

INCOME TAX INFORMATION - OWNING A VACATION RENTAL PROPERTY

Many of our clients are purchasing a vacation property, such as a condominium in Whistler or on a golf course in the Okanagan. Many of these vacation properties are placed in a rental pool so that there is some rental revenue when the unit is not used for personal use.

If this is a scenario you find yourself in, or you plan on purchasing such a unit, this page contains information for you.

Many of our clients ask us if they can write off the costs of such a unit. We generally refer these clients to their accountants for financial advice, but two cases illustrate the position of Revenue Canada with respect to the tax deductibility of the carrying costs of vacation property.

The cases are *Dean v. The Queen*, and *Morris v. The Queen*. The first involved the rental of a luxury condominium in Whistler, B.C. while the second involved a cottage in Ontario. Both Mr. Dean and Mr. Morris attempted to deduct on their income tax return losses they incurred in the ownership of the property.

Both parties were denied by the Tax Court of Canada. The Court held that these losses were not tax deductible.

In the *Dean* case, the court decided that the ownership of the unit was not carried on predominantly for profit but rather as a personal endeavour. Mr. Dean used the condominium substantially for personal use and made no real effort to increase his rental revenue.

In the *Morris* case, the court decided that the portion of the operating losses to be written off against income was the percentage that is available for rent during the operating season. Since the cottage was frozen for a portion of the year and therefore not rentable, the expenses for that period of time were not deductible.

As a result of these decisions and others, the Canada Revenue Agency is taking the position that if you use the property personally and rent it out the

rest of the time, your business use is only the period when you can reasonably expect to rent out the property.

The same issue applies to the GST. If you claim an input tax credit to recover all the GST you pay on buying such a condominium, on the basis that you are “using” the property primarily to rent it out, expect the CRA to disallow your claim unless you can show that the property is actually expected to be rented almost all of the time.

For a full discussion of GST and Vacation Property, see that page on our website.

Please remember that the Income Tax Act frequently changes, and there are often new cases dealing with the issues set out above. While we try to keep our website as current as possible, please do not rely on the above without talking to one of our lawyers. We still would refer our clients for accounting advice on issues such as this. Should you require a referral to an accountant, we would be more than happy to provide such a referral.