QUESTIONS WE'VE BEEN ASKED | PĀTAI KUA UIA MAI

Income tax – If property held in a trust is rented out for short-stay accommodation, who declares the income and what deductions can be claimed?

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QB 25/05

This question we've been asked (QWBA) explains how the income tax rules apply if property held in a trust is rented out as short-stay accommodation (for example, through Airbnb, Bookabach, Booking.com or Holiday Houses).

REPLACES | WHAKAKAPIA:

- **QB 19/15:** If property held in a trust is rented out by a beneficiary of the trust for short-stay accommodation, who should declare the income, and what deductions can be claimed?
- **QB 19/16:** If property held in a trust is rented out by the trustees for short-stay accommodation, who should declare the income, and what deductions can be claimed?

Key provisions | Whakaratonga tāpua

Income Tax Act 2007 – ss CC 1, CG 4, CH 5B, DA 1, DB 2, DV 9, subpart EE, subpart EL, YB 4, YB 11, and YA 1

Tax Administration Act 1994 – s 43B

Question | Pātai

If property held in a discretionary trust is rented out for short-stay accommodation, who declares the income, and what deductions can be claimed?

Answer | Whakautu

The answer depends on who rents out the property – the trustees or a beneficiary.

Income

If the trustees rent out the property for short-stay accommodation (for example, a holiday home or a dedicated short-stay accommodation property), the income belongs to the trustees, and it will generally have to be declared in the trust's tax return and taxed at the trust tax rate. However, if some or all of the income is allocated as beneficiary income, the income belongs to the beneficiary and it will generally have to be declared in the beneficiary's tax return and taxed at the beneficiary's tax rate.

If a beneficiary rents out all or part of the property for short-stay accommodation (for example, the property is the beneficiary's home and they rent out a room), the income belongs to the beneficiary as they grant the licence to the guests to stay. The income will generally have to be declared in the beneficiary's tax return and will be taxed at the beneficiary's tax rate.

Deductions

Non-capital expenses related to earning the income are deductible. However, these expenses will only be partly deductible where they also relate to private use or non income-earning use of the property.[1]

Some or all deductions may need to be claimed on a GST-exclusive basis, depending on whether the person renting out the property is GST-registered and whether the property is rented out through an online marketplace. This is discussed in more detail from [85].

[1] For a list of deductible and non-deductible rental property expenses, go to www.ird.govt.nz and search "rental property expenses".

If the rental activity is loss-making, the person renting out the property may be unable to claim all their deductible expenses in that income year. Some deductions might have to be carried forward to future income years.

Key terms | Kīanga tau tāpua

Guest means a person provided with short-stay accommodation in return for payment.

Online marketplace means an electronic platform like a website, app or internet portal that sellers use to market and sell their short-stay accommodation. It does not include an online marketplace that only processes payments.

Renting out and similar terms are used in this QWBA to refer to granting a licence to short-stay accommodation guests for use of the property.

Short-stay accommodation means accommodation provided for up to four consecutive weeks in a dwelling that is not the guest's ordinary residence. It does not include accommodation provided to residential tenants, boarders or care home residents, and it does not include student or emergency accommodation.

Trust is sometimes used in this QWBA to mean the trustees of the trust, for simplicity.

Explanation | Whakamāramatanga

Who rents out the property?

1. Rental income from land belongs to the owner of the land and they must declare it to Inland Revenue.

2. Owning land is not limited to having the legal title. Under the Income Tax Act 2007 (the Act), someone will own land if they have an estate or interest in land. This could be freehold, leasehold, or any other interest in land.

3. Beneficiaries of a discretionary trust do not have an interest in the trust property simply because they are beneficiaries. In many situations where a property is held in a trust, it will be only the trustees, who legally own the land, who have an interest in the land. This will generally be the case for a dedicated short-stay accommodation property, or for a holiday home that is also sometimes rented out to third parties. Where only the trustees have an interest in the land, it will be the trustees renting out the property, and the rental income will belong to the trustees.

4. However, in some situations there will be other people with interests relating to the same underlying piece of land, and they will also be owners of land for income tax purposes. In these situations, where the property is rented out, the rental income will belong to the person whose interest in land is affected.

5. For example, if a beneficiary of a trust has a right to possession of the property, or if they in fact occupy it, they have an interest in land as defined in the Act. A right to possession of land is specifically defined as an "interest in land" (s YA 1). Even if a beneficiary did not have the right to possession of the property, if they occupy the property, there is a "tenancy at will",[2] which gives rise to an interest in land.[3] The most common situation where a beneficiary will have an interest in the land is where the property is the beneficiary's family home.

6. Where a beneficiary has an interest in the land and they rent the property out to short-stay accommodation guests, it is their interest that is affected. It is their right to possession of the property, or their interest as tenant at will, that is affected by the property being rented out, not the trustees' legal interest in the land. Therefore, if a beneficiary has an interest in the land and rents out all or part of the property for short-stay accommodation, the income belongs to them.

This QWBA is in two parts:

- PART 1: explains who must declare the income to Inland Revenue and what deductions can be claimed if the person renting out the property for short-stay accommodation is **a trustee** (from [7]).
- PART 2: explains who must declare the income to Inland Revenue and what deductions can be claimed if the person renting out the property for short-stay accommodation is **a beneficiary** (from [49]).

Part 1: The trustees rent out the property

7. This part of the QWBA considers the situation where the trustees of the trust rent out the property for short-stay accommodation.

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[2] DW McMorland and others, *Hinde, McMorland and Sim, Land Law in New Zealand* (online ed, LexisNexis), at [11.022], and *Laws of New Zealand* Lessor and Lessee (online ed, accessed 14 February 2025) at [108] – [112]).

[3] DW McMorland and others, *Hinde, McMorland and Sim, Land Law in New Zealand* (online ed, LexisNexis) at [10.010(c)].

8. The most common situations where trustees of a trust rent out property held in a trust for short-stay accommodation are where the property is:

- a dedicated short-stay accommodation property; or
- a family holiday home that is sometimes rented out.

Summary – income tax implications if the trustees rent out the property

9. Table | Tūtohi 1 summarises the income tax implications for short-stay accommodation properties held in a trust, where the rental income is derived by the trustees.

Table | Tūtohi 1 – Summary – income tax implications if the trustees rent out the property

Item	Explanation
Income	Generally, all amounts received from paying guests are **income to the trustees**. However, if the property is subject to the mixed-use asset rules (the MUA rules) – see from [14], the following amounts are **exempt income**: ▪ Amounts received for renting the property to associated natural persons (for example, settlors and beneficiaries). ▪ Amounts received from renting the property at "mates' rates" (less than 80% of the market value rent).
Expenses incurred by and paid by the trustees	Expenses incurred by and paid by the trustees: ▪ are **deductible to the trustees**, but ▪ must be apportioned (so will be only partly deductible) if the property is also used for non income-earning purposes; and ▪ the deduction may need to be claimed on a GST-exclusive basis (see from [85]). See from [24] for how to apportion expenses for property subject to the MUA rules, or from [31] for property not subject to the MUA rules.
Expenses incurred by the trustees and paid by a beneficiary	**For the beneficiary** These expenses are **not deductible to the beneficiary**, as there is no connection between the expenses and the beneficiary earning income.

	For the trustees These expenses: ▪ are **deductible to the trustees**; but ▪ must be apportioned (so will be only partly deductible) if the property is also used for non income-earning purposes; and ▪ the deduction may need to be claimed on a GST-exclusive basis (see from [85]). If the trustees **do not reimburse** the beneficiary, the amount of the expenses paid by the beneficiary is **income to the trustees** as either: ▪ **rental income under s CC 1**, if paid by the beneficiary for their use of and/or ability to use the property, (provided the property is not subject to the MUA rules); or ▪ **income under s CG 4**, to the extent of the deduction the trustees have been allowed, if not paid by the beneficiary for their use of and/or ability to use the property, or if the property is subject to the MUA rules.
Expenses incurred by a beneficiary	If the trustees reimburse the beneficiary for expenses the beneficiary has incurred (by actual payment or through their beneficiary current account), the reimbursement: ▪ is **deductible to the trustees**; but ▪ must be apportioned (so will be only partly deductible) if the property is also used for non income-earning purposes; and ▪ the deduction may need to be claimed on a GST-exclusive basis (see from [85]). If the trustees **do not reimburse** the beneficiary, the expenses cannot be deducted by anyone. If the trustees do not reimburse the beneficiary, the amount of the expense incurred by the beneficiary could be: ▪ **Rental income of the trustees**, but only if the property is not subject to the MUA rules, and the beneficiary incurred the expense for their use of and/or ability to use the property. ▪ **A settlement on the trust or a distribution from the trust to the beneficiary**. This will depend on the value of what the beneficiary and the trust are providing to each other under the arrangement. This includes the value of expenses incurred by the beneficiary that are of value to the

	trust and the market value of any use of and/or the ability to use the property the beneficiary gets in return for incurring those expenses.

Which tax rules apply?

10. If the property is sometimes rented out and sometimes used by people associated with the trust (for example, a holiday home that is sometimes rented out to beneficiaries), the first step is to work out which rules apply to the property for the income year:

- the mixed-use asset rules (the MUA rules); or
- the standard tax rules.

11. QB 25/02: **Income tax – Which rules apply if I have a dwelling I sometimes rent out as short-stay accommodation and also sometimes use privately?** explains how to work out which rules apply. You need to revisit which rules apply each income year (for most people this is 1 April – 31 March).[4]

12. The property will be a mixed-use asset if, during the income year it was:

- used it to earn income;
- used privately (this includes use by family members, or by friends renting it for "mates' rates" that are less than 80% of the market value rent); and
- not used for at least 62 days in the year.

13. If the property is a mixed-use asset, there are some situations where the taxpayer can choose to opt out of the tax rules. This is explained in QB 25/02.

The rental income is derived by the trustees

14. If the trustees rent out the short-stay accommodation, the rental income belongs to the trustees.

15. Generally, all amounts the trustees receive from paying guests will be rental income. However, this does not include minor contributions from family or friends who are not charged rent (for example, if they pay $20 towards their power usage).

16. In addition, if the MUA rules apply, the following amounts will be exempt income:

[4] Guidance on moving between the standard tax rules and the mixed-use asset rules can be found in **IS 25/08: Income tax – implications of a residential property moving between the standard tax rules and the mixed-used asset rules.**

- amounts received for renting the property to associated natural persons (for example, a settlor or beneficiary of the trust); and
- amounts received from renting the property at "mates' rates" (less than 80% of the market value rent).

17. What amounts are taxable income or exempt income under the MUA rules is discussed in detail in QB 25/03: **Income tax - How do the mixed-use asset rules apply if I provide short-stay accommodation?**

Expenses incurred by the trustees are deductible to them

18. Because the rental income belongs to the trustees, non-capital property-related expenses incurred by the trustees will be deductible to them under s DA 1, subject to any apportionment required.[5] This is the case regardless of whether the expenses are paid by the trustees or by a beneficiary. These expenses might include:
    - interest on the loan for the property;[6]
    - repairs and maintenance;[7]
    - property and contents insurance premiums (including any additional premiums imposed because the property is used for short-stay accommodation);
    - rates (including any targeted rates imposed by councils because the property is used for short-stay accommodation);[8]
    - utility bills;
    - advertising costs, including any commissions or fees the trustees pay to an advertising platform or transaction facilitator (this does not include any service fees the guests pay the platform, just fees the trustees pay).

19. Expenses are incurred by the trustees if they either paid or became definitively committed to the expenses in the income year. This includes the following:

[5] For a list of deductible and non-deductible rental property expenses, go to www.ird.govt.nz and search "rental property expenses".

[6] From 1 April 2024, up to 80% of the interest on the loan can be claimed, and from 1 April 2025 up to 100% of the interest can be claimed.

[7] Deductible repairs and maintenance expenditure does not include expenditure on capital improvements (see **IS 12/03: Income tax – Deductibility of repairs and maintenance expenditure – general principles**).

[8] Some councils may impose targeted rates in respect of properties used for short-stay accommodation.

- Where the trustees have incurred the obligation themselves (for example, rates and property insurance).
- Where the trustees have agreed they will reimburse a beneficiary for expenses incurred by the beneficiary. For example, if a beneficiary gets the power, pay-TV or internet connected in their name (which is often the case, as it is easier than getting those services connected in the trustees' names). In those situations, the agreement to reimburse the beneficiary is an obligation incurred by the trustees. Example | Tauira 1 illustrates this scenario.

20. It may be that a beneficiary of the trust is also a trustee and connects services such as power or internet in their individual name. Generally, the person would be incurring the expenses in their capacity as trustee, so the expenses would be incurred directly by the trustees.

21. Some or all of the rental income may be allocated as beneficiary income, which means it is taxed at the beneficiary's tax rate rather than at the trust rate. However, for the purpose of determining the deductions the trust is allowed, the beneficiary income is treated as trustee income (s DV 9(2)). This means all the non-capital expenses the trust incurs in relation to the rental activity will be deductible to the trustees, subject to any apportionment required.

Dedicated short-stay accommodation property

22. If the property is a dedicated short-stay accommodation property, non-capital property-related expenses will be fully deductible and no apportionment is necessary. Depreciation losses on the property's chattels would also be fully deductible. Example | Tauira 1 concerns a dedicated short-stay accommodation property.

Example | Tauira 1 – A dedicated short-stay accommodation property

The B-F Family Trust is GST-registered and owns an investment property in Queenstown that is rented out on Airbnb. The property is not used at all by the settlors (who are deceased) or by beneficiaries of the trust. It is therefore a dedicated short-stay accommodation property.

The corporate trustee pays all the property-related expenses from its bank account. This includes the power, internet, and pay-TV bills. The connections for those services are in the names of Ani and Charlie, who are beneficiaries (but not trustees) of the trust. The connections were signed up for in Ani and Charlie's names as this was easier. But there is an agreement that the trustee will pay all those expenses.

All the rental income is income to the trustee. All the non-capital property-related expenses are deductible to the trustee, on a GST-exclusive basis. This includes the power, internet and pay-TV bills, as the trustee pays those. Because the property is only used for rental purposes, the expenses are all fully deductible.

A holiday home that is sometimes rented out

23. If the property is sometimes rented out and sometimes used by people associated with the trust (for example, a family holiday home that's sometimes rented out to beneficiaries of the trust), the proportion of the expenses that can be deducted will depend on whether the MUA rules or the standard tax rules apply (see from [10]).

If the MUA rules apply to the holiday home

24. If the MUA rules apply to the holiday home, the starting point is that expenses that relate solely to the rental activity (for example, advertising fees) are fully deductible. However, the deduction may need to be claimed on a GST-exclusive basis, depending on whether the trust is GST registered and whether the property is rented out through an online marketplace (see from [85]).

25. Mixed expenses – those that relate to both the rental activity and the private use of the property – must be apportioned. Mixed expenses include things like rates, insurance, utility bills, and property loan interest. Again, these deductions may need to be claimed on a GST-exclusive basis.

26. Use of the holiday home by natural persons who are associated with the trustees counts as private use for the apportionment formula in the MUA rules. Use by anyone else for less than 80% market value rent (for example, friends staying and paying "mates' rates") will also be private use.

27. Persons associated with the trustees include:

- beneficiaries of the trust;
- settlors of the trust;
- persons associated with beneficiaries of the trust under the "two relatives" test[9] (s YB 4); and

[9] Essentially, two people are associated if they are within two degrees of blood relationship, married, in a civil union or *de facto* relationship, or one person is within two degrees of blood relationship to the other person's spouse, civil union partner or *de facto* partner.

- persons with a power of appointment or removal of trustees – unless within the exclusion for providers of professional services (s YB 11(2)).

28. A guide to associated persons definitions for income tax purposes – IR620 explains how to work out if someone is associated with the trustees.

29. QB 25/03 explains how to calculate the percentage of the mixed expenses that is deductible under the MUA rules. The same formula is generally used to calculate the portion of deductible depreciation losses for the property's chattels. However, depreciation losses or depreciation recovery income on disposal, is calculated under the depreciation provisions in subpart EE.

30. Example | Tauira 2 explains how the MUA rules apply to a holiday house.

Example | Tauira 2 – Where the MUA rules apply to a holiday house

The Fab Five Family Trust is GST-registered and owns the Brown family's holiday home. The Browns use the holiday home for 45 nights during the income year. The trustees of the Fab Five Family Trust rent it out to friends of the Browns for 15 nights in the year for "mates' rates" of $50 a night, and the trustees rent it out to unrelated third parties for 80 nights in the year for $200 a night.

The trustees have used QB 25/02 to work out the holiday house is a mixed-use asset for the income year because it was:

- used privately (by the Browns, who are beneficiaries and settlors of the trust, and by friends for less than 80% of the market value rent);
- used to earn income; and
- vacant for 62 days or more in the income year.

Therefore, the MUA rules apply.

The trustees pay most of the property-related expenses from their bank account. This includes the power and internet bills, even though the connections for those services are in the name of Mrs Brown, who is a settlor and beneficiary of the trust. The connections were signed up for in Mrs Brown's name as this was easier, but there is an agreement that the trustees will pay those expenses. However, Mr and Mrs Brown have a loan (in their names, with a guarantee provided to the bank by the trustees) from when they bought the property and settled it on the trust, and they pay the loan repayments. The trustees reimburse Mr and Mrs Brown for the interest component of the loan repayments. This is recorded in Mr and Mrs Brown's beneficiary current accounts.

The rental income from the full-rate paying guests is income to the trustees. The $50 a night "mates' rates" paid by the Browns' friends is not income to the trustees – it is exempt income because it is less than 80% of the market value rent.

Some of the trustees' expenses are fully deductible. This includes the fees they pay to Airbnb and Bookabach, and the cost of cleaners who come in after the full-rate paying guests.

Other expenses the trustees incur need to be apportioned under the formula in the MUA rules, as they relate to both the rental activity and the private use of the holiday home (by the Browns and their friends who pay less than 80% of market value rent). These expenses include the power and internet bills, as the trustees pay those, and the loan interest the trustees reimburse Mr and Mrs Brown for. The trustees use QB 25/03 to work out the deductible portion of these mixed expenses.

As the Trust is GST-registered, all expenses are deducted on a GST-exclusive basis.

Note: There may be a settlement on the trust or a distribution from the trust. This depends on the value of what Mr and Mrs Brown and the trust are providing each other under the arrangement.

If the standard tax rules apply to the holiday home

31. If the standard tax rules apply to the holiday home, the starting point is that expenses that relate solely to the rental activity (for example, advertising fees) are fully deductible. However, the deduction may need to be claimed on a GST-exclusive basis, depending on whether the trust is GST registered and whether the property is rented out through an online marketplace (see from [85]).

32. Mixed expenses – those that relate to both the rental activity and non income-earning use of the property (for example, use by beneficiaries or settlors of the trust) – must be apportioned. Mixed expenses include things like rates, insurance, utility bills, and property loan interest. Again, these deductions may need to be claimed on a GST-exclusive basis.

33. QB 25/04: **Income tax – How do the standard tax rules apply if I provide short-stay accommodation** explains how to calculate the percentage of mixed expenses that is deductible under the standard tax rules. Although QB 25/04 refers to expenses not being deductible for private use (which a trust cannot have), the same approach can be used. This is because there will only be the required nexus between the expenses and income-earning to the extent the property is rented out or available to be rented out.

34. Depreciation losses on the property's chattels will also be partly deductible. QB 25/04 explains how to calculate the percentage of depreciation losses that is deductible.

35. Example | Tauira 3 explains how the standard tax rules apply to a holiday house.

Example | Tauira 3 – Where the standard tax rules apply to a holiday house

The We Are Family Trust owns the Miller family's holiday house in a popular tourist destination. The Millers use the holiday house for 90 nights during the income year and rent it out as short-stay accommodation for 220 nights in the income year.

The trustees have used QB 25/02 to work out the holiday house is not subject to the MUA rules for the income year, so the standard rules apply. This is because the holiday house was not vacant for 62 days or more during the income year.

Short-stay accommodation guests pay rental income into the trustees' bank account, and the trustees pay most of the property-related expenses from their bank account. This includes the power, pay-TV and internet bills, even though the connections for those services are in the name of Mr Miller, who is a settlor and beneficiary of the trust. The connections were signed up for in Mr Miller's name as this was easier, but there is an agreement that the trustees will pay those expenses. However, Mr and Mrs Miller have a loan (in their names) from when they bought the property and settled it on the trust, and they pay the loan repayments. The trustees reimburse Mr and Mrs Miller for the interest component of the loan repayments. This is recorded in Mr and Mrs Miller's beneficiary current accounts.

The rental income from the short-stay accommodation guests is income to the trustees.

Some of the trustees' expenses are fully deductible. This includes the fees they pay to the Holiday Houses and Bookabach websites, which they advertise on, and the cost of cleaners who come in after the paying guests' stays.

Other expenses the trustees incur need to be apportioned, as they relate to both the rental activity and the non income-earning use of the holiday home (when it is used by the Millers). These expenses include the power and internet bills, as the trustees pay those, and the loan interest the trustees reimburse Mr and Mrs Miller for. The trustees use QB 25/04 to help them work out the deductible portion of these expenses.

As the Trust is GST-registered, all expenses are deductible on a GST-exclusive basis.

> Note: There may be a settlement on the trust or a distribution from the trust. This depends on the value of what Mr and Mrs Miller and the trust are providing each other under the arrangement.

Beneficiary not reimbursed for paying an expense incurred by the trustees

36. For properties that are either dedicated short-stay accommodation properties or holiday homes that are sometimes rented out, the trust will likely have a bank account that guests pay rental income into. Therefore, where the trustees have incurred an obligation themselves (for example, rates and property insurance), they will likely have the funds to pay the expense. But if the trustees do not have the funds to pay the expense, or for some other reason a beneficiary pays it instead, the expense would still be deductible to the trustees as they have incurred the legal obligation.

37. However, if the trustees do not reimburse the beneficiary (either directly or through the beneficiary's current account), the amount of the expense paid by the beneficiary will be income to the trustees either:

    - under s CC 1, if:
        - the amount is paid by the beneficiary for their use of and/or ability to use the property; and
        - the property is not subject to the MUA rules; or
    - under s CG 4, to the extent of the deduction the trustees have been allowed.

Expenses incurred by a beneficiary and reimbursed by the trustees

38. A beneficiary (who is not also a trustee) may incur an obligation to pay some property-related expenses (such as power or internet bills), because it is easier to have those services connected in an individual's name.

39. Those expenses are not deductible to the beneficiary, as there is no nexus between the expenses and the beneficiary earning income. The income from the rental activity belongs to the trustees.

40. However, there may be agreement that the trustees will reimburse the beneficiary for these expenses. If this is the case, the agreement to reimburse the beneficiary is an obligation incurred by the trustees. The trustees can therefore deduct the amount they

reimburse the beneficiary (whether directly or through the beneficiary's current account), subject to any apportionment required (see from [23]).

Expenses incurred by a beneficiary and not reimbursed by the trustees

41. If a beneficiary has incurred a property-related expense that the trustees do not reimburse them for, the expense cannot be deducted by anyone.

42. The amount could be rental income of the trustees, but only if the property is not subject to the MUA rules, and the beneficiary incurred the expense for their use of and/or ability to use the property.

43. Otherwise, the amount could be a settlement on the trust or a distribution from the trust to the beneficiary. Whether there is a settlement or distribution and if so the amount of the settlement or distribution, will depend on the value of what the beneficiary and the trust are providing each other under the arrangement. This includes the value of property-related expenses incurred by the beneficiary that are of value to the trust and the market value of any use of and/or ability to use the property the beneficiary gets in return for incurring those expenses. These concepts are discussed in more detail in IS 24/01: **Taxation of trusts**.

Allocation of deductions if the rental activity is loss-making

44. If the MUA rules do not apply and the rental activity is loss-making, the residential rental ring-fencing rules in subpart EL may limit the deductions that can be allocated to the income year.

45. The residential rental ring-fencing rules mean trustees can only claim deductions for expenses incurred on the property up to the amount of income earned from the property in the income year.[10]

46. Any deductions that cannot be allocated to the income year because of the residential rental ring-fencing rules will be carried forward to the next income year the trustees derive residential income.

47. There is more information about the residential rental ring-fencing rules in the Appendix to IS 23/04: **The interest limitation rules and short-stay accommodation** (from A48).

[10] Or, if the property is part of a portfolio of residential rental properties owned by the trust, deductions for expenses incurred on the portfolio of properties can only be claimed up to the amount of income earned from the portfolio in the income year.

48. If the MUA rules apply, there are separate rules called the mixed-use asset expenditure quarantine rules that may apply in this situation if the rental activity is loss-making – see QB 25/03.

Part 2: A beneficiary rents out the property

49. This part of the QWBA considers the situation where a beneficiary of the trust rents out the property for short-stay accommodation.

50. The most common situation where a beneficiary of a trust may rent out property held in a trust for short-stay accommodation is where the property is the beneficiary's home.

Summary – income tax implications if a beneficiary rents out the property

51. Table | Tūtohi 2 summarises the income tax implications for short-stay accommodation properties held in a trust, where the income is derived by a beneficiary of the trust.

Table | Tūtohi 2 - Summary – where the beneficiary rents out the property and the property is the beneficiary's home

Item	Explanation
Income	Generally, all amounts received from paying guests are **income to the beneficiary**. However, some amounts may be **exempt income**. This will be the case if: ▪ DET 19/02: **Standard-cost household service for short-stay accommodation providers** (discussed from [53]) is used; or ▪ the MUA rules apply (see from [54]).
Expenses incurred by the trustees and paid by a beneficiary **OR** **Expenses incurred by a beneficiary**	**For the beneficiary** If the beneficiary pays all the property-related outgoings, they may be eligible to use DET 19/02. This is a simplified method for meeting the tax obligations for the short-stay accommodation activity. If DET 19/02 is used: ▪ The rental income the beneficiary gets from the property is **exempt income** up to the amount of the standard-costs. ▪ Only income over the amount of the standard-costs needs to be declared.

	▪ The beneficiary **cannot deduct** any of their actual expenses, unless it is for something not covered by the standard-costs and they have assessable income from providing the short-stay accommodation (for example, their income from providing the short-stay accommodation exceeds their standard-costs). If DET 19/02 is not used, the expenses are **deductible to the beneficiary**, subject to: ▪ apportionment for private use (see QB 25/01); and ▪ the deduction needing to be claimed on a GST-exclusive basis (see from [85]). **For the trustees** The amount of any expenses incurred by the trustees and paid by the beneficiary is rental **income to the trustees**. This will be cancelled out by the expenditure being **deductible to the trustees** because it is incurred by them. If the trust is a non-active trust and has filed a Declaration for trusts and estates not required to file returns – IR633, the trustees do not need to file a return. Otherwise, the trustees do need to file a return and include the rental income and deductions.
Expenses incurred by and paid by trustees	Expenses incurred by and paid by trustees are **not deductible** to anyone, unless the beneficiary pays rent to the trustees (including through reimbursement of the expenses, for the right to use the property).

The beneficiary's income and deductions

Income

52. Generally, all amounts received from paying guests will be income, and for the reasons discussed at [1] to [6], the income is derived by the beneficiary.

53. The beneficiary may be eligible to use the simplified method in DET 19/02 for meeting their tax obligations from providing the short-stay accommodation (discussed from [58]). If they use this method, some or all of the income will be exempt, and it will only be necessary to return income over a certain level. This reflects the typical costs incurred in providing short-stay accommodation in your home.

54. If DET 19/02 is not used and the MUA rules apply there may also be some exempt income. The MUA rules could apply, for example, if a separate dwelling on the same property as the beneficiary's home is rented out (for example, a sleepout), or if the

home is vacant for 62 days or more in the year (for instance, if the beneficiary was away for an extended holiday and the home was unused during that time).

55. If the MUA rules apply, the following amounts will be exempt income:

- amounts received for renting the property to associated natural persons (for example, close relatives of the beneficiary such as their children, grandchildren, siblings or in-laws); and
- amounts received from renting the property at "mates' rates" (less than 80% of the market value rent).

56. What will be income or exempt income under the MUA rules is discussed in detail in QB 25/03.

Deductions

57. Often where a beneficiary's home is held in a trust the beneficiary will pay all the outgoings for the property, irrespective of who the expenses are legally incurred by (for example, rates, insurance, repairs and maintenance, and any loan repayments for the property).

58. Where the beneficiary's home is used to earn short-stay accommodation income (for example, through renting out a room or the whole property from time to time) and the beneficiary pays all of the property-related outgoings, they may be eligible to use standard-cost determination DET 19/02. This is a simplified method for a taxpayer to use to meet their tax obligations from providing short-stay accommodation in all or part of their home.

59. If DET 19/02 is used, income up to the amount of set standard-costs is exempt. Only income in excess of the standard-costs needs to be returned. No deductions for expenditure actually incurred are allowed, unless the expenditure is for things not covered by the standard-costs in the determination.

60. If DET 19/02 is not used, non-capital property-related expenses the beneficiary pays will be deductible to the beneficiary, subject to:

- appropriate apportionment for any expenses that do not solely relate to the income-earning use of the property; and
- the deduction needing to be claimed on a GST-exclusive basis (see from [85]).

61. These deductible expenses might include:

- interest on the loan for the property;[11]
- repairs and maintenance;[12]
- property and contents insurance premiums (including any additional premium imposed because the property is used for short-stay accommodation);
- rates (including any targeted rates imposed by councils because the property is used for short-stay accommodation);[13]
- utility bills;
- advertising costs, including any commissions or fees the beneficiary pays to an advertising platform or transaction facilitator (this does not include any service fees the guests pay the platform, just fees the beneficiary pays).

62. The starting point is that expenses that relate solely to the rental activity (for example, advertising fees) are fully deductible. However, the deduction may need to be claimed on a GST-exclusive basis, depending on whether the beneficiary is GST registered and whether the property is rented out through an online marketplace (see from [85]).

63. Mixed expenses – those that relate to both the private use of the home and the rental activity – must be apportioned. Mixed expenses include things like rates, insurance, utility bills, and home loan interest. Again, these deductions may need to be claimed on a GST-exclusive basis.

64. Generally, the appropriate basis for apportionment will be as discussed in QB 25/01. But in some situations, a different basis may be required. For example, if a separate dwelling on the same property as the beneficiary's home is rented out, or if the home is vacant for 62 days or more in the year. QB 25/02 explains how to work out which tax rules apply.

65. Depreciation losses on chattels in the property owned by the beneficiary and available for use by paying guests can be deducted either in full or in part (depending on whether the chattels are used solely by paying guests). QB 25/01 explains how to calculate the percentage of depreciation losses that is tax deductible (except if the MUA rules apply – in which case see QB 25/03).

[11] From 1 April 2024, up to 80% of the interest on the loan can be claimed, and from 1 April 2025 up to 100% of the interest can be claimed.

[12] Deductible repairs and maintenance expenditure does not include expenditure on capital improvements (see **IS 12/03: Income tax – Deductibility of repairs and maintenance expenditure – general principles**).

[13] Some councils may impose targeted rates in respect of properties used for short-stay accommodation.

Allocation of deductions if the rental activity is loss-making

66. If the MUA rules do not apply and the rental activity is loss-making, the residential rental ring-fencing rules in subpart EL may limit the deductions that can be allocated to the income year.

67. Those rules will often not apply where the property the beneficiary is renting out is their main home. However, the rules could apply in some situations, for example, if a principal settlor of the trust has a separate main home, or if the property the beneficiary is renting out is not their main home.

68. Any deductions that cannot be allocated to the income year because of the residential rental ring-fencing rules will be carried forward to the next income year the beneficiary derives residential income.

69. There is more information about the residential rental ring-fencing rules in the Appendix to IS 23/04 (from A48).

70. Where the MUA rules apply, there are separate rules called the expenditure quarantine rules that may apply in this situation if the rental activity is loss-making – see QB 25/03.

Trustees – income and deductions

71. In the family home context, it is likely that most of the property-related expenses will be incurred by the beneficiary who lives there. However, some expenses may be incurred by the trustees, for example, rates and property insurance.

72. Often the beneficiary who lives in the property will pay the property-related outgoings incurred by the trust as part of the arrangement that allows them to live in the property. The payment of those amounts by the beneficiary would be rental income to the trustees under s CC 1. However, this rental income would be offset as the trustees are able to deduct the expenditure, as it is incurred by them in deriving the rental income.

73. If the trust is non-active, the trustees **may not need to file a tax return**. A return would not be required if the trust:

    - is a complying trust (an ordinary New Zealand trust with New Zealand resident trustees and settlors);
    - is a non-active trust;
    - has submitted a non-active trust declaration – IR633 to Inland Revenue; and
    - has not stopped being a non-active trust since making the declaration.

74. A trust will be a non-active trust if it has not derived (or been deemed to have derived) any income for the year and does not have any deductions for the year. There also cannot have been any transactions involving assets of the trust that give rise to income to any person, or give rise to fringe benefits to any employee or former employee.

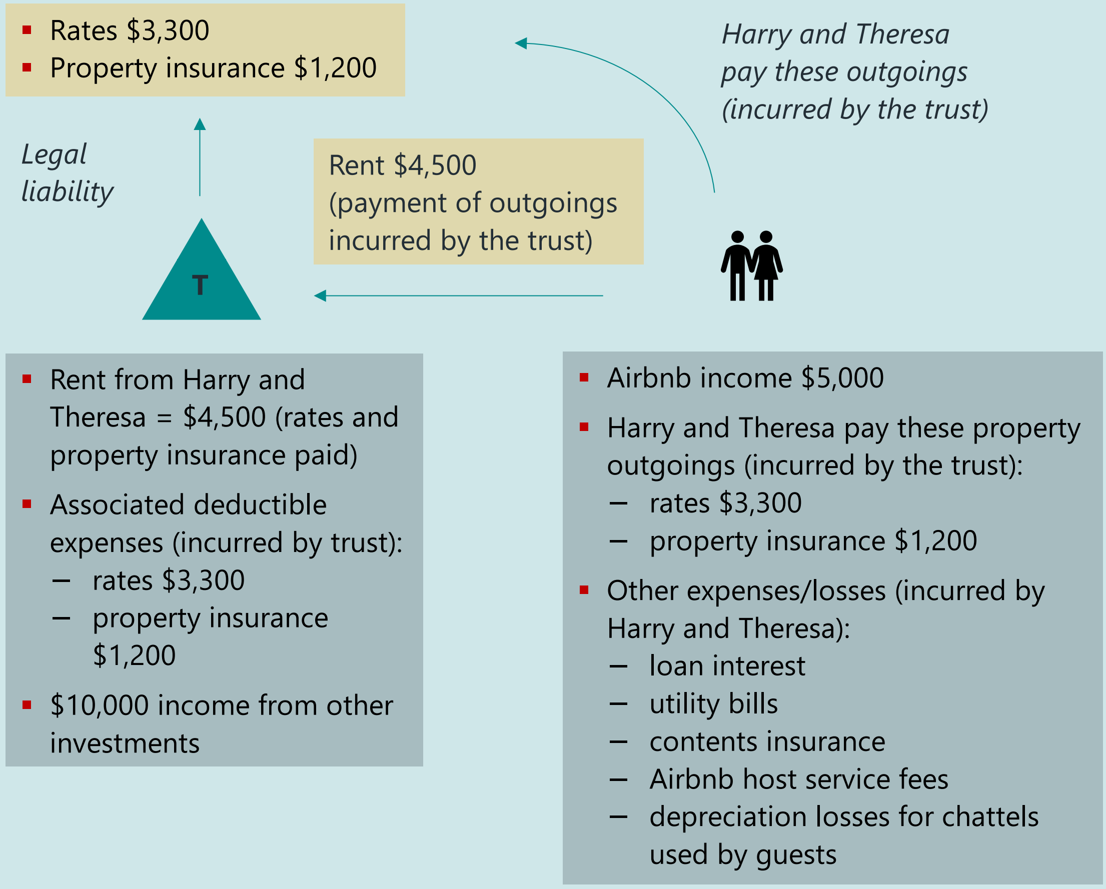
75. In determining whether a trust is non-active, the following payments are not taken into account (s 43B(3) of the Tax Administration Act 1994):

> **43B Trustees, administrators, or executors of certain trusts or estates not required to file returns**
>
> …
>
> (3) In determining whether a trust or estate complies with the requirements of subsection (2), no account shall be taken of any—
>
> (a) reasonable fees paid to professional persons to administer the trust or estate; or
>
> (b) bank charges or other minimal administration costs totalling not more than $1,500 in the tax year; or
>
> (c) income derived by the trustee of a trust or an administrator or executor of an estate during the tax year that would be reportable income, as defined in section 22D of the Tax Administration Act 1994, if the trust or estate were an individual, to the extent to which the total amount of that income does not exceed $1,000; or
>
> (d) **insurance, rates, interest, and other expenditure incidental to the occupation of a dwelling owned by the trust or estate and incurred by the beneficiaries of the trust or estate**.
>
> [Emphasis added]

76. So, if a beneficiary is paying the trustee-incurred outgoings for the property because they live there, while those amounts may technically be rent, if the trust does not otherwise have income or make any payments other than those mentioned at [75], it may be able to submit a non-active trust declaration (see the requirements at [73]). If the trust meets the requirements and does this, the trustees will not need to file a tax return so long as the trust continues to be non-active.

77. Trusts that **are not** non-active trusts will have to file a tax return. Example | Tauira 4 explains what rental income the trustees will have and what deductions they can claim when a beneficiary lives in property held in the trust, uses it to provide short-stay accommodation, and pays the outgoings incurred by the trustees.

Example | Tauira 4 – A beneficiary living in trust property pays property outgoings



Harry and Theresa's home is held in a family trust. They settled the trust when they bought the home, and they are beneficiaries of the trust. They have a spare room and rent it out on Airbnb, earning $5,000 from this during the income year.

Because they live in the property, Harry and Theresa pay the following outgoings that are incurred by the trust: the rates ($3,300 for the year) and the property insurance ($1,200 for the year).

Harry and Theresa have other expenses related to earning the Airbnb income: loan interest (the home loan is in their names), utility bills, contents insurance, and Airbnb host service fees. They also have depreciation losses for chattels in the home that guests can use.

Because Harry and Theresa are paying the outgoings for the property that are incurred by the trust (the rates and property insurance), on the basis they can live there, those amounts would be rent to the trust. The trust can deduct the amount of the rates and property insurance because it has incurred them, having a legal liability to pay them.

The result is that the rent and the deductions for the trust net off. However, the trust has $10,000 income from other investments, so it is not a non-active trust. As such, the trustees need to file a tax return, which needs to include the rental income and associated deductions (even though they net off).

If Harry and Theresa meet the criteria to use Inland Revenue's standard-cost determination DET 19/02, they might choose to do that, to simplify their tax obligations. But otherwise, they will need to return all the Airbnb income they receive, and can deduct a portion of the rates, property insurance and other expenses (and depreciation losses) they have. QB 25/01 will help them work out what proportion of their expenses they can claim as deductions.

Could s GC 5 apply to deem adequate rent to be paid from the beneficiary to the trust?

78. Section GC 5 may apply where property is leased to someone who uses it to derive income. If no rent is payable by the lessee, or the rent is inadequate, s GC 5 could deem "adequate rent" to be paid by the lessee and derived by the lessor.

79. "Lease" in s GC 5 means a tenancy of any duration, including a sublease or bailment. As noted at [5], where a beneficiary of a trust lives in property held in the trust, there will be a tenancy at will, which meets the definition of lease.

80. Section GC 5 will only apply to certain leases.[14] This includes a lease by a person to a relative. "Relative" includes a person connected with another person by being the trustee of a trust under which a relative has benefitted or is eligible to benefit (s YA 1).

81. So, in a family trust situation, where a beneficiary is living in trust property and using it to derive income (for example, renting out a room for short-stay accommodation), s GC 5 could potentially apply to deem adequate rent to be paid by the beneficiary to the trust.

82. However, the Commissioner would not apply s GC 5 in this situation. This is because s GC 5 is aimed at ensuring income cannot be assigned to someone else through leasing income-producing property to a relative or related company at a nominal rent. That mischief is not present in the trust context, where a trust can legitimately allocate any income as beneficiary income. The Commissioner will not use s GC 5 to deem there to be adequate rent paid for a lease in a situation where the lease is not creating

[14] Listed in s GC 5(2).

an opportunity for a tax benefit through the shifting of income from one person to another.

Provision of below market value accommodation to the beneficiary

83. If the trust is a complying trust (an ordinary New Zealand trust with New Zealand resident trustees and settlors), and the trustees allow a beneficiary to live in the trust-owned property rent-free or for less than market rent, this will be an exempt distribution from the trust (ss CW 53 and HC 20).

84. However, if the trust is a foreign trust or a non-complying trust, this will be a taxable distribution from the trust, and not subject to the ordering rules (s HC 15(6)). In these circumstances, there are special rules that determine the value of the distribution, see from [8.8] of IS 24/01.

Online marketplace rules

85. If the person renting out the property is not GST-registered and rents the property through an online marketplace like Airbnb, Bookabach, Booking.com or Holiday Houses, the marketplace operator will give the person a flat-rate credit of 8.5% of the value of the supply of short-stay accommodation.

86. The person has the option to treat the flat-rate credit as either:

- excluded income (which is not subject to income tax, so is not included in the person's income tax return); or
- assessable income (which is included in the person's income tax return).

(Section CH 5B).

87. If the person renting out the property is not GST-registered and opts to treat the flat-rate credit as assessable income, all their expenses are deducted on a **GST-inclusive basis** (s DB 2).

88. If the person renting out the property is not GST-registered and opts to treat the flat-rate credit as excluded income:

- Expenses that relate to nights when the dwelling was rented through an online marketplace must be deducted on a **GST-exclusive** basis. This is because the flat-rate credit is intended to recognise the GST on the expenses incurred when deriving this income that the person would have been able to deduct as input tax in their GST return if they were GST-registered.

- Expenses that relate to nights when the dwelling was rented out other than through an online marketplace are deductible on a **GST-inclusive basis**.

(Section DB 2).

89. If the person renting out the property is GST-registered, a flat-rate credit is not provided, and expenses are deductible on a **GST-exclusive basis**.

90. The rules are discussed in more detail in QB 25/03 and QB 25/04 and worked examples are provided.

References | Tohutoro

Legislative references | Tohutoro whakatureture

Income Tax Act 2007 – ss CC 1, CG 4, CH 5B, DA 1, DB 2, DV 9, YB 4 and YB 11, CW 53, DV 9, GC 5, HC 15, HC 20, subpart EE, subpart EL, and the definitions of "estate in relation to land, interest in relation to land, estate or interest in land, estate in land, interest in land, and similar terms", "land", "own" and "relative" in s YA 1

Tax Administration Act 1994 – s 43B

Other references | Tohutoro anō

A guide to associated persons definitions for income tax purposes – IR620 (guide, Inland Revenue, 2024) ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir600---ir699/ir620/ir620-2024.pdf?modified=20240508212528&modified=20240508212528 (PDF 610KB)

Declaration for trusts and estates not required to file returns – IR633 (form, Inland Revenue, 2023) ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir600---ir699/ir633/ir633-2023.pdf?modified=20240328035247&modified=20240328035247 (PDF 77KB)

DET 19/02: Standard-cost household service for short-stay accommodation providers (Inland Revenue) taxtechnical.ird.govt.nz/determinations/standard-cost-household-service/short-stay-accommodation/det-1902-short-stay

DW McMorland and others, *Hinde, McMorland and Sim, Land Law in New Zealand* (online ed, LexisNexis)

IS 12/03: Income tax – Deductibility of repairs and maintenance expenditure – general principles *Tax Information Bulletin* Vol 5, No 9 (February 1994): 1
taxtechnical.ird.govt.nz/tib/volume-05---1993-1994/tib-vol5-no9
taxtechnical.ird.govt.nz/interpretation-statements/is-1203-income-tax-deductibility-of-repairs-and-maintenance-expenditure-general-principles

IS 23/04: The interest limitation rules and short-stay accommodation *Tax Information Bulletin* Vol 35, No 6 (July 2023): 246
taxtechnical.ird.govt.nz/tib/volume-35---2023/tib-vol-35-no6
taxtechnical.ird.govt.nz/interpretation-statements/2023/is-23-04

IS 24/01: Taxation of trusts *Tax Information Bulletin* Vol 36, No 2 (March 2024): 8
taxtechnical.ird.govt.nz/tib/volume-36---2024/tib-vol36-no2
taxtechnical.ird.govt.nz/interpretation-statements/2024/is-24-01

Laws of New Zealand Lessor and Lessee (online ed, accessed 14 February 2025)

QB 25/01: What rules apply if I rent out my home, part of my home, or a separate dwelling on my property as short-stay accommodation?
taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2025/qb-25-01

QB 25/02: Income tax – Which rules apply if I have a dwelling I sometimes rent out as short-stay accommodation and also sometimes use privately?
taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2025/qb-25-02

QB 25/03: Income tax – How do the mixed-use asset rules apply if I provide short-stay accommodation?
taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2025/qb-25-03

QB 25/04: Income tax – How do the standard tax rules apply if I provide short-stay accommodation?
taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2025/qb-25-04

IS 25/08: Income tax – Implications of a residential property moving between the standard tax rules and the mixed-used asset rules
taxtechnical.ird.govt.nz/interpretation-statements/2025/is-25-08

About this document | Mō tēnei tuhinga

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