



TAXREP 35/15 (ICAEW REPRESENTATION 97/15)

RENEWALS BASIS FOR UNFURNISHED RENTAL PROPERTY- ASSESSING THE IMPACT

This representation of 30 June 2015 has been prepared on behalf of ICAEW by the Tax Faculty and CIOT.

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 with HM Revenue & Customs and to take part in all further consultations on this area.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 144,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

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.

Copyright © ICAEW 2015
All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is appropriately attributed, replicated accurately and is not used in a misleading context;
- the source of the extract or document is acknowledged and the title and ICAEW reference number are quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

For more information, please contact ICAEW Tax Faculty: taxfac@icaew.com

icaew.com

MAJOR POINTS

Further to the correspondence ICAEW and CIOT had with HMRC in 2014, see [TAXGuide 04/14](#), we have been receiving comments on the change to the tax rules from members expressing their concern about the lack of tax relief for what is seen as a pure business expense.

In the final paragraph of the response from HMRC they said they would review the impact of the change and as a result we liaised with the Residential Landlords Association to survey their members regarding the change. We sent the results of that survey (pages 8-13) and a similar one run by the Scottish Landlords Association (pages 14-19) together with a summary of comments from ICAEW and CIOT members (page 7) to HMRC on 13 June.

We have asked HMRC to let us know the conclusion of their review of the impact of the changes.



Megan Shaw
Product Owner - Property Income & REITs
HMRC
Room 3/64
100 Parliament Street
London
SW1A 2BQ
via e-mail: megan.shaw@hmrc.gsi.gov.uk

13 June 2015

Dear Megan

RENEWALS BASIS – RESIDENTIAL PROPERTY ASSESSING THE IMPACT

As you know we wrote to HMRC regarding the changes to the taxation of unfurnished residential property income following the withdrawal of Extra-Statutory Concession B1 (ESC B1 and ESC B47) concerning the renewals basis for residential let property, copy enclosed.

The reply we received from Jas Bhangu said that HMRC would be reviewing the impact of the change; we have been collating evidence of the impact of the change, some of which is anecdotal and some the result of a survey that the Residential Landlords Association (RLA) ran for us. The Scottish Association of Landlords ran a similar survey for their members.

When the consultation on the withdrawal of the ESC was announced it was stated that the withdrawal would not have any material impact. Our research indicates that is not the case and therefore consideration should be given to reinstating by statute the relief previously afforded to landlords of unfurnished residential lets by the ESC .

Residential letting is a business and accounts have to be prepared under generally accepted accounting practices (GAAP). Expenditure on white goods, carpets and curtains for an unfurnished residential rental property is quite clearly a business expense and should therefore be allowable for tax. The quantum of expenditure on these goods is frequently below the level that a business would be advised to capitalise the cost and charge depreciation through the accounts, so to include the cost in the profit and loss account would be following GAAP.

The rental market appears to have shifted; we understand that no longer do people rent an unfurnished property “for life”, they are rented on short term rentals just like furnished property. Whilst the tenant wishes to use their own furniture in terms of beds, chairs, tables, sofas etc. they

do not want to provide floor coverings, curtains or white goods; these items are not as transferable between properties. If landlords are denied tax relief for what are essentially business costs, they may stop supplying them altogether (as the results indicate) with wider implications for the rented sector. We enclose with this letter the evidence we have collated and trust that consideration will be given to a change to the legislation to restore the status quo enjoyed before the withdrawal of the ESC.

Yours sincerely

Lisa Spearman
Chairman, Private Client Committee
ICAEW Tax Faculty

Brian Slater
Chairman, CIOT Property Taxes Sub-Committee

cc Jas Bhangu, Policy and Technical Specialist, HMRC, jasbir.bhangu@hmrc.gsi.gov.uk

The Institute of Chartered Accountants in England and Wales

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 144,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

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.

The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,200 members, a weekly newswire and a referral scheme.

The Chartered Institute of Taxation

The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading

professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

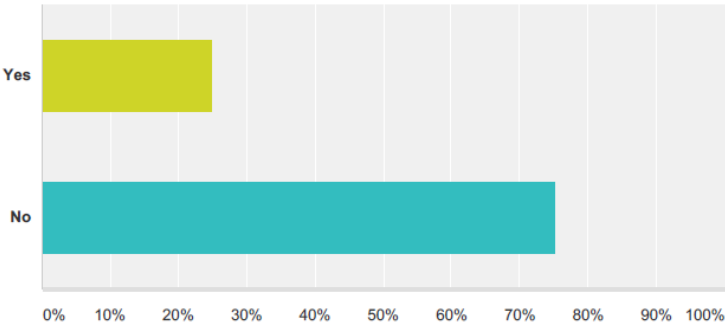
The CIOT's 17,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

REMOVAL OF ESC B47 EFFECTS 2014/15- TAX FACULTY FORUM RESPONSES INCORPORATING CIOT MEMBERS' COMMENTS FROM TAX ADVISER ARTICLE						
No of clients with unfurnished lettings	Number of landlords affected 2014/15	Did clients know of changes	Average unrelieved expenditure for renewals per client affected £	Will this change behaviour re renewals		
				White goods	Carpets and curtains	
15	3	No	950	Yes	No	
	100%	No		Yes	Yes	
14	14	No	2,500	Yes	Yes	
2	2	No	1500		No	
40	40		230			
	2		827	Yes	Supply carpets but not curtains	
1	1			No	No	
1	1	Yes	1500	Yes	Yes	
	200 (800 properties)	Only after advised	500	Yes	Yes	
	25		200-300	Yes	Yes	
	50		2,000	Mixed	Mixed	
Points raised on Forum and by CIOT members						
1 Rental is a business and all expenses incurred in earning rent should be allowable for tax						
2 Letting agents require floor coverings and curtains.						
3 Health and safety risk of tenants providing own white goods and not replacing damaged carpets.						
4 Not everyone can afford to fully furnish a property.						
5 Will try to repair rather than replace						
6 Government should encourage good standard rental properties						
7 May reduce supply of properties with white goods suitable for families .						
8 White goods are 'tools'.						
9 Fitted carpets should be allowed on same basis as fitted furniture.						
10 Will reduce quality of items supplied.						
11 New rules unclear, confusing and illogical. Clients want to ignore and carry on as before.						
12 Consider writing down cost of carpets, curtains and white goods over 4-5 years.						
13 Clients coached along the lines that "this is an unintended consequence, HMRC will change their mind" and most are carrying on as before, albeit deferring spends if possible until this area is cleared up						
14 With our larger landlords we have discussed setting up a rental business to buy the goods and lease to the landlord and so claim the deduction, and I know some letting agents are mooted similar proposals but I don't think anyone wants to do this until we know if HMRC will change their minds given the general time and cost of such arrangements. Some lettings agents already rent furniture to landlords and/or tenants, so this would be a general extension of such services						
15 I think the loss of trust with the perceived unfairness is the more important issue here, rather than the actual values involved. Nearly every landlord we have discussed this point with has been taken aback by the whole notion of being unable to obtain basic tax relief on a routine business expense which is unquestionably wholly and exclusively for the purpose of the rental business.						
16 Landlords may offer new tenants a rent free period and leave it to the tenant to decide whether to purchase the items themselves.						
17 Some landlords have decided to continue to claim under s68, CTA 2009 and make the appropriate disclosures, others say the threat of no tax relief means they won't renew as often others will repair rather than replace.						
18 I have three property rental clients letting in total 19 properties. Each is unfurnished but carpets, curtains, light fittings and white goods (not integral) are included.						
19 These changes (are) illogical and confusing. In particular please could you ask them to clarify their following statement "However landlords may be able to get some relief on carpets if the expenditure qualifies as a revenue expense" (page 3 of their letter, middle of page). Is replacing a worn or damaged carpet or part of a carpet a revenue expense? Carpets are after all attached to a floor by carpet grippers i.e. they are fitted and are not freestanding which totally contradicts why they should not be allowed under this new renewals basis.						
20 Numerous rental properties (>30 or so) in London. Most of the rental properties are "unfurnished" and a few "part-furnished" but are being phased out slowly so will eventually become unfurnished. The vocabulary "unfurnished" commonly refers to "white goods" which is standard for all lets these days and this means quite often even "dishwasher" and soft furnishings like curtains or blinds etc						
21 (In the case of old houses where the kitchen was refitted with latest design and style i.e as part of a refurbishment, these white goods can be stand alone but are treated as part of kitchen and slotted into the gaps under the worktop as part of kitchen - basics to be supplied by landlord for renting and treated as part of standard kitchen. All the above is still is classified "unfurnished"						
22 Under current standards and market practice, certain fittings and equipments are standard requirements by tenants of unfurnished properties such as curtains, floorings/carpets, oven and hob, washing machine and fridge/ freezer. HMRC seem to acknowledge the first two items in their letter of 7 April 2014, page 10. By definition, the great majority of properties are not new build and do not typically include integral fittings. Functionally, the white goods do the same thing whether free standing or integral. Therefore, it seems unjust that they should have different tax treatments. HMRC said in their letter that "legislation could provide unforeseen opportunities for avoidance in a way that concessions do not." They have provided no evidence for this belief and no examples. Further, they said in their letter: "I can assure you that HMRC is continuing to review the impacts of the change." without explaining how they are doing this.						

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q1 Are you aware the tax rules have changed from April 2013 and the cost of these replacements are no longer tax allowable?

Answered: 624 Skipped: 4

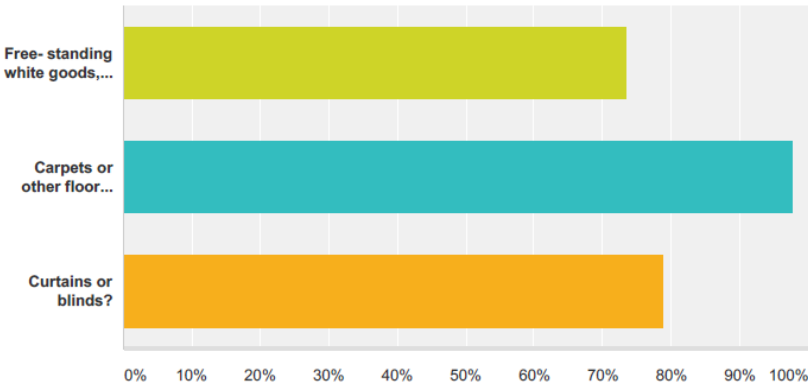


Answer Choices	Responses	
Yes	24.84%	155
No	75.16%	469
Total		624

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q2 If you have unfurnished or part furnished rental properties do you provide (tick all that apply):

Answered: 600 Skipped: 28



Answer Choices	Responses	
Free- standing white goods, fridges, freezers, washing machines and other white goods	73.50%	441
Carpets or other floor coverings	97.67%	586
Curtains or blinds?	79.00%	474
Total Respondents: 600		

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q3 What is the average cost of each of the appliances below and how often do you have to replace them due to being broken/old/worn? Please tell us cost, and replaced how often?

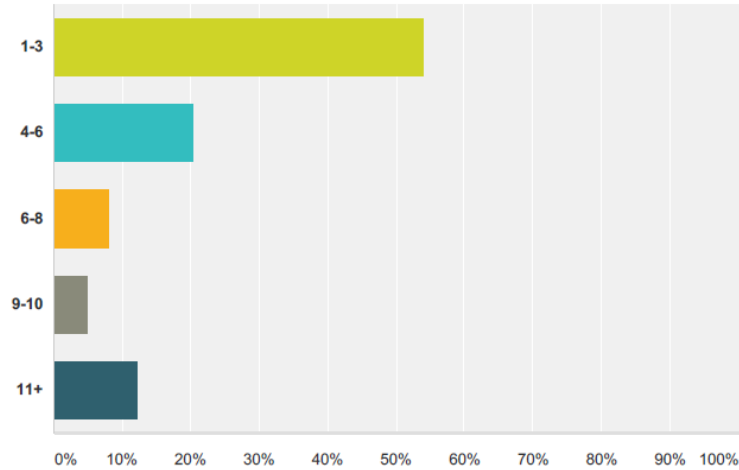
Answered: 554 Skipped: 74

Answer Choices	Responses
Free – standing* white goods, free standing fridges, freezers, washing machines etc. (*What HMRC means by 'free- standing' is not entirely clear but one practical test is the 'John Lewis' test ie would John Lewis deliver without recommending a plumber/carpenter/electrician etc. be retained to fit the item.)	79.60% 441
Carpets or other floor coverings	97.29% 539
Curtains or blinds?	81.41% 451

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q4 How many unfurnished / partly furnished rental properties do you have?

Answered: 591 Skipped: 37

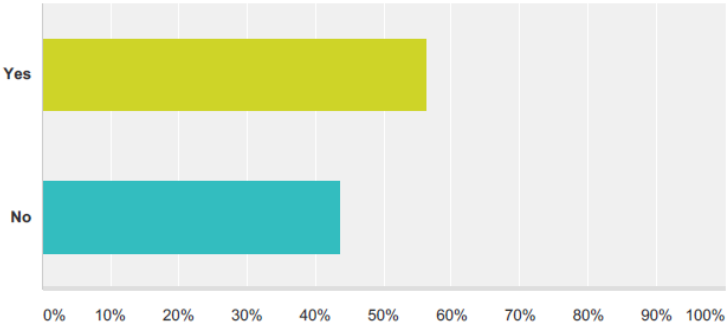


Answer Choices	Responses	
1-3	54.15%	320
4-6	20.47%	121
6-8	8.12%	48
9-10	4.91%	29
11+	12.35%	73
Total		591

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q5 Will the change in tax rules alter the frequency of your renewals?

Answered: 611 Skipped: 17

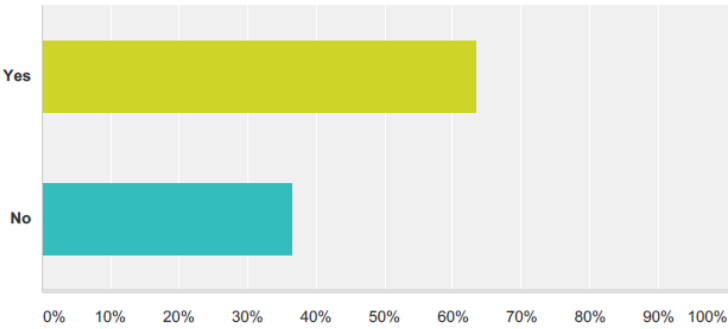


Answer Choices	Responses
Yes	56.46%345
No	43.54%266
Total	611

Chartered Institute of Taxation and ICAEW white goods taxation survey

Q6 As a result, are you likely to stop including items altogether or convert to fully furnished lets due to the change?

Answered: 607 Skipped: 21



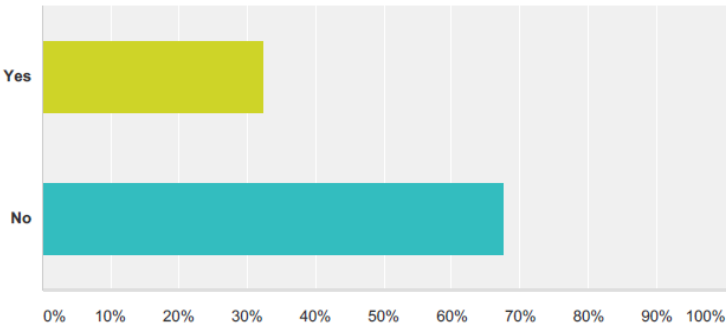
Answer Choices	Responses	
Yes	63.43%	385
No	36.57%	222
Total		607

Changes to Tax rules on ‘White Goods’ for unfurnished properties

SurveyMonkey

Q1 Are you aware the tax rules have changed from April 2013 and the cost of replacing items such as fridges & carpets in properties that are unfurnished or part furnished are no longer tax allowable?

Answered: 315 Skipped: 2



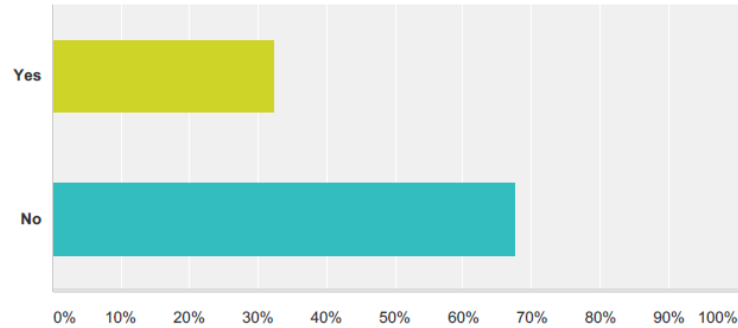
Answer Choices	Responses	
Yes	32.38%	102
No	67.62%	213
Total		315

Changes to Tax rules on ‘White Goods’ for unfurnished properties

SurveyMonkey

Q2 Are all of your properties fully furnished?

Answered: 310 Skipped: 7



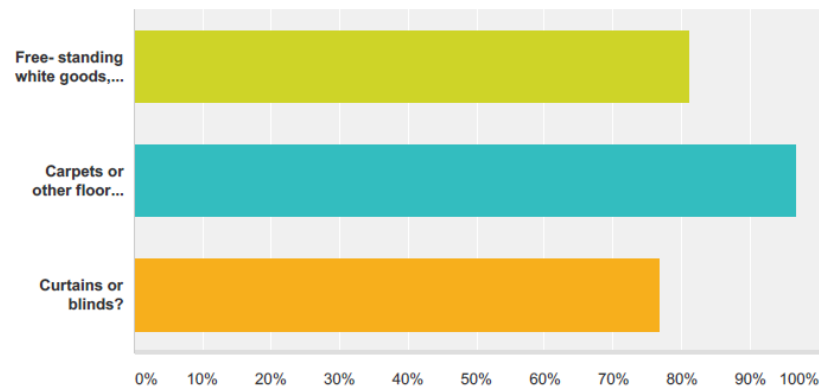
Answer Choices	Responses	
Yes	32.26%	100
No	67.74%	210
Total		310

Changes to Tax rules on ‘White Goods’ for unfurnished properties

SurveyMonkey

Q3 In your unfurnished or part furnished rental properties what do you provide (tick all that apply)?

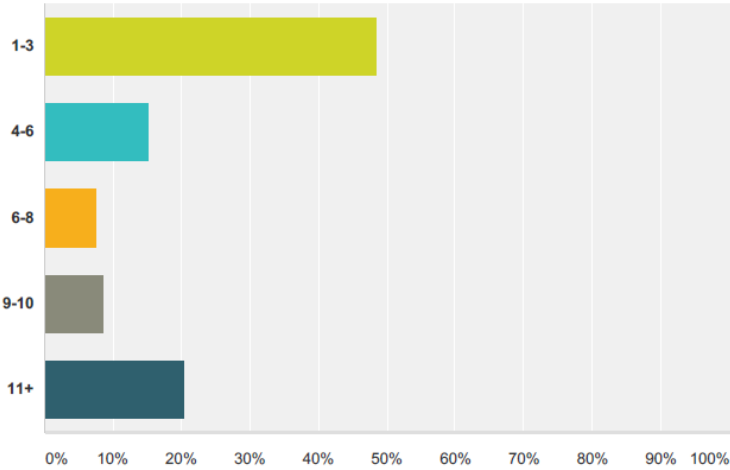
Answered: 208 Skipped: 109



Answer Choices	Responses	
Free- standing white goods, fridges, freezers, washing machines and other white goods	81.25%	169
Carpets or other floor coverings	96.63%	201
Curtains or blinds?	76.92%	160
Total Respondents: 208		

Q4 How many unfurnished / partly furnished rental properties do you have?

Answered: 211 Skipped: 106



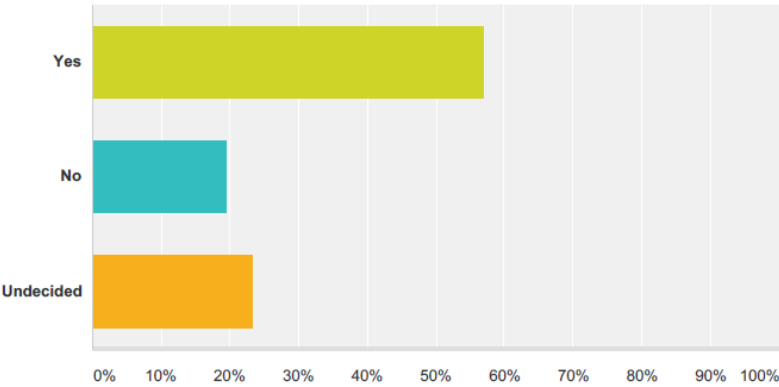
Answer Choices	Responses
1-3	48.34%102
4-6	15.17%32
6-8	7.58%16
9-10	8.53%18
11+	20.38%43
Total	211

Changes to Tax rules on ‘White Goods’ for unfurnished properties

SurveyMonkey

Q5 Will the change in tax rules reduce how frequently you replace items such as carpets?

Answered: 209 Skipped: 108



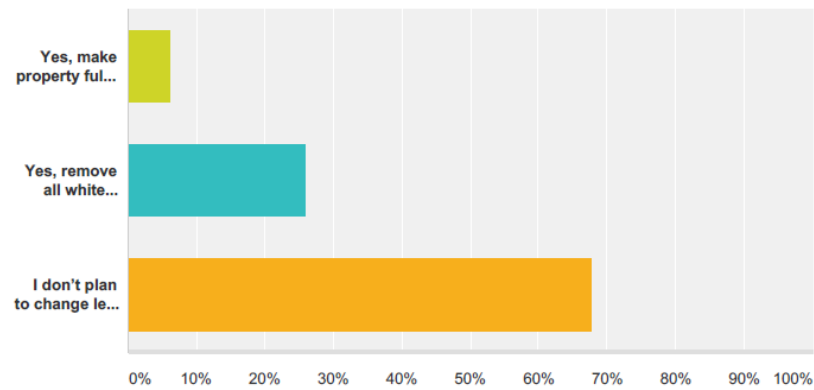
Answer Choices	Responses
Yes	56.94%119
No	19.62%41
Undecided	23.44%49
Total	209

Changes to Tax rules on ‘White Goods’ for unfurnished properties

SurveyMonkey

Q6 As a result of the changes, are you likely to change the level of furnishings in your unfurnished property?

Answered: 208 Skipped: 109



Answer Choices	Responses	
Yes, make property fully furnished	6.25%	13
Yes, remove all white goods, carpets etc. so property is completely unfurnished	25.96%	54
I don't plan to change level of furnishings	67.79%	141
Total		208

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>).