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PROPERTY

Can you claim tax deductions for unused premises?

A tax inspector is disputing deductions for costs relating to unused business premises included in your latest accounts. Are you entitled to tax relief for these or does the inspector have a point?

Changing needs

Your business's accommodation needs can change for any number of reasons, such as expansion or contraction of your trade. Whatever the reason the likelihood is that it will take time to relocate to a property that better suits your needs. This means you could be lumbered with costs for unused accommodation within the building your business operates from, or for a separate building.

Tax deductions

Where you incur an expense which is not incurred wholly and exclusively in the course of your business, it's not normally tax deductible. Therefore HMRC can argue that expenses, e.g. rent payable, for an unused building, or even one that's only partly occupied for your business, are not deductible. The rules can be tricky to interpret and could easily lead to a difficult argument. However, the good news is that HMRC takes a common sense approach (see **The next step**).

HMRC's approach

HMRC's view is that rent and other property expenses are tax deductible as long as the obligation to incur them was originally for business purposes that met the "wholly and exclusively" condition. For example, if your business occupies a premises under a lease which it took out at a time it was expected the business would use the property fully, then the fact it is partly or wholly unused doesn't prevent a tax deduction for the associated costs.

Trap. Where you renew a lease for unused premises, or don't exercise an option you have to terminate it, HMRC will argue that no deduction for the rent or other expenses related to the property are deductible from your trading income.

Tip. You can get around the potential loss of tax relief by starting a property rental business, i.e. by letting the unused property. The related expense would be deductible from the rental income.

Surplus business accommodation

Where you let surplus business accommodation, instead of taxing it under the special rules for property rental businesses, you can choose to treat the rent you receive and corresponding expenses as if they were part of your business's trading activity where all of the following apply:

- the accommodation is only temporarily surplus to your business's requirements
- it relates to a premises that's partly used for your business, i.e. the rule doesn't apply to a property that's only occupied by a tenant
- the rental income must be comparatively small - there's no guidance on what this amounts to, it's a matter of common sense; and
- the expenses would be tax deductible if claimed under the special rules for rental businesses.

Tip. Treating surplus rental income and expenses as if they related to trade is usually tax neutral, but it can be advantageous where the expenses outweigh the rent receivable. This is because normally rental business losses can't be set against trading profits, they can only be carried forward or set against other rental business profits.

If expenses relate to a property acquired when it was expected your business would fully occupy it, they are deductible. But where you renew a lease knowing that it includes excess accommodation, normally they will not be. Consider letting the excess space, that way you can deduct the expenses from rent you receive.

The next step

- [To HMRC's views on unused accommodation expenses](#)
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