

A guide to Property Tax (1)

The charge to Property Tax
Reporting rental income in tax returns

Foreword

If you are a sole owner, joint owner or owner in common of a property, PAM 54(e) “A guide to Property Tax (1)” and PAM 55(e) “A guide to Property Tax (2)” will help answer some of the questions that you may have concerning Property Tax.

For simplicity, the above leaflets do not discuss how the rental income of corporations, bodies of persons, clubs, associations, the incorporated owners of buildings or individual property developers/dealers are taxed.

The charge to Property Tax

Property Tax is payable by the owner(s) at the standard rate by the year of assessment on “net assessable value” (NAV).

Where the owner receives only rent and no other benefit, the annual rent is the “assessable value” (AV). Rent receivable (due but not yet received) should be included in the AV.

Irrecoverable rent can be excluded from tax charge in the year in which it became irrecoverable. Any amount subsequently recovered is assessable to tax as income in the year of recovery.

If the tenant pays rates, NAV is equal to the AV less a standard allowance of 20% for repairs and outgoings.

If the owner is responsible for paying rates, rates paid can be deducted before allowing the 20% deduction.

A year of assessment runs from 1 April to 31 March of the following year. For example, the year of assessment 2021/22 covers the 12 months from 1.4.2021 to 31.3.2022.

Under the provisions of the “Inland Revenue Ordinance” (IRO), each and every joint owner or owner in common is responsible for reporting rental income on tax returns and paying Property Tax as if he/she is the sole owner.

Which tax return to report rental income?

Rents received from sole-owned properties should be declared in the owner's Tax Return – Individuals (BIR60).

However, rents received from a joint-owned or co-owned property can be declared by any owner in a Property Tax Return (BIR57).

Other matters of concern

As the owner is granted a broad-brush 20% deduction every year, no deduction for actual expenses will be allowed. Government rent, decoration fees, rent-collection fees, building management fees, insurance and mortgage interests are all non-deductible.

Deduction for mortgage interests incurred on the acquisition of the property can only be claimed by those owners who are eligible to and have elected for Personal Assessment (PA).

Apart from rent, all cash and non-cash benefits given to the owner, inclusive of lease premium payable at the commencement of the lease, should be included in the AV. However, rent deposit is returnable to the tenant at the end of the tenancy. It is not income and should not be declared in the owner's tax return.

The law permits spreading of the lease premium up to a maximum of 36 months.

The law provides for heavy penalties in respect of :

- failure to notify chargeability to tax in time, when you are liable to tax but have not been issued with a tax return for completion;
- failure to file a tax return;
- filing a tax return late; and/or
- filing an incorrect tax return.

Common questions and answers

Q1 I let a property on 1 July 2021 for \$30,000 per month. Rates for the 3 quarters to 31 March 2022 paid by me amounted to \$12,000.

How is Property Tax computed for 2021/22?

	\$
Rent for 9 months (\$30,000 x 9)	270,000
Less: Rates paid by owner	<u>12,000</u>
	258,000
Less: 20% allowance for repairs and outgoings	<u>51,600</u>
Net assessable value (NAV)	<u>206,400</u>
Property Tax for 2021/22 @15%	<u><u>30,960</u></u>

Q2 Do I have to pay Provisional Property Tax for 2022/23?

Yes, you will receive a Property Tax demand note that carries two components :

	\$
2021/22 Property Tax	30,960
2022/23 Provisional Property Tax	<u>41,280</u>
Total tax payable	<u><u>72,240</u></u>

Calculation of Provisional Property Tax for 2022/23 is based on the NAV for 2021/22, but grossed up to 12 months, as follows :

	\$
Estimated NAV (\$206,400 x 12 / 9)	<u>275,200</u>
2022/23 Provisional Property Tax @15%	<u><u>41,280</u></u>

Q3 How can I get personal relief and pay less tax?

You can get personal relief if you are eligible to and have made an election for PA.

If you do not have other income, after election of PA, your tax liability will be reduced from \$30,960 to \$0, computed as follows :

Year of Assessment 2021/22	\$
Net assessable value	<u>206,400</u>
Less: Basic allowance	<u>132,000</u>
	<u>74,400</u>
Tax thereon (at progressive rate)	2,464
Less: 100% Tax reduction (capped at \$10,000)	<u>2,464</u>
PA Tax payable	<u><u>0</u></u>

Furthermore, with PA elected for 2021/22, most likely you will not be required to pay any Provisional Property Tax for 2022/23.

Q4 If I received a Property Tax assessment and found that the NAV and the tax charged are incorrect, what should I do?

- (1) You must lodge a written notice of objection with this Department within one month after the date of issue of the assessment, stating the grounds of objection clearly.
- (2) You should find out why the NAV was incorrect. If the assessment was an estimated assessment raised under section 59(3) of the IRO, you must submit a completed tax return together with your objection letter.
- (3) If you are eligible and wish to elect for PA, you should double-check your tax returns to ensure that you have made a valid election.
- (4) Pending the ultimate settlement of the objection, you should pay as indicated on the demand note or follow the Assessor's advice as regards tax payment - whether you have to pay a lesser amount of

tax or the full tax in the first instance.

Q5 I am a sole-owner, eligible for PA, and my total income for the 12 months ending 31.3.2022 (inclusive of NAV) exceeds my allowances. I do not receive a tax return.

Do I need to inform the Inland Revenue Department (IRD) that I have tax to pay?

Yes. If you are liable to pay tax for any year of assessment, the law requires you to furnish a notification of chargeability in writing to the Commissioner by the 31 July of the year following that year of assessment, unless you have already received a tax return from the IRD.

If by the beginning of July 2022 you still do not receive a tax return, you should complete the form “Notification of Letting of Properties” (IR6129) or write to inform the IRD.

Q6 Can I say that I have notified chargeability by bringing the tenancy agreement to IRD’s Stamp Office for stamping?

No. Stamping of tenancies is for the fulfillment of a law requirement under the Stamp Duty Ordinance.

That act does not fulfill your obligation to inform the Commissioner that you are liable to tax under the IRO.

Q7 My daughter and I had used our joint-owned property for dwelling for 5 years. The IRD sent me a Property Tax Return (BIR57) in June 2021 and I reported “NIL” rental income.

Our property was subsequently let for rental income since 1 October 2021.

Do I need to inform the IRD that I have started to receive rent?

Yes, you have to notify the IRD. You may complete the form “Notification of Letting of Properties” (IR6129) or supply particulars of your income in a letter.

You and your daughter will receive a Property Tax Return (BIR57) for the year of assessment 2021/22. You must complete and submit it in time. If both of you wish to make election for PA, state so when you complete the BIR57.

Subsequently, you and your daughter may each be required to complete a Tax Return – Individuals (BIR60) for the year of assessment 2021/22.

Q8 My father, my mother and I jointly owned a property. My father died in late 2021. How should we report rental income?

On death, your father’s share of ownership would be passed to you and your mother. Since ownership has changed (from 3 owners to 2 owners), the Assessor will open a new Property tax file in the name of the surviving owners. [PAM 49(e) “How should the executor report the income earned by a deceased taxpayer before death And rental income derived from the deceased’s properties” tells you more about what to do when a property owner died.]

Q9 Do I have to keep records of rental income?

Yes, the law requires you to keep and retain sufficient rent records for 7 years to enable the AV of your property to be readily ascertained.

It is recommended that you retain lease agreements, correspondence relating to modification of lease terms and recovery of rent in arrears etc.

Further information and assistance

You may

- (a) visit our Web site : www.ird.gov.hk;
- (b) telephone the Enquiry Service Office (187 8055);
- (c) visit the Enquiry Service Office at Inland Revenue Centre, G/F, 5 Concorde Road, Kai Tak, Kowloon, Hong Kong; or
- (d) read related leaflets PAM 55 (e) “A guide to Property Tax (2) ”, and PAM 37 (e) “ A brief guide to Personal Assessment”.

(The contents of this leaflet are for guidance only)

PAM 54 (e)
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