

Property Rental Companies

Expenses of Management and Directors' Remuneration

ITCGTCT – Part 04.08.03

Document last reviewed March 2017

1. Investment Companies

Section 83(1) 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....."

Revenue accepts that it is possible for property rental companies to come within this definition. While it is not possible to be definitive in relation to the characteristics a property rental company would need to be classed as an investment company, the following may be of some assistance:

- Generally speaking, 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 any other classes of investments in more than nominal amounts (e.g. 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 in the case of such companies. However, it will be necessary, in relation to any property rental company, to show clearly that the nature of the operations of the company are such that it can be accepted 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 in respect of any expenses of management which are additional to expenses deductible as costs of management (of premises) under section 97(2)(d) TCA 1997 in computing rental income. However, in the case of companies which derive all of their

income from rents, no additional deductions for the costs of management of premises should be due. For example, as outlined in Tax Instruction 4.8.4, accountancy fees will be allowed as a deduction under section 97(2)(d) in computing rental income.

3. Directors Remuneration

In relation to directors' remuneration in property rental companies, Revenue takes the view that the remuneration is admissible to the extent that it is reasonable having regard to the services rendered or the duties performed. 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.

In relation to investment companies generally, there has been 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, this percentage limit will be applied to the rental income only and the 10% limit will be applicable to the other income of the company.

It is important to note that the 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 1997. In other words, 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 and neither are they to be applied to other expenses of management.