



## Time to plan for threat to holiday let tax regime

The tax advantages of furnished holiday lets could be removed, although many questions remain on the government's plans. **Suzie Horne** reports

**F**urnished holiday lets (FHLs) are an integral part of many farm tourism ventures and enjoy favourable tax treatment, provided they meet certain requirements, including their availability and actual occupation by paying customers.

Benefits include capital gains tax (CGT) and possible inheritance tax (IHT) reliefs, as well as capital allowances, pension contribution advantages, and the ability to offset finance costs against business income. The government rationale for doing away with these is that FHLs restrict the availability of rental and open market accommodation to local people.

While an announcement was made in this spring's Budget that the regime is to be abolished with effect from April 2025, the meas-

ure does not appear in the resulting Finance Bill. Instead, there may be a consultation, secondary legislation or the change could be introduced in a subsequent Finance Bill.

This begs the question of timing, including whether the government can legislate this before the general election and, if not, whether the move will survive the election result. The plans could also be watered down.

However, the potential loss of FHL status should prompt some serious thinking and planning, says Julie Butler, of accountant Butler & Co. The options include:

- Continue with holiday lets, despite the risk that the current tax advantages will be removed – this will be the choice for some second home owners but is an unlikely one for farm businesses.

### DEBATE DUE

As *Farmers Weekly* went to press, a short debate on FHL tax was due to take place. No vote would be taken but a government response was due

### WHAT DO PROPOSED FHL TAX CHANGES MEAN?

- It is proposed that from 6 April 2025, furnished holiday lets (FHLs) will lose eligibility for business asset disposal relief (BADR) from capital gains tax (CGT). This reduces CGT to a 10% rate on qualifying capital gains when an FHL is sold or gifted, with an individual lifetime allowance of £1m. This saves couples with no other BADR qualifying assets up to £280,000 of CGT
- Gift holdover relief for FHLs would also be abolished, resulting in tax on individuals who may be considering changing business or retiring and passing assets to successors
- From 6 April 2025, sales of FHLs would be taxed at standard residential property CGT rates, which will be 18% for basic rate taxpayers and

- 24% for those on higher rate tax
- Finance costs such as mortgage interest would no longer be allowable when calculating taxable profits. Instead, tax relief for finance costs will fall under the existing rules for a typical residential let property, which allows tax to be reduced at the basic rate
- Furnished holiday accommodation businesses would lose the ability to claim capital allowances on plant and machinery, as well as furniture and white goods for their properties
- The government is also planning to remove the ability for FHL profits to be counted as net relevant earnings for pension contributions when calculating pension relief, reducing the amount an individual can contribute.



A review of farm holiday lets as part of succession planning is a sensible move, suggest advisers

- Let the accommodation on a "normal" residential tenancy arrangement – in some cases this will involve a change in the planning status of property where the current permissions are for holiday accommodation only – potentially a lengthy process. A realistic budget should be drawn up comparing earnings and profit/losses for both holiday and residential lets, the latter generally being far less demanding than the former.
  - Sell the holiday lets and distribute the cash to children/other family members. However, aside from the tax considerations, selling a residential unit in or close to the farmyard is generally not favoured, because of the loss of control as to who occupies the property.
  - Pass the cottages to children/other family tax-free, with holdover relief from CGT.
  - Sell the holiday cottages and then roll over the cash CGT-free within three years into trading assets – for example, other tourism assets such as glamping sites or farm assets that achieve good tax reliefs, like grain stores, livestock housing, or a new dairy. The rollover can be into any trading asset – it does not have to be farming or tourism-related.
  - Sell the holiday accommodation property and claim business assets disposal relief (BADR), which brings the CGT rate down to 10%. This is an option only where all or part of a business is being disposed of and ceases.
- The considerations for each FHL business situation will be different depending on the circumstances and the drivers of the owners, says Julie, who advises this process can also form





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### BRIGHT SPOT?

An Office of Tax Simplification report in 2022 suggested a "Brightline" test to determine whether holiday letting activities would qualify as a trade.

It was proposed that such a test would give a clear line between a second home and a genuine holiday business, including:

- A minimum number of properties
- Short-term lets only
- No personal use of the let

- The level of owner management time devoted to the operation and the services provided.

This describes a lot of farm holiday accommodation operations, which can merge into a larger tourist operation, says Julie, and gives the government an option to continue giving business reliefs and allowances to holiday accommodation operations that are genuinely trading.

part of a full succession planning review while keeping an eye on any legislative changes.

### Lobbying

There has been considerable opposition to the government's plan to abolish the FHL tax regime, including by organisations representing the general self-catering holiday accommodation sector, as well as specialist operators and bodies such as the Country Land and Business Association.

Julie points out that diversified farm tourism ventures often involve more than simply the accommodation. Services such as farm tours, catering, bike loan or hire, trekking or riding and other activities make the whole offering a package. "It is difficult to separate one element [the FHL] and say that although the cottage is part of a vibrant farm holiday attraction, it's not a business asset but the rest are," she says.

"Also, if it's not a business, then it's a contradiction to charge 20% VAT on the holiday accommodation."

The provision of holiday accommodation is charged at the VAT standard rate of 20%, subject to the VAT threshold, which was raised to £90,000 a year in this year's Budget.

If the proposed FHL tax changes are carried out, this will make it complicated for full holiday and tourism businesses to decide what is the best commercial business structure, especially as guidance has yet to be issued.

### Inheritance tax

"Ironically, if the choice is made to move from providing holiday accommodation to simply letting out property on the general residential accommodation market, this could lead to more chance of achieving business property relief from IHT as part of the whole."

### WHAT IS AN FHL?

A furnished holiday let (FHL) has a statutory definition. To qualify, the property must meet the following criteria:

- It must be let on a short-term basis to make a profit
- Must be available as a commercial holiday let for at least 210 days (30 weeks) a year
- It cannot be let by one customer for more than 31 consecutive days, or for more than 155 days (22 weeks) in one year. A year is normally a tax year
- The property must be commercially let for at least 105 days (15 weeks) of the year. When more than one furnished holiday letting is run, an averaging election or period of grace election can be used to help meet this criteria
- The let must be actively marketed and promoted
- It must be in the UK or the European Economic Area and furnished appropriately for daily use

### Capital gains

If the government's FHL plans come to fruition, from 6 April 2025 the sale of farm holiday accommodation will be taxed at the standard residential property CGT rate of 18% for basic rate taxpayers and 24% for those on higher rate tax. Until then, they enjoy BADR, giving a 10% CGT rate for qualifying assets.

The 24% rate is a reduction from 28% and, along with the FHL move, designed to encourage more sales of residential property onto the market, including second homes.

### Losses and capital allowances

Guidance is also awaited on how losses carried forward would be treated, along with capital allowances and written down values when the FHL cut-off will occur part way through that writing down process.

### Incorporation

Moving properties into a limited company structure is an option for some FHL property owners, says Julie, as this would allow full interest relief against earnings.

However, incorporation needs to be carefully thought through, as it may also give rise to CGT and stamp duty land tax charges.

### Detail awaited

Guidance is also awaited on what is known as an anti-forestalling rule to prevent abuse of the current CGT reliefs – for example, by agreeing sales through unconditional contracts in the run-up to the proposed abolition of the FHL regime but which fail to complete before 6 April 2025. ■