



TAXREP 54/15 (ICAEW REPRESENTATION 143/15)

Let property wear & tear allowance

ICAEW welcomes the opportunity to comment on the consultation paper [Replacing Wear and Tear Allowance with Tax Relief for Replacing Furnishings in Let Residential Dwelling Houses](#) published by HM Revenue & Customs on 17 July 2015.

This response of 9 October 2015 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

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MAJOR POINTS

Key point summary

1. The piecemeal changes to taxing property income and tax relief for interest paid have added to the complexity of tax and created uncertainty for taxpayers. ICAEW suggests a comprehensive review of how property is taxed, income and capital. Consideration should be given to taxing property income like any other business.
2. This consultation does not refer to the original purpose of the 10% wear and tear allowance which reduced the administrative burden and simplified the tax system for landlords of furnished lettings. However, we accept that this method suffers from the defects identified in the consultation; it is unrelated to actual replacement costs and gives higher relief in areas where rents are higher leading to geographical differences, but it is easier to use and requires little paperwork.
3. We are pleased that landlords with partially or unfurnished property lettings, will now be able to claim tax relief when they replace white goods and other furnishings, however, the current proposals still do not give relief for expenditure incurred between April 2013 and April 2016.
4. The proposals restricting relief for furnishings replaced by improved items are an unnecessary complication and will simply add to the administrative burden for most taxpayers.

General comments

5. There have been several major changes to the taxation of property income, together with tax relief for finance costs, in the last few years. This will continue through to 2020 as the rules for interest relief are implemented. This has created confusion and added to the complexity and uncertainty for taxpayers. ICAEW suggests a comprehensive review of how property income is taxed and that serious consideration should be given to taxing property income like any other business.
6. This consultation does not refer to the original purpose of the 10% wear and tear allowance, which was introduced in 1975/76 and contained in ESC B47 to relieve the administrative burden and simplify the tax system for landlords of furnished lettings. Rather than keeping detailed records of the replacement costs of furniture and white goods, a landlord using this would simply take a deduction based on rent (less certain deductions). The alternative was to use a renewals basis. This simplification has become the norm for most furnished lettings.
7. We accept that this method suffers from the defects identified in the consultation; it is unrelated to actual replacement costs and gives higher relief in areas where rents are higher leading to geographical differences, but it is easier to use and requires little paperwork.
8. It appears that the current proposal is a pragmatic solution to a different problem. Since the withdrawal of Extra-Statutory Concession B1 (ESC B1 and ESC B47) concerning the renewals basis for residential let property in April 2013, landlords with partially or unfurnished property lettings, have not been able to claim for the costs of a range of furnishings. The current proposals resolve this going forward, but still do not give relief for expenditure incurred between April 2013 and April 2016.
9. ICAEW has responded previously on this as [TAXREP 35/15](#) and [TAXGUIDE 04/14](#), with comments on withdrawing these concessions,

Responses to specific questions

Q1: Do you have any comments on the proposed scope of the new relief?

10. The new replacement furniture relief is welcome for landlords of unfurnished or partly furnished property. Since the withdrawal of the non-statutory renewals basis on 6 April 2013, relief has not been available for white goods, carpets and similar items usually supplied even in unfurnished property lettings.

Transitional arrangements

11. Landlords of unfurnished or partly furnished lettings who incur expenditure in the three year period from 6 April 2013 (1 April 2016 for companies) to 5 April 2016 will not get any tax relief. We do not think this is fair and would suggest that transitional relief should be given for expenditure in this period. This would also prevent landlords deferring their relevant expenditure until after 5 April 2016, disadvantaging their tenants in the process.
12. The consultation does not detail a transition into the new regime. It appears simply to apply to expenditure incurred on or after 6 April 2016.

Illustration

13. A landlord spends £3,000 re-carpeting his entire rental property in May 2016. The carpets were last replaced at a cost £2,000. The tax treatment of this will vary.

Type of landlord / property	Date of original expenditure pre or post 1 or 6 April 2013	Relief in year of expenditure	Relief in year of replacement
Furnished rental property	N/A – makes no difference.	10% wear and tear allowance was given each year until and including 2015/16	Presumably relief is for £3,000 replacement cost, regardless of previous W&T claims
Unfurnished/partially furnished rental property	Pre 1 or 6 April 2013	Assuming this was not the first expenditure on carpets, full replacement cost relief of £2,000 would have been given under the non-statutory renewals basis.	Presumably relief is for £3,000 replacement cost, simply following the previous non-statutory renewals basis
Unfurnished/ partially furnished rental property	After 1 or 6 April 2013	No relief would have been given for the £2,000 replacement cost	Presumably relief is for £3,000 replacement cost

14. If the new relief applies to replacements on or after 1 or 6 April 2016, we will require guidance on what records landlords will be expected to prepare of the assets in their property as at 1 or 6 April 2016. These may need to be created which is likely to impose a burden on landlords over and above the current record keeping requirements, depending on when the capital items were last replaced or originally acquired.
15. Transitional rules will also be needed in future where landlords move between claiming rent-a-room relief and the actual basis.

Q2: Do you have any comments on the proposals for dealing with any disposal proceeds from the old asset that is being replaced or any improvement element of the replacement asset?

16. We consider excluding upgrades on replacement to be unnecessarily burdensome for landlords. Unless an item is replaced with an identical model, in theory, there would often be a case to argue and a more pragmatic approach is needed. As new technology is developed, white goods in particular become obsolete very quickly and deciding on the element representing improvement will be a burden, both for business and for HMRC.
17. It is already accepted by the Courts that double glazing can replace single glazed windows and be regarded as a repair cost for tax, but such natural progressions are discouraged under the replacement basis as they would be improvements with the proportion relating to the improvement receiving no relief.
18. Para 2.8 says that landlords will no longer need to be concerned with whether the item being replaced is a fixture or not. This is not the case where there is an element of improvement.
19. The tax treatment for when letting of the property ceases is unclear. For example, a person who renews all of the furnishings in their rental property, who decides one year later to move back in to the property would, under the current proposals, remain entitled to the full replacement cost of the furnishings as a tax deductible expense.
20. While further guidance may answer some of these questions, it would still leave areas of uncertainty and so create contentious areas. We therefore think that the best replacement for the wear and tear allowance would be to use the existing capital allowances regime.
21. This area is already well defined and therefore no new rules would need to be introduced. Most small landlords would be covered by the annual investment allowance and so would have full relief for the furnishings bought in any given year. Also crucially, this regime deals effectively with disposal proceeds by deducting them from the appropriate pool.

Q3: Are there additional impacts on individuals or other businesses that are not covered in the table of impacts?

22. The change from the wear and tear allowance increases complexity for the taxation of rental income businesses. This is inconsistent with the government's objective to simplify taxes. The wear and tear allowance was easy for taxpayers to understand and claim while the replacement basis as described will be fraught with complexity.
23. Additional record keeping will be required to substantiate claims for replacing furnishings in furnished lettings, so increasing the administrative burden for business and compliance costs for business and HMRC. Records will be needed to ascertain whether an improvement has taken place.
24. The new replacement basis creates a downward pressure on the state of furnished lettings as there is no incentive to improve furnishings on renewal.
25. Para 2.2 claims there is a reduction in the rules for taxing the residential property sector. We disagree as one set of rules, wear and tear, has been replaced by another set of rules, the replacement basis.
26. This is the third change to the rules for taxing property income in five years. Piecemeal change is disruptive and makes it harder for taxpayers to comply, particularly those who do not have an accountant. Clear guidance and communication are needed to ensure that all landlords, are aware of these changes.

27. This need for guidance was highlighted by the recent survey conducted by ICAEW and the Chartered Institute of Taxation, in junction with the Residential Landlords Association, in which 75.16 % of landlords were unaware that there had been change of rules from April 2013. 67.62% of landlords surveyed by the Scottish Landlords Association were also unaware of the changes from April 2013.

<http://www.icaew.com/~media/corporate/files/technical/tax/tax%20faculty/taxreps/2015/taxrep%2035-15%20rent%20renewal%20impact.ashx>.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).