Ring-fencing residential losses (2019)

classic.ird.govt.nz/campaigns/2019/ring-fencing-residential-rental-deductions

Find out more

Portfolio basis and property-by-property basis

Portfolio basis

The portfolio basis is the default basis for handling residential rental income deductions. Under this basis, the ring-fencing rules are applied to all of your affected properties as a single portfolio in each tax year. This means that the allowable deductions for the properties in your portfolio can be offset against income you earn from all of the properties in the portfolio. Any excess deductions from the portfolio overall can be carried forward to future years.

Property-by-property basis

The deductions for each property dealt with on the property-by-property basis can only be offset against the income from that property. Any excess deductions must be calculated and carried forward for each property individually. If you use this basis, you'll need to keep accurate records to show that the deductions for each property were only claimed against the income from that property.

If you want to use the property-by-property basis for a property, you need to take a tax position consistent with this basis in the tax return for the later of:

- the 2019-20 income year
- the income tax year in which you first start using the property for residential rental income.

The property-by-property basis continues to apply as long as you keep filing tax returns consistent with this basis.

If you have two or more properties, you can choose to use the portfolio basis for some and the property-by-property basis for others.

We recommend that you talk to your tax agent about which approach is best for you.

Excluded properties

There are some residential properties that aren't affected by the ring-fencing rules, including:

- your main home (if you have more than one home, this is the home you have the greatest connection with)
- property that comes under the mixed-use asset rules
- farmland
- property used mainly as business premises
- property you've identified to us as land that will be taxed on sale, regardless of when it's sold
- property owned by companies (other than close companies)
- employee accommodation
- property owned by Government enterprises

If you're unsure if a property is affected by these rules or not, we recommend you talk to your tax agent.

Tailored tax codes

If you have a tailored tax code (previously known as a special tax code) or certificate of exemption for rental losses, you may have a tax bill at the end of the income year. You will have until 7 February 2021 to pay, with standard late-filing penalties and interest apply after this date.

If your tailored tax code relates specifically to rental losses, you will need to contact us to discuss your situation and avoid further debt. You can either cancel your current tailored tax code and complete a new **Tax code declaration - IR330** or amend the current tailored tax code to a higher rate to cover the reduction already received. Payment plans for the 2021 payment deadline will also be available.

Selling a property

Most rental properties are not subject to tax when they're sold. If the sale of your property is not taxed, any excess deductions you have will continue to be carried forward. They'll be able to be used against any residential income you may have in future years.

If the sale of your residential property is taxed (e.g. if you sell your rental property within the bright-line period), you can use your accumulated excess deductions against the net income from the sale. If you still have unused excess deductions left after that, they may only be used to offset other income like salary and wages if:

- you used the property-by property-basis for the property, or
- the property was part of a portfolio, you've sold all of the portfolio properties, and all of the sales were taxed.

The amount that may be released in these situations will depend on whether you have excess deductions transferred from another property that was not taxed on sale.

More information on how these rules apply to a taxable sale of residential property is available in the Tax Information Bulletin, Volume 31. For further help, talk to your tax agent.

What should I do now?

We're currently working on adding more information on ring-fencing to our website.

If you have a child support assessment, you may need to re-estimate your income following these changes.

If you have a tax agent, you may like to ask how these new rules affect you.

For any further questions, you can contact us.

Key definitions

Residential land includes a rental property with an existing dwelling, land that is to have a dwelling built on it, and bare land that could have a dwelling built on it under the relevant district plan. This includes overseas property held by a New Zealand tax resident. The way the property is held generally does not change the rules, so they apply to property owned by you, a partnership, a look-through company, a trust, or a close company. Some land used for residential purposes is excluded.

Residential income generally means the rent you earn from residential land. However, if you sell the property in a taxable sale, the net income is also considered residential income - as is any depreciation recovery income from the sale.

Excess deductions, also known as **rental losses**, are when your allowable deductions for a residential property or portfolio exceed the amount of income you earned from the property or portfolio in the same tax year. Learn more about which rental property expenses can and cannot be deducted.