

Finance Bill 2024 – Furnished holiday lets (Lecture B1432 – 13.52 minutes)

The announcement was made that preferential treatment for furnished holiday lettings would be abolished from 6 April 2025. The following are assumptions about how this is going to be enacted as we have no further details currently.

FHL qualification essentials

Currently, to qualify for FHL treatment in any tax year a property must:

- be available for letting for at least 210 days;
- be let for at least 105 days; and
- lettings for over 31 days must not total more than 155 days.

Owners of multiple FHLs may elect for the 105 day letting provisions to be averaged across multiple properties. The properties still have to be available for letting for at least 210 days; this cannot be averaged.

There is also the possibility that you can 'skip' a year where you did not qualify for FHL treatment but where it is treated as if continues although this is an alternative to the averaging situation, so it is not always straightforward.

Advantages of having FHL status

The advantages of falling within the FHL regime can be summarised as follows:

- interest relief is available by deduction of the interest paid from business profits;
- income is net relevant earnings for pension contributions purposes;
- capital allowances can be claimed on plant and machinery for use in the property (normally you cannot get capital allowances on assets for use in a dwelling house);
- business asset disposal relief is available on sale of a property, assuming the conditions are met;
- holdover relief and rollover relief are available, again subject to the meeting of the relevant conditions.

On the basis that we are only speculating, it can be assumed that with effect from 6 April 2025 the following will apply:

- interest relief will be given by way of a tax reducer as applies for other residential property businesses with the same potential increase in tax payable on the profits earned unless all of those fall within the basic rate band;

- income will not qualify as net relevant earnings (although in reality this is possibility not a huge issue for most property owners);
- no capital allowances on plant and machinery acquired with only renewals allowance being available on the qualifying assets;
- no BADR, rollover relief or holdover relief.

From the perspective of transitional provisions, the most likely to be punitive is in relation to capital allowances where it is assumed that assets on which capital allowances have been claimed historically will have to be 'sold' at 5 April 2025 at the then market value. Given that many landlords will have claimed 100% AIA on such assets, any value allocated to those items will attract an immediate balancing charge. Whilst the second-hand value of assets held for many years might justifiably be assessed as nil, where recent additions have been made then it is unlikely that HMRC will accept that there is no value to them now.

Losses for FHL property have been ring-fenced against the same FHL property income – effectively only being available to carry forward. No information has been provided about whether those losses will become available to set against wider property income after 6 April 2025 or whether they will have to continue to be ring-fenced against the same property.

It is likely that there will be an absolute cut-off for BADR, rollover relief and holdover relief so anyone undertaking transactions to take advantage of this will need to make sure they are undertaken before 6 April 2025. It has been announced that there will be an anti-forestalling rule to stop people entering into unconditional contracts for sale before 6 April 2025 (which would then trigger a disposal for CGT purposes) with a long completion date (presumably on or after 6 April 2025) which could then be assigned when the vendor wants to sell the property to a third party. This is quite common when a known change to CGT rules is coming in.

There has been significant publicity already about the fact that many owners are going to pull out of the FHL business and so we may see a significant number of properties being put up for sale or maybe simply being retained for use as second homes (with the latter being much more detrimental to the overall economic situation as there will be loss of tourist revenue).

In terms of planning, it is difficult at this stage to know what to advise clients. If there is an intention to sell then the availability of BADR is likely to be attractive and so the sales will need to be completed before the date of change. If anyone wants to look at any IHT planning and look to gift property and claiming holdover relief, again this will need to be done before any changes are implemented. It will be possible to model the tax position in relation to the restrictions on interest relief.

