



HM TREASURY



HM Revenue  
& Customs

# Furnished Holiday Lettings Consultation

July 2010





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# Executive summary

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<b>Subject of this consultation:</b>	Proposed changes to the special tax rules for furnished holiday lettings.
<b>Scope of this consultation:</b>	<p>The consultation is on proposals to ensure the tax rules for furnished holiday lettings are fully compliant with EU law and are better targeted at businesses that are run commercially for profit rather than for personal use. The proposals are to:</p> <ul style="list-style-type: none"><li>• increase the minimum period over which a qualifying property is <b>available to let</b> to the public during a year from 140 to <b>210 days</b>;</li><li>• increase the minimum period over which a qualifying property is <b>actually let</b> to the public during a year from 70 days to <b>105 days</b>;</li><li>• <b>restrict</b> the use of <b>loss relief</b> from furnished holiday lettings so it can only be set against certain income from the same business.</li></ul> <p>The consultation seeks views on the impacts of these proposals, and is an opportunity to influence the detailed policy implementation.</p>
<b>Impact assessment:</b>	The consultation stage impact assessment is at Annex B to this document.
<b>Who should read this:</b>	Individuals or companies with furnished holiday lettings. Representative bodies for the tourism industry and tax professionals.
<b>Duration:</b>	The consultation runs from 27 July to 22 October 2010.
<b>Enquiries:</b>	Jacqueline Latter of the Personal Tax Team, HM Treasury will be leading this work and can be contacted using the e-mail address below.
<b>How to respond:</b>	Responses should be sent to <a href="mailto:holiday-lettings-consultation@hmtreasury.gsi.gov.uk">holiday-lettings-consultation@hmtreasury.gsi.gov.uk</a>
<b>After the consultation:</b>	The Government will publish its response by the end of the year and intends to implement the changes in the 2011 Budget.
<b>Previous engagement:</b>	At Budget 2009 HMRC published a technical note "Furnished Holiday Lettings in the European Economic Area" <sup>1</sup> . HMRC published a further technical document at the pre-Budget report 2009, "Withdrawing the Furnished Holiday Lettings Rules from 2010-11" <sup>2</sup> . This document was accompanied by an impact assessment on the effect of repealing the rules <sup>3</sup> . The June 2010 Budget reversed the repeal and announced that a public consultation would be held over the summer.

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<sup>1</sup> <http://www.hmrc.gov.uk/budget2009/furnished-hol-lets-1015.pdf>

<sup>2</sup> <http://www.hmrc.gov.uk/pbr2009/withdrawing-lettings-rules-3760.pdf>

<sup>3</sup> <http://www.hmrc.gov.uk/pbr2009/furnished-holiday-ia-3760.pdf>





# 1

## Introduction

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**1.1** The Chancellor confirmed in the June Budget that the Government would not repeal the special tax rules for furnished holiday lettings. Instead, the Budget announced a public consultation on a proposal to change the existing rules in a way that both meets our obligations under EU law and does so in a fiscally responsible way.

**1.2** This consultation document sets out the Government's proposal for achieving that aim by changing the qualifying conditions for businesses to be taxed as furnished holiday lettings and changing the way loss relief is given. Any changes will take effect from 1 April 2011 for companies or from 6 April 2011 for individuals. For the current tax year 2010-2011, the existing rules will continue to apply.

**1.3** The consultation is being conducted in line with the principles outlined in the document "[Tax policy making- a new approach](http://www.hm-treasury.gov.uk/d/junebudget_tax_policy_making.pdf)"<sup>1</sup> published alongside the Budget. The document sets out three stages for policy development:

- stage 1 – set out objectives and identify options;
- stage 2 – determine the best option and develop a framework for implementation, including detailed policy design; and
- stage 3 – draft legislation to effect the proposed change.

**1.4** This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

**1.5** This consultation is being conducted in line with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process are at Annex A.

### How to respond

**1.6** The Government welcomes comments and responses to the questions in this consultation paper. Any responses should be e-mailed to

holiday-lettings-consultation@hmtreasury.gsi.gov.uk

by **22 October 2010**.

**1.7** Jacqueline Latter (Personal Tax Team, HM Treasury) is leading this work and can be contacted using the e-mail address above.

### Confidentiality disclosure

**1.8** Information provided in response to this discussion document, including personal information, may be published or disclosed in accordance with the access to information

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<sup>1</sup> [http://www.hm-treasury.gov.uk/d/junebudget\\_tax\\_policy\\_making.pdf](http://www.hm-treasury.gov.uk/d/junebudget_tax_policy_making.pdf)

regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

**1.9** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential.

**1.10** If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not of itself, be regarded as binding on HM Treasury or HM Revenue & Customs. HM Treasury and HM Revenue & Customs will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

# 2

## Background

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**2.1** The special tax rules for furnished holiday lettings allow property businesses that meet certain conditions to be treated as a trade for some specific tax purposes. These are:

- loss relief;
- capital allowances;
- Landlords' Energy Saving Allowance (LESA);
- certain capital gains reliefs (including business asset roll-over relief, entrepreneurs' relief, relief for gifts of business assets, relief for loans to traders and exemptions for disposals of shares by companies with a substantial shareholding); and
- relevant UK earnings when calculating the maximum relief due for an individual's pension contributions.

**2.2** To qualify for this tax treatment, the following conditions must be met:

- the property must be situated in the UK or the European Economic Area (EEA);
- the business must be carried on commercially, and with a view to a profit;
- the total periods of "longer term occupation" must not exceed 155 days during the relevant period. A period of "longer term occupation" is a letting to the same person for longer than 31 continuous days. The relevant period is normally the tax year.
- the property must be available for commercial letting as holiday accommodation to the public **for at least 140 days** during the relevant period; and
- the property must be commercially let as holiday accommodation to members of the public **for at least 70 days** during the relevant period. A letting for a period of "longer term occupation" is not a letting as holiday accommodation for the purposes of this condition.

**2.3** Historically, the tax rules were only available for lettings of UK properties.

**2.4** However, recognising that the UK rules may not have been compliant with EU law, HM Revenue and Customs has applied these rules to properties situated elsewhere in the EEA from 22 April 2009, the date of the 2009 Budget.

**2.5** At Budget 2009, the previous Government announced the repeal of the special tax rules for furnished holiday lettings from April 2010 for UK and EEA lettings. This would have meant that the income and losses would have been taxed and relieved under the tax rules applying to property businesses.

**2.6** The Government has listened to the views of businesses and the tourism industry and has decided not to proceed with the previous Government's proposal to repeal the special rules for furnished holiday lettings.

**2.7** The Government has rejected a repeal of the special tax rules for furnished holiday lettings rules because of the adverse affect this would have on UK businesses and the tourism industry. However, the Government has also decided that it would not be fiscally responsible simply to extend the current tax rules to properties situated elsewhere in the EEA, without other changes. That is why it proposes to introduce changes to the qualifying conditions to ensure that properties that are let as a commercial or full-time furnished holiday lettings business will continue to benefit from the favourable tax treatment.

**2.8** This consultation looks at proposals to change the special tax rules for furnished holiday lettings. The proposals balance the need to:

- make sure the rules meet our obligations under EU law;
- continue to provide support to commercial businesses; and
- ensure that the changes are affordable.

# 3

## The Government's Proposal

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**3.1** The Government proposes to change the current rules so that:

- Furnished holiday lettings **in both the UK and EEA** are eligible to qualify as qualifying furnished holiday lettings within the special tax rules;
- The minimum period over which a qualifying property must be **available for letting** to the public in the relevant period is increased **from 140 days to 210 days in a year**;
- The minimum period over which a qualifying property is **actually let** to the public in the relevant period is increased **from 70 days to 105 days in a year**;
- **Losses** made in a qualifying UK or EEA furnished holiday lettings business may only be set against income from **the same furnished holiday lettings business**.

**3.2** For companies, the proposed changes would take effect for accounting periods beginning on or after 1 April 2011. For individuals, the rules would apply for the 2011-12 tax year onwards.

**3.3** Throughout this proposal the term 'business' refers to a business carried on by any person, whether individual, company or other.

### Taxation of EEA and UK furnished holiday lettings businesses

**3.4** Property businesses in the UK and the EEA are treated as separate businesses. A UK property business consists of every business a person carries on that produces income from land in the UK. Every business a person carries on that produces income from land outside the UK is treated as part of a person's overseas property business.

**3.5** Profits or losses of an overseas property business are not combined with the profits or losses of a UK property business. A UK property business can include commercial lettings of furnished holiday accommodation and, if so, separate calculations are made of the profits from the furnished holiday lettings.

**3.6** The same applies to furnished holiday lettings in the EEA. A person's UK furnished holiday lettings business will comprise every commercial letting of furnished holiday accommodation in the UK and a person's EEA furnished holiday lettings business will comprise every commercial letting of furnished holiday accommodation in the EEA. The special rules for a qualifying furnished holiday lettings business will apply to both a UK and an EEA qualifying furnished holiday lettings business.

### Changes in qualifying conditions

**3.7** The proposed changes would reduce the cost of extending the special tax rules to EEA properties.

**3.8** The increase in the minimum period over which a property must be available for letting to the public aims to balance the need not to penalise UK businesses with the need to ensure that

the rules are better targeted at those who run furnished holiday lettings as commercial businesses.

**3.9** The increase in the minimum periods over which the property is both available for letting and actually let to the public, from 140 days to 210 days and from 70 days to 105 days respectively, reflects the changes in the tourism industry since the furnished holiday lettings rules were introduced in 1984. The letting season has widened and allows for commercial letting throughout more of the year, with variation in school holiday periods, the peak summer season alone has expanded and more letting is seen over the Christmas and Easter periods. The existing 70 day limit is no longer in line with the modern tourist industry.

**3.10** The other qualifying conditions would not change.

### Questions:

- 1 How would increasing the minimum period over which a property is available for letting from 140 to 210 days impact on businesses?
- 2 Would the increase in the minimum availability period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:
  - the furnished holiday lettings industry that continued to operate; and
  - the tourism industry as a whole?
- 3 How would increasing the minimum period over which a property is actually let to the public from 70 to 105 days impact on businesses?
- 4 Would the increase in the minimum occupancy period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:
  - the furnished holiday lettings industry that continued to operate; and
  - the tourism industry as a whole?
- 5 Is the proposal likely to impact differently in different regions of the UK or the EEA, for example because of differences in letting patterns or the length of the tourism season? If so, what evidence is there to suggest a regional or national variation?

## Changes in the use of losses

**3.11** Under the current rules a loss arising from a qualifying furnished holiday lettings business is treated as a trading loss and may be set against other profits, income or gains.

**3.12** To maintain the affordability of the special tax rules for furnished holiday lettings when extended to the EEA, the Government proposes that:

- a loss from a UK qualifying furnished holiday lettings business should only be available to set against future profits from that UK qualifying furnished holiday lettings business.
- a loss from an EEA qualifying furnished holiday lettings business should only be available to set against future profits from that EEA qualifying furnished holiday lettings business.

### Questions

- 6 What would be the impact of the proposed restriction to loss relief on qualifying furnished holiday lettings businesses? What proportion of businesses would be affected by this restriction? What types of business would be most affected? What

would the commercial impact on the businesses be? Would this be due to a lack of capacity to use losses against the same qualifying furnished holiday lettings business in the future?

- 7 How should the proposed restrictions to loss relief be implemented? How should losses brought forward be treated for furnished holiday lettings businesses that are no longer qualifying? How should losses brought forward be treated for furnished holiday lettings businesses, some lettings of which are no longer qualifying?

## Capital allowances

**3.13** A qualifying furnished holiday lettings business is eligible for capital allowances on assets for use within that furnished holiday lettings business in accordance with the special tax rules. A furnished holiday lettings business that does not qualify for the special rules is only eligible for capital allowances on any plant or machinery that is not for use in the dwelling house.

**3.14** Under the existing rules, where a furnished holiday lettings business qualifies in one year but not in the next, then strictly a disposal event should arise. This would mean that the disposal value of the plant and machinery on which allowances were being claimed would have to be brought into account to arrive at a balancing adjustment.

**3.15** In practice, where the failure to meet the rules appeared likely to be temporary, HMRC has in the past accepted, on a concessionary basis, that capital allowances could continue for the year in which the qualifying conditions are not met. However following the *Wilkinson* case<sup>1</sup> this concession cannot be continued.

**3.16** The Government wishes to avoid imposing additional administrative burdens on business, which could happen under the current law in cases where a person may qualify for the special tax rules in one year but not the next. It therefore proposes to introduce new rules to address this point.

## Proposed new capital allowances rules

**3.17** One option would be to keep expenditure on plant and machinery for use in a dwelling house in separate capital allowances pools from any other plant or machinery used in the business and to maintain that expenditure as a notional pool or notional pools until the property once again satisfied the qualifying conditions.

**3.18** The notional pool would maintain a record of unrelieved expenditure, additions and any disposal receipts. However, if there were disposals that exceeded the balance in the pool (including any additions), a balancing charge would arise in that year. Any unrelieved balance in the notional pool could be brought into account in the next year the property satisfied the qualifying conditions.

**3.19** This could require complex legislation. However, allowing businesses to maintain a notional pool may be potentially less burdensome than a strict application of the existing rules. These would impose a valuation requirement and balancing adjustment on each occasion that the business qualified or failed to qualify for treatment as a furnished holiday lettings business.

## Questions

- 8 What are the potential commercial impacts of applying the current rules to every person operating furnished holiday letting businesses and bringing in a capital

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<sup>1</sup> R v HM Commissioners of Inland Revenue ex parte Wilkinson [2005] UKHL 30

allowance disposal event every time they failed to qualify under the new qualifying conditions?

- 9 What effect would the proposed treatment of notional pools be likely to have on the administrative burden placed on a business that:
  - continually operates as a furnished holiday letting under the new conditions; and
  - sometimes qualified as a furnished holiday letting under the new conditions?

**3.20** The Government welcomes comments on the proposed new capital allowances rules above, and suggestions on any changes that might overcome the potential difficulties, or more generally provide a simpler approach.

## Summary

**3.21** Following the proposed changes, a qualifying furnished holiday lettings business would:

- be entitled to claim capital allowances on expenditure on assets for use within the holiday property;
- continue to be treated under the existing furnished holiday lettings rules for capital gains and calculating relevant UK earnings for pension purposes; and
- be able to set losses from a qualifying furnished holiday lettings business against income from the same qualifying furnished holiday lettings business.

## Summary of questions

**3.22** The Government is keen to receive general comments on the proposals outlined above, as well as responses to the specific questions listed below:

- 1 How would increasing the minimum period over which a property is available for letting from 140 to 210 days impact on businesses?
- 2 Would the increase in the minimum availability period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:
  - the furnished holiday lettings industry that continued to operate; and
  - the tourism industry as a whole?
- 3 How would increasing the minimum period over which a property is actually let to the public from 70 to 105 days impact on businesses?
- 4 Would the increase in the minimum occupancy period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:
  - the furnished holiday lettings industry that continued to operate; and
  - the tourism industry as a whole?
- 5 Is the proposal likely to impact differently in different regions of the UK or the EEA, for example because of differences in letting patterns or the length of the tourism season? If so, what evidence is there to suggest a regional or national variation?
- 6 What would be the impact of the proposed restriction to loss relief on qualifying furnished holiday lettings businesses? What proportion of businesses would be affected by this restriction? What types of business would be most affected? What



would the commercial impact on the businesses be? Would this be due to a lack of capacity to use losses against the same qualifying furnished holiday lettings business in the future?

- 7 How should the proposed restrictions to loss relief be implemented? How should losses brought forward be treated for furnished holiday lettings businesses that are no longer qualifying? How should losses brought forward be treated for furnished holiday lettings businesses, some lettings of which are no longer qualifying?
- 8 What are the potential commercial impacts of applying the current rules to every person operating furnished holiday letting businesses and bringing in a capital allowance disposal event every time they failed to qualify under the new qualifying conditions?
- 9 What effect would the proposed treatment of notional pools be likely to have on the administrative burden placed on a business that:
  - continually operates as a furnished holiday letting under the new conditions; and
  - sometimes qualified as a furnished holiday letting under the new conditions?



# 4

## Next Steps

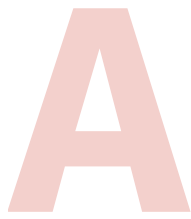
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**4.1** The Government invites interested parties to respond to the consultation by the closing date of 22 October.

**4.2** The intention is to publish the Government response and draft legislation by the end of the year, alongside a more detailed technical paper setting out exactly how the changes will be implemented. This will include details of any transitional rules.

**4.3** The changes will be implemented in the 2011 Finance Act, to take effect from 1 April 2011 for companies and 6 April 2011 for individuals.





# The Code of Practice on Consultation

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**A.1** This consultation process is being conducted in line with the Code of Practice for written consultation which sets down the following criteria:

- Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

**A.2** If you feel that this consultation does not fulfil these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Tax Consultation Coordinator, HMRC

Tel: 020 7147 0062

E-mail: [richard.bowyer@hmrc.gsi.gov.uk](mailto:richard.bowyer@hmrc.gsi.gov.uk)

# B

## Impact Assessment

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## Summary: Intervention & Options

<b>Department /Agency:</b> <b>HM Treasury and HM Revenue and Customs</b>	<b>Title:</b> <b>Impact Assessment of Amending the Furnished Holiday Lettings Rules and Extending to the European Economic Area</b>	
<b>Stage:</b> Consultation	<b>Version:</b> 1	<b>Date:</b> 21 July 2010
<b>Related Publications:</b> Consultation Document - Furnished Holiday Lettings Consultation		

**Available to view or download at:**

[http://www.hm-treasury.gov.uk/consult\\_index.htm](http://www.hm-treasury.gov.uk/consult_index.htm)

**Contact for enquiries:** Charlotte Hopwood

**Telephone:** 020 3300 9104

**What is the problem under consideration? Why is government intervention necessary?**

The furnished holiday lettings legislation is a set of special tax rules for qualifying furnished holiday properties let for short periods. It allows the owners of these properties to treat their business as if it were a trade for certain tax purposes.

The difference in the tax treatment between furnished holiday properties in the UK and in the rest of the European Economic Area (EEA) may not be compliant with European law.

A temporary solution is in place to extend the present rules to all furnished holiday properties in the EEA but a permanent solution is needed.

**What are the policy objectives and the intended effects?**

The policy objectives are:

- to ensure that the tax treatment of those with Furnished Holiday Lettings (FHL) properties within the EEA is the same as the tax treatment of those with FHL properties within the UK;
- to support the role of the tourism industry in our national economy and the employment and enterprise it provides; and
- to ensure that the tax rules for FHLs are appropriately targeted and provides value for money.

What policy options have been considered? Please justify any preferred option.

This consultation concerns the detailed policy design of the preferred option. Doing nothing has been rejected as it may not comply with European law. Abolition has been rejected by the coalition government.

The preferred option is to extend the rules to properties in the EEA at the same time as making the qualifying conditions more focussed and restricting the loss relief rules. This complies with our obligations under European law in a way that is fiscally responsible and aims to better target the benefit at commercial businesses.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?**

HMRC intends to review the policy to establish the actual costs and effects in around three years time. This would follow the receipt of data in the 2011-12 Self Assessment tax returns.

**Ministerial Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:



.....Date: 21 July 2010

## Summary: Analysis & Evidence

<b>Policy Option: 1</b>	<b>Description: Amending the Furnished Holiday Lettings Qualifying Conditions and Loss Relief Rules and Extending to the European Economic Area</b>
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COSTS	ANNUAL COSTS		Description and scale of <b>key monetised costs</b> by ‘main affected groups’  The estimated one-off cost arises because all taxpayers with FHL accommodation will need to familiarise themselves with the change in tax treatment. The annual cost arises from more taxpayers claiming because the rules are extended to the rest of the EEA
	One-off (Transition)	Yrs	
	£ 325,000	1	
	Average Annual Cost (excluding one-off)		
	£ 30,000	5	
		Total Cost (PV)	£ 440,000
Other <b>key non-monetised costs</b> by ‘main affected groups’ None			

BENEFITS	ANNUAL BENEFITS		Description and scale of <b>key monetised benefits</b> by ‘main affected groups’  Taxpayers currently making use of the FHL legislation would have a small reduction in their ongoing compliance costs as their tax calculation would be simpler.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 25,000	5	
		Total Benefit (PV)	£ 100,000
Other <b>key non-monetised benefits</b> by ‘main affected groups’ Ensures the tax treatment of income and gains by businesses letting furnished holiday accommodation is compliant with European law.			

**Key Assumptions/Sensitivities/Risks** Assumed that 75% of the FHL taxpayer population would remain eligible following the tightening of the letting conditions. Comprehensive data on the extent to which corporate bodies currently benefit from the FHL rules is not available. It has been assumed that individuals are the vast majority of the users of the FHL rules.

Price Base Year 2009	Time Period Years 5	<b>Net Benefit Range (NPV)</b> £ -280,000 to 380,000	<b>NET BENEFIT (NPV Best estimate)</b> £ -340,000
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What is the geographic coverage of the policy/option?			EEA	
On what date will the policy be implemented?			6 April 2011	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ No Change	
Does enforcement comply with Hampton principles?			No	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ 0	
What is the value of changes in greenhouse gas emissions?			£ 0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro 50p to £3	Small 50p to £3	Medium N/A	Large N/A
Are any of these organisations exempt?	No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)			(Increase - Decrease)	
Increase of	£ neg	Decrease of	£ neg	<b>Net Impact</b> £ neg

Key:

Annual costs and benefits:

(Net) Present



## Evidence Base (for summary sheets)

### **Background**

The Furnished Holiday Lettings (FHL) legislation applies to taxpayers with property businesses that involve the renting out of qualifying holiday accommodation. Under the existing rules, in order to qualify, during the relevant period, the holiday accommodation must have been:

- available for commercial letting as furnished holiday accommodation to the public for at least 140 days;
- actually let to the public for at least 70 days;
- not let to the same person continuously for more than 31 days, during a period of at least 210 days;
- let with a view to a profit; and
- situated within the UK.

Holiday lettings that do not meet these conditions are usually property businesses and subject to the normal rules for tax on income and capital gains from let property. By contrast the FHL legislation allows taxpayers with property businesses to treat their letting of qualifying UK furnished holiday accommodation as a trading activity for certain specific tax purposes. These include:

- loss relief;
- capital allowances;
- landlords' energy saving allowance (LESA);
- some capital gains reliefs (including roll-over relief and entrepreneurs' relief); and
- pension relief.

This treatment differs from the normal tax treatment of income and gains from let property.

The FHL rules apply to the following taxpayers: individuals and partnerships that are within the charge to income tax and capital gains tax, and companies within the charge to corporation tax. For further details please see <http://www.hmrc.gov.uk/manuals/pimmanual/PIM4100.htm>.

### **The Issue**

The FHL rules provide beneficial treatment to taxpayers renting furnished holiday accommodation in the UK compared to those renting similar properties elsewhere in the EEA. As a result of this discrepancy, the FHL legislation may not comply with European law.

The Government is committed to delivering a fair tax system wherever possible, and recognises that legislation in this area needs to provide clarity and certainty for taxpayers with furnished holiday accommodation and their advisers, while continuing to support the tourism industry in our national economy and the employment it provides.

### **The Situation**

At the 2009 Budget (22 April 2009), the previous Government announced a temporary extension of the present FHL rules to properties elsewhere in the EEA pending complete repeal of the legislation from 6 April 2010 (1 April 2010 for companies). At the 2009 Pre-Budget Report (9 December 2009), HMRC published the following items, and welcomed comments on them from those affected, accountants, and the general public:

- a consultation stage Impact Assessment explaining the anticipated impacts of this change;
- draft legislation to repeal the furnished holiday lettings rules from 2010-11; and
- a Technical Note explaining the full effects of the repeal.

Feedback was provided on these documents, and due consideration has been given to the points raised. Officials also met industry representatives and accounting bodies to discuss the policy and its impacts.

### **The Decision**

Following the general election an announcement was made in the emergency Budget by the coalition Government that the legislation to withdraw the FHL rules would be dropped from Finance Bill 2010. Instead following a consultation process the FHL rules would be amended in a fiscally responsible way that also fulfils the European treaty obligations in regard to the taxation of let holiday accommodation.

This Impact Assessment is being published alongside a consultation document on those proposed amendments to the FHL rules.

### **Policy Objectives and Intended Effects**

The first objective of the proposed change is to ensure that the tax treatment of FHL taxpayers is in line with European law. Retaining tax treatment which may contravene European law creates uncertainty for taxpayers, in addition to the possible consequences of any potential breach of the UK's obligations under European law.

The second objective is to ensure that the FHL rules are fiscally responsible and properly targeted at commercial businesses. The FHL rules provide support to the UK economy and the vital role of the tourism industry to that economy in many of the more rural and less wealthy areas of the UK.

## **The Option**

The Government is obliged to ensure that its legislation does not contravene European law, and is committed to providing certainty of treatment for taxpayers. It is therefore considered unsatisfactory to leave the FHL rules as they are. However given the benefit of this tax treatment to the tourism industry the Government does not wish to repeal the FHL rules and withdraw that measure of support to the industry.

The Government's proposed amendments to the FHL rules are:

- an increase in the number of days that the property must be available for it to meet the 'availability condition' and an increase to the number of days that the property is let in order for it to meet the 'letting condition';
- to restrict loss relief for taxpayers with FHL losses; and
- an extension to all qualifying properties within the EEA that will bring all qualifying FHL accommodation within the FHL rules for the purposes of UK tax.

This amendment to the qualification criteria would mean that both the minimum availability and occupancy levels would be raised. An FHL would have to be available for 210 days in a year rather than 140, and let for 105 days rather than 70. There would be no change regarding the criteria that the taxpayer must carry on the FHL business commercially with a view to a profit, or to the maximum total periods for which the property can be let for "longer term occupation" under the 'pattern of occupation condition'.

The amendments to the loss relief rules would mean that FHL taxpayers would no longer benefit from the same treatment as traders. They would continue to be treated in the same way as a trading business for tax purposes for capital gains, capital allowances, pension relief and LESA only. This option would retain some of the preferential tax treatments available to FHL taxpayers, allowing similar benefits to trading holiday accommodation providers such as hoteliers.

In order to retain some of the existing tax treatments for UK FHL properties, the legislation would need to be extended to include properties situated elsewhere in the EEA.

## **The Impact Summary**

This measure will predominantly impact individuals, this is because the vast majority of FHLs are run by individuals and small businesses rather than companies. The number of companies expected to be impacted is around 500 with a similar number of partnerships, where as around 65,000 individuals are expected to be affected.

The impact of the changes to the loss relief availability may also vary between individuals and companies due to differences in the way that corporates and non-corporates are taxed. We are consulting on the method of restricting loss relief.

## **Data Source**

It has been assumed that, prior to 22 April 2009 (Budget day 2009 when the temporary expansion was announced):

- all individuals with qualifying furnished holiday lettings situated in the UK will have completed the FHL section of their income tax return; and
- all individuals with qualifying furnished holiday lettings situated elsewhere in the EEA will have completed the overseas property income pages of their income tax return.

Following the Budget 2009 announcement, individuals with qualifying furnished holiday lettings situated elsewhere in the EEA, who wish to take advantage of the FHL rules, should have completed the FHL section of their income tax return.

The following table gives estimates of the number of individuals who reported income from furnished holiday lettings, for 2007-08 (prior to any amendments made post 22 April 2009) and for 2008-09. These figures are derived from Self Assessment returns.

### *Number of individuals declaring income on their tax returns*

Year	Furnished Holiday Lettings income
2007/08	60,000
2008/09	65,000

However, subsequent to the announcement of the extension, we identified around 5,000 individuals who have amended the FHL boxes on their return for 2007-08. We have assumed that these amendments can be attributed to those individuals claiming FHL treatment for properties in the EEA.

We have also seen an increase in the amount of FHL income declared for 2007-08 by individuals who had previously declared UK FHL income. We have assumed that this increase can be attributed to individuals with UK FHL income who also have EEA FHL income, and who have claimed FHL treatment for properties in the EEA for the first time. It is more difficult to estimate the number of these individuals.

We do not have access to information on the number of EEA properties that fell within the FHL rules that have not been declared as such because the individual did not view the benefits of the special rules as being worth the additional compliance cost needed to calculate the treatment for a maximum period of 3 years. For instance if the EEA business is currently accounted for with a non qualifying overseas property business the cost of applying the FHL rules may outweigh the commercial benefit seen from the tax advantage over a maximum of 3 years. This is based on the intention announced at Budget 2009 to repeal the rules from 2010/11 onwards. For the purposes of this impact assessment, we have assumed that individuals with an EEA property will have completed the UK Land and Property pages in 2007-08.

Based on the amendment figures for 2007-08 and the increase in individuals claiming FHL treatment in 2008-09 there appear to be around 5,000 new individuals claiming FHL treatment in 2008-09. It is likely that a number of these new individuals claiming FHL treatment in 2008-09 had property in the EEA but it is not possible to identify them definitively. However there are also existing individuals claiming FHL treatment of UK properties who will hold EEA FHL properties as well.

The following table gives estimates of the number of individuals who reported income from furnished holiday lettings for 2008-09. These figures are derived from Self Assessment returns.

### *Number of individuals declaring FHL income on their tax returns in 2008-09*

Furnished Holiday Lettings income	Furnished Holiday Lettings income EEA
65,000	10,000

65,000 individuals reported income from FHL in 2008-09. There is no box on the Self Assessment

return which indicates the location of the property but based on the number of individuals who increased the number of properties reported in 2008-09; compared with 2007-08 prior to the EEA extension; or increased their FHL income by more than the typical average for a property, together with those that amended the FHL boxes on their return in 2007-08 after the extension, it is estimated that around 10,000 individuals have FHL properties in the EEA.

It is also not possible to state conclusively how many individuals have property within the UK but we estimate this number to have remained fairly consistent at around 60,000 with around 5,000 of those individuals owning FHL properties in both the UK and elsewhere in the EEA.

### **Taxpayer Populations**

The FHL rules apply to all taxpayers who supply furnished holiday accommodation which satisfies certain qualifying conditions. The rules do not apply to taxpayers who own furnished holiday accommodation that fails to meet the qualifying conditions during the relevant period. The FHL rules do not apply to hotels, bed and breakfasts, some caravan parks, some holiday parks and other holiday accommodation providers that may qualify as trades in their own right.

The following table gives estimates of the number of individual taxpayers who reported income from furnished holiday lettings in the UK in 2008-09. It also shows the number reporting losses from these sources and those setting FHL losses against other income.

#### *Number of individuals declaring FHL losses on their tax returns*

Number of individuals, 2008-09 tax returns			
Income source	All taxpayers with reported income	Taxpayers with reported losses from income source	Taxpayers setting FHL losses against other income
Furnished holiday lettings	65,000	35,000	20,000
Furnished holiday lettings in the EEA	10,000	5,000	Up to 5,000

E.g. there were 65,000 individuals with FHL income, 35,000 of those made an FHL loss and 20,000 of those set the FHL loss against their income from other sources in the year of the loss.

These figures are derived from Self Assessment returns. Where an individual has income from FHL property in the UK or EEA we are unable to determine the profit or loss made on each property so cannot accurately identify the number of individuals offsetting losses in the UK and EEA. Our best estimate shows that of the 10,000 individuals estimated to be returning EEA FHL properties on their SA returns 5,000 of these individuals are showing losses. We have very little indication on how much of that loss is attributable to EEA properties and how much to UK properties.

Individuals setting their FHL losses against other income tend to have higher incomes than other individuals with FHL income and the population in general. Approximately 20,000 individuals set FHL losses against their other income.

The following table shows estimates of the total income levels of those individuals with income from FHLs, compared with the overall population and the percentage of those individuals offsetting FHL losses against other income.

#### *Percentage of individuals claiming relief for FHL losses against other income on their tax returns*

2008-09 tax returns, percentages				
Total taxable income (annual taxable income after deductions and loss relief).	Overall UK income tax population	All individuals with income from FHL	Individuals with FHL losses offset against total income	Percentage of individuals in income bracket offsetting FHL losses against other income
< £20,000	53%	48%	33%	21%

£20,000 to < £30,000	15%	14%	14%	31%
£30,000 to < £50,000	17%	19%	22%	36%
£50,000 to < £70,000	6%	7%	10%	48%
£70,000 to < £100,000	4%	5%	8%	52%
£100,000 and over	6%	8%	14%	57%

As can be seen from these details, although almost 50% of individuals with FHL income earn less than £20,000 pa, this only reflects 33% of the offset losses used for the whole FHL population. Also 57% of individuals with FHL income earning in excess of £100,000 are setting their FHL losses against other income compared with only 21% of those earning less than £20,000.

As stated above, we are unable to estimate precisely the numbers of companies which would be affected by the FHL legislation. However we believe that fewer than 500 companies would be considered likely to be affected and therefore it is expected that the tax effect would be negligible.

## **Costs and Benefits / Impacts:**

There are three elements to this option, an extension of the furnished holiday lettings rules to all properties in the EEA, a restriction of the FHL loss relief for all FHL taxpayers and an increase in the availability and total lettings limits to meet the qualifying conditions for FHL treatment. These changes would take effect from 2011-12.

### **Compliance Cost and Administrative Burden**

HMRC administrative systems do not collect such a detailed level of data in respect of companies. We are therefore unable to estimate precisely the number of companies that would be affected by the FHL legislation. Companies House records show that 3,000 companies are classified as providing campsites and other short stay accommodation. Not all of those companies identified under this category would be affected by the repeal of the FHL rules. Based on their trade description as well, fewer than 500 companies would be considered likely to be affected therefore the administrative burden impact for companies is considered to be negligible.

HMRC are also aware that with the FHL legislation, there is a crossover in the data provided between individuals and other businesses. The costings below, while predominantly based on individual returns, will also include a number of businesses.

Based on the data available the total number of taxpayers affected; including companies, individuals and other businesses, is estimated to be in the region of 65,000 of which it has been assumed the vast majority are individuals.

There would be a one-off compliance cost for all taxpayers with income or gains from UK or EEA furnished holiday lettings. They would need to become familiar with the revised tax treatment around loss relief and the new qualification criteria applicable from 2011-12.

The revised tax treatment will affect the 65,000 taxpayers with furnished holiday lettings in the UK and EEA. We have assumed an average hourly cost of £20 and 15 minutes for all these 65,000 taxpayers to become familiar with the new guidance following the change in legislation, resulting in an additional one-off increased compliance cost of £325,000. The on-going compliance costs after the amendment would be approximately the same as now. Up to 55,000 taxpayers have income from foreign land and property. Some of these may have FHL properties in the EEA but have not completed the UK Land and Property pages. These taxpayers are not included in the one-off compliance costs.

We do not expect a large proportion of current FHLs to cease meeting the qualification criteria following the changes. The Tourism Alliance suggests that 79% of UK FHLs will remain within the rules. Our aim with this amendment is to bring the rules back into line with current seasonal letting trends which have changed significantly since the FHL rules were introduced in the 1980s. This will target the legislation at dedicated letting businesses. For the taxpayers with properties that do then fall out of the FHL legislation we expect most would fall within the property income rules, but exceptionally there may be some taxpayers that fail to meet the new criteria but may in fact be trading. These taxpayers would need to decide whether they fall within the property income rules or the trading income rules. This decision would depend on the facts. Most taxpayers with FHL income from properties situated elsewhere in the EEA would have made such an assessment recently. They would need to update that assessment but we have assumed this cost would be negligible.

Once the amendment to the qualifying criteria comes into effect there will be an ongoing saving in the compliance costs for taxpayers who no longer qualify for furnished holiday letting treatment. Given the small anticipated number of these the greater impact will be seen on those that may still qualify. Under the amended legislation they will no longer be entitled to loss relief against other income so they would benefit from having a simplified tax calculation.

Currently 20,000 taxpayers set furnished holiday letting losses against other sources of income and they would no longer be required to calculate this set off. However, a proportion of these will no longer qualify for FHL treatment under the new rules. Assuming the same proportion as for the

whole population remain eligible and an average hourly cost of £20 per hour and a 5 minute saving for the loss relief calculation, the result is in an ongoing reduction in the compliance costs of £25,000.

There would also be an ongoing increase in compliance costs for all taxpayers with furnished holiday letting income in the EEA, as they would now have an increased capital allowances calculation and would have to keep separate records of their furnished holiday letting income and other foreign property income. Up to 55,000 taxpayers could be affected, although those incurring expenditure on plant and machinery may be most affected. Assuming a similar proportion of taxpayers claiming capital allowances for UK property we estimate that the number of taxpayers with FHL properties in the EEA could be up to 20,000 who would need to calculate their entitlement to capital allowances. We have assumed an average hourly cost of £20 per hour and a 5 minute increase for the capital allowances calculation, resulting in an on-going increase in the administrative burden of £30,000.

### **Computation of profits**

The way taxpayers with furnished holiday accommodation in the EEA calculate their profits or losses will not change. Taxpayers with furnished holiday accommodation in the EEA will continue to calculate their profits and losses under the property income rules if they are brought within the rules for FHLs. Any taxpayers with UK furnished holiday accommodation that no longer qualifies under the new FHL criteria will also continue to calculate their profits in line with the property income rules and would still be able to claim business expenses (such as mortgage interest, rates, utilities and employees' wages) as a deduction against their taxable income, in the same way as they do now.

### **Impact on Tax Revenues**

#### *Extension to the EEA*

We estimate that a permanent extension of the existing rules to properties situated elsewhere in the EEA would result in an overall impact of approximately a £15 million reduction due in UK tax in 2011-12, with expected further reductions of £5 million in 2012-13 and £5 million in 2013-14.

#### *Amendment of qualifying conditions*

We estimate that an increase in the number of days the property must be available and let for to meet the qualification criteria would result in approximately 25% of FHLs no longer qualifying for treatment under the special rules and an overall impact of approximately £10 million due in additional UK tax, with the possibility of subsequent reductions due to corresponding behavioural changes.

#### *Amendment of loss relief rules*

Whilst the amendments to the FHL rules would change the way in which FHL losses can be used, loss relief would still be available. Losses incurred on an FHL will still be able to be carried forward against future profits. We estimate that by restricting the FHL loss relief rules the overall impact would be approximately £15 million due in additional tax based on the FHLs that remain eligible under the modified qualifying criteria. The further impact of withdrawing relief for FHL losses against other income for FHLs based elsewhere in the EEA would be approximately £10m for those that remain eligible.

#### *Capital Allowances*

We estimate that the overall impact of replacing the wear and tear allowance with capital allowances for furnished holiday accommodation in the EEA would be a £5 million increase in UK tax due in the short term. However it is possible that the availability of capital allowances could cause a behavioural shift, resulting in a higher cost.

### **LESA**

The Landlords' Energy Savings Allowance (LESA) allows taxpayers with property income from residential properties to claim a tax deduction for capital expenditure on certain energy saving improvements to their properties. LESA is available to landlords of UK and overseas properties, but



not FHL properties. After the extension, taxpayers with EEA FHLs would not be able to claim the LESA. We estimate the tax effect of this change will be negligible.

### *Capital Gains*

An extension of the FHL rules to the EEA will allow taxpayers disposing of assets used within an EEA FHL business to claim various capital gains reliefs under the FHL rules.

- Entrepreneurs' relief,
- Roll-over relief on the replacement of business assets,
- Relief for gifts of business assets,
- Relief for loans to traders,
- Exemptions for disposals of shares by companies with substantial shareholdings.

HMRC administrative systems do not collect such a detailed level of data in respect of capital gains. We are therefore unable to estimate the numbers of taxpayers that would be affected by extending the FHL legislation. In 2008-09 there were 5,000 individuals with income from overseas property and capital gains on disposals of property and other assets. Not all of these gains would be attributable to EEA FHL assets: only gains relating to EEA FHL assets would be affected by an extension of the FHL rules.

Given the number of gains declared by those with overseas property income businesses, it has been assumed that the consequences to Exchequer yield over the next 5 years would be negligible. We anticipate that there will be decreased yield from chargeable gains in the longer term, but we do not hold sufficient information to produce a robust estimate of this decrease.

### **Total impact on tax**

We estimate that the cost to the Exchequer of the UK FHL rules before the extension to the EEA was approximately £30m per year. The total impact of the proposed changes to the FHL regime reduces the cost to the Exchequer to approximately £10m per year.

## **Tourism**

According to the UK Tourism Survey statistics, the domestic tourism industry was worth £21.8 billion to the UK economy in 2009. The self-catering accommodation sector is a growing sector of the UK holiday market generating £2.2 billion of UK domestic holiday expenditure. Holiday travel using self-catering accommodation increased by over 20 per cent in the 2009 summer period compared to the previous year.

Analysis by the Tourism Alliance shows that £1.1 billion is spent by self-catering businesses and their visitors in local economies in local pubs, restaurants and attractions. In addition, analysis carried out separately by The British Holiday & Home Parks Association of static caravans and holiday parks indicates that caravan holiday homes account for a further 8 per cent of all tourist bed nights in the UK and £1.136 billion in domestic tourism expenditure. Therefore, tourists staying in self-catered holiday accommodation account for almost £2 billion in domestic tourism expenditure.

The UK has a vibrant tourism industry and the changes proposed to the FHL rules are aimed at protecting this industry in the UK while ensuring compliance with EU legislation.

Firstly the tourism industry have stated that they see capital allowances and the capital gains roll-over relief and entrepreneurs' reliefs as the most important of the FHL reliefs. As a result these reliefs are among those that have been retained in the new proposed rules. We believe most FHL properties will continue to benefit from these reliefs that the tourism industry has identified as key. For a commercial letting it is not anticipated that the changes made to the loss relief rules will have a major impact on their fundamental business. A commercial business is carried on with a view to making a profit and therefore we would expect that any losses arising to FHL businesses will be used in later years against future profits arising.

Secondly the treatment of whatever furnished holiday accommodation is available is not likely to affect the demand for holiday accommodation in the UK. For this change to materially affect the wider UK tourism industry a significant number of tourists would need to stop using UK holiday accommodation providers. This will only happen if the FHL properties cease to operate completely and their clientele do not transfer to other UK alternatives. Only a few taxpayers are no longer expected to qualify for FHL rules, and the properties likely to fall out of the new rules will be those with shorter periods of rental availability and occupancy. As these taxpayers are those with a lower level of activity the consequential effect on the wider tourism industry if these businesses did cease to operate is expected to be limited.

For the few taxpayers that will no longer qualify for FHL treatment the property income rules would continue to allow relief for expenditure and losses as well as allowing some further reliefs such as LESA and wear and tear allowance. We believe that in most cases, commercially viable furnished holiday accommodation would continue to operate under property income rules. Therefore we do not anticipate that this change will have a material impact upon the furnished holiday accommodation industry.

## **Other**

Taxpayers with FHL properties in the EEA might benefit from higher post tax income.

Increasing the tax payable on the income arising for taxpayers with UK FHL properties gives rise to slightly lower returns on investment which could cause some taxpayers to sell their FHL property or change its use.

The tax distortion between furnished holiday lettings in the UK and EEA would be removed.

In line with the conventions for scoring Budget policy decisions, the costs above are based upon the current estimated levels of FHL ownership. Recent years have seen strong growth in the number of taxpayers owning properties abroad. This trend is likely to continue and could increase further if the FHL rules were extended to include EEA properties on an indefinite basis. Therefore the cost to the exchequer of such an extension to the FHL rules would be expected to rise.

The cost to HMRC of ensuring compliance with the rules elsewhere in the EEA is likely to be more significant than ensuring compliance within the UK alone.

## **Summary of costs**

We estimate that there will be:

- a one off compliance cost of £325,000
- a net £5,000 increase in ongoing compliance costs
- a reduced cost to the Exchequer of approximately £10m per year

## **Administrative burden**

The admin burden figures are concerned with the effects of policy changes on businesses. These are defined in the Standard Cost Model as; incorporated companies, self-employed persons, partnerships and trusts. It does not cover other individuals, charities or the public sector. In this case although businesses will be affected the change also impacts on some individuals. The admin Burdens produced on page 2 solely reflect the impact on businesses and are considered negligible. Other data supplied in the IA outlines the costs and benefits for both individuals and other Businesses.

## **Implementation plan**

The changes will be legislated in Finance Bill 2011. Guidance will be published on the HMRC website. Implementation of the policy will not require additional resources for HMRC.

## **Competition assessment**

Applying the Office of Fair Trading competition filter to the affected sectors to assess the impact of the proposed measure results in the conclusion that an in depth competition assessment is not warranted because the estimated impacts on competition are not significant.

This extension to the EEA may have a small but positive effect on competition. The current FHL rules may result in a distortion faced by UK individuals choosing where to buy a furnished holiday letting property: properties in the UK are made artificially more attractive compared to properties in the rest of the EEA. This change should remove this distortion.

The restriction to the total letting period qualifying criteria may have a greater impact on some more rural locations with a reduced letting season. This will have a small negative impact on competition. However the time limits have been discussed with the Tourism Alliance who deem that the extended limit of fifteen weeks reflect what the industry can support. A proposed minimum of twenty weeks was rejected on these grounds. It is expected that the impact of the restrictions to qualifying criteria will have a negligible impact on competition.

The change will reduce the risk of anti-competitive effects arising because the chance of similar businesses being treated differently based on the location of their property will be removed. The focus on fair and equal treatment supports the principle of fair and vigorous competition. The reform will not have an impact on a taxpayer's capacity to enter the property or other markets but it will help facilitate competition by ensuring that new and existing FHLs are treated equally by removing actual or potential market distortion based on the location of the property.

One objective of the FHL rules was to remove risk of distortion within the holiday accommodation sector. These changes will retain the consistency of treatment for capital gains and capital allowances etc between qualifying furnished holiday accommodation and other types of holiday accommodation that may be treated as a trade on first principles.

## **Small Firms Impact Test**

This change would primarily affect businesses with fewer than 20 employees because businesses letting furnished holiday accommodation tend to be small.

Analysis of tax returns suggests that the vast majority of businesses setting losses arising from furnished holiday lettings against other forms of income are small and therefore all the changes to the FHL rules will apply in the majority to small businesses.

We have listened to the concerns raised by small businesses since the initial proposal to repeal the legislation entirely was announced and we are open to comments on the current proposal to amend the legislation.

## **Diversity**

We have considered carefully the impact on race, disability and gender and have carried out an equality impact assessment initial screening. We have found that some groups will be affected more than others but only insofar as these characteristics are correlated with the incidence of individuals running FHL businesses. As the changes will treat all those with FHL income equally, we have concluded that the measure has no effect on race, disability and gender.

If you disagree with our assessment of the impact of this measure on race, disability and gender we would be grateful to hear from you so that your comments may inform the final impact assessment. Please see below for further information on how to send us your comments.

## **Rural Impacts**

HMRC holds information analysing the location of the owners of let furnished holiday properties but it does not hold information detailing the location of the property itself. We believe that furnished holiday properties are more likely to be located in rural areas.

We also believe that the properties that will no longer qualify under the FHL rules due to the new availability and occupancy limits are likely to be among those in rural areas. This is due to the shorter season in rural locations. However we have no evidence to quantify this and many providers of holiday accommodation in rural areas will be unaffected by this change.

Those taxpayers that are affected will still be able to benefit from a range of reliefs available under the property income rules. Some taxpayers may pay more tax as a result of the change but the impact on continuing, viable furnished holiday property businesses is expected to be limited.

We do not expect this change to materially reduce the overall number of holiday accommodation bed-spaces in rural areas and this change is unlikely to affect demand for holiday accommodation in rural areas. Therefore we do not anticipate that this change will have a material impact upon the wider tourism industry in rural areas.

## **Other Impact Tests**

Other impact assessments were undertaken and found that the changes should have no significant impact on legal aid or sustainable development. Assessments for carbon or environmental impacts or health impacts concluded that these issues are not applicable.

## **Consultation**

As there were doubts about whether the existing FHL rules complied with EU law, the previous Government acted to equalise the rules as they apply to UK and properties elsewhere in the EEA by implementing a temporary extension. At the same time a proposal was made to repeal the FHL rules completely. This proposal was consulted on publicly along with the alternative proposals of permanently extending the rules to the EEA and restricting loss relief for FHLs. Since the announcement of the initial proposal we have listened to the concerns of the tourism industry and the accountancy profession on the effects of these changes.

The present Government decided not to repeal the legislation but to amend it instead to fulfil European treaty obligations and develop the alternative options raised at the previous consultation.

We have used information provided by the industry to inform this impact assessment.

We would be grateful to hear from you if you have any information which you feel should inform the final impact assessment. Please send your comments, by 22 **October 2010**, to Charlotte Hopwood

at -

HMRC CT & VAT

100 Parliament Street

London

SW1A 2BQ

or email: [holiday-lettings-consultation@hmtreasury.gsi.gov.uk](mailto:holiday-lettings-consultation@hmtreasury.gsi.gov.uk)

We are publishing this impact assessment alongside the consultation document for the proposed amendments to the FHL rules, which has been published on the Treasury website in a separate document, Furnished Holiday Lettings Consultation.

## **Conclusion**

A permanent change to the legislation is required to ensure that the FHL rules comply with European law. The FHL rules provide vital support for the tourist industry but a full extension of the rules to properties in the EEA would not be fiscally responsible or effectively targeted. We have carefully weighed up all the impacts, costs and benefits of this measure and have concluded that restricting the loss relief element of the FHL rules together with realigning the qualifying criteria to better reflect the current seasonality of the tourist industry, would be the most beneficial approach.



## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

### **HM Treasury contacts**

This document can be found in full on our website at:

[hm-treasury.gov.uk](http://hm-treasury.gov.uk)

If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: [public.enquiries@hm-treasury.gov.uk](mailto:public.enquiries@hm-treasury.gov.uk)

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