



20 March 2024

Jonathan Athow
Director General, Customer Strategy & Tax Design
HMRC
By email

Dear Jonathan

ABOLITION OF THE FURNISHED HOLIDAY LETTINGS TAX REGIME

The furnished holiday lettings (FHL) rules were introduced by s50 and Sch 11, Finance Act 1984. The legislation provided clarity over whether operating a short-term holiday rental business should be treated as a trade for tax purposes. This followed several cases on that subject that resulted in uncertainty for those involved in these businesses.

ICAEW is concerned that this uncertainty will return once the FHL rules are abolished. This uncertainty will likely give rise to increased costs for both taxpayers and HMRC in dealing with enquiries and potentially even renewed litigation to determine whether the business is trading.

In its 2022 property income review, the Office of Tax Simplification (OTS) considered that, if the FHL regime was abolished, a statutory “brightline” test may be required to define when a property trading business is being carried on. ICAEW calls on the government and HMRC to consider whether such a test will make it simpler for taxpayers to determine whether they are operating a property business or a trade. A simple test would also help to ensure that further admin burdens are not placed on HMRC.

The OTS also highlighted that a “brightline” test would also be helpful for inheritance tax purposes so that eligibility to business property relief can be more easily established.

ICAEW would welcome a meeting to discuss the potential design of a brightline test.

We note an anti-forestalling rule will apply from 6 March 2024 to prevent a capital gains tax advantage from being obtained by using unconditional contracts. Aside from this rule, our members are also keen to understand whether the government plans to introduce transitional rules for assets on which capital allowances have been claimed and for FHL losses. Publication of a policy note setting out the government’s intention in advance of publishing draft legislation should assist in answering these key policy questions.

ICAEW

Chartered Accountants’ Hall Moorgate Place London EC2R 6EA UK
T +44 (0)1908 248 250 F +44 (0)20 7920 0547 icaew.com

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants’ Hall Moorgate Place London EC2R 6EA UK

Yours sincerely

A handwritten signature in black ink that reads "Frank Haskew". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Frank Haskew
Head of Taxation Strategy
ICAEW Tax Faculty

T 020 7920 8618
M 07760 555779
E frank.haskew@icaew.com