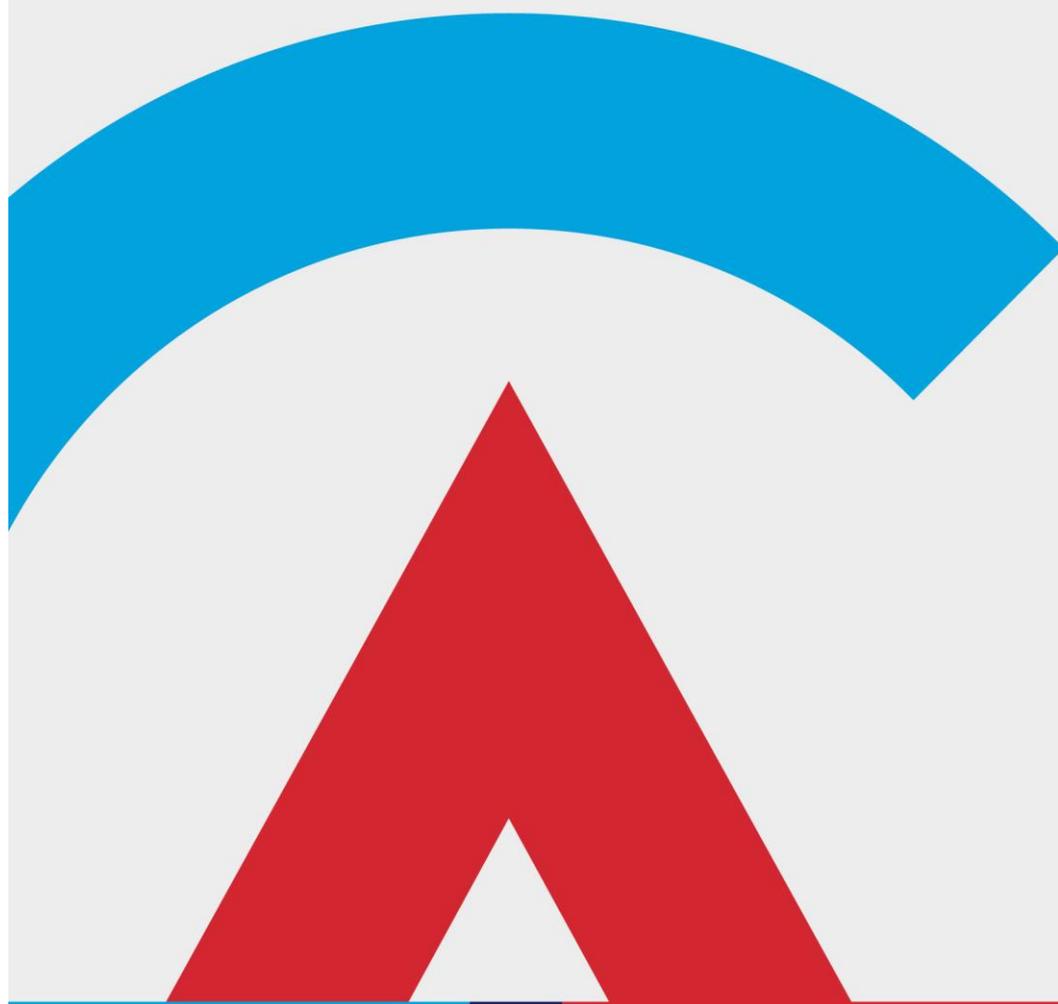


Consultation on accommodation items PUB 00303/a-g

18 March 2019



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Team Manager, Technical Services
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National Office
Inland Revenue Department
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Dear Grant

Consultation on accommodation items

PUB 00303/a-g: Income Tax and GST – Tax implications of providing short stay accommodation

Chartered Accountants Australia and New Zealand (CA ANZ) appreciates the opportunity to provide feedback on the following items:

1. PUB00303/a – Set costs for boarders in your home
2. PUB00303/b – Standard-cost household service for short-stay accommodation providers
3. PUB00303/c – What are my income tax obligations if I rent out my home or a separate dwelling as short-stay accommodation?
4. PUB00303/d – What income tax rules apply if I have a dwelling that I sometimes rent out as short-stay accommodation and sometimes use myself?
5. PUB00303/e – How do the mixed-use asset income tax rules apply to a dwelling that I sometimes rent out as short-stay accommodation and sometimes use privately?
6. PUB00303/f – How do the standard income tax rules apply to a dwelling that I sometimes rent out as short-stay accommodation and sometimes use privately?

7. PUB00303/g – Can I register for GST if I supply short-stay accommodation to guests in my home or holiday home?

CA ANZ supports the publication of the above items. We found them to be well written, clear and easy to understand with good practical examples. The items and content will enable your target audience (taxpayers who supply accommodation – many of whom may not be familiar with income tax) to establish which and how the rules apply to their circumstances.

We have set out our comments below in respect of each item which we hope you find helpful.

1. Overview

Editorial

First paragraph, line four, - ‘Question’s’ should be ‘Question’.

2. PUB00303/a – Set costs for boarders in your home

Interpretation

To improve clarity we recommend the definition of “Boarder” be extended to specifically exclude a child under 5 years old that accompanies a parent or guardian who is a boarder.

We note where a child under 5 years old accompanies a parent or guardian who is a boarder, the child is not counted as an occupant (for the annual capital standard-cost calculation) or as a

boarder for the weekly standard-cost calculation¹.

Weekly standard-cost per boarder

Currently, the weekly standard cost per boarder reduces for the third and fourth boarders. Your proposal that one rate apply to all boarders (1-4) is welcomed. This will simplify the calculation and reduce compliance costs for taxpayers.

Annual capital standard-costs

The calculation of the annual capital standard-cost could be complicated for many taxpayers. Establishing the “number of total occupants” may be difficult. Shared custody arrangements² are often flexible and the nights or days a child spends with a parent or carer will vary from week to week. Host taxpayers may find it onerous to have to calculate the percentage of the year the child lives with them.

We recommend consideration be given to how this calculation could be simplified. For example, could a standard percentage be used for shared custody arrangements e.g. 50% or could a child be excluded where there is a shared custody arrangement?

Annual transport standard-cost

You propose to reduce the weekly standard-cost for household service for private service boarding providers by excluding “transport”. The reduction is significant, \$83.00 per week, and we expect many taxpayers will be affected. The removal will result in extra complexity and compliance costs. Taxpayers will now have to calculate the annual capital standard cost to establish whether they have exempt income. As an allowance for transport has been included in the standard-cost since the introduction of DET 05/03 in 2005, irrespective of whether

¹ Appendix A page 11, paragraph A3 PUB00303/a

² Appendix A page 11 paragraph A5 PUB00303/a

transport was provided, taxpayers may perceive the reduction to be unfair and not justified. The exposure drafts do not explain the reasons for removing transport costs from the standard-cost amount. Further detail supporting the exclusion and the amount of the reduction should be provided. This will help taxpayers and advisers better understand why transport has been excluded.

In our view the proposed annual transport standard-cost calculation could be improved. The calculation and the requirement that a logbook be maintained is impractical and adds complexity and compliance costs. For those taxpayers who provide transport, the annual transport standard-cost could be a set amount (like the amount allowed in DET 05/03). This would simplify the calculation of exempt income.

Editorial

Paragraph 6, page 3, second line contains a typo – should be ‘will’ not ‘willd’

Bullet point 3, page 4, last line - insert close bracket after ‘cover”).’

Paragraph 40, page 8, last line - insert after ‘Tax Information Bulletin’ “and on its website”.

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

3. PUB00303/b – Standard-cost household service for short-stay accommodation providers

100 rental nights

CA ANZ considers taxpayers and advisers would find it helpful to understand why the Determination does not apply where the short-stay accommodation service is provided for more

than 100 rental nights during the income year³. We recommend further information be provided to support a restriction on use of the Determination by taxpayers who provide short-stay accommodation for more than 100 rental nights during the year. It would also be helpful if the item explained how the 100-night threshold was determined and why the Commissioner thinks this threshold is appropriate.

4 consecutive weeks

The Determination may not be used if a taxpayer rents out a room or rooms in their home to guests for short-stay accommodation. Short-stay accommodation is a defined term and means “*accommodation provided for up to four consecutive weeks...*”⁴

We think it would be beneficial if the list, Scope of Determination, (a)-(g) was expanded to include the following point:

“The short stay accommodation is not provided for more than four consecutive weeks to a guest.”

The addition of the extra point would make the list more complete. Taxpayers who do not meet the criteria would not need to refer to the Determination.

Examples

The inclusion of an example illustrating additional costs relating to the boarding service that can be deducted would be worthwhile.

Editorial

Paragraph 19, page 5, last line - insert after ‘Tax Information Bulletin’ “and on its website”.

Paragraph 22, page 6, 2nd line - contains an incorrect reference. Replace ‘(page 8)’ with (page

³ DET x/xx: Standard-cost household service for short-stay accommodation providers PUB00303/b

⁴ DET x/xx *Ibid*³ Interpretation

10).

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

4. PUB00303/c – What are my income tax obligations if I rent out my home or a separate dwelling as short-stay accommodation?

Editorial

Table 1, page 3, 3rd bullet point – replace ‘PUB00303/a’ with ‘PUB00303/b’.

Paragraph 7, page 3, 1st line – replace ‘PUB00303/a’ with ‘PUB00303/b’.

Paragraph 8, page 4, 2nd line – replace ‘PUB00303/a’ with ‘PUB00303/b’.

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

5. PUB00303/d – What income tax rules apply if I have a dwelling that I sometimes rent out as short-stay accommodation and sometimes use myself?

Mixed-use asset rules or standard rules

The QWBA acknowledges that a property can flip in and out of the mixed-use asset rules from one year to the next⁵. This will give rise to practical issues. Taxpayers would find it helpful if the QWBA discussed the practical issues and how these should be dealt with. For example, how quarantined expenditure should be dealt with.

⁵ QWBA - PUB00303/d: paragraph 8, page 3

Editorial

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

6. PUB00303/e – How do the mixed-use asset income tax rules apply to a dwelling that I sometimes rent out as short-stay accommodation and sometimes use privately?

Income earning nights

An example illustrating income earning nights would help taxpayers understand paragraph 28. In addition, the paragraph would be improved if there was more explanation of what is meant by income earning nights where you use the dwelling to carry out repairs. We also note taxpayers may find it difficult establishing where the boundary line is. That is, what repairs are covered and what is not. Examples to illustrate may assist.

Editorial

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

7. PUB00303/f – How do the standard income tax rules apply to a dwelling that I sometimes rent out as short-stay accommodation and sometimes use privately?

Editorial

Paragraph 32, page 7, 2nd line – insert “to” after ‘allowed’.

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

8. PUB00303/g – Can I register for GST if I supply short-stay accommodation to guests in my home or holiday home?

Taxable activity

We are concerned that the target audience may not fully comprehend paragraph 16 and how to establish whether they are carrying on a taxable activity⁶. You may wish to consider reworking paragraph 16 so that it is clear, not all the factors listed must be satisfied.

In our opinion the nature of the local tourist industry is not a relevant factor as to whether a taxable activity is being carried on continuously or regularly. The test relates to the whole activity not just the supply of goods and services. Continual advertising and marketing by the short stay accommodation provider could indicate that a taxable activity is being carried on. For example, a taxable activity was found to be carried on by an owner-operator charter operation which involved weekly marketing but only produced 12 charters over a two-year period.⁷

Example 2 implies that there is a requirement to make a profit. This is not required by the legislation⁸. Only two criteria must be met for an activity to be within the definition of “taxable activity”. First, it must be carried on continuously and regularly. Second, it must involve the supply of goods and services for a consideration.

Accounting for GST on sale

We commend you for making it clear in paragraph 30 and Example 4 that when a person deregisters they will have to pay GST on the taxable portion of the property’s value. This is a practical issue that many people do not understand.

⁶ QWBA PUB 00303/g pages 3 & 4

⁷ Allen Yacht Charters Ltd v C of IR (1994) 16 NZTC

⁸ Ibid

Editorial

To help identify when a term is defined, it would be helpful if the word was bolded or italicised.

[Further draft items on short-stay accommodation - Subsequent GST item](#)

In the Overview you mention you will be consulting on further draft items on short-stay accommodation in the coming months. One will cover GST issues in detail. We recommend you consider including how joint tenants or tenants in common should be treated for the purposes of the GST registration threshold. In other words, do you look at each person separately or jointly.

We would be happy to discuss our submission with you.

Yours sincerely



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