friend

Briefing note

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FURNISHED HOLIDAY LETTINGS

Introduction

Taxpayers fortunate enough to own second homes should always consider the Furnished Holiday Letting ("FHL") regime.

Individuals that run a qualifying furnished holiday let business can benefit from a number of tax breaks. FHL properties ("FHLs") may be in either the UK or the European Economic Area ("EEA"), but FHLs in the UK will be treated as comprising a different business to FHLs in the EEA.

FHL – conditions to be met

It is important for owners of FHLs to realise that there are some detailed conditions to be met before the favourable tax rules can be accessed:

- The letting business must be conducted on a commercial basis with a view to profit;
- The property must be provided fully furnished;
- It must be let for at least 105 days each year;
- It must be available for letting for at least 210 days each year;
- Lettings must comprise short term lettings of no more than 31 days; and
- The property can be let out for periods longer than 31 days, however, none of the days will count towards qualification. If the total of all or any of these lets is more than 155 days in the year, the property will no longer qualify as a FHL.

Where the limit of 105 days is not reached in a year and every effort has been made to meet it, the owner can elect for a year's grace. The second of two consecutive years can also be elected for but only if an election was made for the first year.

This period of grace must follow a qualifying period.

Inheritance Tax – Business Property Relief ("BPR")

When the FHL legislation was first introduced HMRC accepted that BPR was available such that the FHL property would not be part of a deceased person's estate for Inheritance Tax purposes. However, following court cases which have been decided in favour of HMRC, it is unlikely that HMRC will accept future claims for BPR in respect of property used as part of a FHL activity.

The FHL tax advantages

These are:

- Capital allowances can be claimed on the furnishings, equipment and integral features (such as wiring and plumbing) incorporated in the building;
- FHL profits are relevant income for pension purposes;
- Entrepreneurs' Relief may be available on the sale of the FHL business, reducing the rate of Capital Gains Tax ("CGT") from 18% or 28% to just 10%; and
- For CGT purposes FHLs can be gifted and any capital gain held over against the purchase of another qualifying asset, not necessarily a FHL property, and vice versa.

The FHL tax disadvantages

These are:

- Losses on FHL businesses can only be offset against future income from the same business. Note that UK losses cannot be set against EEA profits and vice versa; and
- VAT must be charged if the registration turnover limit (currently £81,000) is exceeded. This could give a commercial disadvantage as VAT will be a cost for most users of FHLs.

FHL planning points

- The profits and losses on a jointly owned property can be split as agreed between the parties, rather than 50/50. This can be useful if a spouse/civil partner has unused basic rate capacity;
- It may be possible to claim capital allowances on a property purchased for use in a FHL business. Typically between 15% and 35% of the purchase price of a property (excluding land value) could be treated as qualifying plant and machinery, depending on the property specification. Input from a specialist, typically a surveyor with capital allowance experience, would be necessary to quantify any such claim; and
- Interest relief should be available against FHL profits even if the loan is secured on a main residence and used to buy the FHL property.

Further advice

The rules are complex and only the main points have been set out in this Briefing Note. Please contact us if you require any more information or specific advice.

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