

FURNISHED HOLIDAY LETS – NEW RULES

Extension to EEA activities

The Furnished Holiday Letting (FHL) rules have changed to extend them to properties let out by UK residents in the European Economic Area (EEA).

The rules require that UK FHL income is treated separately from EEA FHL income meaning that each source of income is treated as a single trade. It will also be treated separately from other foreign property income such as long lets. Each trade will benefit from the preferential treatment for capital gains tax, meaning that they are eligible for the following reliefs:

- Business roll-over relief and
- Entrepreneur's Relief.

The EEA FHL income will also be treated as relevant income for pension purposes.

Qualifying periods

The periods for which a property must be available for letting and actually let increase with effect from **April 2012** as follows:

- The property **must be available for letting for 210 days in a tax year** (up from 140 days)
- The property **must be actually let for 105 days** (up from 70 days).

However, the letting test must be applied separately to UK and EEA accommodation – these two sources are separate for all purposes.

It will still be possible to average availability across properties owned by the operator to meet the qualifying periods, but there is no averaging between UK and EEA properties.

Period of grace

The new rules do introduce a period of grace in relation to properties which do not meet the letting condition. Where a property fails to qualify only by virtue of the number of days actually let, a person can elect that the property is to be treated as meeting that condition in the two years following a year in which it did qualify. The property must have qualified in one year which is 2010/11 or a later year which means that qualifying under the lower limits in 2011/12 gives access to two years period of grace. This provides a bridge to the new regime, particularly when an operator may be planning to cease and sell up – he would still be entitled to Entrepreneurs' relief for a period of time.

There is no period of grace in respect of the period of availability. If this is breached, the property will fail to qualify.

Loss relief

Currently, losses can be set off against all other income in the tax year, or the preceding tax year. The change to loss relief means that, from April 2011, losses on FHL income can only be carried forward and set against profits of the same trade. There will also be no loss relief on termination of the business and any remaining losses will be lost.

Capital allowances

Capital allowances are currently available on equipment purchased for the FHL. However, the new rules mean that, if the property ceases to qualify for FHL status, the equipment will be deemed to have been disposed of at market value. If the property qualifies again in the future the operator may wish to treat the assets as re-acquired, so it is vital that detailed records of assets purchased, the price and the date of the purchase, are kept by the owner.

If you have any questions about the issues covered in this update or if you would like to discuss anything in more detail, we are here to help. Contact us on 01856 872983 or by e:mail at enquiries@ajbscholes.co.uk.