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## Furnished Holiday Lettings

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Questions and Answers  
22 June 2010

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## Introduction

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Holiday lettings are generally taxed under the property income rules. The Furnished Holiday Lettings (FHL) rules allow holiday lettings of UK properties that meet certain conditions to be treated as a trade for some specific tax purposes.

Holiday lettings of properties situated elsewhere in the European Economic Area (EEA) could not qualify for this treatment. They were instead taxed under the normal property income rules. This difference may not be compliant with European law.

At Budget 2009 the previous Government announced that the FHL rules would be withdrawn from 6 April 2010 (1 April 2010 for companies). That change will not now take place. Instead, the FHL rules will continue to apply during 2010-11, and the government will consult over the summer about plans to change the tax treatment of furnished holiday lettings from 6 April 2011 (1 April 2011 for companies).

This document aims to help answer the questions you may have about the tax treatment of holiday lettings.

## Chapter 1 : Overview

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### **Q1 What are the FHL rules?**

Different tax rules apply to income from letting property and income from trading. Income from letting property, including holiday lettings, is normally taxed under the property income rules. However, the FHL rules allow holiday lettings that meet certain conditions to be treated as a trade for the following tax purposes:

- loss relief;
- capital allowances;
- Landlords Energy Saving Allowance (LESA);
- certain capital gains reliefs (including business asset roll-over relief, entrepreneurs' relief, relief for gifts of business assets, relief for loans to traders and exemptions for disposals of shares by companies with a substantial shareholding); and
- relevant UK earnings when calculating the maximum relief due for an individual's pension contributions.

For further information on the tax treatments available for FHL businesses, please see [www.hmrc.gov.uk/manuals/pimmanual/PIM4105.htm](http://www.hmrc.gov.uk/manuals/pimmanual/PIM4105.htm).

### **Q2 What are the qualifying conditions?**

Certain conditions must be met in order to qualify for the tax treatment provided under the current FHL rules:

1. the property must be situated in the UK; (though see chapter 3)
2. the business must be carried on commercially, and with a view to a profit;
3. Pattern of occupation: Total periods of longer term occupation must not exceed 155 days during the relevant period. A period of longer term occupation is a letting to the same person for longer than 31 continuous days;
4. Availability: the property must be available for commercial letting as holiday accommodation to the public for at least 140 days during the relevant period; and
5. Letting: the property must be commercially let as holiday accommodation to members of the public for at least 70 days during the relevant period. A letting for a period of longer term occupation is not a letting as holiday accommodation for the purposes of this condition.

For individuals with a continuing FHL business, the relevant period is the tax year to 5 April. In the year of commencement, the relevant period is the 12 months starting on the day of the first letting. In the year of cessation, the relevant period is the 12 months ending on the day the letting ceased.

**Q3 What happens if the qualifying conditions are not met?**

Where the qualifying conditions are not met during the relevant period, the FHL rules do not apply for that tax year or accounting period. In that situation, the normal property income rules will apply for that tax year or accounting period.

**Q4 Where can I find out more information about the FHL rules?**

For further information about the FHL rules, please see [www.hmrc.gov.uk/manuals/pimmanual/PIM4100.htm](http://www.hmrc.gov.uk/manuals/pimmanual/PIM4100.htm).

## Chapter 2 : Changes to the tax treatment of holiday lettings

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### **Q5 What has changed?**

The withdrawal of the Furnished Holiday Letting (FHL) rules from 6 April 2010 (1 April 2010 for companies) announced by the previous government will not go ahead.

The FHL rules will continue to apply to holiday lettings situated in the UK or elsewhere in the European Economic Area (EEA) during the tax year 2010-11.

The government will consult over the summer about plans to change the tax treatment of furnished holiday lettings from 6 April 2011 (1 April 2011 for companies).

### **Q6 Who is likely to be affected?**

Individuals, partnerships, trustees and companies who let furnished holiday accommodation situated within the UK or elsewhere in the EEA, and who are liable to UK tax on the income and capital gains from the property.

### **Q7 Why are you changing the tax treatment of furnished holiday lettings next year?**

The FHL rules need to be changed to ensure that they comply with EU law. The government is seeking to change the rules in a way that is consistent with deficit reduction and does not penalise UK businesses.

### **Q8 How will holiday lettings be taxed in 2010-11?**

The FHL rules will continue to apply to holiday lettings situated in the UK during the tax year 2010-11 in the same way as they applied previously.

HMRC will continue to apply the FHL rules to properties situated elsewhere in the EEA during the tax year 2010-11. Further information about this is contained in chapter 3.

Holiday lettings where the property is situated outside the EEA do not qualify under the FHL rules. Instead they are taxed under the normal property income rules.

**Q9 How will holiday lettings be taxed after 2011-12?**

The Government is looking to introduce changes to the FHL rules from 6 April 2011 (1 April 2011 for companies). The proposed changes would:

- Ensure the FHL rules apply equally to properties in the EEA;
- Increase the number of days that qualifying properties have to be available for, and actually let as, commercial holiday letting; and
- Change the way in which FHL loss relief is given.

Full details about the proposed changes will be published over the summer, for consultation.

**Q10 Will you be consulting about the proposed changes?**

Yes, we will issue a formal consultation document on the proposed changes over the summer. That consultation will be open to the public.

**Q11 Will you publish draft legislation?**

Yes. We will publish draft legislation in the autumn, following consultation on the proposal over the summer.

## Chapter 3 : European holiday lettings

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### **Q12 How are holiday lettings treated where the property is situated outside the UK but within the EEA?**

On 22 April 2009 HMRC announced it would apply the FHL rules to properties situated elsewhere in the EEA. These arrangements will continue to apply for the tax year 2010-11.

If you let a property that is situated outside the UK but within the EEA, which otherwise satisfies the FHL qualifying conditions (see question 2), you can choose whether to be taxed under the FHL rules or under the normal rules for property businesses. However, you cannot pick and choose which of the FHL rules apply:

- If you choose to be taxed under the FHL rules, the property will be treated as a qualifying FHL property for all relevant tax purposes. Such lettings will be referred to as EEA FHL.
- If you choose to be taxed under the normal rules for property businesses, you will be treated as owning an overseas property business for all relevant tax purposes.

### **Q13 What are the transitional capital gains rules for EEA FHL?**

For capital gains purposes, you may treat assets used for the purposes of an EEA FHL business, as a trade asset from the latest of the following three dates:

- 1 January 1994;
- the date the property was first let as a qualifying FHL; and
- the date on which the country in which the property is situated joined the EEA.

### **Q14 What are the transitional capital allowances rules for EEA FHL?**

Income from property and FHL are both qualifying activities for plant and machinery capital allowances purposes. Those with EEA FHL will not be treated as starting a new qualifying activity because they have chosen to be taxed under the FHL rules. There will be no deemed disposal and reacquisition at market value, any existing pools will simply continue.

Under the property income rules, no capital allowances are available for expenditure incurred in providing plant and machinery for use in a dwelling house. Under the FHL rules you may claim capital allowances on expenditure incurred in providing plant and machinery for use in a dwelling house.

Expenditure incurred in providing plant and machinery for use in an EEA FHL dwelling house will be qualifying expenditure for capital allowances purposes with effect from the latest of the following three dates:

- the date property was first used as a qualifying FHL;
- the date on which the country in which the property is situated joined the EEA; and
- 1 January 1994.

Where such expenditure was incurred **on or after** the latest of these three dates, it will qualify for capital allowances in the normal way.

Where such expenditure was incurred **before** the latest of these three dates, on an asset that is still in use in the FHL dwelling house, it will be treated as though the asset had been brought into use for the purposes of a qualifying activity on the latest of the three dates, at its market value at that time. For further information on how to treat assets where there is a change of use see <http://www.hmrc.gov.uk/manuals/camanual/CA23030.htm>.

EEA FHL do not qualify for the Landlords Energy Savings Allowance or the 10% wear and tear allowance.

#### **Q15 What are the transitional loss relief rules for EEA FHL?**

Those with EEA FHL will not be treated as starting a new activity for loss relief purposes because they have chosen to be taxed under the FHL rules.

Any unused losses, arising from letting the property in previous years, may continue to be brought forward and set against the profits of the property business.

For further information on the loss relief available for FHL losses please see [www.hmrc.gov.uk/manuals/pimmanual/PIM4130.htm](http://www.hmrc.gov.uk/manuals/pimmanual/PIM4130.htm)

**Q16 How should I fill in my tax return to show my income from holiday lettings situated elsewhere in the EEA?**

If you decide to be taxed under the FHL rules, you should include any EEA FHL income, within the Furnished Holiday Lettings section of the UK Property pages of your tax return.

If you decide to be taxed under the property income rules, you should include your income from holiday lettings in the EEA within the Income From Land and Property Abroad section of the Foreign income pages of your tax return.

**Q17 Can I claim FHL treatment for my EEA property in previous years?**

Yes, but the claim must be made within the normal time limits for making the claim in question.

If you are within the normal time limit for amending the relevant tax return, you should make your claim by amending your tax return.

If you cannot amend your return, but are still within the normal time limits for making the claim in question, or if there is no specific time limit for making such a claim, you may do so by writing to your local HMRC office on or before 5 years after the 31 January following the end of the tax year in question (or within 6 years of the end of the accounting period for claims by companies). This may apply to claims for:

- Some Capital Gains reliefs (i.e. taper relief, hold-over relief, roll-over relief, retirement relief (unless the claim was made on ill-health grounds or by trustees), and the substantial shareholdings exemption);
- relief for income tax losses carried forward, and terminal loss relief; and
- relief for pension contributions.