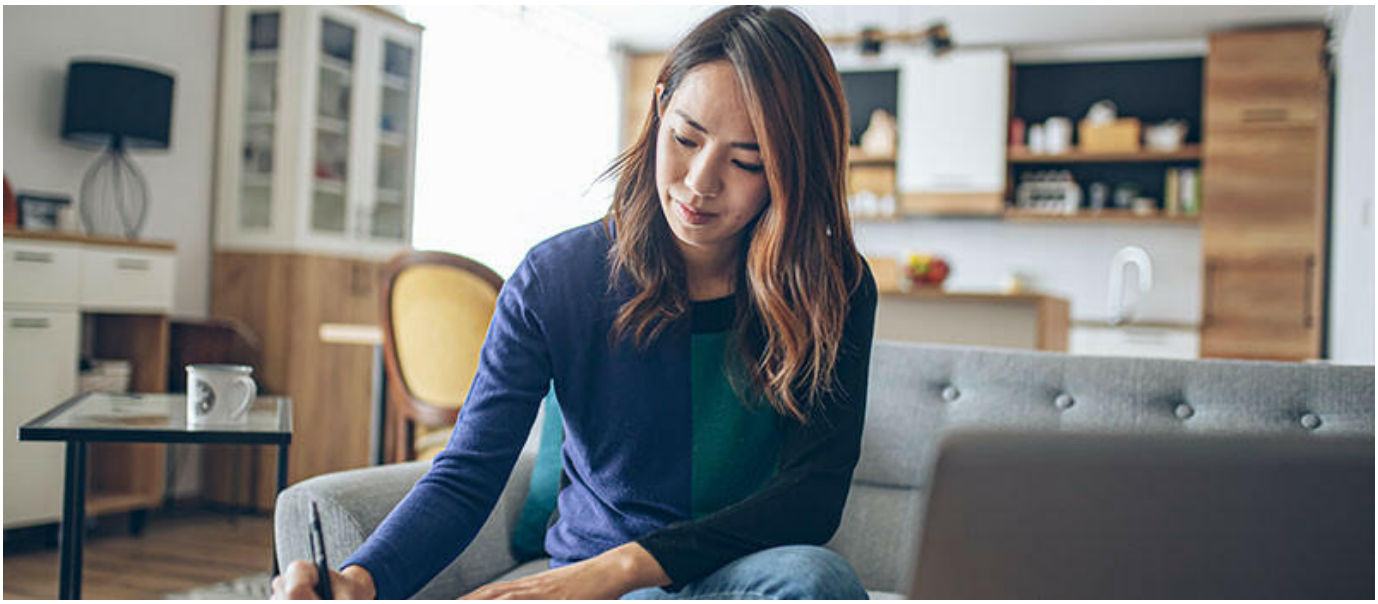
Furnished holiday lets: Spring Budget 2024

Personal tax | Property Tax



17 May 2024

At Spring Budget 2024, the Chancellor announced the abolition of the furnished holiday lets regime from 6 April 2025. The CIOT considers consequential uncertainties, including transitional provisions and the scope of the anti-forestalling measure.

At Spring Budget 2024, the government announced that it will abolish the furnished holiday lettings (FHL) regime with effect from April 2025. The policy intention is to eliminate 'the tax advantage for landlords who let out short-term furnished holiday properties over those who let out residential properties to longer-term tenants'.

Uncertainties

Abolition of the FHL regime revives uncertainty in relation to the boundary between investment and trading as demonstrated in a number of earlier tax cases, for example *Gittos v Barclay* [1982] 55 TC 633 and *Griffith v Jackson* [1985] 56 TC 83. It

was one of the reasons for the introduction of the FHL regime in 1982/83. Many holiday businesses would be treated as a trade by reference to the 'badges of trade' if ownership of the property were ignored, a difficulty acknowledged in the more recent case of *Julian Nott v HMRC* [2016] UKFTT 106 (TC).

We therefore support consideration of the suggestion by the Office of Tax Simplification that there should be a statutory test for the boundary between a trade and rental businesses on the basis that abolition of the regime may not only give rise to costly disputes but could lead to administrative complexity. For example, a large proportion of agricultural businesses have diversified in order to maintain their core trade; however, apportionments will be required between trading (farm property) and non-trading activity (holiday lets) within a diversified farming business.

An anti-forestalling rule was announced as taking effect from 6 March 2024 'to prevent the obtaining of a tax advantage through the use of unconditional contracts to obtain capital gains relief under the current FHL rules'. Draft legislation for the anti-forestalling rule has not been published at the time of writing. We pointed out that it is difficult for taxpayers to comply with provisions in force that have not been published. It seems contrary to the Charter commitment to help taxpayers meet their tax responsibilities.

It is not clear whether the intention of the anti-forestalling rule is that:

- business asset disposal relief (BADR) is not available from 6 March 2024; or
- it is to prevent taxpayers seeking to take advantage of BADR by resting on contract, that is where a contract is exchanged after 6 March 2024 but not completed until after 5 April 2025.

It is also not clear whether the anti-forestalling rule extends to claims for other capital gains tax reliefs for hold-over on succession or roll-over.

We think it is important to clarify the scope and intent of the anti-forestalling rule and publish draft legislation and guidance without delay.

Transitional provisions

We note that removal of the FHL regime means transitional measures will be needed for capital allowance pools and the treatment of unused losses. We outline some

options for consideration. We suggest that whatever approach is adopted to the transitional position, it would be helpful to publish proactive guidance soon to address current uncertainty.

The full CIOT submission can be found here: www.tax.org.uk/ref1321

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