



**HM Revenue  
& Customs**

---

**Furnished Holiday Lettings in the European Economic Area**

---

Technical Note  
22 April 2009

---

<b>Contents</b>		<b>Page</b>
	Introduction	<b>3</b>
Chapter 1	Overview	<b>4</b>
Chapter 2	Claims and Requests for Treatment Under the FHL Rules	<b>7</b>
Chapter 3	Transitional Rules	<b>9</b>

## Introduction

---

Landlords with income from furnished holiday accommodation in the UK are currently treated as if they are trading for certain tax purposes, as long as they satisfy certain tests, under the Furnished Holiday Lettings (FHL) rules.

Landlords with income from furnished holiday accommodation elsewhere in the European Economic Area (EEA) cannot currently qualify for this treatment. They were treated instead in the same way as landlords of other types of overseas property, under the property income rules.

This difference may not be compliant with European law. The Government has decided it should repeal the FHL rules from 2010-11. Until the FHL rules are repealed, HMRC will regard the FHL rules as applying to furnished holiday accommodation elsewhere in the EEA.

This note explains the change in treatment for furnished holiday accommodation in the EEA in more detail.

## Chapter 1 – Overview

---

### **What has changed?**

Until now the FHL rules have only applied to furnished holiday accommodation situated in the UK. HMRC will now treat the FHL rules as including furnished holiday accommodation elsewhere in the EEA. Therefore, if an EEA property satisfies all the other qualifying conditions, it will be a qualifying FHL property for tax purposes.

### **Who is likely to be affected?**

Individuals, partnerships and companies who let furnished holiday property situated within the EEA (but outside the UK), and who are liable to UK tax on the income and capital gains from the property.

This change does not affect those who let furnished holiday property situated outside the EEA.

### **What are the Furnished Holiday Lettings (FHL) rules?**

The letting of property is not a trade. However, the Furnished Holiday Lettings rules allow landlords of furnished holiday properties, which satisfy certain conditions, some of the tax treatments available to traders.

Under the FHL rules, landlords are treated as though their qualifying FHL business is a trade for the following purposes:

- loss relief;
- capital allowances;
- Landlords Energy Saving Allowance (LESA);
- certain capital gains reliefs (including business asset roll-over relief, entrepreneurs' relief, relief for gifts of business assets, relief for loans to traders and exemptions for disposals of shares by companies with a substantial shareholding); and
- relevant earnings when calculating the maximum relief due for an individual's pension contributions.

For further information on the tax treatments available for FHL businesses, please see <http://www.hmrc.gov.uk/manuals/pimmanual/PIM4105.htm>.

## **Repeal of the FHL rules**

The FHL rules will be repealed from 2010-11. This repeal will affect properties situated in the UK and those situated elsewhere in the EEA.

## **Qualifying conditions**

Certain conditions must be met in order to qualify for the tax treatment provided under the FHL rules:

- the property must be situated in the EEA;
- the business must be carried on commercially, and with a view to a profit;
- Availability: the property must be available for commercial letting as holiday accommodation to the public for at least 140 days during the relevant 12 month period;
- Letting: the property must be commercially let as holiday accommodation to members of the public for at least 70 days during the relevant 12 month period. A letting for a period of longer term occupation is not a letting as holiday accommodation for the purposes of the letting condition; and
- Pattern of occupation: not more than 155 days must fall during periods of longer term occupation.

A period of longer term occupation is a continuous period of more than 31 days during which the accommodation is let to the same person.

For individuals with a continuing FHL business, the relevant 12 month period will be the tax year to 5 April.

For full details on the qualifying conditions, including the full definition of the relevant 12 month period, please see [PIM4112](#), and [PIM4115](#) for companies.

Where the qualifying conditions are not met during the relevant period, the FHL rules do not apply for that tax year or accounting period. In that situation, the normal rules on overseas property income will apply for that tax year or accounting period.

## **How were Furnished Holiday Lettings in the EEA treated previously?**

For tax purposes, income from furnished holiday properties that are situated outside the UK were treated as income from an ordinary overseas property business, under:

- Part 3 ITTOIA 2005 for individuals and others liable to income tax; and
- Case V Schedule D (S18(3) ICTA 1988) for companies within the charge to corporation tax.

This treatment continues to apply to furnished holiday properties that are situated outside the EEA, and to properties within the EEA that do not satisfy the qualifying conditions.

For further details on the treatment of overseas property income see <http://home.inrev.gov.uk/pimmanual/PIM4703.htm>.

### **Which countries are in the EEA?**

The following countries are currently within the EEA:

Austria	Liechtenstein
Belgium	Latvia (since May 2004)
Bulgaria (since January 2007)	Lithuania (since May 2004)
Cyprus (since May 2004)	Luxembourg
Czech Republic (since May 2004)	Malta (since May 2004)
Denmark	Netherlands
Estonia (since May 2004)	Norway
Finland	Poland (since May 2004)
France	Portugal
Germany	Romania (since January 2007)
Greece	Slovakia (since May 2004)
Hungary (since May 2004)	Slovenia (since May 2004)
Iceland	Spain
Ireland	Sweden
Italy	United Kingdom

### **Further advice**

Detailed guidance relating to FHL can be found here <http://home.inrev.gov.uk/pimmanual/pim4100.htm>

## Chapter 2 – Claims and Requests for Treatment Under the FHL Rules

---

You do not have to apply the FHL rules to your let furnished holiday property in the EEA (outside the UK). However, if you want the property to count as an FHL property, you cannot pick and choose which FHL treatments apply to it. It will be treated as an FHL property for all relevant tax purposes. If you do not apply FHL rules, you will be treated as owning an overseas property business for all relevant tax purposes.

### Time limits

HMRC will accept any claims for relief or requests for FHL treatment to apply as long as:

- the claim or request is for one of the reliefs or other treatments available under the FHL rules;
- the claim or request relates to a property situated in a country within the EEA during the relevant period;
- the letting meets all the requirements of the FHL rules, apart from being situated outside the UK; and
- where a claim or amendment of a return is required, it is made within the normal time limits for making such a claim or amending the return.

If you are within the normal time limits for amending your Self Assessment tax return, you should send HMRC an amended return. You should include any FHL income, including income from qualifying holiday accommodation in the EEA, within the Furnished Holiday Lettings section of the UK Property pages of your tax return.

The normal time limit for amending income tax returns is 1 year after 31 January after the end of the tax year to which the return relates. The normal time limit for amending corporation tax returns is generally 2 years after the end of the accounting period to which the return relates.

If you cannot amend your return, but are still within the normal time limits for making the claim in question, you may do so by writing to your local HMRC office. This may apply to claims for hold-over relief, roll-over relief, relief for losses carried forward, terminal loss relief and LESA which must be claimed on or before 5 years after the 31 January following the end of the tax year in question (or within 6 years of the end of the accounting period for claims by companies).

If the FHL treatment in question does not have to be claimed before a specific time limit, then we will accept a request to apply the treatment if it is made:

- for income tax and capital gains tax, not later than 5 years after the 31 January following the end of the tax year in question; or
- for corporation tax, not later than 6 years after the end of the accounting period in question.

This applies to taper relief, retirement relief (unless the claim was made on ill-health grounds or by trustees), relief for pension contributions, and substantial shareholdings exemption.

### **Late claims and amendments**

Until 31 July 2009, HMRC will accept late amendments to:

- income tax and capital gains tax returns for the tax year ending 5 April 2007; and
- corporation tax returns for accounting periods ending on or after 31 December 2006.

As long as the amendment relates to one of the reliefs or other treatments available under the FHL rules, for a property situated in a country elsewhere within the EEA during the relevant period, and the letting meets all the other requirements of the FHL rules.

To ensure that your claim or request is dealt with effectively, please clearly state that it is being made under the extended time limits for EEA FHL as announced at Budget 2009.

The normal rules for late claims will apply to all other late claims and amendments.

## Chapter 3 – Transitional Rules

---

### Loss relief

As a result of this change, those with qualifying FHL situated in the EEA will not be treated as starting a new activity for loss relief purposes.

Any unused losses, arising from letting the furnished holiday accommodation in previous years, may continue to be brought forward and set against the profits of the property business.

### Capital Allowances

Income from property and FHL are both qualifying activities for plant and machinery capital allowances purposes. Those with EEA FHL will not be treated as starting a new qualifying activity as a result of this change. There will be no deemed disposal and reacquisition at market value, any existing pools will simply continue.

Under the property income rules, no capital allowances are available for expenditure incurred in providing plant and machinery for use in a dwelling house. Under the FHL rules you may claim capital allowances on expenditure incurred in providing plant and machinery for use in a dwelling house.

Expenditure incurred in providing plant and machinery for use in an EEA FHL dwelling house will be qualifying expenditure for capital allowances purposes with effect from the latest of the following three dates:

- the property was first used as a qualifying FHL;
- the date on which the country in which the property is situated joined the EEA;  
and
- 1 January 1994.

Where such expenditure was incurred **on or after** the latest of these three dates, it will qualify for capital allowances in the normal way.

Where such expenditure was incurred **before** the latest of these three dates, on an asset that is still in use in the FHL dwelling house, it will be treated as though the asset had been brought into use for the purposes of a qualifying activity on the latest of the three dates, at its market value at that time. For further information on how to

treat assets where there is a change of use see

<http://www.hmrc.gov.uk/manuals/camannual/CA23030.htm>.

Expenditure incurred on plant and machinery contained within an EEA FHL property before these three dates, will be treated as though it was brought into a use for the purposes of a qualifying activity on the later of those three dates. For further information on how to treat assets where there is a change of use see

<http://www.hmrc.gov.uk/manuals/camannual/CA23030.htm>.

### **10% Wear and tear allowance**

As a result of this change, those with qualifying FHL situated in the EEA will no longer be entitled to claim a deduction under the wear and tear allowance in respect of their FHL properties.

### **Landlords Energy Savings Allowance (LESA)**

No deduction is allowed for expenditure on energy saving items for FHL businesses. As a result of this change, those with qualifying FHL situated in the EEA will no longer be entitled to claim a deduction under the LESA in respect of their FHL properties.

### **Pension relief**

As a result of this change, income from qualifying FHL situated in the EEA can be included within an individual's relevant earnings when calculating the maximum relief due for their pension contributions.

If you have any further questions about how this change affects pension relief, contact HMRC Pension Schemes Services helpline on 0845 600 2622.

### **Capital Gains**

As a result of this change, an EEA FHL business will be treated as a trade for the purposes of:

- taper relief;
- roll-over relief on replacement of business assets;

- relief for gifts of business assets;
- entrepreneurs' relief;
- relief for loans to traders;
- retirement relief (available to individuals and certain trustees for tax years up to 5 April 2003 only); and
- exemptions for disposal of shares by companies with substantial shareholding.

For capital gains purposes, you may treat assets used for the purposes of a qualifying FHL business, where the property is situated in the EEA, as a trade asset from the latest of the following three dates:

- 1 January 1994;
- the date the property was first let as a qualifying FHL; and
- the date on which the country in which the property is situated joined the EEA.

Please see page 7 and 8 of this note for details on how to apply for treatment under the FHL rules.