

Driving Facts

Tax news

Furnished Holiday Letting Abroad

With the elections for the European parliament taking place recently, the powers and perception of powers of both the European Parliament and European Commission has hit the headlines with regularity.

There was an announcement during the recent budget of a proposed change to the rules on Furnished Holiday Lettings (FHLs) that brings home just how dominant European law can be. The nature of the changes and a possible window for tax planning will be discussed later, however, the technical note drafted by H M Revenue and Customs (HMRC) of the reason for making the change makes interesting reading.

The gist of the issue is that income from furnished holiday accommodation in the European Economic Area (EU countries plus a couple) cannot benefit from the favourable FHL treatment currently available to UK properties. The UK government considers that our tax rules therefore **may** not be compliant with European Law because this type of differentiation is contra to the idea that everything within the EEA should be treated the same. HMRC has therefore decided it should repeal the FHL rules altogether from 2010-11 to avoid the possible wrath of Brussels.

What are the benefits of FHL's?

Generally, UK property income of individuals and companies, both from furnished and unfurnished lettings, is treated as being from a single rental business. However, to the extent that a business meets the conditions to qualify as FHLs, the income and expenses are treated as if they were generated from a trade. This has many valuable benefits such as being able to claim capital allowances on furniture and greater flexibility of loss utilisation when compared to normal rental income. More importantly, as the assets of the FHL are business assets, potentially the landlord can benefit from Rollover Relief on replacement of assets, can qualify for the new Entrepreneurs' Relief on disposal and, most beneficially perhaps, there is potentially an entitlement to Business Property Relief for Inheritance Tax purposes.

So what has changed?

The FHL tax rules will be repealed from April 2010 so that UK landlords can no longer benefit from this treatment. However, in the interim period, the definition of FHLs is extended beyond UK properties to properties within the European Economic Area and tax payers whose properties did not previously meet the

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definition of FHLs may now qualify. There is also the scope to amend previously submitted computations to bring them in line with these new rules. In addition to tax returns which can still be amended subject to the normal time limits, HMRC have also announced that until 31 July 2009, they will accept late amendments to:

- Personal tax returns for the year ended 5 April 2007.
- Corporation tax returns for periods ending on or after 31 December 2006.

As there is only a short window of opportunity to take advantage of these changes before FHL treatment disappears completely, it is important that you do not delay reviewing your tax situation. Furthermore, it must not be forgotten that the effect of the tax regime in the country in which the property is located may negate any UK tax benefits, so it is important that detailed tax advice be obtained regarding your property interests.

Abolition of £80,000 price cap on company car benefits in kind

As we are now a couple of months into the new regime for capital allowances on cars, not to mention the new rules for banding demonstrator vehicles, the issue of the tax system and cars has been high on the agenda within the motor industry. However, a measure that managed to sneak through last April's budget (budget note 64 out of 93, so most readers even of the interested variety would no doubt be flagging at that point) was the abolition of the £80,000 price cap on the list price for company car benefits from April 2011.

Although this is a measure that only affects a relatively small number of company car users, in certain circumstances its impact will turn out to be quite draconian. For instance, under the new rules a company vehicle with a list price, including accessories, of say £150,000 and emitting in excess of 235 g/km in CO2 emissions would generate a benefit in kind at 35% of the list price i.e. a taxable car benefit of £52,500 and company class 1A National Insurance Contributions of £6,720. Under the existing rules the benefit in kind would be restricted to £28,000 and the class 1A National Insurance Contributions would go down to £3,584, a big difference.



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A possible solution?

For anybody with a very expensive vehicle in the company being used for private mileage, there is potentially a huge tax saving in extracting the vehicle from the business and into personal ownership, both in personal tax and corporation tax terms. Firstly, using the figures above as an illustration, there is an immediate elimination of the taxable benefit of £52,500 per annum and potentially a fuel benefit of £5,915 and secondly there is a class 1A National Insurance Contributions reduction to the company of £6,720. Of course, it is not just employees with cars costing over £80,000 who may wish to avoid a benefit in kind charge and the following strategies may also be useful to them.

What are the tax effects of extracting the vehicle?

There are basically two ways in which the vehicle could be extracted into personal ownership. Firstly, the vehicle could be purchased from the company at its current market value. There would be no personal tax cost in this instance, although obviously the funds to purchase the vehicle need to be available. If we continue with the figures from the example and assume that the vehicle in question, with a cost of £150,000 was acquired say four years ago, it is not too unrealistic in the current climate for the vehicle to lose up to two thirds of its value, thereby giving us a market value of £50,000. From the company's perspective, under the capital allowances regime for existing expensive cars, a balancing allowance will be triggered, equivalent to the difference between the original cost of the vehicle and the sales proceeds it receives on the extraction, in this case £50,000. This would entitle the company to writing down and balancing allowances of £100,000, i.e. the difference between the cost of £150,000 and the market value proceeds received of £50,000.

Alternatively, the vehicle could be gifted by the company. The recipient would then be charged to a one off benefit in kind equivalent to the market value of the vehicle and the company would again be entitled to a balancing allowance. From our example, the one off benefit in kind would amount to £50,000 and the allowances for the company would be £150,000 as no proceeds are received.

With the vehicle now in personal ownership, the future fuel costs could either be paid for by the company, giving rise to a taxable benefit on the cost of the private fuel, or alternatively, all the fuel could be paid for personally and business mileage reclaimed at the HMRC approved mileage rates, currently 40p per mile for the first 10,000 and 25p thereafter. Although the

cost of personally funding vehicle running expenses would likely be higher than the fuel benefit charge, the annual tax savings with the elimination of the car benefit would almost certainly more than compensate for this.

The figures used in this example have been chosen to illustrate the tax impact of removing the £80,000 cap on company car benefits and the positive tax effect of extracting the vehicle. However, the steep falls in second hand values of the more expensive cars is not just applicable to the Bentleys and Porsches of this world, but are also impacting on more modestly priced vehicles. With market values being low, the cost of extraction is also low, but the balancing allowance for the company is high.

Although the removal of the company car cap is not due to be introduced until April 2011, the new capital allowances regime for cars is already with us, which removes the entitlement to balancing allowances on a vehicle by vehicle basis in favour of pooling expensive cars and giving an annual writing down allowance of 10% per annum on higher emissions cars. These new rules apply to cars purchased from 1 April onwards for corporation tax purposes and 6 April for personal tax so if the vehicle you wish to extract falls within these new rules, the business will no longer see the same capital allowance benefits on extraction of the vehicle. The benefit in kind savings will obviously remain the same.

And finally again...

Advisory Fuel Rates for Company cars

The previous edition of tax news commented on HMRCs quick response to falling oil prices with their reduction in advisory fuel rates for company cars. The reduction in the rates has continued and revised rates will take effect from 1 July 2009. As with the January changes, HMRC are happy for the new rates to be implemented immediately where employers are able and wish to do so.

Engine size	Petrol	Diesel	LPG
Up to 1400cc	10p (10p)	10p (11p)	7p (7p)
1401 to 2000cc	12p (12p)	10p (11p)	8p (9p)
Over 2000cc	18p (17p)	13p (14p)	12p (12p)

Petrol hybrid cars are treated as petrol cars for this purpose and these fuel rates apply whether you claim mileage allowance for business use or repay the company for private mileage.

If you have any queries on any of the subjects covered in this newsletter or on any tax or company secretarial matters please email us at taxteam@trevorjones.uk.com or call our helpline on 0161 493 1930.

These articles are of a general nature and specific advice should be obtained before they are acted upon.



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