

# ALAN PINK TAX

## Furnished Holiday Lets – The Last Knockings

Once upon a time there was a queen who lived in a big palace. She was surrounded by advisers to tell her how to run her country, but unfortunately she chose these advisers by way of popular election from amongst the common people. One day, the advisers told her that she had to sign a big treaty, but they didn't tell her (or anyone else) that the effect of this treaty was to make a great many of her laws – well, quite simply, illegal!

Ever since the accession of this country to the European Union, the government has been finding out, to its surprise and displeasure, that law after law that they had already passed, and not given a second thought to since, was contrary to some of the small print in the treaty that says there must be free movement of persons and capital around the European super state.

This has wrought havoc with our tax laws, and the latest victim is the generous set of tax reliefs for furnished holiday lettings in the UK.

Someone has unfortunately spotted the fact that restricting the reliefs to furnished holiday accommodation in this country only discriminates against other EU locations, and is therefore illegal under the treaty.

Of course, there are two things you can do when you notice that you're giving an unfair state relief: you can either extend it to the whole of the EU or you can eliminate it completely.

With agricultural property relief from inheritance tax, which was confined to agricultural land etc in the UK, they adopted the generous approach and extended the relief to agricultural property situated anywhere in the EU. With furnished holiday lets, though, they have gone the other way and abolished the relief: with effect from 6 April next year.

So the immediate reaction of tax planners, of course, on seeing a relief on death row, is to wonder what if anything could or should be done to forestall the changes.

Perhaps it would be helpful, though, before coming on to planning for this great change, if we just recap briefly on what the benefits currently are.

## **The Current Benefits**

As a trading business, furnished holiday lettings qualify for various capital gains tax reliefs, for example roll over relief on buying or selling a furnished holiday property or entrepreneurs' relief (restricting the tax rate to 10%) on anything up to £1 million of gains on disposal of such businesses.

Secondly, losses incurred can be offset against your other income, unlike most losses on property letting activities. Thirdly, capital allowances can be claimed on equipment and fixtures in the property, which they can't be on normal property letting activities.

From the point of view of inheritance tax, the Revenue will normally give you "business property relief" on a furnished holiday letting business, even though this beneficial tax treatment doesn't technically extend to inheritance tax. Thus the whole value of the property can be taken outside a person's estate.

## **The Next Move**

Tax planning is often a case of trying to hit a moving target, and we don't necessarily know everything about how the government is going to manage the transition from trading status to non trading status on 6 April 2010. But here are some ideas, just to give a flavour of the sort of things we think furnished holiday letting owners should be considering:-

- Acquiring FHL property before the deadline date to roll over gains on other trading assets.
- Transferring properties to family members and claiming capital gains "hold over" relief
- Crystallising sales of FHL property to take advantage of the vanishing "entrepreneurs' relief" from capital gains tax
- Incurring repair and refurbishment expenditure to crystallise tax losses whilst they can still be used against other income
- Bringing forward expenditure on equipment etc where capital allowances can be claimed

- Considering incorporating the property into a company, either “holding over” the gain or rolling it over into the cost of the shares (a big subject which needs its own article)

This list, as the saying goes, isn't necessarily exhaustive, but hopefully it gives a flavour of the sort of planning we think all FHL owners should be looking at.

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