YOUR Property

Winter 2019

hsksgreenhalgh
growing your business together

News, views and updates

CAPITAL GAINS TAX
Main Residence & Letting Relief

Further limitations on main residence relief are to have effect from April 2020. We have previously highlighted other changes which have effect from that date, namely;

- **The reduction in the final period of ownership qualifying as part of the period of occupation from 18 months to just nine months, and**
- **The requirement to file returns and pay 20% tax within 30 days of the sale of a residential property post 5 April 2020.**

HMRC are now seeking to severely restrict letting relief from that date too. Currently, a property occupied by the owner as their main residence for part of the property's period of ownership, which is let for part of the ownership period (due to the owners buying a second home or relocating), may qualify for letting relief in addition to main residence relief. The amount of letting relief is the lower of:

1. **£40,000,**
2. **The amount of main residence relief, and**
3. **The taxable gain relating to the period of letting.**

The gain is calculated and time apportioned between qualifying periods of occupation (exempt), periods of letting and periods when the property was neither occupied by the owner or let. Letting relief is additional to main residence relief.

After 5 April 2020 it is proposed that letting relief will only be available where a new `shared occupancy' test has been satisfied. This requires that the property owner must, at some point, have shared occupancy of the property with tenants to whom the property had been let. The number of circumstances where letting relief will be available after this rule change are likely to be limited.

Property owners who might be considering disposing of properties which will have been occupied for part of their ownership period as the owners' main residence, and have been let at some point too, may want to think about completing the disposal prior to 6 April 2020 in order to secure the letting relief and the extra nine months qualifying period of occupation. After 5 April 2020, the letting relief is unlikely to be available. There are no proposals for any transitional provisions.

If you think you might be in this position, speak with one of the HSKS Greenhalgh property team to discuss how we might be able to assist in saving considerable amounts of relief that will soon be disappearing.

Furnished Holiday Lets
Are they still tax favoured?

Property related tax breaks continue to be eroded. One form of property, Furnished Holiday Lets ("FHL"), have not escaped these changes. Many property owners continue to offer second homes for rent as holiday accommodation. Despite some of the tax breaks having been curtailed, FHL's still attract some valuable reliefs.

WHAT PROPERTIES QUALIFY?

What distinguishes FHL's from hotels or holiday apartments is that they are let as holiday homes rather than rooms for rent. The home must be furnished in such manner that users are able to occupy the property as a `home'. There must be an underlying profit motive (ie, the rents must be commercial).

The FHL must only be available as holiday accommodation on short term lets. No individual letting should exceed 31 days. In certain circumstances this limit may be extended.

The FHL must be available for letting at least 210 days during a tax year and actually let at least 105 days in the year. These limits are apportioned in opening and closing years and/or when the property is unavailable due to damage.

The FHL can be within the UK or the European Economic Area. This includes countries that are not part of the European Union (Iceland, Norway & Liechtenstein) so the expectation is that this would remain the case after Brexit. Profits and losses from UK FHL's are determined separately from EEA FHL's. Profits and losses can be mutualised within each jurisdiction but losses in the UK or EEA may not be offset against profits in the other.

Furnished Holiday Lets
Are they still tax favoured? (Continued)

INCOME TAX BENEFITS

All expenses incurred in operating a property as a FHL will be able to be deducted. This includes loan interest. Where the FHL is closed for a period due to there being no bookings, then expenses will still be able to be deducted in full. A restriction applies where the FHL is occupied by the owner, their family or friends for part of the year or where only part of a property is available as a FHL. In such cases, expenses must be apportioned on a just and reasonable basis.

Unlike long term residential lettings, furniture and equipment will qualify for capital allowances. Profits are treated as earned income for the purposes of personal pension relief but do not attract National Insurance liabilities.

CAPITAL TAX BENEFITS

Whilst FHL's do not qualify as Business Property for Inheritance Tax purposes, they will attract Entrepreneurs Relief, Holdover and Rollover relief for Capital Gains Tax purposes subject to all other qualifying conditions being satisfied.

PROBLEM AREAS

FHL's will attract Business Rates as they are available for letting more than 140 days per annum. This may be mitigated by Small Business Rate Relief. If rental income exceeds the VAT threshold, the owners will come within the VAT reporting obligations and, in time, will need to comply with the Making Tax Digital obligations. Be aware too that debt finance may be more expensive. Losses generated by FHL's can not be relieved sideways against other income. They can only be carried forward for relief against profits of later years.

If you are looking to invest in a holiday home which will be available for letting, speak with one of the HSKS Greenhalgh property team to discuss how we might be able to assist in structuring the business to make best use of the tax benefits which FHL's still attract.

Des Pearson's Residential Roundup

As I write this, it is International Fraud Awareness Week.

In the current digital and online world, fraud is something we should all be acutely aware of every day!

Therefore I thought I would highlight areas where Landlords need to be fully aware of the types of fraud they might encounter and what to do about them.

FRAUDULENT TENANT APPLICATIONS

For landlords not using letting agent services this is a key area in which to be 100% alert. Ensure that the prospective tenant(s) have the Right To Rent your property and that they also pass the Right To Rent Immigration checks. All the detailed processes can be found on the www.gov.uk website. Be strict with yourself to ensure the validity of documents provided by the tenant and also, keep the evidence. Remember too that a tenant credit check alone is not sufficient.

IDENTITY THEFT OF LANDLORD

Criminals/tenants posing as the owner in order to sell or mortgage a property is another risk area. If it isn't discovered promptly it can be stressful and costly to put right. There are a couple of easy and free things you can do to prevent this happening to you. Sign up to the HM Land Registry's Property Alert Service https://propertyalert.landregistry.gov.uk/ a free service that will send email alerts when certain activity occurs on your properties. Also, fill in a 'Request for Restriction' to send to HM Land Registry, again free, and prevent forgery by requiring a conveyancer to certify that the person doing the transferring is the same as the owner.

FINALLY, SOME PERSONAL PRIVACY TIPS

Keep your own personal information safe and private. If you have a social media account, be sure to review your security settings regularly and never post anything that gives personal information away.

Store your own important documents safely, always know where they are (passport, credit cards, bank statements, property deeds etc). But keep passwords in a separate secure place.

Review your personal banking and credit card statements when issued to check for any unusual transactions.

Check your credit reference every six months (there is good guidance on www.moneysavingexpert.com on how to do this for free) to ensure no loan applications have been made in your name and that your credit score is healthy for new mortgages and loans.

Until the next issue, all the best.

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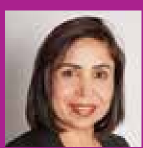

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