Whitings
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Property Matters Newsletter

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In a year of change and challenges, we have now heard what the new government will be looking to do in this parliament.

There will be many more new houses, with the focus on them being affordable, together with the manner in which the law considers the issues of landlords and indeed the renters.

This issue discusses changes to accounting methods affecting all businesses from April 2024, together with tax issues surrounding the receipt of insurance and the destruction of property. This is something very relevant for many of our clients, who have suffered in this year's adverse weather.

The 60 day Capital Gains Tax (CGT) return is now becoming more contentious given the need to have information available at an early stage, not only relating to the disposal of the property, but also in terms of knowing what income you are likely to receive in the tax year that the disposal has taken place.

I trust that you will enjoy the articles in this issue.

Section 21 No-Fault Evictions

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The new government had in their campaign and manifesto a focus on no-fault evictions, which is commonly known as section 21, very simply, they wanted to ban them.

Landlords are currently allowed to evict a tenant by providing a two month notice once their fixed term contract has come to an end, with the landlord not required to provide any grounds for the eviction.

It is currently unclear how or when Labour will be able to abolish Section 21, and they are going to need to address the capacity issues this will cause within the court systems.

With the recent increases in regulations and the rising financial distress on landlords, the removal of Section 21 could provide a further reason for landlords to consider leaving the sector. This could also possibly lead to a further increase in rent due, owing to a reduction in housing stock available.

We can only hope that the new government will give the property sector sufficient time to prepare for the changes and that any new regulations are fair for all.

Cash Basis For Landlords

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The default method by which accounts need to be undertaken has changed from April 2024 for all businesses from one of an accrual basis, to a cash basis. However, for individual's property businesses this has been the case since April 2017.

Put simply, cash basis means the business accounts for income and expenses when money is received or paid, not on the date the income is earned or expenses incurred. A simple approach that H M Revenue & Customs prefer.

So, for property businesses what does this mean?

Rent A Room Relief

Rent A Room Relief is under the cash basis. This helps to determine if receipts are above the exemption limit. Any capital receipts for Rent A Room are brought into account under the cash basis rule.

Furnished Holiday Lettings (FHL)

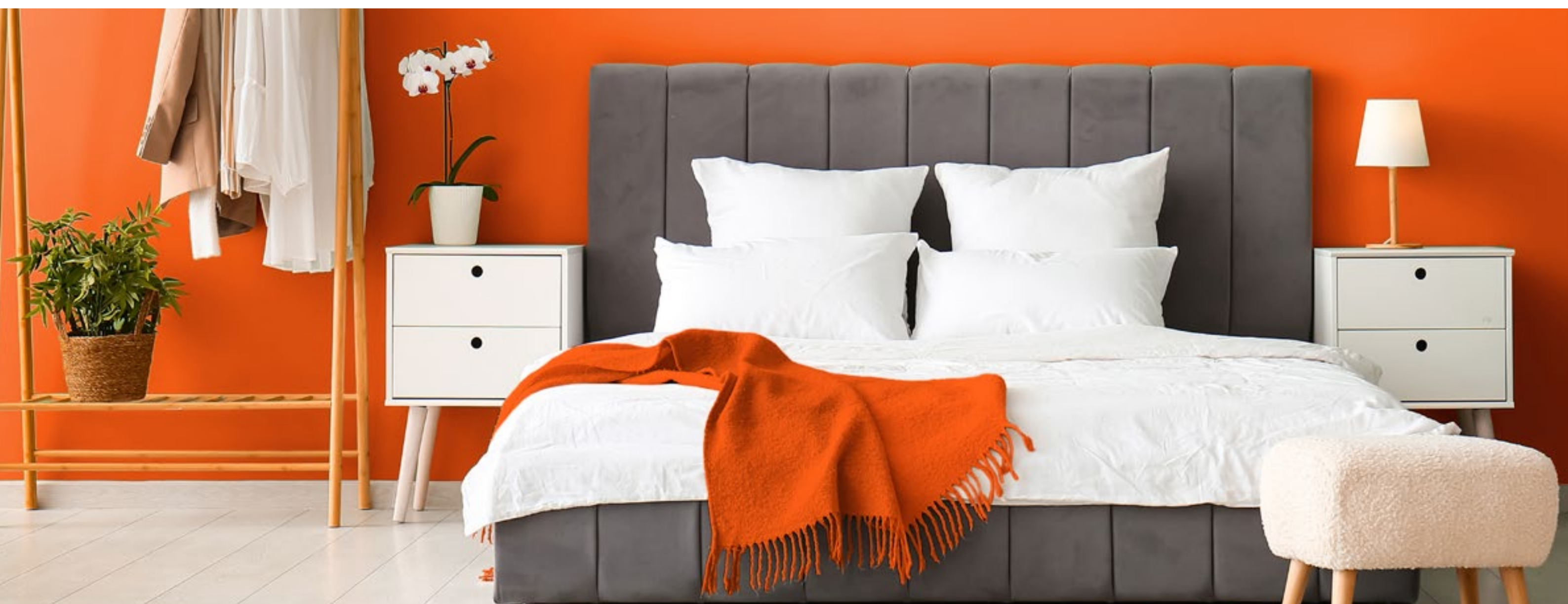
Furnished Holiday Letting can again use the cash basis however, the capital expenditure differs between generally accepted accounting principles (GAAP) and the cash basis. When using GAAP, capital allowances can be claimed for capital expenditure on plant and machinery (e.g. furniture). However when using the cash basis, the full amount of capital expenditure is deducted from the profits of the tax year it was paid.

Eligibility

Cash basis has been the default way of reporting the profits or losses of a property business for individuals since April 2017. However, GAAP must be used if the follow criteria is met:

- The property business is run by a company, LLP, trustees or a corporate firm.
- The receipts exceed £150,000
- Business premises renovation allowance has been claimed and a balancing event in the tax year gives rise to a balancing adjustment
- An election is made to use GAAP as you feel this is more appropriate
- If the property is joint with a spouse or civil partner, both basis must be the same

For more information or advice, please do contact your local Whitings LLP office.



Employment Benefits And Property

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Property is affected by a large variety of direct and indirect taxes, whether that's Stamp Duty Land Tax (SDLT), Capital Gains Tax, Income Tax (IT) or Inheritance Tax (IHT). These tax implications can be triggered by the acquisition, disposal, or letting of properties. However, what is not so commonly known, is the tax implications of employment related property.

We have many clients who are provided with employment related accommodation, and they are not considered to have been provided with a benefit in kind for tax purposes, whereas other clients are.

The following will provide you with examples of the two contrasting outcomes arising from the provision of employment related accommodation as mentioned above.

Accommodation Benefit

Where a dwelling is owned or rented by an employer and is made available to an employee, a taxable benefit is usually triggered.

This will have IT implications for the employee and will also result in a Class 1A National Insurance Contribution (NIC) liability for the employer. The tax and NIC implications will vary depending on whether the dwelling is owned or rented by the employer. The calculations involved to confirm the taxable benefit are detailed and specialist advice should be obtained in respect of this.

However, in certain circumstances, accommodation provided to employees can be exempt from these rules. No tax charges arise where:

- It is necessary for the proper performance of the employee's duties that they should live in the accommodation.
- The accommodation is provided for the better performance of the employee's duties and the employment is of a kind for which it is customary for employers to provide accommodation for the employee.
- There is a special threat to the employee's security, special security arrangements are in force and the employee resides in the accommodation as part of those arrangements.

Some examples could include: farmers cottages, educational accommodation for tutors, and military personnel, however the facts of each case would need to be explored.

Reimbursement Of Relocation Costs

Where an employer reimburses employees for the cost of relocating, this benefit can be exempt up to a maximum £8,000. However, there are strict conditions that must be met in order for the exemption to apply. The exemption will often apply where there has been a change in duties and/or location of the employment, for example if the employee is relocated to another office.

The reimbursement exemption covers a wide range of expenditure such as, legal costs associated with the disposal and acquisition of property, transportation of belongings, and travel and subsistence to visit the new area, just to name a few. However, these costs must have been incurred in direct connection with the change in the employee's residence.

Get In Touch

The world of employment related property matters is often complex and requires professional consideration and planning. Those looking for further advice and/or those involved in a relevant transaction can contact our specialist property advisers for further details.

Don't Miss The 60 Day Deadline!

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It is now well established that taxpayers have 60 days from the date of completion to report a property disposal and pay any Capital Gains Tax to HMRC.

Given that 60 days is not a great deal of time, particularly for more complex cases, it is important to have all relevant information prepared with the deadline in mind.

It should be noted however that non-UK residents are subject to different reporting requirements compared to UK residents.

UK Residents

Only disposals of UK residential properties that result in a CGT liability are reportable on a CGT return within 60 days. If the disposal results in no tax liability, then a CGT return is not required.

For commercial property disposals, a CGT return is not necessary and the disposal does not need to be reported within the 60 day time frame. Instead, the disposal is reportable on a Self Assessment Tax Return, with the tax payable by 31 January following the end of the relevant tax year. If the individual is not within Self Assessment, then the disposal can be reported to HMRC via the 'real-time' CGT reporting service.

Those with 'mixed-use' properties should not disregard the 60 day deadline. The residential aspect of the property must be reported via a CGT Return within 60 days of completion, if the disposal results in a CGT liability. A valuation of the property around the completion date is useful in this situation, as it helps apportion the property between the commercial and residential aspects, ensuring the relevant proportion of CGT is paid within 60 days.

Non-UK Residents

All disposals of UK land or property are required to be reported within 60 days of the completion date. This includes disposals of UK land or property, even if there is no tax due or if a loss has arisen. Any gifts of UK land or property must therefore be reported within 60 days of the gift.

Get In Touch

If you are thinking of selling or gifting land or property and would like further information or assistance, please do get in touch with your local Whitings LLP office.

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