

Farm stay

Julie Butler and Libby James discuss the tax relief options available to farmers and landowners after the furnished holiday lets relief ends in April 2025.

The furnished holiday let (FHL) will lose its tax advantage from April 2025. It is therefore key to see what tax planning can be undertaken before 5 April 2025. It is also important to consider the arguments of those who are lobbying for the tax reliefs to stay, which includes the provision of trade for local industries (shops, pubs, restaurants etc) that FHLs can bring. Despite what some of the business property relief (BPR) tribunals argue, FHLs often require a lot of work (especially farms with vibrant tourist offerings) and therefore their contribution to the provision of local employment is also valued.

One obvious direction is for farmers to continue to develop the overall farm tourist opportunities of camping, glamping and non-cottage staycations such as timber lodges and other mobile accommodation. The agri-tourism industry continues to grow. This growth has been supported by recent changes to permitted development rights (PDR), which have extended the duration a pop-up campsite can operate from 28 days to 60 days.

There are strong arguments that, with the government's reported positive approach to planning permission, this should be extended to these 'farm tourism' operations. While those customers wanting to rent a beautifully located, comfortable cottage might not see this as a viable alternative, the industry is growing and there is definitely a window of opportunity for all farmers and landowners. So, let's look at the tax advantages (and pitfalls).

VAT, loan interest and pension

All holiday accommodation is subject to standard rated VAT irrespective of the FHL losing business status. There can be advantages here. Progressing the farm tourist offering/campsite will take a lot of construction which means that there will be a lot of associated input VAT to claim back – this

Key points

- The furnished holiday let will lose its tax advantage from April 2025.
- There is a window of opportunity for farmers and landowners to plan ahead for tax advantages and pitfalls should they move into the 'agri tourism' world.
- Some decisions have to be made now as to selling, planning permission and suitability.
- Business plans with tax relief planning will be essential.



© Getty Images/Stockphoto

should be provided in the business plans. The problem with property lets is they cannot be supported by tax allowable loans and FHLs will no longer count as relevant UK earnings for personal pension plans. There is good news for farmers needing to borrow to obtain the finance to build the moveable farm staycation options – the interest should achieve tax allowability but the exact wording of legislation and guidance should be analysed to confirm in respect of their particular proposal.

Capital allowances and business plans

There will be lots of opportunities for 'camping pods' to show their strength (See 'Capital pods', *Taxation*, 30 May 2024). As shown by the recent *Acorn Ventures* case, capital pods that are not 'fixed' to the ground or are 'part fixed' can qualify for annual investment allowance (AIA). The tax reliefs from the AIAs could be very attractive and this possibility highlights that business plans with tax relief planning will be essential. It can also merge with the other tourist offerings. There are companies such as 'Pitch up' that market campsites and glamping so working with them to establish income streams could be beneficial. The commission deduction is in the region of 15% but this option has proved cost effective for many developing farm tourist offerings.

CGT – lead time and the window

It could be that the farmer's project of agri-tourism growth is funded from the sale of an FHL (or two!). There is a lead time in obtaining planning permission but, for CGT, there is a window up to 5 April 2025 to achieve the business CGT reliefs on the sale with anti-forestalling rules to cope with. Some decisions have to be made now as to selling, planning permission and suitability. It won't necessarily be in that order as all the actions are interrelated but the most time-dependent issue is the CGT given the potential impact of the Budget on 30 October.

If the FHL property is sold by 5 April 2025, then rollover relief can be taken advantage of and here is the 'jewel in the

crown': the gain on the FHLs can be rolled over into the set up of the farm mobile staycation where the assets purchased qualify for rollover for CGT.

We have already considered the tax advantage of AIAs and if rollover relief is to be used then the qualification has to be considered. If rollover relief survives the Budget and the sale is achieved by 5 April 2025 there is currently 36 months to develop the new operation and ensure rollover qualification. Camping pods that are fixed (unlike those used as an example in the context of capital allowances) could qualify for rollover relief provided the correct conditions are met. Also, the newly updated permitted development rights (PDR) for the conversion of farm buildings could be taken advantage of for 'glamping' opportunities rather than FHL cottages. Such ingenious staycation offerings should, if structured correctly, qualify for rollover relief.

Inheritance tax

At a time when FHLs are due to lose their tax advantages, it is noted that there is a case in the tribunal for business property relief (BPR) for inheritance tax (IHT) on the activity. The facts of *D Marks (executor of H Marks) (TC9253)* were as detailed below.

Samuel Marks died in April 2014 and his wife, Hilda Marks, died in October 2015. Samuel's will provided for various pecuniary legacies with the residue of his estate to be held on trust for his wife (the will trust). HMRC conducted a review of the IHT account in respect of a claim for BPR on a holiday let but also for some valuation issues. It later issued negative determinations, against which the executor appealed.

On the BPR point, the tribunal considered the evidence relating to the holiday let business 'extremely limited'. The FTT was of the view that some of the services provided would fall on the 'investment' side of the line, such as steps taken to finding guests, collecting the payments and letting them into the property, as well as redecoration and repairs of the property. While it was noted some expenses may fall on the non-investment side, such as the provision of food, they were not sufficient enough (nor evidenced enough) in the context of the business as a whole to prevent the business from being one mainly of property investment.

This is a useful case to look at to work out the type of vibrant tourist offering needed for BPR to be achieved on the trade of tourism (see 'No way to run a tax system', *Taxation*, 22 August 2024). The tribunal concluded that the executor failed to demonstrate that genuine related services supplied either alone or with investment related services were enough to move the business from being a typical holiday let to a business which was not mainly one of holding investments (IHTA 1984, s 105(3)).

It has been very difficult to win FHL business cases over the last decade. The case of *Graham (the personal representatives of Grace Joyce Graham (deceased)) (TC6536)* is the exception with a 'lavishing' of services well presented and well documented and is a good reminder of services needed. However, the tourism angle would go further. We hope that HMRC will give more guidance on the difference between trading property and investment property in the context of s 105(3). This 'brightline' guidance has been long awaited and it is hoped that there will be some clarity in it for tax practitioners.

Stamp duty land tax

The disposal of the FHA comes with another tax advantage in light of the *Suterwalla* stamp duty land tax (SDLT) tax case (and the *Guerlain-Desai* woodland case). There is scope to put woodland or a paddock with the FHA to ensure that the buyer obtains mixed usage SDLT which can help make for a more attractive sale.

There is literally a 'window' of tax advantage. We await the Budget for clarity, and there are still details to iron out on FHA but the HMRC view is that all the businesses impacted are property businesses going forwards. The anti-forestalling rules shout out that the safe alternative is to achieve the sale completion by 5 April 2025 in full.

Action plan

A clear action plan will vary with the direction the project takes and must be tailor made to each operation, however these are the plan points in broad terms.

1) Planning permission

Most tourist operations will need planning permission contracts with property consultants as to what permission is needed to achieve the goals. Planning permission criteria might impact on decisions and then also the suitability and take time – do not delay!

2) Suitability

The existing farm tourist offering will impact the suitability assessment as will the planning permission and tax planning. If the farm is not allowed to go in a certain direction due to planning permission, that is a clear decision of suitability. Business plans that include the tax advantages and reliefs as well as risk or pitfalls will be very important. Every project has to be tailor-made as agri-tourism will vary from farm to farm.

3) Tax advice

The tax planning is needed at an early stage as there could be very beneficial tax reliefs that would push the business model in a certain direction and we all know how farmers like to save tax and develop entrepreneurial activity so there is a lot for advisers to think about. ●

Author details

Julie Butler FCA FCA is founding director of Butler & Co Alresford Limited. Julie can be contacted by email: j.butler@butler-co.co.uk or tel: 01962 735544.



Libby James ACA CTA is a tax and accounts associate at Butler & Co Alresford Limited. Libby can be contacted by email: Libby.James@butler-co.co.uk.



✓ FIND OUT MORE On [Taxation.co.uk](https://www.taxation.co.uk)

- Readers' forum: Staying within FHL relief rules: [tinyurl.com/4ze83xmd](https://www.tinyurl.com/4ze83xmd)
- Impact on individuals of the changes to FHL tax: [tinyurl.com/mr47acyb](https://www.tinyurl.com/mr47acyb)