

21 October 2010

Jacqueline Latter
Personal Tax Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Dear Ms Latter

Re: Furnished Holiday Lettings Consultation

Thank you for the opportunity to respond to this consultation.

Tourism South East is the tourist board for the South East of England. We represent 5000 tourism businesses, fifty five local authorities and six Area Tourism Partnerships. A large number of our members are self-catering businesses and holiday parks. Many of our destinations are rural/coastal areas and are dependent on a thriving self-catering sector. The following comments are made on behalf of these businesses and destinations.

1. Introduction

1.1 The self catering holiday market in the UK is a vital component of the wider industry which is estimated to have been worth £115bn to the UK economy in 2009 according to a recent study conducted by Deloitte for VisitBritain. The Tourism Alliance estimates that the self-catering sector accounts for 12.4% of all visitor nights and 12.9% of all tourism revenue.

1.2 HM Treasury has estimated that 60,000 self-catering businesses across the country could be affected by the repeal of the FHL rules.

1.3 According to a Tourism Alliance research paper published in 2009¹ the consequences would be a reduction in the number of new entrants to the market and a reduction in investment in improvements to existing properties. These consequences would be seriously detrimental to the wider tourism sector in the South East and beyond.

1.4 A study conducted by Tourism South East² in 2005 established that there is already a shortage in supply of self catering properties in the region. There is also a constant need to regularly upgrade and replace facilities to maintain high levels of quality. The impact of a large reduction in new entrants to the market and a corresponding reduction in ongoing improvements to the existing product would seriously impact on the self catering sector's long term potential for growth.

¹ Financial Impact of FHL Rules Repeal. Tourism Alliance. 30/11/2009

² Self catering sector study. Tourism South East. 2005

1.5 It was for these reasons that we were so concerned when the original announcement was made that the FHL rules were going to be repealed and that we subsequently supported the reversal in policy in this year's Budget.

1.6 Tourism South East is generally supportive of the Government's proposed changes to the rules with some caveats.

2. Raising the thresholds

2.1 The proposals to extend the period over which a qualifying property must be available for letting and to extend the period in which it is actually let are both generally sensible. We believe that the amended FHL rules should only extend to genuinely commercial enterprises. If the property is genuinely a commercial property then in the vast majority of cases it should be available to let for 210 days in a year and should, in normal circumstances, be able to achieve average occupancy levels of 50% during its opening season.

2.2 There are however instances in which genuinely commercial businesses may not be able to meet these requirements. A common instance would be a property, usually on a holiday park, that is subject to a planning permission requirement that does not allow it to be available for more than a certain number of days each year. Some planning authorities restrict the opening season of holiday parks to as little as 28 weeks each year which would mean that the properties would not meet the 210 day requirement. Some other holiday businesses in the South East offer a FHL product that is not suitable for winter lettings. One such example would be semi-permanent, high quality camping options such as yurts or tipis. If the property is not available to let for 210 days it will also be far more difficult, if not impossible, to let the property for 105 days.

2.3 We suggest that a sensible exemption is put in place to accommodate businesses that operate under these planning restrictions or seasonal impediments. The Tourism Alliance has suggested that 'void periods' could be included in the amended regulations. These void periods could be excluded from the calculations and a pro rata requirement could be set. This could apply to both the requirement to make the property available for 210 days and the requirement to actually let the property for 105 days.

2.4 In addition to the restrictions highlighted above it is also possible that other eventualities could impede the ability of an FHL property to meet the requirements. Market fluctuations could make it impossible for all commercially operated FHL businesses to maintain 50% occupancy levels during the course of one year. Serious accidental or natural damage, such as fire or storm damage could leave a property unavailable for a number of weeks during the peak letting season meaning that it would be impossible to let the property for 105 days within a given year. These possibilities need to be taken in to account. We would recommend that where there is evidence that there are extenuating circumstances that mean the business is struggling to meet the 50%/105 day requirement that a mechanism should be available to temporarily adjust the threshold downward or average it over a number of years.

2.5 In the instance that a FHL property cannot physically be made available for the required amount of time due to accident or natural disaster that the void periods suggested above should be applicable.



3. Restricting the use of loss relief

3.1 We have additional concerns regarding the proposal to enact a rule stating that losses made in a qualifying FHL business may only be set against income from the same FHL business. Many FHL businesses are part of larger ventures such as farms, estates or other leisure/tourism operations that have other commercial activities taking place. The ability to offset FHL losses against other income is often the only way that operators can bring new properties in to the tourism market or renovate dilapidated properties to make them viable businesses.

3.2 If FHL operators were not able to claim loss relief against other activities within their businesses portfolio there would be a detrimental impact on investment in the self catering sector. This is a very serious flaw in the proposals to restructure the FHL rules. The aim of the restructuring the FHL rules is to ensure that only genuinely commercial businesses can qualify. We believe that the new thresholds will achieve this and as such we do not believe that this proposal is necessary.

3.3 However, if HM Treasury does not agree with this assessment then Tourism South East supports the Tourism Alliance's proposal to only allow 'sideways' loss relief in the first four years of that business and that it be available for only one of every four subsequent years to facilitate relief for irregular major refurbishment expenditure to help owners maintain standards and quality of accommodation.

4. Capital Allowance Disposal Events

4.1 The tourism industry is already awash with regulations and legislation that burden operators. It is clear that introducing a requirement to undertake a Capital Allowance Disposal Event each time that a property fails to achieve the FHL thresholds would add to this burden. Tourism South East would therefore urge HM Treasury to construct a mechanism that would allow thresholds to be averaged over a number of years to avoid this becoming an event which creates extra administrative work for tourism businesses on a regular basis.

Tourism South East appreciates the opportunity to comment on this consultation and we hope that our observations have been useful.

If you have any further questions or require any clarification please feel free to contact us using the details provided.

Yours sincerely,

Daniel Humphreys
Policy Officer

