

CHAVEREYS

tax specialists | accountants | advisers

Furnished Holiday Let (FHL)

The Spring 2024 Budget included an announcement which indicated the various Furnished Holiday Letting reliefs would be withdrawn; at the time the details were scarce.

HM Revenue & Customs (HMRC) has now released draft legislation, to be introduced in April 2025, together with explanations about how the transitional measures will be applied.

Existing rules

Under the existing regime, to qualify as a FHL for tax purposes, a property must meet the following conditions:

- be in the UK or European Economic Area (EEA);
- be furnished sufficiently for normal occupation;
- be let commercially;
- be available for commercial letting for at least 210 days in the year (HMRC does not count the property as available if it is used by the owner); and
- be let commercially for at least 105 days in the year, excluding lets for free or reduced rates or lets of over 31 days unless this is due to unforeseen circumstances.



If a property meets the conditions:

- Capital allowances can be claimed for capital items used in the FHL, such as: furniture, equipment and fixtures.
- Finance charges, including interest and borrowing costs, are fully deductible against taxable profits.
- The profits count as earnings for the purpose of determining an individual's pension contribution allowance for the tax year.
- On disposal of a qualifying property there is the potential to claim reliefs from Capital Gains Tax, including: Rollover Relief, Business Asset Disposal Relief, and Holdover Relief for gifts of business assets.

For both Income and Corporation Tax loss relief purposes, UK and EEA property portfolios are treated separately. Losses incurred on UK FHL properties are automatically used against UK FHL profits and any surplus losses are carried forward to be set against future UK FHL profits. EEA properties are treated in the same way.

New rules from 6 April 2025 (1 April 2025 for corporates)

Furnished holiday letting will no longer be a concept for Income Tax or Corporation Tax purposes.

Instead, the letting activities, depending upon the level of other services provided, will dictate whether the income is taxed as derived from trading or rental activities.

It is inherently difficult to evidence a trade exists for tax purposes. Supplying a very high level of services, almost akin to a hotel, may succeed in qualifying as a trade.

Otherwise, holiday lets will be treated the same way as assured shorthold tenancies, with the following impact:

- Income Tax relief for finance costs will be restricted to Basic Rate (currently 20%);
- The majority of new capital expenditure will not qualify for capital allowances, but replacement of domestic items will receive tax relief instead;
- The property will no longer benefit from Capital Gains Tax reliefs;
- Income will no longer be counted as earnings for the purpose of determining an individual's pension contribution allowance for the tax year; and
- Profits from properties jointly owned by spouses or civil partners will be split 50:50 regardless of the ownership split between them unless an election to vary this is made.

Transitional rules

- Although the majority of new capital expenditure will not qualify for capital allowances in future, it will be possible to continue to claim allowances on any pooled assets acquired prior to the change in rules. The future sale of those pooled assets will continue to impact on the value of the pool and could create a charge;
- Income Tax losses arising from the letting of the property after the rule change, and those carried forward as at 6 April 2025, will be available to set against other rental profits, although the separation between UK and non-UK properties will remain; and
- Corporation Tax losses from the property after the rule change, and those carried forward as at 1 April 2025, will be treated as rental losses and will therefore be eligible to offset against the company's total taxable income. Rental losses may also be eligible for group relief depending on when incurred.

Anti-forestalling measures

There will be anti-forestalling rules in place, specifically to catch contrived arrangements designed to mitigate the withdrawal of the Capital Gains Tax reliefs by exchanging contracts pre 6 April 2025 (or 1 April 2025 for CT) and not completing until after 6 April 2025 (or 1 April 2025 for CT).

It may still be possible to utilise the above Capital Gains Tax reliefs for legitimate disposals where unconditional contracts complete after 6 April 2025 (or 1 April 2025 for CT).

Overall implications

The implications of the changes will vary depending on individual circumstances. For some the changes will have negative implications, whilst others may benefit from the more flexible loss relief.

Now may be the time to take advantage of the tax reliefs by gifting furnished holiday lets to the next generation.

If you currently have a qualifying furnished holiday let, and wish to consider your options, please talk to your usual Chavereys contact for further details.

