

# ABG<sup>®</sup>



July 2018



## Furnished holiday lettings

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When furnished holiday property is let on a commercial basis for short periods, the owner can benefit from certain tax reliefs which wouldn't otherwise be available to residential landlords, providing certain conditions are met.

However, there are also several disadvantages associated with letting property as holiday accommodation whether or not the furnished holiday letting conditions are met.

### **Mythbusters**

The property doesn't have to be located in a recognised holiday area to qualify as a furnished holiday letting.

It may be situated in most parts of the UK, asides from the Isle of Man or Channel Islands, or in another country within the European Economic Area (EEA).

The furnished holiday letting business can be conducted through a company, by an individual, or by a partnership, but some tax advantages are only open to individuals and partnerships.

For example, capital gains tax (CGT) is not paid by companies, so the reliefs relating to CGT are not relevant to companies.

### **Advantages**

HMRC regards furnished holiday lettings as a trade, which qualify for the following tax reliefs that don't apply to other types of lettings:

#### **Increased pension contributions**

The profits are treated as earnings for pension contributions, so increased pension contributions may be made for the business owner.

#### **Capital allowances**

These can be claimed for the cost of fittings and equipment installed or used within the property, as well as for the cost of equipment used for running the furnished holiday letting business.

#### **Reduced capital gains**

Capital gains made on the disposal of the furnished holiday letting properties may be:

- **entrepreneurs' relief:** charged to CGT at a reduced rate
- **rollover relief:** deferred so the CGT is paid on a later sale
- **holdover relief:** transferred so CGT is paid by the next owner.

#### **Joint ownership**

Usually, profit for tax purposes is split in the same way as ownership. So if you own 50% of a property you will pay tax on 50% of any profit.

However, due to furnished holiday lettings being treated as a trade, there's more flexibility so that profits can be split in different proportions which can be a useful tax planning tool.

#### **Conditions**

For the advantages to apply, the pattern of lettings must satisfy these conditions for the tax year (accounting year for a company) or for the last 12 months prior to disposal for CGT purposes:

1. it must be let furnished and on a commercial basis
2. it must be available for short-term letting for at least 210 days
3. it must be actually let on short-term lets for at least 105 days.

'Short-term' means not occupied by long-term tenants, classed as those who stay longer than 31 days.

However, the property may be let to one tenant for longer than 31 days and still qualify providing the total lettings that exceed 31 days do not amount to more than 155 days of the tax year.

If the conditions are not met for a tax year, after taking into account the following average and grace period elections, the income is taxed as normal residential property income.

#### **Averaging**

If you let more than one property as a furnished holiday letting, you can average the days of short-term lettings across all your properties to determine whether the third condition (above) is met across your entire business.

This averaging exercise can allow all your properties to qualify as furnished holiday lettings where some properties easily meet the 105 days' let condition and others do not.

The periods of short-term lettings for properties in the UK can't be averaged with periods of short-term letting of properties located abroad in determining this election.

#### **Grace period**

The threshold of 105 days of actual letting may not be achieved in some years, in which case you can use the 'grace period' election.

This allows a property to qualify as a furnished holiday letting if it qualified in the previous year.

The property must be available for short-term letting for the full 210 days in the year for this election to apply.

You can make the grace period election for up to two consecutive years.

## **Overseas properties**

Properties let in other EEA countries can qualify if the furnished holiday letting conditions are met.

The EEA countries comprise all 28 member states of the EU plus Liechtenstein, Norway and Iceland.

This extension of the furnished holiday letting rules to properties located in other EEA countries is likely to cease when the UK leaves the EU.

Profits and losses arising from overseas properties must be calculated and reported separately from furnished holiday lettings in the UK.

## **Capital gains tax reliefs**

### **Entrepreneurs' relief**

Where all or a substantial part of your business is disposed of, entrepreneurs' relief can apply if the conditions were met in the 12 months prior to disposal.

This relief will allow up to £10 million of gains to be taxed at 10%, rather than 18% or 28%.

HMRC is unlikely to agree to a claim for entrepreneurs' relief on the disposal of a single property out of a business that includes several furnished holiday letting properties.

### **Rollover relief**

Properties used for furnished holiday lettings qualify as business assets for rollover relief.

Where a gain arises on the disposal of a property, that gain can be rolled into the cost of a furnished holiday letting acquired in the four-year period which starts 12 months before the disposal.

In this way, CGT is not payable on the gain until the replacement property is sold.

Similarly, where a gain has arisen on the disposal of assets from a different business, the gain can be rolled into a property acquired for use as a furnished holiday letting.

### **Holdover relief**

When you give valuable assets to a relative, other than your spouse or civil partner, CGT will be payable as if the asset had been sold at market value.

However, the gain arising from business assets, including properties used as furnished holiday lettings, can be passed on to the new owner of the asset.

Any CGT is then deferred until the new owner disposes of the property and is not payable at the time the property is gifted.

## **Disadvantages**

### **VAT**

Letting of all holiday accommodation is standard-rated for VAT purposes, whether or not it qualifies as a furnished holiday letting.

As such, where the landlord is VAT-registered, 20% VAT must be added to the fees charged.

The landlord must register for VAT when the total value of fees charged for holiday lettings plus the value of other VATable sales made exceeds £85,000 in any 12-month period.

Care should be taken if the furnished holiday letting owner is also self-employed and making taxable supplies.

In this case, turnover from the sole trade and the furnished holiday letting must be taken into account to determine whether the VAT threshold has been breached.

### **Business rates**

Where a property in England is made available for letting on short-term lets for 140 days or more per year, it will be subject to business rates rather than council tax.

For properties in Wales, the property must also be let for 70 days or more a year for business rates to apply.

Different rules apply to properties in Scotland or Northern Ireland, where small business rates relief may be available.

### **Planning restrictions**

The planning regulations vary across the country.

In London, planning permission is needed if the property is let for short-term lets for 90 days or more in a calendar year.

Where the property is held as leasehold, the lease agreement may prohibit short-term sub-letting.

### **Private use**

Where a furnished holiday letting property is used by the landlord's family for no charge, any capital allowances claimed in that tax year must be restricted for private use on a just and reasonable basis.

This restriction should also logically be applied to the annual expenses for the property, such as local property taxes, power and water charges.

If the property is within a company, a benefit in kind could arise which will need to be reported to HMRC under the P11d regime.



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