



## RENT A ROOM RELIEF (CL14, F3B17-19)

Issued 29 August 2018

ICAEW welcomes the opportunity to respond to the **consultation on draft Finance (No.3) Bill 2017-19 legislation: Clause 14: Rent-a-room: non-exclusive residence** published by HMRC on 6 July 2018.

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## EXECUTIVE SUMMARY

1. We welcomed the opportunity to respond to the rent-a-room **call for evidence** published on 1 December 2017 to which we responded in **ICAEW rep 25/18**. Calls for evidence are a very good way to encourage early debate and suggestions for policy development from taxpayers.
2. As part of the call for evidence we met with HM Treasury and HMRC in February 2018 to discuss the proposals. We note however that following the call for evidence there was no formal consultation document published, and instead draft legislation was published on 6 July 2018. We are disappointed that the government did not follow the prescribed consultation process to provide the opportunity to consult more thoroughly on the initial ideas proposed during the call for evidence phase. It was not made clear that there would be no consultation, and had we have known this we would have been able to provide more detailed comments in advance of the legislation being drafted.
3. We would welcome the opportunity to work with HMRC on developing the guidance to accompany the legislation, and in particular exactly what is meant by the term “occupation” as we believe this could be open to wide interpretation.

## THE MEASURE

4. This clause amends s786 of Chapter 1 Part 7 of Income Tax (Trading and Other Income) Act 2005 to introduce a new non-exclusive residence test.
5. The purpose of this clause is to ensure that rent-a-room relief is properly targeted as originally intended ie, to encourage individuals with spare accommodation to share their homes.
6. The new test will require the individual(s) who is sharing their property to share occupancy, wholly or partly, with the individual who is staying in the property.

## MAJOR POINTS

7. Rent a room relief was introduced in 1992 with the intention of increasing the supply of housing across the country, for example enabling people to rent somewhere permanent to live, allowing people to work away from home during the week and providing accommodation for students perhaps using the spare room created by the departure of the home owner’s own child to university.
8. We question how well targeted the relief is now, some 25 years later, and in particular how well understood the rules are following the introduction of the £1,000 property allowance. Many unrepresented taxpayers will benefit from either or both of these reliefs, and we believe it needs to be made clear which relief applies to which income.
9. The new rent-a-room test requires “the individual or individuals in receipt of rental income, to have shared occupancy of the residence in question for all, or part of the period, of occupation which gives rise to the receipts” (**policy paper**, gov.uk). It is not clear how HMRC would police this and as such we are concerned that the test will not achieve the desired result of better targeting the relief.
10. We note that the exchequer impact of this clause is “negligible” and that this means policy officials have been unable to calculate the impact, rather than the impact being immaterial or zero. We question whether there has been sufficient consultation to ensure that the new test is the most appropriate way to achieve the government’s desired aim to target the relief properly.

## OUR CONCERN

11. Draft s786(1)(ca) inserts a new test which requires there to be a period of overlap of “the use of residence as sleeping accommodation” (wholly or partly) in which both the individual accruing the income (or a member of the individual’s household) and the tenant occupy the property at the same time.
12. It is not clear what is meant by the term “use of the residence as sleeping accommodation” and whether this includes a short visit to the property for a nap or whether a full overnight stay is required. We assume this will be made clear in the accompanying guidance, although this is not an approach we would recommend.
13. During discussions on how this relief could be better targeted, the general consensus was that any requirement to count days would be contrary to achieving the policy objective. We caution against introducing such a requirement in any way linked to determining the necessary level of occupancy.
14. Our concern is that the addition of this test could become cumbersome and deter individual’s from sharing surplus space in their home, which does not appear to be the intention of government.

## OUR RECOMMENDATION

15. We recommend that draft s786(1)(ca) is amended so it is clear exactly what is meant by the term “use of the residence as sleeping accommodation” as opposed to delegating this to guidance.
16. Further consultation should be undertaken to achieve a practical solution.

## 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 <https://goo.gl/x6UjJ5>).