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Ms Jacqueline Latter
Personal Tax Team
HM Treasury
1 Horse Guards Road
LONDON
SW1A 2HQ

Dear Ms Latter

FURNISHED HOLIDAY LETTINGS CONSULTATION

Thank you for inviting the Union's views on HM Treasury's proposals to change the special tax rules for Furnished Holiday Lettings.

Following an internal consultation with its membership, the Union submits the following views for your consideration.

Since the 2009 budget announcement on the repeal of the special rules for Furnished Holiday Lettings, the FUW has campaigned vigorously against the proposals because of the serious effect they would have on the incomes of those farm businesses which have diversified into holiday accommodation and also the wider implications for the tourism industry in Wales.

The Union was concerned that the Government was considering a repeal of FHL rules without consultation with the tourism industry. It therefore welcomes the new Government's commitment to retain the special rules, and the opportunity to comment on the proposed changes.

Whilst welcoming, in principle, the retention of the special tax rules, the Union is concerned that the criteria relating to the length of time a property is actually let, coupled with changes to loss relief, will disproportionately affect Welsh businesses offering holiday accommodation, given the limited opportunities for extending the tourism season in many areas of rural Wales.

The Union is aware that some tourism accommodation has covenants restricting the number of months a property can be available to let over a 12 month period. The FUW is concerned that the proposals do not make it clear whether these properties will need to meet the same conditions as properties which are not subject to a covenant - i.e. available for let for 210 days and actually let for 105 days in a 12 month period - or if the conditions will be on a pro rata basis according to the number of months the covenant allows the property to be available for rent.

The Union is concerned at the implications that changes to loss relief will have on businesses offering holiday accommodation. The proposed changes could severely impact on businesses because, by not allowing a business to offset a trading loss against other

profits or incomes, it may extend the time it takes a business to recover from a loss.

Earlier this year the Welsh Assembly Government introduced new legislation, specific to Wales, to close a loophole within the business rating legislation which allowed owners of second homes to apply, and register for, business rates by stating that the property was available for rent, but then not actually renting it out. The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order stipulates that, to be eligible for business rates, a property must be available for rent for 140 days and actually let for 70 days in a twelve month period. The FUW is concerned that the introduction of the amended FHL rules will be confusing, as there will be two different sets of criteria to adhere to.

The FUW is also concerned that the consultation does not make it clear how the criteria relating to the availability for letting and the period actually let will be applied in terms of multiple properties owned and run by one person or business. The current proposals imply that each individual property will have to meet the criteria relating to availability and periods actually let. The Union believes that it would be sufficient for an average to be taken across all properties in the business when establishing whether the business has met these criteria.

Without prejudice to the proceeding comments, the Union's responses to the questions outlined in the consultation are given below.

Question 1

How would increasing the minimum period over which a property is available for letting from 140 to 210 days impact on businesses?

While the FUW acknowledges that extending the minimum period over which a property is available for letting may not have an impact on genuine businesses, as highlighted above, it is concerned that the proposals:

- i) do not clarify whether properties restricted by a planning covenant to the number of months that they are available for let will be treated on a pro rata basis.
- ii) could cause issues for some operators whose season is naturally restricted due to the geography and topography of Wales.

Question 2

Would the increase in the minimum availability period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:

- **the furnished holiday lettings industry that continued to operate; and**
- **the tourism industry as a whole?**

While the Union believes that genuine businesses will already have a property available for let for as many weeks as possible in a year, there could be localised impacts if businesses are no longer able to meet the increased minimum availability criteria. This could result in some businesses ceasing trading due to the financial implications of no longer being eligible under the FHL Rules.

Requiring an extended period of availability could lead to increased costs for individual businesses by having to maintain a property in readiness for guests although it might not actually be let.

Question 3

How would increasing the minimum period over which a property is actually let to the public from 70 to 105 days impact on businesses?

The FUW strongly opposes any increase in the minimum period that a property is actually let due to the impact that this will have on Welsh businesses offering holiday accommodation.

The Union is concerned that due to the current economic situation, some furnished holiday let accommodation providers will struggle to meet the increased requirements due to a lack of demand rather than intent.

As highlighted above, the Union is concerned that the proposals do not make it clear how properties which have covenants restricting the number of months a property can be available for let over a 12 month period will be treated.

Question 4

Would the increase in the minimum occupancy period cause current suppliers to stop providing furnished holiday lettings? If so what would the impact be on:

- the furnished holiday lettings industry that continued to operate; and
- the tourism industry as a whole?

Whilst the Union acknowledges that increasing the minimum occupancy period might not have an effect on the tourism industry as a whole, it believes that it could have a significant local impact, particularly for rural tourism operators who may struggle to fulfil any enhanced qualifying criteria.

Question 5

Is the proposal likely to impact differently in different regions of the UK or the EEA, for example because of differences in letting patterns or the length of the tourism season? If so, what evidence is there to suggest a regional or national variation?

The FUW believes that the proposal is likely to have a disproportionate effect in rural Wales due to the length of the tourism season outside the urban or coastal fringe.

It is also aware that, as many farm based operators attract short stay or passing trade, the proposals are likely to have regional impacts.

Because of the topography, geography and climate of Wales, there is a wide variety of reasons why visitors come to Wales. These factors also significantly influence the length of the tourist season and where and how long they will stay.

Question 6

What would be the impact of the proposed restriction to loss relief on qualifying furnished holiday lettings businesses? What proportion of businesses would be affected by this restriction? What types of business would be most affected? What would the commercial impact on the businesses be? Would this be due to a lack of capacity to use losses against the same qualifying furnished holiday lettings business in the future?

The Union strongly opposes any changes to the way loss relief is applied to FHL businesses and believes that diversified enterprises should be exempted when run alongside the farm businesses.

The FUW is concerned that changes to loss relief could lead to reduced standards, as there will be less money to re-invest in maintaining or upgrading the standard of accommodation offered. This could also impact on the business's ability to meet the criteria relating to the length of time a property is actually let.

Question 7

How should the proposed restrictions to loss relief be implemented? How should losses brought forward be treated for furnished holiday lettings businesses that are no longer qualifying? How should losses brought forward be treated for furnished holiday lettings businesses, some lettings of which are no longer qualifying?

As outlined above, the Union believes that an exemption should be applied to diversified farm businesses.

If a business incurs a loss and no longer qualifies for FHL relief, then the amended loss relief rules should no longer apply, and a business should be able to offset this loss against a profit, income or gain made by any other business owned by the same person.

Question 8

What are the potential commercial impacts of applying the current rules to every person operating furnished holiday letting businesses and bringing in a capital allowance disposal event every time they failed to qualify under the new qualifying conditions?

The FUW is concerned that the proposals will result in the removal of the current capital allowance rules, believing that this proposal will have a significant effect on the high standard of holiday accommodation offered in Wales, as owners will have to find additional capital to invest in maintaining and enhancing properties to meet the high standards being demanded by holiday makers and grading officials. This proposal will disproportionately impact on small rural businesses.

Question 9

What effect would the proposed treatment of notional pools be likely to have on the administrative burden placed on a business that:

- **continually operates as a furnished holiday letting under the new conditions; and**
- **sometimes qualified as a furnished holiday letting under the new conditions?**

The Union opposes the proposals to introduce notional pools, believing them to be too complicated and overly bureaucratic.

Farm businesses are already subject to high levels of bureaucracy and paperwork and the Union believes the proposals are unnecessary.

In conclusion while the Union welcomes the Government's recognition, through this consultation, of the importance placed on the Furnished Holiday Lettings Rules by those who trade under them, it is concerned that the proposed amendments, if implemented, could adversely affect farm holiday operators in Wales.

I trust due regard will be given to the preceding comments.

Yours sincerely

ANDREW GURNEY
Policy Officer