



6 September 2022

[REDACTED]

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 10 August 2022. You requested the following:

- 1. I submitted a concern about [REDACTED] a few months ago via your phone line. I understand this was sent to a department for attention. I would like to know the outcome of that and any findings.*
- 2. Please supply any information you have on [REDACTED]'s income, itemised expenses (or total if unavailable) and any profit or loss to date.*
- 3. Please confirm that a business is not able to expense interest for mortgage payments on a property for the purpose of a residential tenancy after 1 October 2021, where the purchase was settled on 28 June 2021.*
- 4. If [REDACTED] had established a commercial lease (for a house) with a property management company, such that the property management company made a \$0 return from a residential tenancy, and [REDACTED] made a loss, would [REDACTED] be able to offset the losses from the commercial lease against personal income?*
- 5. Is a company able to offset losses from residential rental expenses (tenancy management fees, repairs, depreciation etc) against the profits of selling the rental property?*

Information related to [REDACTED] is considered sensitive revenue information and is confidential under section 18 of the Tax Administration Act 1994 (TAA). Disclosure of this information does not fall within any of the exceptions to the confidentiality obligation listed in sections 18D to 18J of the TAA. Your request for this information is therefore refused under section 18(c)(i) of the OIA, as releasing this information would be contrary to the provisions of a specified enactment, namely Inland Revenue's confidentiality obligation in section 18 of the TAA.

Interest Deductibility Rules

I can confirm that from 1 October 2021, no interest can be claimed for residential property acquired on or after 27 March 2021, with the relevant acquisition date being the date the parties entered into the agreement for sale and purchase, not the settlement date. However, even if the property was acquired before that date, a portion of interest cannot be claimed from 1 October 2021 under transitional rules.

Certain exemptions apply to some properties. You may still be able to claim interest if you qualify for one of the following exemptions:

- Land business – land held as part of a developing, subdividing, or land-dealing business, or a business of erecting buildings on land.

- New build land – a self-contained residence that receives a Code Compliance Certificate (CCC) issued under the Building Act 2004 confirming the residence was added to the land on or after 27 March 2020.
- Property development – land that you develop, subdivide, or build on to create a new build.

For interest to be deductible, it must not be private in nature and the general deductibility rule must be met.

Further information about the Interest Deductibility Rules can be found on Inland Revenue's website: <https://www.ird.govt.nz/property-interest-rules>.

Rental loss ring-fencing rules

Under the rental loss ring-fencing rules, deductions for other residential rental expenses are allocated to an income year up to the total of an individual's "residential income". This includes residential rental income and net residential land sale income from the property or the portfolio of rental properties (depending on whether one is applying the rental loss ring-fencing rules on a property-by-property or portfolio basis). To the extent your residential property deductions exceed your residential income in a year, they cannot be used as deductions in that year. The excess deductions will instead be carried forward to the next year you derive residential income, and added to your deductions for the property or portfolio in that year.

If there are unused excess deductions after the property is sold and the sale is taxable, you might be able to use the excess deductions against your other income, depending on what method you use.

Further information about the rental loss ring-fencing rules can be found on Inland Revenue's website: <https://www.ird.govt.nz/property/renting-out-residential-property/residential-rental-property-deductions>.

Deductibility in the year the property is sold

In the year the property is sold, there are a number of possible scenarios:

- If the sale of the property was **not** taxable, the non-deductible interest remains non-deductible, and any disallowed ring-fenced losses remain ring-fenced and can only be deducted against net rental income of properties in the same portfolio or transferred to other properties.
- If the sale of the property was taxable for any reason other than the bright-line test, then all the disallowed interest becomes deductible in the year of the sale and the ring-fenced rental losses are also deductible in the year of the sale if the property was not part of a rental property portfolio.
- If the sale of the property was taxable **only** because of the bright-line test, then the disallowed interest is added to the cost base of the property and is taxable, if a net gain, and is only deductible against other real property gains if it's a loss.

Right of review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

If you choose to have an internal review, you can still ask the Ombudsman or Privacy Commissioner for a review.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details or any information that would identify you will be removed prior to it being published.

Thank you for your request. I trust that the information provided is of assistance to you.

Yours sincerely



Steven Whittaker

Customer Segment Leader, Small & Medium Enterprises