FarmTaxBrief

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More good news for UK holiday homes from the VAT desk

Following the good news that UK holiday homes will retain their favourable income tax and capital gains tax (CGT) relief until 5 April 2011 and if the Consultation Document is approved for the years ahead there is more good news in a 'DIY Housebuilders Scheme' which allows input VAT to be reclaimed when a house is built by the owners themselves. A recent VAT case has ruled that holiday homes are not excluded from the effective VAT advantage.

It is advised that all claims for the reclaim of VAT should be accompanied by planning permission, certificate of completion, building plans and all original VAT invoices, bills and credit notes in respect of the holiday home.

A 'holiday home' means a dwelling which cannot lawfully be occupied throughout the year as the owner's principal private residence (for example, because of planning restrictions). HMRC's policy has been to refuse claims under the DIY Housebuilders Scheme for holiday homes, on the grounds that a sale of a completed holiday home by a developer would be a standard-rated supply. However, the First Tier Tribunal held that HMRC had misinterpreted the legislation and that the exclusion from zero-rating of new holiday homes cannot be integrated with the DIY Housebuilders Scheme.

In HMRC Brief 29/10 claims are invited from 'DIY Holiday Homebuilders' with a Certificate of Completion dated not earlier than 16 March 2006 (four years and three months before the Brief was published on 15 June 2010). Claims already made and refused may now be resubmitted (including cases where the Certificate of Completion was issued before 16 March 2006). It should also be noted that HMRC conceded that a claim under the DIY Housebuilders Scheme could include repayment of VAT incurred elsewhere in the EC (in this case, Finnish VAT paid on timber bought from that country).

The Business Brief follows the First Tier Tax Tribunal decision in *Mrs Irene Susan Jennings* [2010] UKFTT 49 (TC). HMRC do now accept that VAT refunds under the DIY Housebuilders Scheme may be claimed in respect of the construction of a new holiday home or the conversion of an existing building into a holiday home. Obviously a refund of VAT is subject to the conditions of the DIY Housebuilders scheme being met.

Clearly all those who have built a holiday home themselves and kept all the paperwork (including VAT invoices!) can go back and reclaim the input VAT and all those planning to build a holiday home and carry out the building work themselves can now reclaim the input VAT provided that they meet all the conditions.

With the Olympics fast approaching and much talk of the 'green' advantages of the UK holiday as opposed to the overseas holiday it is anticipated that a large number of applications for planning permission will be seen in the months ahead.

Entrepreneurs' relief

Much has been written and spoken about the right for the furnished holiday let (FHL) owner to claim entrepreneurs' relief (ER) for capital gains tax (CGT) but there seems little explaining of the practical concept.

To claim ER there must be the sale of the whole or part of the business. A disposal that is of a mere asset and not part of the business does not qualify for ER. If one FHL is owned the concept is simple – the whole of the business has been sold, but what if one FHL is sold from a portfolio of two, three, four or even ten properties? If the FHL does not qualify for ER there is still rollover relief to enjoy.

In the harsh light of day it appears that if a group of FHLs are held it would be logistically difficult to sell in a close timescale and therefore ER will only apply to one or perhaps two FHLs.

Perhaps it can be argued that the revitalised FHL tax rules actually make it more beneficial for just one or a small number of FHLs? With the current VAT advantage of a new build FHL, combined with grant opportunities is it the most tax efficient plan to self build an FHL which is let out and meets the criteria for one year and then sell at a gain?

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