

BIG TAX CHANGES AHEAD



FURNISHED HOLIDAY LETS



Taxcafe Tax Guides

Furnished Holiday Lets

Big Tax Changes Ahead

By Carl Bayley BSc FCA

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About the Author

Carl Bayley is the author of a series of 'Plain English' tax guides designed specifically for the layperson and the non-specialist. His aim is to help landlords, other business owners, and families understand the taxes they face and make savings through sensible planning and by having the confidence to know what they can claim. Carl's speciality is his ability to take the weird, complex world of taxation and set it out in the kind of clear, straightforward language taxpayers can understand. As he often says, "My job is to translate 'tax' into English."

Carl enjoys his role as a tax author, as he explains, "Writing these guides gives me the opportunity to use the skills and knowledge learned over more than forty years in the tax profession for the benefit of a wider audience. The most satisfying part of my success as an author is the chance to give the average person the same standard of information as the 'big guys' at a price everyone can afford."

He takes the same approach when speaking on taxation, a role he undertakes with great enthusiasm, including his highly acclaimed annual 'Budget Breakfast' for the Institute of Chartered Accountants. In addition to being a recognised author and speaker, Carl has spoken on taxation on radio and television, including the BBC's 'It's Your Money' programme and BBC Radio 2's Jeremy Vine Show.

Beginning his career as a Chartered Accountant in 1983 with one of the 'Big 4' accountancy firms, Carl qualified as a double prize-winner then began specialising in taxation. He worked for several major international firms until beginning the new millennium by launching his own practice, through which he provided advice on a wide variety of taxation issues; especially property taxation, inheritance tax, and tax planning for small and medium-sized businesses, for twenty years, before deciding to focus exclusively on his favourite role as author and presenter.

Carl is a past Chairman of the Tax Faculty of the Institute of Chartered Accountants in England and Wales; President of ICAEW Scotland; and member of the ICAEW Board. In June 2023, he stepped down after almost twenty years on the Institute's governing Council. He co-organised the annual Practical Tax Conference from its inception in 2002.

Aside from his tax books, Carl is an avid creative writer and has just published his first novel, *Trinity of Souls*. When he isn't working, he takes on the equally taxing challenges of hill walking and horse riding: his Munro tally is now 106 and, while he remains a novice rider, his progress is cantering along nicely. Carl lives in the Scottish Borders, where he enjoys spending time with his partner, Linda. He has three children and his first grandchild arrived in April 2021.

Contents

Introduction	1
Scope of this Guide	4
Chapter 1 Background to the Changes	7
1.1 What's Happening?	7
1.2 Current Benefits	7
1.3 What are Furnished Holiday Lets?	8
1.4 Why is the Regime Being Abolished?	11
1.5 Is There Any Chance of a Reprieve?	12
1.6 Further Information	12
Chapter 2 Income from Furnished Holiday Lets	14
2.1 How is Income from Furnished Holiday Lets Taxed?	14
2.2 Interest Relief	16
2.3 Capital Allowances	18
2.4 National Insurance	24
2.5 Pension Contributions	25
2.6 Loss Relief	26
2.7 Spouses Owning Property Jointly	27
Chapter 3 Companies with Furnished Holiday Lets	28
3.1 How are Furnished Holiday Lets Taxed in a Company?	28
3.2 Impact of Abolition	30
3.3 Income & Profits	30
3.4 Capital Gains	32
3.5 Timing Differences	33
3.6 Loss Relief for Companies	34
Chapter 4 Capital Gains on Furnished Holiday Lets	35
4.1 The Capital Gains Tax Regime	35
4.2 Business Asset Disposal Relief (BADR)	38
4.3 Conflicting Factors	43
4.4 Rollover Relief	44
4.5 Holdover Relief	46
4.6 Tax-Free Holiday Homes	49
4.7 Incorporation Relief	50
4.8 Capital Gains Tax on Company Shares	52
4.9 Date of Disposal	54
Chapter 5 Stamp Duty on Furnished Holiday Lets	56
5.1 Stamp Taxes on UK Property	56
5.2 Stamp Duty Land Tax (England and Northern Ireland)	56
5.3 Market Value and Mortgages	58
5.4 Special Rate for Some Company Purchases	59

5.5 Multiple Property Purchases or Transfers	60
5.6 Land and Buildings Transaction Tax (Scotland)	65
5.7 Land Transaction Tax (Wales)	68
5.8 Additional Points on Property Stamp Taxes	69
Chapter 6 Trading Status	70
6.1 Achieving Trading Status	70
6.2 Conversion Costs	72
6.3 Conversion Benefits	77
6.4 Trading Status for Joint Owners	78
6.5 Evolution or Revolution?	78
Chapter 7 Transferring Furnished Holiday Lets to a Company	79
7.1 Incorporation Benefits	79
7.2 The Fly in the Ointment	79
7.3 Timing the Transfer	81
7.4 Three Phase Planning	83
7.5 Annual Savings	84
7.6 Exit Strategies	87
7.7 Weighing It All Up	92
7.8 The Partnership Exemption	95
Chapter 8 Other Important Taxes	97
8.1 Collateral Damage	97
8.2 Inheritance Tax	97
8.3 VAT on Holiday Accommodation	99
8.4 Council Tax	99
Appendix A - UK Tax Rates & Allowances 2022/23 - 2024/25	100
Appendix B - Connected Persons	101

Introduction

Furnished holiday lets are a unique, special type of business, lying somewhere between a trade and property letting. They come in all shapes and sizes, yet have a great deal in common.

For over forty years, the UK tax system has recognised this through a special tax regime that provides many of the same reliefs as are provided to a trading business, while still preserving the unique features of this property-based business.

The rise of online booking platforms has allowed the furnished holiday letting sector to blossom, with over 89,000 furnished holiday lets currently estimated to be in operation in the UK alone, compared with just 8,000 in 2017.

But the sector's success now appears to have become its undoing, as it has attracted the ire of Chancellor of the Exchequer, Jeremy Hunt, who announced the abolition of the special tax regime in his Budget on 6th March 2024.

Fortunately, however, this shocking death sentence is not to be carried out until April 2025, giving furnished holiday let owners in both the UK and the European Economic Area time to plan for the transition, mitigate the impact, and make the most of the furnished holiday letting tax regime while it still lasts: and that's where this guide comes in.

In Chapter 1, we start by looking at how properties qualify for the current regime, some of the background to its abolition, and who will be affected.

Chapter 2 looks at the current treatment of income from furnished holiday lets received by individuals, the additional costs likely to arise in future years, how to maximise the benefits of the regime before it's too late, and how to minimise the cost of the coming change.

In Chapter 3, we look at how the furnished holiday letting regime operates for businesses run through a company. We will see that the impact of the abolition will be less severe for companies, but there will still be consequences to consider and important planning points to bear in mind.

Chapter 4 really gets to the heart of the furnished holiday letting regime; we examine the many Capital Gains Tax reliefs that currently apply, and the consequences of the regime's abolition, for both individual furnished holiday let owners, and owners of companies with furnished holiday letting businesses. We also look at a range of tax planning measures designed to maximise the current benefits of the regime.

In Chapter 5, we look at property stamp taxes, particularly Stamp Duty Land Tax (SDLT), and how these apply to furnished holiday lets. While these taxes are not directly affected by the abolition of the furnished holiday letting regime, they have a crucial impact on many of the planning measures considered elsewhere in the guide. In this chapter, we also look at the abolition of a key SDLT relief, the critical impact this has on the timing of property transfers and why, in many cases, furnished holiday let owners need to take action very quickly, by 31st May 2024.

Chapter 6 looks at a potential escape route for furnished holiday let owners facing massive increases in their tax bills: the possibility of establishing, or achieving, trading status for their business. For some, the benefits could be huge, but for others trading status is either unachievable, or would come at too high a price. We look at all the pros and cons, the factors to consider, and some of the history behind this long-running issue.

In view of the additional tax burdens individual furnished holiday let owners are likely to face in the future, and the current relative ease with which furnished holiday letting businesses can be transferred, many people will be considering moving their business into a company. We look at this issue in detail in Chapter 7, including how to make the transfer at the minimum cost, how to maximise annual savings thereafter, and the benefits, and costs, of different exit strategies. We will see that transferring a furnished holiday letting business to a company is far from being a straightforward 'no brainer' and will not always be the panacea many may think it is. Nonetheless, it is well worth considering under the right circumstances.

Finally, in Chapter 8, we look at some other important taxes, including Inheritance Tax; we will see that, for many furnished holiday let owners, now may be the ideal time to strike while the iron is hot and carry out Inheritance Tax planning that could

ultimately save their families hundreds of thousands, perhaps even millions, of pounds.

Taking the guide as a whole, my aim is to ensure you gain a full understanding of the current benefits of the furnished holiday letting regime, how to make the most of them while you still can, what the regime's abolition will mean to you, and what you can do about it. Prompt action may be the key to saving many thousands of pounds now, and in the years to come.

Scope of this Guide

This guide incorporates all relevant Government proposals announced prior to the date of publication, including Chancellor Jeremy Hunt's March 2024 Budget. Some proposals are not yet law and may undergo alteration before being formally enacted. It is also not unknown for Government proposals to be abandoned altogether (as we saw during Liz Truss's brief premiership in 2022).

This guide focusses purely on the taxation of furnished holiday lets. Naturally, however, there are many legal issues surrounding property ownership, development, rental, change of use, sales, and other transactions involving property. While every effort has been made to ensure that tax planning measures in this guide, or actions included within the examples, can be carried out in a manner that is compliant with all relevant legal requirements, such matters are beyond the scope of this guide. Dealing with tax is complex enough!

In preparing the examples in this guide, I have assumed the UK tax regime will remain unchanged in the future, except to the extent of any formal Government announcements already made at the time of publication. Hence, unless stated to the contrary, the 2024/25 tax rates and allowances set out in Appendix A are used in respect of all future years (or, in the case of Corporation Tax, the rates set out in Section 3.1).

However, if there is one thing I can predict with any certainty, it is the fact change **will** occur. The reader should bear this in mind when reviewing the results of examples in this guide.

All persons described in the examples in this guide are entirely fictional. Any similarities to actual persons, living or dead, or to fictional characters created by any other author, are entirely coincidental. Likewise, the companies described in the examples in this guide are similarly fictional corporations created specifically for the purposes of this guide and any similarities to actual companies, past or present, are again entirely coincidental.

Assumptions

Unless specifically stated to the contrary, it is assumed throughout this guide that all individuals are UK resident and are **not**:

- i) Scottish taxpayers
- ii) Subject to the Child Benefit Charge
- iii) Claiming the marriage allowance
- iv) Minors under the age of 18

Scottish taxpayers pay Income Tax at different rates (see Section 2.1). However, while this alters the overall amount of tax they pay, it does not affect the principles discussed in this guide.

Where a property is referred to as a furnished holiday let or furnished holiday letting, this means it currently qualifies as a furnished holiday let for tax purposes, under the rules outlined in Section 1.3.

Unless stated to the contrary, for the purposes of property stamp taxes, it is assumed properties are located in England or Northern Ireland. Stamp taxes applying to property in Scotland and Wales are covered in Sections 5.6 and 5.7 respectively.

While this guide covers the UK taxation treatment of furnished holiday lets in the European Economic Area, it does not cover foreign taxes: these are beyond the scope of this guide.

Terminology and Abbreviations

For the purposes of this guide, a spouse includes a civil partner, but only includes spouses who are legally married (or legally registered civil partners).

References to the tax year mean the UK tax year ending on 5th April each year. For example, the 2024/25 tax year is the year ending 5th April 2025.

In tax terminology, a 'trade' or 'trading business' means a regular business such as a shop, a garage, a plumber, electrician, etc, a farm, a manufacturing or engineering business, and many others, including property development. To all intents and purposes, professions such as lawyers, accountants, doctors, dentists, surveyors, are also treated the same. Crucially, for the purposes of this guide, a trade does not include a property investment or property letting business. We'll look at this issue further in Section 6.1.

A 'disposal' of an asset (e.g. a property) includes a sale, but also includes a transfer to another individual, a company, or a trust.

We generally like to avoid abbreviations at Taxcafe, as we hate jargon. I will, however, adopt a few that are in common usage, or which will save you having to read the same phrase over and over again, including:

- ADS Additional Dwelling Supplement
- BADR Business Asset Disposal Relief
- CGT Capital Gains Tax
- EEA European Economic Area
- HMRC HM Revenue and Customs
- LBTT Land and Buildings Transaction Tax
- LTT Land Transaction Tax
- SDLT Stamp Duty Land Tax
- VAT Value Added Tax

Large amounts, such as £1,000,000 or more, are sometimes abbreviated by use of the letter 'm'. For example, £2,500,000 may be written as '£2.5m'.

Chapter 1

Background to the Changes

1.1 WHAT'S HAPPENING?

At present, qualifying furnished holiday lets enjoy a special tax regime giving them many of the advantages of a trading business without some of the inherent disadvantages.

Unfortunately, however, the Government is proposing to abolish the furnished holiday letting regime with effect from 6th April 2025. From that date onwards, the vast majority of furnished holiday lets are likely to be treated the same as other residential rental property for most tax purposes.

It is important to point out that the detailed legislation to put this transformation in place has not yet been drafted, so we have necessarily had to base this guide on what we currently expect and some of the points discussed here may change. However, in the world of tax, it is often wise to plan for the worst!

1.2 CURRENT BENEFITS

The furnished holiday letting regime provides benefits for individual landlords with qualifying properties, including those who are joint owners, or who operate as a partnership.

The regime also benefits companies owning qualifying properties, as well as the owners of those companies. The benefit to the company itself is, however, not generally as significant as the benefits for individual property owners.

In the following chapters, we will look at the many current taxation benefits of the furnished holiday letting regime, which are expected to be withdrawn from the vast majority of landlords operating furnished holiday lets after 5th April 2025.

At the same time, we will also look at the implications of the regime's abolition, the costs this will lead to, and the potential

planning steps landlords can take to mitigate the impact, and to put themselves in a better position in the future.

1.3 WHAT ARE FURNISHED HOLIDAY LETS?

To qualify as a furnished holiday let, the property must generally be:

- i) Situated in the UK or the European Economic Area (EEA)
- ii) Fully furnished (see below)
- iii) Let out on a commercial basis with a view to making profits
- iv) Available for letting as holiday accommodation to the public generally for at least 210 days
- v) Actually let as holiday accommodation to members of the public for at least 105 days
- vi) Not in longer term occupation for more than 155 days

The day count tests under conditions (iv), (v), and (vi) must generally be met for the tax year where the property is owned by one or more individuals, or for the relevant accounting period where the property is owned by a company. However, when the property begins or ceases to be let out fully furnished, it is the first or last twelve months for which it is so let.

Longer term occupation means any period of more than 31 consecutive days during which the property is in the same occupation, unless this arises due to exceptional circumstances (e.g. the tenant falls ill, or their flight home is delayed). Periods of longer-term occupation cannot be counted towards the 105 days required under condition (v).

A taxpayer with more than one furnished holiday let may use a system of averaging to determine whether they meet condition (v).

Under the current regime, landlords can elect for properties that qualified in the previous year to stay within the regime for up to two further tax years, despite failing to meet condition (v). The property must meet the other qualifying conditions. This will not enable properties that qualified as a furnished holiday let in 2023/24 or 2024/25 to continue to qualify in later years after the regime has been abolished.

For tax purposes, all a landlord's UK furnished holiday lets are regarded as one business, while all their furnished holiday lets in the EEA are regarded as a different business. (All furnished holiday lets within the EEA are regarded as the same business.)

The EEA comprises the 27 member states of the European Union, plus Iceland, Liechtenstein and Norway.

Other Qualification Issues

While the property need not be in a recognised holiday area, the lettings should strictly be to holidaymakers and tourists in order to qualify.

Where property owned by one or more individuals qualifies as a furnished holiday let, it generally qualifies for the whole of each tax year: subject to the special rules for the years in which fully furnished letting commences or ceases, as explained above.

Where, however, there is some other use of the property during the year, some of the available Capital Gains Tax (CGT) reliefs will be restricted accordingly (see the Taxcafe guide *How to Save Property Tax* for details).

Nevertheless, it remains possible for the taxpayer and their family to use the property privately as a second home during the 'off season' and still fit within the qualifying conditions.

Some years ago, there was a concern such private use could mean the furnished holiday lets were not being undertaken on a commercial basis and the property would therefore fail to meet condition (iii). However, it is now understood the property can still qualify, as long as the holiday letting business is run on a commercial basis, rather than the property as a whole.

Example

Joseph has a second home in Cornwall called Crab Quay that he rents out as furnished holiday accommodation during the spring and summer. The property's running costs amount to £50 per day.

Joseph spends 120 days at Crab Quay himself each year and advertises it as a holiday rental for the rest of the year at a price of £125 per night.

His advertising costs, and other overheads relating to the letting, amount to a total of £1,500 per year.

He normally expects to rent the property for an average of around 140 nights each year, and achieved this comfortably in 2023/24 (hence he can elect for the property to remain a furnished holiday let in 2024/25, even if he does not manage to rent it for the requisite 105 nights, as long as he still meets the other qualifying conditions).

In 2024/25, he only manages to rent Crab Quay for 100 nights, giving him income of £12,500, and leaving him with an overall net cost for the property over the year of £7,250 ($£12,500 - 365 \times £50 - £1,500$).

However, his running costs for his rental season of 245 days only amount to £12,250 ($£50 \times 245$). If he had rented out the property for the expected 140 nights, he would therefore have had income of £17,500 ($£125 \times 140$) and a rental profit of £3,750 ($£17,500 - £12,250 - £1,500$).

Joseph is therefore letting out the property on a commercial basis with a view to making a profit. The fact the property gives rise to an overall net cost for the year is irrelevant. What matters is his letting business is run on a commercial basis. The other qualifying conditions are satisfied, so Crab Quay qualifies as a furnished holiday let.

Joseph's private use of the property means he has to exclude part of his running costs when calculating his rental profit or loss for Income Tax purposes. In 2024/25, for example, he will have an allowable loss of £1,250 ($£12,500 - £12,250 - £1,500$). He will also be subject to some restrictions in the applicable CGT reliefs for Crab Quay.

We'll look at what might become of Joseph's loss of £1,250 in Section 2.6.

Where a furnished holiday let is owned by a company, any private use by the company owner or their close relatives is generally to be avoided like the plague, as this can cause numerous tax problems. Other use of the property in the 'off season' will not generally cause any problem, however.

What Is a Fully Furnished Letting?

To be classed as a fully furnished letting, the landlord must provide sufficient furnishings so the property is capable of 'normal residential use' without the tenant having to provide their own. Typically, this will include beds, chairs, tables, sofas, carpets or other floor coverings, curtains or blinds, and kitchen equipment.

The key phrase here is whether the property is capable of 'normal residential use' and the level of furnishings and equipment required must be considered in this context. In essence, the landlord must provide the tenant with some privacy, somewhere to sit, somewhere to sleep, somewhere to eat, and the facilities required to feed themselves.

1.4 WHY IS THE REGIME BEING ABOLISHED?

'Why?' is often one of the hardest questions to answer in tax and I'm tempted to say it's simply out of spite.

The Government's stated reason for abolishing the regime is to help improve the housing supply for local residents in popular tourist areas like the South-West of England and the Lake District. Alongside the stick they are beating furnished holiday let landlords with, they are also using the carrot of a reduction in the rate of CGT applying to higher rate taxpayers disposing of residential property: which falls from 28% to 24% from 6th April 2024.

Whether their tactics will work is anybody's guess, but the impact on the tourism industry could potentially be dire: I wonder if they've factored that into their calculations?

If you ask me (not surprisingly, they didn't), what is needed is *more* affordable housing for local people, not *less* holiday accommodation for tourists bringing money into the area. But when did anything the Government did ever make sense?

There is also the fact they need to find some ways to fund the £14 billion of tax cuts announced in the March 2024 Budget (most of it being the massive election bribe that was the cut in the Class 1 National Insurance rate for employees).

But, given their persecution of furnished holiday letting landlords will raise a mere £355m ('mere' in Government spending terms), they've got a long way to go.

1.5 IS THERE ANY CHANCE OF A REPRIEVE?

There's always a chance Government proposals might be scrapped before they come to fruition, especially in an election year, or when there is a change of leadership (anyone remember Kwasi Kwarteng?) However, in this case, I really wouldn't like to bet on it.

The last time the furnished holiday letting regime was scheduled for execution was in 2010. It was saved when the Labour Government that had proposed its abolition lost the general election that year and were replaced by the Conservative-LibDem Coalition.

This time, we have a Conservative Government proposing the abolition of the furnished holiday letting regime and the possibility that we may have a Labour or Coalition Government before the proposals come into force: it is, potentially, the opposite way around.

Personally, I can't really see Keir Starmer and Rachel Reeves being the heroes who save furnished holiday lets!

What is more likely, though by no means guaranteed in any way, shape, or form, is we could see:

- A deferral of the abolition (perhaps to April 2026 for example),
- A partial retention of some of the benefits of the regime, or
- Transitional rules to mitigate the impact of the change, or spread the resultant tax increase over a few years

The last of these seems the most likely, but I'm not holding my breath for any of them!

1.6 FURTHER INFORMATION

For more information on property taxation generally, see the Taxcafe guides *How to Save Property Tax* (for individual ownership),

or *Using a Property Company to Save Tax* (for those using a company).

Transfers of property to a company have many tax implications, including SDLT, which we will look at in Chapters 5 and 7. For further details of all the issues involved, see the Taxcafe guide *Using a Property Company to Save Tax*.

Transfers of property to an individual other than your spouse, or to a trust, may have Inheritance Tax implications, but also may often lead to Inheritance Tax savings. For further details see the Taxcafe guide *How to Save Inheritance Tax*.

For more information on the benefits of pension contributions and the various limits applying, see the Taxcafe guide *Pension Magic*.

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