



The taxation of income from short term rentals including income from Airbnb lettings

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Do you have income from short term rentals e.g. from Airbnb?

Revenue has recently released updated guidance on the taxation treatment of income arising from the provision of short-term accommodation.

Income tax

The key point of the updated guidance is that the provision of short-term accommodation will not create a landlord/tenant arrangement i.e. if you rent out a room on a short-term basis using a platform like Airbnb, you will not be treated as a landlord earning rental income and the guest will therefore **not be treated as a tenant**.

If the income from the provision of guest accommodation arises in the course of a trade, then it is treated as Case I trading income. Whether the profits or gains from the provision of accommodation arise in the course of a trade is a question of fact having regard to the particular facts and circumstances of each case. One of the main indicators of trading activity will generally be the frequency of which the property/room is available for occupancy and its usage by guests. In order for the income to be considered trading income, the property/room would be expected to be available for rent on a frequent and regular basis, rather than on a once-off or occasional basis. Likewise, for an activity to be trading, the owner must be involved in actively letting out the property on a commercial basis with a view to the realisation of a profit. This may involve, for example, advertising the property online on accommodation booking websites, dealing with booking enquiries, reservations and payments, arranging for cleaning, laundry and maintenance during/between lets, providing meals, providing information to visitors about local tourist attractions, restaurants etc. or paying staff to provide such services. The provision of traditional short-term guest accommodation in hotels, guesthouses, B&Bs and hostels will generally constitute a trade. Persons who provide short-term guest accommodation, either in their home or in another property owned by them, will only be trading to the extent the activity is sufficiently frequent and regular and is carried on on a commercial basis and with a view to the realisation of profit.

Where a trade is being carried on, the property owner will be entitled to take a deduction for expenses which have been wholly and exclusively laid out or expended for the purposes of the trade. In addition, the property owner may be entitled to capital allowances in respect of expenditure on fixtures and fittings e.g. furniture. These allowances will be available at a rate of 12.5% of the qualifying capital expenditure over a period of 8 years. In addition, pre-trading expenditure incurred up to 3 years prior to the date of commencement of a trade is deductible where the expenditure would be deductible if it had been incurred after the trade commenced. Therefore, for example, the cost of repainting a bedroom or purchasing bed linen in advance of the guest accommodation first being made available for use, would be deductible for tax purposes.

However, persons who provide guest accommodation on a once-off or occasional basis will generally not be regarded as carrying on sufficient activity so as to constitute a trade. This is

the position regardless of whether additional services are provided alongside the letting of the room/property.

In considering whether an activity is being carried on on an “occasional” basis, the term should be given its ordinary meaning, for example, “taking place from time to time” or “not frequent or regular”. There is no specified threshold or limit as respects the number of times a room/property is occupied for guest accommodation, below which the income will be considered to arise from an occasional activity. It will be a question of fact, based on the particular facts and circumstances of the case, as to whether the income or gains arising are taxable under as Case IV non-trading income.

Capital allowances are not available against the profits or gains from the provision of accommodation that is not taxable as trading income. In assessing such income, where the provision of accommodation does not have the characteristics of a trade, there is no specific provision in the tax code setting out allowable or disallowable costs. However, in determining the profit element of any such income, it is long standing Revenue practice to allow a deduction for incidental costs directly associated with the provision of any such service. Therefore, expenditure incurred directly in the provision of the guest accommodation, for example commission paid to online accommodation booking sites, cleaning fees, the cost of breakfast provided to the guests, as well as a reasonable apportionment of electricity, gas, heating etc. utilised by guests, should be allowable. However, annual costs associated with a property, such as insurance costs, TV licence, general maintenance costs etc., are not costs directly borne in relation to the accommodation service provided – they are costs to be borne irrespective of whether a service is provided and, accordingly, a deduction would not be permitted for these costs. Where accommodation is provided on an occasional basis there is no provision, in computing income chargeable to tax, for allowing deductions in respect of expenditure incurred in advance of a property/room being made available for guest accommodation.

Capital gains tax

Where a trade of providing short term accommodation has been carried on in a person’s principal private residence, then that part of the principal private residence used exclusively for the purposes of a trade must be excluded from the scope of principle private residence relief. It is important to record the relevant usage details to ensure that the correct amount of CGT (if any) is paid on the sale of the what may be an otherwise CGT exempt principal private residence.

In the case of income assessable to tax as a consequence of occasional or once off short term lettings or regular long term letting to tenants, principal private residence relief may apply where the property is the main residence of the owner. However, as in the case of income assessable as trading income, the exemption does not extend to a part of a dwelling-house which is exclusively let. Therefore, it is important in these cases to also record the usage of the property.

VAT

In general, the letting of immovable goods is exempt from VAT unless the letting relates to short-term accommodation, and other short term guest / holiday accommodation. Short term accommodation is generally subject to VAT at a reduced rate (9%) and applies to activities such as the letting of a room(s) in a hotel or guesthouse, short term lettings of all or part of a house, apartment or similar building and the provision of any other holiday accommodation. However, the provision of student accommodation is exempt from VAT. A short term letting is a letting of all or part of a house, apartment or other similar establishment to a tourist, holidaymaker or other visitor for a period which does not exceed or is unlikely to exceed 8 consecutive weeks. A letting of emergency accommodation is excluded from this definition.

A business (including where one operates a sole trader i.e. not as a company) which provides short-term accommodation must register for VAT if their income exceeds or is likely to exceed €37,500 per annum. A business can also elect to register for VAT if they are below the threshold if it is engaged in a continuous economic activity or business, as opposed to, for example, a once off or very occasional letting of a room. In the latter case it is likely that VAT registration would not be available. A VAT registered business providing taxable short-term accommodation may reclaim Value-Added Tax (VAT) incurred on their business costs under the normal VAT rules.

It should be evident from the above clarification issued by Revenue that even a simple activity such as the letting of an apartment or a room in a house on a short term basis could give rise to some important tax issues under many tax heads. It is therefore very important for people engaged in the provision of short term accommodation to seek independent tax advice.

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