

Happy glampers

Julie Butler and **Fred Butler** look at the application of the super deduction tax relief to different types of holiday accommodation.

The spring Budget brings in chancellor Rishi Sunak's so-called 'super deduction' tax relief offering the ability to offset 130% of investment in new plant and equipment in the year the spending occurs, for the two years from 1 April 2021 – spending incurred between 1 April 2021 and 31 March 2023. This advantage only applies to companies. Much attention has been placed, for example, on incorporation of part of the farming operation as a result of this tax advantage together with research and development. There could be a move towards protecting the holiday elements of a farming enterprise in a limited company and trying to use the super deduction advantage.

Plant and machinery

Moveable lodges in a holiday operation will qualify as plant and machinery as long as they meet the conditions described in the following paragraphs.

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Guidance is available in HMRC's *Capital Allowances Manual* CA29320. Under CAA 2001, s 23, a caravan qualifies as plant if it does not occupy a fixed site and is regularly moved as part of normal trade usage, even if it is only moved from its summer site to winter quarters. Where the caravan is provided mainly

Key points

- Moveable lodges in a holiday operation will qualify as plant and machinery for super deduction purposes if they meet certain conditions.
- There will be much debate as to what actually qualifies for the allowances but the tax advantages are obvious and potentially one-off.
- When a farm diversifies its operations into commercial holidays, whether it carries on a trade or property business is a question of fact.



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for holiday lettings on a holiday caravan site it is plant whether it is moved or not. Caravans occupying residential sites *do not* qualify for capital allowances. In defining caravans, anything that is treated as a caravan for the purposes of the Caravan Sites and Control of Development Act 1960 qualifies as a caravan for 100% annual investment allowance.

Section 23 does not cover structures that are not moveable, even if these are otherwise identical. For example, a campsite branching out into glamping and which has purchased wooden pods which will be permanently sited and not moveable does not qualify. They do not count as plant and machinery for capital allowances and are specifically excluded from structures and buildings allowance.

There will no doubt be a number of cases over the next few years over various tax aspects of this relatively new activity of glamping which will come under scrutiny. In many cases the structures used in glamping fall somewhere between camping and a static caravan, which leaves scope for a large degree of uncertainty and ambiguity. Especially with the new super deduction for plant and machinery definition and understanding which will be especially important to ensure the 130% relief is obtained.

Property embedded fixtures and fittings

With the spotlight on capital allowances following the spring Budget there will be scrutiny of all potentials (for example, considering 'property embedded fixtures and fittings' which are a specialist element of capital allowances but feature in holiday accommodation). While tax advisers are easily able to identify moveable items (such as desks, chairs, computers and cars) which qualify for capital allowances, they do not always possess the same level of expertise or knowledge of property law and legislation as a property surveyor to identify such items. This means that many qualifying 'immovable' items (such as heating and electrical systems, bathroom facilities, security systems and lifts) are not always considered.

All furnished holiday accommodation contains 'embedded items' of fixtures and fittings that are vital for the holiday let to function (this is entirely separate to the furniture, eg

chattels). In isolation, these embedded items can seem innocuous. However, without them, the property would not and could not function as a commercial holiday let operation.

Tax planning around glamping operations

There is an element of risk with any glamping or holiday accommodation so many would argue it is ideal to place these in the protection of a limited company; this ties into the advantage that can then be taken of the new super deduction capital allowance at 130%. There will be much debate as to what qualifies for the allowance but the tax advantages are obvious and potentially one-off.

Trade or property business

With any farm diversification operation, the question of trade or property business has to be considered. Where the line falls depends on the nature of business. Trade is defined as any 'venture in the nature of trade'. Whether holiday accommodation is a trade depends on the level of services offered. The key is not just for inheritance tax but also for capital allowances.

A property business is where profits from UK land or property are treated, for tax purposes, as arising from a business. Receipt of a rent, however, is a 'rental business' for tax purposes. However, the rental business can include other types of income as well as rents. Rental businesses are generally treated in the tax system as an investment business. With furnished holiday accommodation, the question is, does the farmer meet the rules to be deemed a trade? Such a question must be asked of the operation of glamping – what level of services is the farmer able or willing to provide to be treated as a trade?

Furnished holiday accommodation conditions

These apply if residential accommodation is furnished and let on a commercial basis and meets occupancy conditions as follows:

- the accommodation must be available for letting to the public generally for at least 210 days;
- it must actually have been let for periods totalling at least 105 days; and
- it must not normally be let for longer-term occupation, ie a continuous period of more than 31 days. In any event, any such periods of longer-term occupation must not exceed 155 days.

Commercial means 'let on a commercial basis and with a view to the realisation of profits'. For capital allowances on the moveable equipment and embedded fixtures and fittings to qualify the FHA conditions *must* apply. A result of the Covid-19 lockdown means that some furnished holiday accommodation

has been let out on longer term lets and their eligibility for the super deduction must be carefully checked.

VAT

Holiday accommodation includes any house, flat, chalet, villa, beach hut, tent, caravan, houseboat or any modern form of glamping. Accommodation advertised or held out as suitable for holiday or leisure use is always treated as holiday accommodation. If the business is VAT-registered, it is necessary to account for VAT at the standard rate on any charges regardless of the length of occupation or description of the charges. Off-season letting is exempt provided:

- it is let as residential accommodation;
- it is let for more than 28 days; and
- holiday trade in the area is clearly seasonal.

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From 15 July 2020 the provision of hotel and holiday accommodation, pitch fees for caravan parks and related facilities are provided at the reduced rate of 5%, although from 1 October 2021 to 31 March 2022, it will be 12.5%.

Conclusion

With all this in mind, the chancellor's super deduction may be just what farmers wishing to diversify into the holiday let industry need – subject to careful consideration and professional advice. ●

Author details

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Planning point

If a client who owns a farming business is planning on diversifying into glamping or other forms of holiday lets, they will need to give careful consideration to whether or not the structures they intend to build on site will qualify as plant and machinery for the purposes of the super deduction.

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