



23 September 2010

Mr Eugene Creighton
Assistant Secretary
Income and Capital Taxes
Office of the Revenue Commissioners
Dublin Castle
Dublin 2

Dear Mr Creighton,

I understand that it is Revenue's contention that the Non Principal Private Residence (NPPR) charge is not deductible in computing taxable rental income under Case V.

As you are aware, the NPPR charge is a mandatory charge introduced in the Local Government (Charges) Act 2009. Section 3 of the Act provides that the owner of residential property on the "liability date" each year shall be liable to pay a sum of €200 to the relevant local authority. The Minister for the Environment, Heritage and Local Government has the power to revise the amount of this charge as he considers appropriate.

Section 97 TCA 1997 provides the computational rules and deductions that apply in calculating taxable Case V rental income. Section 97(2) specifically sets out the deductions that may be taken in arriving at the taxable rental income. Under this section sums borne in respect of any rate levied by a local authority are deductible as a rental expense.

In response to queries raised of the Department of Finance and more recently after a meeting of the TALC Collection group, the Irish Taxation Institute was advised that Revenue's view is that:


"In computing the net amount of the rents received, only those deductions that are specified in section 97(2) of the Taxes Consolidation Act 1997 are allowable. The main deductible expenses are:

- *Any rent payable by the landlord in the case of a sub-lease;*
- *The cost to the landlord of any goods provided or services rendered to a tenant;*
- *The cost of maintenance, repairs, insurance and management of the property;*

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- *Interest on borrowed money used to purchase, improve or repair the property; and*
- *Payment of local authority rates in the case of rateable properties used for commercial purposes.*

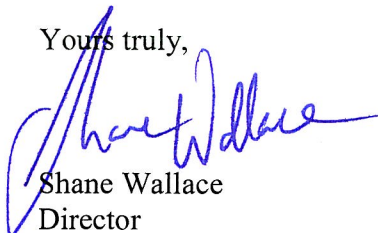
As payment of the new local authority charge for residential properties is not included on the list of allowable deductions, it is not an allowable expense in computing taxable rental income."

We disagree with this analysis and believe that it does not accurately reflect the wording of Section 97(2) TCA. Section 97(2) does not restrict the deduction to rates payable in respect of rateable properties used for commercial purposes. It provides a deduction in respect of "any rate levied by a local authority". We consider that the NPPR charge should be deductible as a rental expense on the basis that it is a rate levied by a local authority. The charge was announced by the Taoiseach as a revenue-generating mechanism for local authorities. It is levied and administered by the local authorities, to whom payments must be made and the nature of the payment would indicate that it is a rate payable to a local authority.

Revenue by concession have allowed a deduction for mortgage protection policy premiums in computing Case V income, notwithstanding that it is not listed as a deductible expense in the legislation. In Revenue's guide to rental income (IT70) Revenue note that in strictness, mortgage protection policy premiums are arguably not part of the cost of management of the premises but relate more to the management of the landlord's financial affairs. Notwithstanding this, a deduction for the premiums may be taken. In the event that Revenue are not prepared to concede that the NPPR charge is deductible as a rate we would consider that a deduction should be made available by concession until section 97(2) TCA can be amended appropriately. Given that the NPPR charge is an expense which directly relates to the property, it would seem to be contrary to the spirit of the law not to allow a deduction for mandatory expenditure arising on a yearly basis

We look forward to your response.

Yours truly,



Shane Wallace
Director