



# ICAEW REPRESENTATION 21/16 TAX REPRESENTATION

## Property business deductions - clause 40

ICAEW welcomes the opportunity to comment on [draft clause 40 and its accompanying Schedule to Finance Bill 2016](#) published by HM Treasury and HM Revenue & Customs on 9 December 2015 concerning the repeal of the wear and tear allowance and introduction of a deduction for the replacement of furniture etc.

This response of 28 January 2016 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 the taxation of property, including rental income, tax relief for interest paid, capital gains and annual tax on enveloped dwellings have added to the complexity of tax and created uncertainty for taxpayers. ICAEW recommends a comprehensive review of how property is taxed, income and capital to develop cohesive and integrated legislation. In theory, property income has been calculated and taxed like any other business Income Tax (Trading and Other Income) Act 2005 s272 Profits of a property business: application of trading income rules since 1998 but this appears to have been forgotten in recent changes and proposals.
2. We are pleased it is now unequivocal that landlords with partially or unfurnished property lettings, will be able to claim tax relief when they replace white goods and other commonly provided furnishings such as carpets and curtains. However, it is disappointing that there is no clear statement about relief for expenditure incurred between April 2013 and April 2016.
3. While it is noted from the consultation outcome that guidance is planned in this area, 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

4. 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 recommends a comprehensive review of how property is taxed, income and capital and in particular that property income is taxed like any other business.
5. 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 draft legislation resolves this going forward, but still does not give relief for expenditure incurred between April 2013 and April 2016.
6. As 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.
7. 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 both the modern equivalent and the element representing improvement will be a burden, both for business and for HMRC. Guidance may provide limited assistance.
8. We also consider that the replacement basis creates a downward pressure on the state of furnished lettings as there is no incentive to improve furnishings on renewal.
9. ICAEW has responded previously on this as [TAXREP 54/15](#), [TAXREP 35/15](#) and [TAXGUIDE 04/14](#) and we are very disappointed that points raised in those representations have been ignored

## 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>).