

ICAEW REPRESENTATION

TAXREP 24/10

INVESTMENT IN THE UK PRIVATE RENTED SECTOR

Memorandum submitted in April 2010 by The Institute of Chartered Accountants in England and Wales, in response to the HM Treasury consultation, Investment in the UK private rented sector, published in February 2010

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INTRODUCTION

1. The Institute of Chartered Accountants in England and Wales (the ICAEW) welcomes the opportunity to comment on the HM Treasury consultation, Investment in the UK private rented sector, published in February 2010.

WHO WE ARE

2. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
4. The Tax Faculty is the focus for tax within the Institute. It is responsible for technical tax submissions on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter 'TAXline' to more than 11,000 members of the Institute who pay an additional subscription, and a free weekly newswire.

MAJOR POINTS

Questions in the consultation document

5. We have made a specific response to questions 1, 3, 4 and 6 only.
6. The paper appears to hint at an understanding of the burden taken on by an individual buy-to let investor. We consider that this should be reflected properly by the tax system and we recommend that the tax treatment of property income generally is reviewed. This should include all taxes, including national insurance and also tax credits.
7. The amount of the rent a room scheme tax exemption should be uplifted to reflect current rent levels.

SPECIFIC COMMENT

Question 1: What has led individuals to invest in new-build properties in preference to purchasing and converting existing owner-occupied housing?

8. Para 4.7 notes that small individual landlords dominate the private rented sector (PRS) supply. Individuals or couples own 74% of the PRS housing stock with over two thirds of these owning five or fewer properties. It seems unlikely that all of these individuals can use this as their sole source of income and many will therefore be employed or self employed in other areas. The time and work involved in converting housing stock for letting can be considerable. New build properties will already meet required standards and can be let immediately.
9. Recent legislation such as that affecting houses in multiple occupation, have increased the costs for landlords purchasing older style properties. For example, replacing existing Edwardian panelled doors with modern fire doors will not enhance the capital value of a property, indeed it may reduce it. Buying a new property which already meets these standards although having less aesthetic appeal, will be a cheaper option.

10. Tenants generally prefer houses which already incorporate modern kitchens, showers, satellite or cable and wireless broadband. These will often come as standard in a new build, but will necessitate modernisation of older properties, involving cost for the landlord which may not be recoverable through comparably higher rents.

Question 3: What is the contribution of individual homeowners renting out part of their own home making to housing supply? Are there significant constraints limiting this contribution to addressing housing demand?

11. Since its introduction in 1992, tax relief through the rent-a-room scheme has relieved most householders from the administrative burden of making tax returns for income from letting a room in their own home. The current exemption of £4,250, dates back to 1997 and should now be uprated to reflect inflation since then.
12. While we do not have figures for average rent paid, it seems likely that rents have risen considerably since the limit was set. In particular, the cost of renting a room in London or the South East is more likely to be in the region of £100 per week. A more accurate figure should be obtained from estate agents or letting agencies and we recommend uplifting the exemption to this amount.
13. We do not think that this uplift will carry a significant cost to the Treasury.

Question 4: To what extent have the incentives for individual investment in private rented accommodation changed over the last 10 years and why? Going forwards, what are the key prospects and risks for individual investment in the PRS?

14. In the past 10 years, many more private individuals have seen investment in the PRS as a viable business opportunity. The tax system has not been changed to reflect or encourage this. Indeed, the only proposal for change has been to abolish the special rules which allow furnished holiday letting income to be taxed like a trade. The abolition is currently on hold pending the outcome of the general election.
15. Historically, a schedular system was used both for income tax and for corporation tax. This required property income to be treated separately and differently from income of other trades. Although the schedular system no longer exists, the separate rules for taxing a property business continue to apply. In particular, capital allowances are not given for plant and machinery used in a dwelling house.
16. The consultation paper recognises that individual landlords often manage the properties they let themselves. It is difficult to see why this is different from any other trading activity, particularly where several properties are being let and it becomes a full time occupation for the landlord.
17. We note that a buy-to-let investor is frequently tied to a particular property investment through the absence of any form of rollover relief. If a substantial capital gain would be realised on selling a house, the investor will not be able to reinvest all the proceeds in a new property for letting after having paid the tax. This is particularly difficult where the investor is relocating to another part of the UK for unconnected reasons, such as employment or retirement. An owner managed investment is managed far better if the owner lives nearby.
18. We recommend that the tax treatment of property income generally should be reviewed through a public consultation specifically focussed on this area. This should include all taxes, including national insurance, stamp duty land tax and also tax credits.
19. The proposals in the recent consultation document, False self employment in construction: taxation of workers, would in our opinion add both to the administrative burden of the construction industry and also to the costs of the industry.

20. At this time, the proposals appear to be on hold, although a statement in the 2010 Budget book states that the Government remains committed to legislation in this area. We said in our response, TAXREP 54/09, that the proposals would require many individuals involved in construction and correctly trading as self employed, to be recategorised as employees. A proportion of the additional cost of this would undoubtedly fall on individual landlords. A mobile and flexible workforce is essential to support the residential lettings sector.

Question 6: What evidence is there that i) the SDLT bulk purchasing rules are a constraint to building up property portfolios, and ii) changes to SDLT rules for the bulk purchase of residential properties would lead to increased investment, either by institutions or individuals, in the private rented sector?

21. We do not know whether the SDLT bulk purchasing rules are a constraint to building up property portfolios, but it seems likely that an individual landlord owning several properties which have been let over many years, would see this as a continuing business and would prefer to sell it as such if a buyer could be found. The alternative is to sell the houses individually, often to owner occupiers rather than buy-to-let investors.
22. A single buyer for all the properties as a single lot would have to pay considerably more stamp duty. This seems to work against the Government's intended policy of maintaining the stock of residential property for letting.
23. Any change to the stamp duty regime should first be included within the consultation referred to in paragraph 18 above.

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APPENDIX

THE 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 http://www.icaew.co.uk/taxfac/index.cfm?AUB=TB2I_43160,MNXI_43160