



CHARTERED CERTIFIED ACCOUNTANTS

TAX TIPS & NEWS

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Welcome...

To May's Tax Tips & News, our newsletter designed to bring you tax tips and news to keep you one step ahead of the taxman.

If you need further assistance just let us know or you can send us a question for our [Question and Answer Corner](#).

We are committed to ensuring all our clients don't pay a penny more in tax than is necessary.

Please contact us for advice in your own specific circumstances. **We're here to help!**

May 2010

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Furnished Holiday Lettings Saved!

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For the last 12 months we have been warning you that the favourable tax concessions for furnished holiday lettings (FHL), would end on 6 April 2010.

The legislation to change these tax rules was included in the 2010 Finance Bill. However, as part of the horse-trading at the end of Parliament before the General Election, the repeal of the FHL rules was dropped from the Finance Bill before it became the 2010 Finance Act on 8 April 2010.

The FHL rules remain in place for the time being. If Labour regain power on 6 May 2010, the FHL rules could be abolished, possibly from 6 April 2010. However, if it is someone else that draws support from rural areas who gains control on 6 May, it is less likely that the FHL rules will be abolished in the foreseeable future.

The FHL rules can be used by any individual, partnership or company who lets property located anywhere in the UK or in any EEA member state.

The property must also comply with all of the following conditions:

- It is let out as furnished holiday accommodation for at least 70 days a year;
- It is available for commercial letting for at least 140 days per year; and
- It is not let for a continuous period of more than 31 days to the same tenant in seven months of the year, and those seven months include the periods in which it is actually let as holiday accommodation. Those seven months do not have to be a continuous period.

'Holiday accommodation' means letting to the general public for periods which do not normally exceed a month, but this can include letting to business people for short periods as well as to tourists.

If the property qualifies under the FHL rules the letting business is treated as a trade for most income tax and capital gains tax reliefs. This means the following tax advantages apply:

- Losses from the FHL business can be set against other income of the same year.
- The FHL income qualifies as earnings for pension contributions.
- Any capital gain made on the disposal of a FHL property can be:
 - reduced by entrepreneurs' relief; or

- deferred by purchasing another FHL property or a different business asset; or
- deferred if the FHL property is given away or sold at below market value.

The FHL property may also be exempt from inheritance tax if the owner takes an active part in the FHL business.

New Penalties for late PAYE

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From this current tax year the Taxman can impose penalties if you are late in paying over the payroll and CIS deductions you make in the tax year. 'Late' in this context means the payment reaches the Tax Office after the 19th of each month, (or 22nd when paying electronically).

Until now the Taxman did not impose penalties or interest on small employers if all the payroll deductions for the year reached him by 19th April (or 22nd) after the end of the tax year. Large employers (those with more than 250 employees) have been subject to surcharges for late payment for some years, as they have been obliged to pay over all deductions electronically.

Those surcharges for large employers have been scrapped and all employers are now subject to the same penalties. However, small employers do not have to pay over their deductions electronically.

The penalty will be based on the total amount of deductions paid late for the tax year and will be calculated based on the number of times payments are late in a tax year as follows ...

- Late once – no penalty
- Late 2 to 4 times – 1% penalty
- Late 5 to 7 times – 2% penalty
- Late 8 to 10 times – 3% penalty
- Late 11 or more times – 4% penalty

The penalty applies to the total amount that is late in the tax year (ignoring the first late payment in that tax year).

If any payment is made more than six months late a further 5% charge is added to the above penalties. Where the payment is over 12 months late another 5% penalty charge is added.

However, these penalties **cannot be imposed automatically** as at present the Taxman does not know how much PAYE etc you should be paying over month on month. Although, when the Taxman inspects your PAYE records and it is apparent that you been late in paying over your payroll deductions, he has every right to impose these heavy penalties for late payment.

Commercial Property Losses

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Normally a loss arising from letting of commercial or residential property, can only be carried forward to set against profits from that same property business, (see above for different treatment for losses from furnished holiday lettings). However, where part of the loss has been **generated by the deduction of capital allowances**, that part of the loss is available to set against the owner's other income in the **same tax year**.

A capital allowance generated loss is very unlikely to arise in connection with letting residential property as capital allowances cannot be claimed for equipment used in residential properties, but such allowances can be claimed for equipment or integral features used in or attached to commercial properties. Improvements to commercial properties made since 6 April 2008, such as new lighting or air-conditioning systems are classified as integral features, and thus qualify for capital allowances.

All integral features and other plant and equipment that qualify for capital allowances can fall within the Annual Investment Allowance (AIA), which gives a 100% deduction in the year the cost is incurred. The AIA is capped at £50,000 per year for expenditure incurred before 6 April 2010, but that cap is

doubled for expenditure incurred on or after that date. The capital allowance generated loss from a let commercial property could be considerable where there has been high expenditure on items that qualify as plant, machinery or integral features.

Do be aware that losses made after 24 March 2010 may be barred from being set-off against other income if there was a plan in place to deliberately avoid tax by generating those losses.

New VAT Partial Exemption Rules

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Some VAT registered businesses make sales that are exempt from VAT as well as sales that are subject to VAT at the standard, lower or zero rate. For example, estate agents receive commission on selling houses (VAT at standard rate), and commission on selling financial products (exempt from VAT). Such businesses are referred to as partially exempt as they can only reclaim the VAT on that part of their purchases (input VAT) which relates to the VAT-bearing sales.

Working out how much VAT such a partially exempt business can reclaim can be complex, particularly if the VAT-exempt sales are a small part of the whole business. In this case the VATman does allow the business to reclaim all of their input VAT if it can pass one of three tests (called the de-minimis tests). Before 1 April 2010 there was only one test:

The input VAT relating to exempt sales is less than:

- £625 per month on average; and
- 50% of the total input tax.

For VAT periods starting on and after 1 April 2010 there are two additional optional tests. If the business can answer 'yes' to both parts of either test 1 or test 2, the business passes the de-minimis test, and can reclaim all its VAT for the quarter. However, it must also check the figures for the full year.

Test 1

- Is the total input tax less than £625 per month on average; and
- Is the exempt income less than 50% of the total sales?

Test 2

- Is the total input VAT less exempt input VAT less than £625 per month on average; and
- Is the exempt income less than 50% of the total sales?

Once the business has passed the de-minimis test for a year, the VATman will assume the business will pass the test for the next year, so it can reclaim all its VAT for coming quarters. However, at the end of the year it must check it has passed the de-minimis test for the full year.

Please contact us for advice in this complex area.

May Question and Answer Corner

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Q. I recently sold my 60% share in a trading company that I've been a director of for over 20 years. The sale included ordinary shares that had full voting rights, and preference shares, which had no voting or conversion rights, just the right to a fixed dividend. Can I claim entrepreneurs' relief on the gain arising on both types of shares or just in respect of the gain on the ordinary shares?



A. As you held at least 5% of the ordinary voting shares and were a director of the company for one year up to the date of sale, entrepreneurs' relief should apply. Although the conditions for entrepreneurs' relief refer to ordinary voting shares, the gains arising on both the ordinary shares and

preference shares can be included in your claim for entrepreneurs' relief. If the sale was concluded on or after 6 April 2010 the maximum gain that can be covered by entrepreneurs' relief is £2 million, for sales before this date the maximum gain that can be subject to an entrepreneurs' relief claim is £1 million.

Q. My business is an agency that provides rented holiday accommodation to UK holiday-makers. My commissions are less than the VAT registration threshold, so I am not VAT registered. What contracts and invoices do I need to put in place to avoid charging VAT to either my clients (the landlords) or to the holiday-makers who rent the properties?

A. You want to stay under the VAT threshold, so you need to prove to the VATman that you are an agent working on behalf of the landlords, and are not a re-seller of holiday accommodation. You should have a written agreement with each of the landlords that clearly states that the landlord is the principal who is making a contract with the holiday-maker, and you are their agent. All invoices you issue should show your fees as separate items to the cost of the holiday accommodation. If the holiday-maker pays you for the use of the holiday-let, the bill they pay should clearly show the amount due to the landlord, and the amount due to you as the agent. Ideally the two amounts would be shown on separate invoices.

Q. Now that my top rate of income tax is a whopping 50%, will I get tax relief at that rate if I make charitable donations in this tax year?

A. Yes. If you make donations to charities under the gift aid scheme you will get tax relief at the 50% rate. Your gift is treated as being made after 20% tax has been deducted. When you give £80 the gross amount of the gift is £100. Your personal thresholds for 40% tax and 50% tax are both extended by the gross amount of your donation. For your £80 gift you have an extra £100 of your income taxed at 20% rather than 40%, and an extra £100 of income taxed at 40% rather than 50%. In total you have gained tax relief of 50% (20% +20% +10%) on the £100 gross gift.

May Key Tax Dates

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1 New VAT Scale charges for fuel.

2 Last day for car change notifications in the quarter to 5 April - Use P46 Car.

19 Deadline for Employers' 2009/10 end of year PAYE Returns (P35, P14, P38 & P38A). Penalties for non submission.

19/22 PAYE/NIC and CIS deductions due for month to 5/5/2010.

31 Deadline for copies of P60 to be issued to employees for 2009/10



Need Help?

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Please contact us if we can help you with these or any other tax or accounts matters.



In addition, if there's anyone else who you think would benefit from the newsletter, please forward the email to them or ask them to contact us to be added to the newsletter list.

New Clients Welcome

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If you are not already a client and are interested in becoming one, we would love to come to meet with you to discuss how we can help and provide you with a competitive quote for our services.



All new client consultations are provided free of charge and without obligation.

About Us

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Leavitt Walmsley Associates are based in Cheshire, offering local business owners and individuals a

wide range of services.

All clients receive fixed fee and work delivered on time. Visit our website <http://www.lwaltd.com> for more information.

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