Newsletter No 26 December 2015

SOUTHERN LANDLORDS ASSOCIATION

We wish all members a very merry Christmas and profitable 2016

Helpline and office closed from 24th December to 4th January inc

STOP PRESS - 1

Important news for landlords. Buried deep in the details of the last Budget was the information that landlords making more than £10,000 per annum profit will have to file quarterly tax returns by 2020.

This affects self-employed workers, landlords and small business owners, and is just more red tape to further stifle this very important

If you use an Accountant to prepare, or check your returns these costs will rise as well. Whilst not stated, is this the first step to landlords having to pay their tax returns quarterly as well?

STOP PRESS - 2

Members will no doubt be aware of the additional burdens to be placed on buy to let landlords which were announced in the Chancellor's Autumn State ment. Basically, there are two additional items which, briefly, are as follows.

1. Stamp Duty: Both buy to let landlords and second home purchasers will, from 6th April 2016, find that Stamp Duty will rise by 3%. Example: a £250,000 property purchase could cost £7,500 more in Stamp Duty alone.

2. Capital Gains Tax on profits on property other than the main residence will have to be paid within 30 days of completion of the sale, from 2019. Mike Stimpson comments: Members will be aware that as an alternative to capping interest, our association, along with the British Property Federation and other organisations, made representations to the Treasury that instead of capping interest that can be claimed, the Chancellor should have two sets of Stamp Duty, namely one for purchasers of their own homes and another for buy to let landlords.

In our last Newsletter we gave the reasons for suggesting such an amendment but were advised that if it was put forward the Chancellor would probably take it on board but not alter his intention of capping interest rates. Members will realise that that is exactly what has happened and makes it very clear indeed that the Conservatives are intent on promoting home ownership at the expense of, in particular, buy to let landlords. The requirement for landlords from 2019 to pay any gain within 30 days of the sale of the property, once again demonstrates how private landlords in particular are being targeted for treatment not applicable to other forms of business. The future does not bode well.

HOUSING OWNERSHIP - IS IT A REALITY FOR MANY OR JUST A DREAM?

Government, it seems, is wishing to promote owner occupation and in doing so is proposing regulations that will require, on large new build sites, a proportion of those properties to be available as starter homes to first time buyers at 80% of the market value. This proposal, as part of the consultation, in itself appears reasonable but when one looks deeper into it one wonders how first time buyers will have, even with a 20% discount and a 5% deposit for such properties, the ability to then repay the mortgage on the remainder of the purchase price. With prices, it seems, out of control in London and the South, such proposals are nothing more than a fairytale for most young working people, many of whom will already be overburdened with costs of further education to repay.

Such proposals will also affect the buy to rent property investors, for the attraction of building to rent is that the whole block will be available to rent and thus be in one ownership and one management. If a percentage of starter homes are to be included as a requirement on all large residential development projects, then it is very likely that those developments will become unattractive to investors and simply will not take place.

It does seem that there is a policy bias by this Government for home ownership. The attractiveness to Government of buy to let landlords is diminishing fast but nevertheless there is a growing recognition in the Treasury that the scale of buy to let currently is directly affecting opportunities for first time buyers to own their own homes. That may be so, but as already mentioned the cost of many properties, even at 80% market value, will be unaffordable, with the only alternative being private renting. There is no doubt that housing is at the top of Government's agenda. What the Government appears not to understand is that the real problem is lack of housing in certain areas of the country to meet the demands of an ever-increasing population.

MORE CONSULTATION - MORE REGULATION

Extending mandatory licensing of houses in multiple occupation (|HMOs)

Planning and Housing Bill

Members will certainly be most interested in and concerned with the Government's proposals to extend mandatory licensing to include any property occupied by five or more unrelated persons regardless of the number of storeys. Members will gather from this that most small shared houses will come within this definition if Government goes ahead with its proposals. Currently only properties with five or more unrelated persons consisting of three or more storeys are subject to mandatory licensing, i.e. the larger HMOs.

It appears that the main objective in bringing forward these proposals is to tackle 'rogue landlords' who let, it is alleged, such properties in poor condition of which many are overcrowded.

Local authorities have been able to implement both selective and additional licensing to deal with such properties and many have taken the opportunity to do so. In the opinion of our association's committee, any good local authority should be aware of the properties that could be subject to letting by rogue landlords and in fact the Government is providing a £5 million fund for local authorities so affected to apply for extra funding to root out the 'cowboys' and rogue operators. One wonders therefore, having already implemented regulations for a balanced approach to mandatory licensing, why the Government now seeks to extend it to include any property with five or more unrelated people.

In the consultation there is no mention of what would happen if such regulations are passed in respect of the properties that are already subject to discretionary licensing in one form or another. Would those properties be passported into mandatory licensing or would landlords be expected to apply separately and pay additional fees? Would it really tackle the rogue landlords or would it be much more appropriate for local authorities themselves to go after the rogue landlords that do exist in very small numbers by specific funding from Government, rather than by good landlords paying licensing fees to enable local authorities to tackle the few rogue landlords in their areas?

Your committee has yet to examine in detail the proposals but will be replying to the consultation before the closing date of 18th December 2015.

YET ANOTHER TAX ON LANDLORDS

Members may not be aware of an announcement in the Summer Finance Bill 2015. With effect from 1st November 2015 the standard rate of 'insurance premium tax' was increased from 6% to 9.5%, and that will reflect in your buildings and vehicle insurance policies and is an increase of over 30%. Members should note this increase, as when they receive their insurance premiums any increase will, in part, reflect this particular tax.

Government, as usual, has made no public announcements regarding why it is necessary for it to make such increases but landlords will note and no doubt increase rents to cover the increase, which is another area of additional income for Treasury.

MINIMUM ROOM SIZES FOR RESIDENTIAL ACCOMMODATION

National minimum room sizes
Included as a part of the consultation on extending mandatory licensing, the Government is also considering setting a minimum room size of 6.5 square metres.

Any room which is under that size would be statutorily overcrowded.

Members may wish to know that there has been an Upper Tribunal (the Lands Chamber) decision which has ruled that local authorities' standards are for guidance only and not binding in all cases. The Government proposal would in effect override the Upper Tribunal decision.

Long-standing members will be aware of a paper produced for our association a number of years ago by Professor Ambrose of Brighton University. Basically, his proposal was that if a room is safe it should be able to be let, and that a minimum size may not be a sensible determination. For example, an L-shaped narrow room could well be 6.5 square metres but may not be fit for purpose, whereas a 6.0 square metre room in the shape of a square or a slight rectangle could well be suitable. If local authorities can impose rigid standards then they will do so and common sense will not prevail.

Many members may well be affected by this proposal and it would be helpful if members would think about it and let the SLA have any comments you would wish to make. Please send by email to mike.stimpson@southernlandlords.org.

The SLA understands that the Government wishes to stamp out overcrowding, but it must understand that there is a significant shortage of accommodation, both for sharers and for single people wishing to live in houses in multiple occupation. To dictate exact minimum standards could well curtail the number of rooms available in what is already a dire situation.

CHARTERED INSTITUTE OF HOUSING - A QUALIFICATION FOR THE MARKET RENTED SECTOR

Members may be interested to know that the Chartered Institute of Housing is introducing an online learning course for landlords / letting agents, which is a Level 2 Award in Letting and Management - Residential Property. The qualification will consist of three units:

1. Tenancies and the law
2. Property and tenancy management
3. Customer care in the private rented sector

The course costs £360 and the duration is 14 weeks, with approximately 6-8 hours of study per week. Membership of the Chartered Institute of Housing will be provided at no extra cost during the duration of the course.

Members who may be interested can obtain more information by telephoning 024 7685 1789 or emailing onlinelearning@cih.org. To apply online, members can do so at www.cih.org/qualifications.

CARBON MONOXIDE DETECTORS

Members will have seen the new regulations regarding the fitting of carbon monoxide detectors in the last Newsletter. However, there seems to be some confusion, in that Gas Safe, the regulator for gas fitters, is 'recommending' to its members that they fit carbon monoxide detectors where gas boilers are installed. This is not a Government requirement and forms no part of the regulations brought in by Government from 1st October 2015. However, many gas fitters will not work on or service boilers unless a carbon monoxide detector has been fitted or is fitted by them.

Following our last Newsletter, we have had a number of members query the regulations through our Helpline, and the purpose of inserting this additional information is to ensure that members understand the difference between the Government regulations and the Gas Safe recommendation to its members.

Mike Stimpson comments: As a landlord who has many gas boilers fitted, my gas safety engineer has installed such detectors wherever a boiler is fitted and not only where a boiler is in a habitable room, i.e. a bedroom, etc. In view of the low cost of these detectors, it seems sensible to have them fitted.

CHRISTMAS HOLIDAYS

Members will wish to know that our voluntary Helpline will be closed after business on 23rd December and will not be available until Tuesday 5th January 2016. Kindly make a note, as no calls will be answered during the Christmas holiday period.

MIKE STIMPSON'S COLUMN

As I mentioned in the last Newsletter, just like buses, a second Newsletter has now turned up when you've hardly been able to read and digest the last one. My apologies for the delay in the last Newsletter but matters beyond our control delayed its publication. The current Newsletter, unfortunately, contains more bad news for landlords. This time it's not particularly about extracting more money from landlords but increasing regulation.

Government does not seem to understand that in the affluent South and London there is a dire shortage of affordable accommodation and it is often private landlords like you and I who are providing it. However, it seems in Government's quest to sort out the 'bad' from the 'good' landlords it is imposing regulation on everybody, which will probably most affect the vast majority of good landlords whilst the bad landlords will still hide under the radar, unless local authorities can provide the resources to root them out.

The SLA has no time for rogue landlords but on the other hand no word is heard in any consultation about the tenants who are bad. Some can't help it, others deliberately cause trouble and don't pay their rent. Government should also understand that when landlords let property, in most cases it is in good condition. Tenants then often turn it into less satisfactory condition, some within hours/days of becoming tenants. Landlords have little control over the actions of a tenant once the agreement is signed and the tenant is in occupation. Too much is said about 'bad landlords' and little or nothing about the quality of some of the tenants, many of whom neither council nor social housing providers would ever take on as tenants.

As mentioned in the leading article to the Newsletter, the Government is trying to manipulate the market in favour of build to buy first time buyer properties at discounts. I don't know whether MPs consider that most members of the public in their constituencies in the South-East and London in particular are drawing salaries of the level that MPs enjoy. Most are not, and regardless of a 20% reduction in the proposed New Development Affordable Purchase Scheme, few first time buyers will either have the deposit or be able to afford the repayments on what can only be described as grossly overpriced properties in these areas. Either there must be a population relocation from London and the South to the North or properties must be built in such quantities that cause a market adjustment in prices.

Setting minimum standards to protect a few tenants will probably affect a lot of accommodation operated by good landlords and thereby increase demand whilst decreasing supply. With the population increasing as it is, either by birth or by immigration, there is no way in which certain areas of the country will be able to provide sufficient accommodation for those wishing to live there. Government needs to address these problems and not use private landlords as part of the problem but as part of the solution.

May I wish all members a Happy Christmas.

Mike Stimpson

An article by Mike Stimpson:

LOSS OF HIGHER INCOME TAX INTEREST RELIEF ON BUY TO LET MORTGAGES

Members will be well aware that between 2017 and 2020 the Government intends, on a phased basis, to restrict the amount of mortgage relief that can be claimed by an individual buy to let landlord to 20%. In addition, the interest will no longer be a relief, but a deduction after the tax charge has been applied. The effect of this specific change could mean that many basic rate taxpayers who currently enjoy tax relief at 20% will find that they will be subject to 40% tax directly as a result of this particular change.

A number of members have made representations that they do not consider our Association has done enough either to stop these changes being applied or having amendments made to them. As mentioned in my last newsletter, the problem is landlords themselves; very few belong to landlords associations and therefore those associations, even acting in unison, have insignificant political clout. There are over 2 million landlords in this country, but only approximately 50,000 are members of landlords associations. The Government can therefore trample all over them, as they are not represented in sufficient numbers to have any real 'political clout'.

One wonders why landlords will not join landlords associations and pay what is in essence a 'club fee'. Some members suggest that membership at a basic level should be free, but those members do not offer to contribute to the work and cost necessary to carry forward substantial political lobbying. Landlords it seems still act as though they are all independent of each other in a cottage industry and if they, in particular, use agents, see no reason why they should pay for belonging to a landlords association. Others consider they can get all the advice they need by using the internet and again do not see why they should spend any money supporting landlords organisations. The reality is that by acting as most do, there is no political clout at all and the result is being seen as a result of a Government which appears not to respect landlords and has made them a particular target for 'exploitation' and a very good source of additional revenue for the Treasury.

To make it absolutely clear, the SLA has made representations via both the British Property Federation and the Treasury that the removal of interest relief to higher taxpayers is wrong and in any event should not be retrospective. SLA has suggested that instead of the Government proposals, the alternative should be to have two levels of land tax duty, one for first time buyers and another for buy to let investors. The new rates should only apply on the date the Government gets parliamentary approval for the legislation. By this method, Government would ensure that every buy to let investor, whether a basic taxpayer or purchasing in cash, would be affected by the legislation. It would then be seen to be fair. However, the Treasury has made it clear that the legislation, as proposed by Government, will not be altered and amendments will not be taken. As it has an overall majority, it can act in this manner and no amount of lobbying by small groups will change that position.

Members have to be realistic and understand the culture of landlords. As a representative of landlords for over 40 years, I have experienced such behaviour. As an example, most landlords join landlords associations for what they can get out of them, not what they can put into them. They do not see an association as a trade union, they see it as a service provider and, as such, fail to understand when numbers matter and the purpose of volume of members on the current political stage. Members who will be affected by these proposed regulations will own their investments in their own name or joint names and not in a company, as company ownership is not affected by the proposals. The SLA, along with other associations, has researched what can be done and those landlords who will be affected either by a reduction in the relief that they can obtain or alternatively will be brought into higher tax brackets as a result of the change, in the way interest will be calculated, have the option, provided they meet certain criteria of incorporating. In other words, of putting their property investments into a company.

Many of you will think to yourselves, well if I were to do that I would have to pay capital gains tax on any gain made at the time I transfer the properties and in addition I will have to pay stamp duty Land Tax as well.

Members will be interested to know that both capital gains tax and stamp duty Land Tax can be rolled over if it is deemed that you have a business. The word 'business' is used in the normal sense.

There has been a case in the Upper Tribunal which is the first and only authoritative decision on this issue. In reality, it comes down to the time spent personally in the property rental business.

The time spent is not measured pro rata to the number of properties/lettings. In other words, the more properties/lettings which you have, the more time you are likely to spend, provided you are actively involved, in which case the more likely you are to qualify for the relief. In the case before the Upper Tribunal, the landlady involved had a house that was divided into ten flats. She visited the property regularly but did not actually collect the rent. She had no other business activities; she spent 20 hours per week involving visits to the property for various reasons, carrying out work at the property, etc. The Judge decided that this passed the threshold, so it qualified as a business and the relief was available. In light of this case, the following conclusions could be drawn:

- A full-time landlord personally engaged in the normal management activities should qualify.

- A part-time landlord spending at least 20 hours per week, personally involved in the management of their properties, should also qualify.

- Even if you work less than 20 hours per week, you may qualify. The Judge did not give any indication of how many hours were needed, but it should be borne in mind that the person in the case had no other business activities of any kind.

- If you use an agent to manage your properties, it is highly unlikely that you would qualify unless you spend a considerable amount of your own time personally engaged in the management of the properties, alongside the agent. Again unlikely, unless you have a large portfolio.

- If HMRC have accepted you as having partnership status then you should automatically qualify to be in partnership and this has the double benefit of, hopefully, no stamp duty Land Tax either. A claim for incorporation rollover relief might however prompt an investigation to HMRC to check that your partnership was in fact fully justified prima facie in being accepted as a partner then you may also qualify for this relief. There are however, in reality, a considerable amount of problems and you may have to look at the whole tax situation, not just the capital gains tax and the stamp duty land tax. Rearranging mortgages (which would be at the heart of this because that is the very reason you are wanting to incorporate) could be a key problem. How do you get the cash out to pay off the mortgage loan, if that is what you have to do, without it triggering CGT anyway? Because you are going to need cash unless you can persuade the lender to allow a transfer, subject to mortgage.

Members should consider the above very carefully, as not only are there hurdles to pass, the tax position changes considerably if you place your property investments into a company. Our Association's advisors are not qualified to give specific advice and any member who considers that the Government will not be persuaded to change its proposals and wishes to put his/her portfolio within a company should make an appointment with a qualified accountant to discuss further. The SLA believes that, to date, it has done its best to persuade Government to change these most unreasonable regulations. The SLA has also set out in this paper, ways that members who will be affected by these changes can possibly avoid the effects by seeing their accountants and ascertaining the situation for them as described above.

A copy of the 'standard letter' from the Treasury Minister, David Gauke, is included within the newsletter for members' information.

HAS OSBOURNE DONE A LAWSON?

In the 1988 budget the (then) Chancellor, Nigel Lawson, removed an anomaly whereby unmarried couples could both enjoy relief on Mortgage Interest (Miras - for our older readers!) - bringing them in line to married couples, i.e. only having one relief per couple.

The problem? The budget was in March, and the change took effect that August. The outcome? The market went bonkers that summer, forcing prices sky high. In fact 1988 is still used as a measure of comparison when looking at house price increases.

The current Chancellor has added 3% extra to stamp duty on buy-to-lets, and second homes, but delayed until April next year. Surely this is going to lead to a manic bout of buying between now and then, forcing prices up, especially in the lower end of the market - precisely the opposite of what Osbourne intended. My friendly Estate Agent has told me that this has started already. Normally December is a time when they catch up on their paperwork - not this December. Enquiries are at a Spring time high, but without the property to service the purchasers. If you are an agent, or in peripheral services (surveyors; lenders, etc.) you are in for a very busy few months.

So, if you are thinking of getting out, now is very much the time to offload. The other (small) silver lining to the extra 3% stamp duty cloud is that currently the increased costs will be claimable against Capital Gains Tax (CGT) when you sell - unless a future budget closes that facility.

And at the moment there some exceptions to the extra 3% rule. Firms owning more than 15 properties will not have to pay the increase - but this is subject to a Treasury consultation. Commercial property; house boats; caravans and mobile homes are all exempt (at the moment). So perhaps now is the time to diversify - Buy to Let House-Boat anyone?

The financial press are very sceptical about this move. They are of the opinion that serious buyers will continue, and it will just force up rents. We wait to see on that one.

Interestingly enough, the Mail have just done a comparison on Buy to Let versus Shares over the next 25 years. They are the first to admit there are an awful lot of unknowns, but based on previous figures Buy to Let is still more profitable than shares - but involves an awful lot more work and risk.

So time to pour a large drink; find a quiet corner and consider your future.

Those that remain in the rental market will need to be even more professional to succeed. Good luck.

LEGIONELLA AND LANDLORDS' RESPONSIBILITIES

There is a lot of confusion about Landlords responsibility for Legionella testing; and indeed, if it is the same as Legionnaires' disease. For this I can do no better than to quote from the HSE (Health and Safety Executive) website:-

What is Legionella?

Legionnaires' disease is a potentially fatal form of pneumonia caused by the inhalation of small droplets of contaminated water containing Legionella. All man made hot and cold water systems are likely to provide an environment where Legionella can grow. Where conditions are favourable (i.e. suitable growth temperature range; water droplets (aerosols) produced and dispersed; water stored and/or recirculated; some 'food' for the organism to grow such as rust, sludge, scale, biofilm etc) then the bacteria may multiply thus increasing the risk of exposure. It is a simple fact that the organism will colonise both large and small systems so both require risks to be managed effectively.

It has been a requirement for landlords to carry out a risk assessment to ensure the risk of Legionnaires' disease is kept to a minimum. This has been the requirement since 2001, but only seems to have gained notoriety in the last year or so, with many agents now claiming that landlords need to test their whole system, and to ensure they have a valid Legionella Test Certificate.

Please note that there is no such thing as a certificate, in fact I will again quote from the HSE site:-

"Health and safety law does NOT require landlords to obtain, produce nor does HSE recognise a 'Legionella test certificate'".

Landlords have to ensure they have assessed the likelihood of an excess of Legionella being present at the time they hand a property over. Anyone can carry out this assessment, and many are getting their Inventory Companies to conduct the assessment at the same time they do the inventory/check-in. It is worth noting that there will always be traces of Legionella, so any company carrying out a test can claim a positive test, leading to more work.

The risk factors to be looked for are:-

- the water temperature.
  The bacteria multiply where temperatures are between 20-45°C and nutrients are available. The bacteria are dormant below 20°C and do not survive above 60°C;
- water flows.
  Flowing water will help to flush through the bacteria. Conversely, still water allows them to multiply further;
  - nutrients, to allow the bacteria to feed.
    Sources of nutrients include things such as rust, sludge, scale and organic matters;
    form of the water flow. Legionella is generally passed through water droplets - e.g. showers;
    age, and health of anyone exposed.

  Some people are at higher risk, including:-
  - people over 45 years of age;
  - smokers and heavy drinkers;
  - people suffering from chronic respiratory or kidney disease; and
  - anyone with an impaired immune system.

So your risk assessment should be looking for:-

how is the water stored:-

- is there a cold tank;
  if so, does it have a well-fitting lid to stop things getting in;
  is insulated to stop the water getting warm during the summer;
  any rust; sludge or scale in the tank - or even worse, any dead animals!
- If hot water storage:-
  what temperature is the water stored at;
  does the temperature of the water regularly exceed 60°C (which would kill any bacteria contained therein);
  is the water system able to allow for free flowing of water at all times, or are there 'dead legs'. Dead legs are pipes that used to supply something now removed, so contain dead water. These are often next to a hot pipe so can be heated to the 20-45°C leading to bacteria growth;
  cleanliness of shower heads;

presence of anything else that might cause water droplets, e.g. a Jacuzzi;

- how long has the property be left empty, without flowing water.

Thus student accommodation is particularly at risk where the property is empty all summer;
number of water outlets. Thus HMO's are of more risk;
any vulnerable persons occupying, or to planning to occupy.

To prevent, or minimise the risk:-

- keep the cold tank clean, and well covered;
- ensure the hot tank exceeds 60°C;
- ensure water spray are clean - especially shower heads. Many landlords replace all shower heads on changeover;
  keep pipe lengths as short as possible, and remove redundant pipework;
  flush the water system right through;
  heat the hot water to above 60°C, and also run showers - ensure the tester is not in the room at the time of flushing, and that windows are kept open.

However, it is worth noting that when we have had outbreaks in the UK the source has thought to be cooling towers, and large air condition units. Not residential units.

Whatever you do, keep a record!

LANDLORDS SEEN AS A RISK AREA FOR TAX EVASION

Industry experts believe landlords are clearly in the sights of HMRC and see this sector as a focus area. Sources suggest that HMRC are obtaining more data from agencies which feeds into their central database to help identification of companies and individuals.

Ensuring you have your tax affairs in order when it comes to your rental properties is essential as Richard Proctor, Partner at East Anglian chartered accountants Larking Gowen, says: "HMRC are aware of the increased popularity of buy to lets and clearly see this sector as a risk area for the non-reporting of income and capital gains. It is therefore more important than ever that landlords take their tax reporting obligations seriously and adopt all reasonable steps to ensure that their submitted annual tax returns are complete."

Following rules and regulations and seeking professional advice when it comes to tax makes for good practice, but should circumstances arise where you are subject to an investigation, as a member of Southern Landlords Association (SLA), you have insurance cover in place.

Member benefits

If you find yourself to be at the centre of a tax investigation, as a member of the SLA, you automatically receive insurance cover which allows for professional expenses incurred for representing you in the event of an HMRC investigation or tribunal. Whilst there will not be cover for any resulting fines, or when there has been deliberate tax evasion, there is substantial cover and advice for genuine issues.

What is included?

Your insurers and representatives will negotiate on your behalf and represent you in any appeal proceedings in respect of your tax affairs, if the full enquiry and/or aspect enquiry by HM Revenue & Customs has resulted from you being a property owner.

The maximum amount payable for an aspect enquiry is £1,000 and a £100 excess also applies. In respect of a full enquiry the maximum amount payable is £25,000.

It is vital that if you are aware of an issue by HM Revenue & Customs that you inform DAS Insurance immediately. This cover does not apply if you are a business or limited company.

Claims Procedure

As soon as you become aware of an issue, please contact the DAS helpline on 0844 893 8165 quoting policy number TT2 5588377.

Why choose Alan Boswell Insurance Brokers?

Obviously it is advisable to keep your paper work and accounts in order and meet your tax return deadlines, if necessary seek professional advice to help you do this. However if you do find yourself being investigated don't forget to let DAS Insurance know and use the insurance cover you have as an SLA member.

Please note:

We have warned you previously that HMRC (Inland Revenue) are actively targeting landlords at the moment, and I am certainly aware of many members who are being investigated.

If you receive correspondence from HMRC don't forget that as an SLA member you have insurance cover against this. But please note:-

- it only covers the paid members listed on the membership database;
- they must have been active members (i.e., belong to this scheme) during the year HMRC start an investigation. So if you decide to leave the SLA, and subsequently get an investigation the insurance company (DAS) have ruled that you will not be covered;
- it is vital to inform the office immediately you get notification, so DAS can be informed. They will then contact you to make you aware of the rules.

IF YOU LET VIA A COMPANY

If you let properties using a company name, rather than as a private individual (I don't mean through a letting agent) be aware of a problem a member came across - substantiated in a legal update recently received.

Basically be careful who signs what. If a Director of the company always signs everything, all should be well.

In the recent case involving a member the initial AST; the S21; and the N5b form (court application) were all signed by different people. They were extremely lucky when it went to court that the Judge could have thrown the case out, meaning costs and starting again. This (very reasonable) Judge decided to suspend the proceedings until the N5b was re-issued correctly.

HIDDEN BT CHARGES

Did you know that BT are now charging you to go into the phone book - £36 per quarter per number. Check your bill.

TRADEPOINT - ADVERTORIAL

HMCA - ADVERTORIAL

COULD YOU BE PAYING STAMP DUTY LAND TAX UNNECESSARILY? - MOORE BLATCH ADVERTORIAL

If you've bought a property at some point in your life then you will be familiar with the term stamp duty (or Stamp Duty Land Tax (SDLT) as it is known in full). Even if you haven't, I'm sure most people have at least heard of it.

SDLT is paid when purchasing residential properties over £125,000. But what is less well known is that you may need to pay SDLT when transferring the ownership of a property to another person in exchange for a monetary value (called 'consideration' by HM Revenue and Customs).

There are a number of factors that can affect whether SDLT is applicable, including whether the transfer is a gift, what the total value of the transfer is and who will be responsible and liable for paying the mortgage.

This final factor is an important one. The transfer of a share of the mortgage can be treated as 'consideration' for SDLT purposes and can give rise to an immediate tax charge.

Don't get caught out by Stamp Duty Land Tax when transferring property between joint owners.

If the person who is giving the property retains the liability for the mortgage then it is possible to reduce or eliminate the SLDT charge and we can advise you on whether this is possible for your transfer.

What is the threshold of SDLT for transfer of ownership?

While SDLT must be reported to HMRC if the 'consideration' is more than £40,000, SDLT will not start to become payable on residential property until the 'consideration' exceeds £125,000.

So, for example, if a buy to let property has a mortgage of £350,000 and the ownership ratio changes from 90:10 to 50:50 there may be 'consideration' of £140,000 - and SDLT of £300.

More information

The HM Revenue and Customs website explains in more detail what Stamp Duty Land Tax is and what this means for joint ownership, however if you have any questions or would like to discuss a property transfer that you want to make, then please contact Tom Lacey, Chartered Tax Adviser at Moore Blatch solicitors.

MOORE BLATCH
solicitors

TIS THE SEASON TO BE JOLLY! - ADVERTORIAL BY MTM

Nothing says Merry Christmas more than giving. So here at MTM we are offering a Christmas treat, exclusively for SLA members. We're offering 3 months FREE management with any rental property instructed on a managed package*. Being one of the largest Estate and Letting agents in the city, MTM insist on giving the best possible service to landlords and tenants alike. With our expert knowledge and experienced staff, you can be reassured that your property and tenants are well looked after. We support the SLA and already work with several of its member landlords, we look forward to meeting more of you at the seminars and helping more landlords run a successful business.

As well as 3 months' free management, we are also offering 25% off our sales fee for any landlord thinking of selling their property, taking our fee from 1.2% (inc VAT) to just 0.9% (inc VAT), which includes professional photography and a floor plans. We work with a significant number of investors, meaning we can source buyers quickly, who are reliable and in a strong position financially to proceed with a purchase.

For more information, please contact our Sales and Lettings Manager, Andrew Gunner, on 01273 645797 or by email to a.gunner@mtmproperty.co.uk *Terms & conditions available on request.

COMMON HELP LINE QUERIES

We get a variety of questions on the Help Line (01732 56 56 02), but common ones are about getting tenants out.

You must not forget that only two people can cease an AST; the tenant, or the courts. The landlord can't. They can ask the tenant to leave; only the courts can force it.

So if the tenant leaves, for whatever reason, it is vital that you get proof that they have left voluntarily. A good way is a receipt from you to them for the return of the keys. This can be included on the inventory - but must be signed by the tenant to prove to a court (if necessary) they left voluntarily.

The only two acceptable ways to ask a tenant to cease an AST are:-

1. a Section 8, whereby the tenant has not done something they are contracted to do under the terms of the AST. This is normally pay rent;

2. a Section 21, where the landlord is asking for the property back, with no reason.

If you raise a Section 8 you can raise a Section 21 as well, but whatever you do, please do it correctly. There is a fact sheet about this on the web site, members area.

IN BRIEF

Good news for Live-in Landlords

From next April, homeowners letting a room in their house will be able to earn up to £7,500 a year without paying income tax on it.

This is up from the current £4,250 limit. Meanwhile, buy-to-let landlords face higher Stamp Duty and reductions in tax relief.

Two Brighton unregistered HMO landlords fined

Two Brighton & Hove landlords of shared houses have been prosecuted for failing to license their properties as Houses in Multiple Occupation (HMOs) with one facing a £20,000 fine.

Both were prosecuted under the Housing Act 2004 at Eastbourne Magistrates Court. Neither defendant appeared at the hearing this week and neither was represented.

Illegal eviction landlord ordered to pay £3,000

A landlord in Cornwall, who has not been named, has been fined £1,000 and ordered to pay £2,000 costs after illegally evicting a tenant.

An investigation undertaken by Cornwall Council's private sector housing team revealed that on the 6 July 2015, the tenant had been illegally evicted from a self-contained flat in Truro.

It was found that the former tenant was deprived of her accommodation and that her belongings had been removed and left outside the address. Also the lock to the accommodation had been changed.

Yearly rises

Rents continue to rise on a year-on-year basis. UK rents were 2.9% greater than in November last year, with wages also up by 3.0%.

These rent increases were driven by one-bed homes, popular with young professionals. Rents in these properties were up by 4% year-on-year, while three-bed properties saw a 3.6% increase.

Rents have seen a upward trend since January 2013 and have climbed by 7% from this period. Wage growth has risen by 4.8% over the same timeframe. One-bedroom rents have increased by 8.6%.
The Southeast was revealed to be the area with the quickest rental growth over the last year.

Right to Rent

Note that all landlords will have to check the immigration status of all potential tenants from February of next year, before they can make an offer to let. They can only offer to prospective tenants if they have the right to remain in England.

If the landlord believes the tenant has lost their right to reside in the UK when they are renting the landlord has to inform the Home Office; the Home Office can issue documentation which will carry the same weight as a High Court Office, and can thus lead directly to a Bailiffs Order.

Additional, it is possible that a new law will come in from October next year which will mean that landlords will have to check the immigration status of all their tenants.

Details of this check can be seen in the members section of the web.

FINANCIAL SECRETARY TO THE TREASURY

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Your ref:

Dear

2015

Thank you for your letter of 28 August to George Osborne about the changes to mortgage interest relief for residential landlords. I am replying as Minister responsible for this policy area.

At the Summer Budget, the Chancellor set out a package of tax measures which support the Government's ambition to reduce the deficit and to rebalance the economy. They were also accompanied by a package of measures to support a high wage, low tax, low welfare economy. You have raised a number of concerns about the Government's decision, announced in July, to restrict the relief on finance costs that individual landlords of residential property can get to the basic rate of tax. It may be helpful if I explain the Government's position.

The Government wants a fair tax system. That means ensuring that landlords with the largest incomes no longer receive the most generous tax treatment. By restricting finance cost relief available to the basic rate of income tax all finance costs incurred by individual landlords will be treated the same by the tax system.

You state that the private rental sector should be treated like any other business for tax purposes. Landlords will continue to get full income tax relief on the costs incurred in letting out a property, such as letting agency fees and replacing furniture, as others do on the costs they incur in carrying out a trade. Finance costs are different as having a mortgage on a property also allows the landlord to purchase a more expensive property and incur larger gains on the investment than they would have done without the mortgage. The Government wants to rebalance relief for these finance costs and ensure that all individual landlords get finance cost relief at the same rate.

You make number of suggestions on the potential impact of the proposals which I will take in turn.

To address your concern that the changes will lead to upward pressure on rents, I would like to reassure you that Government does not expect this to have a large impact on either house prices or rent levels due to the small overall proportion of the housing market affected. There are 1.6 million buy to let mortgages outstanding in the UK overall, out of a total private rented sector of 4.4 million households and total housing stock of 22.6 million households in England. Furthermore, this change is being introduced gradually from April 2017 over 4 years. This ensures landlords will have time to adjust and plan for this change. The Office for Budget Responsibility believe the impact on the housing market will be small and, taking account of the other measures in the Summer Budget, have not adjusted their forecast for house prices.

You suggest that the changes will dissuade landlords from purchasing properties to let, reducing the supply of private rented accommodation. Only around 1 in 5 (18%) of individual landlords are expected to pay more tax as a result of this measure, and this is being introduced gradually from April 2017 over 4 years to give landlords time to adjust. Landlords will continue to benefit from any capital appreciation from their properties.

The Government is taking significant steps to support housing supply with housing starts now at a 7 year high. The Budget has announced increased Rent a Room relief, which will help to increase levels of private rented accommodation. The Productivity Plan will also announced further measures to reform the planning system, and to help meet the government's commitment to deliver 200,000 Starter Homes at a 20% discount for First Time Buyers.

You raise concerns that the changes will reduce investment in repair, renovation and improvements causing lower standard for tenants. Landlords are required to maintain their properties to a legal minimum standard. The reform to the wear and tear allowance means that all landlords will now be able to offset the costs of replacing furnishings in their properties removing the previous disincentive to do so. I therefore do not think that the changes to the tax rules will reduce standards for tenants.

You also suggest two changes to the current proposal. Firstly, that the measure should be re-cast so that the right of deduction is retained even if interest is only relieved at the basic rate. Secondly, that the measure only applies to new borrowings. As I set out above, the intention of the policy change is to make the tax system fairer and ensure that all individual landlords with residential property income are treated the same. Our assessment is that both of your proposals would lead to landlords with very similar circumstances being treated differently, which goes against the policy intention.

The Government believes the changes announced at Summer Budget will create a fairer system. I appreciate you will may be disappointed that the Government does not intend to amend its approach but and I hope you find this letter useful in understanding the Government's response to the issues raised.

Thank for taking the trouble to make us aware of your concerns.

Yours sincerely

DAVID GAUKE

MEETINGS/EXHIBITIONS FOR NEXT QUARTER

Social meetings:

The regular London and Thanet socials will be:-

- London, the first Monday of every month commencing February. To be held upstairs at the Constitution - 42 Churton Street, SW1V 2LP. 020 7834 3651. Commencing 6.30 pm
- Thanet, the first Thursday of every month commencing February. To be held in the newly refurbished, and renamed Botany Bay Hotel (formerly the Fayreness), Marine Drive, Kingsgate, Broadstairs, Kent CT10 3LG. 01843 868 641. Commencing 7.00 pm If using Sat Nav put CT10 3LH.
- The Brighton & Hove meetings are held at The English Language Centre, 33 Palmeira Mansions, Salisbury Road, (Corner of Salisbury Road and Church Road), Hove, BN3 2GB;
- The Southampton meetings are at Highfield House Hotel, Highfield Lane (corner of Shaftesbury Avenue), Portswood, Southampton, SO17 1AQ

Meetings/exhibitions for 2016:

- Make a note in your diary, details on the web:-
- Monday January 25th - Southampton branch meeting
- Thursday January 28th - Landlord Investment Show; Guildford
- Monday February 1st - London Social
- Thurs February 4th - Thanet Social
- Wednesday February 10th - Landlord Investment Show; Slough
- Tuesday Feb 16th – London meeting; The effect of Licensing in London, The Sun Tavern, Covent Garden, 6.30 start. See the web for full detail
- Monday February 22nd - Brighton & Hove branch meeting
- Thursday March 3rd - Thanet Social
- Monday March 7th - London Social
- Tuesday March 8th - Swale Landlords Forum
- Tues/Wed/Thurs March 8/9/10th - Ecobuild; Excel
- Wed/Thurs March 9/10th - Landlord & Letting Show; Barbican
- Monday March 14th - Southampton branch meet
- Wednesday March 16th - Landlord Investment Show; Brighton
- Monday April 4th - London Social
- Thurs April 7th - Thanet Social
- Wednesday March 16th - Landlord Investment Show; Croydon
- Fri/Sat April 15/16th - Property Investor & Homebuyer Show; Excel
- Wednesday April 27th - Landlord Investment Show; Dartford
- Thurs May 5th - Thanet Social
- Monday May 9th - London Social
- Monday May 23rd - Brighton & Hove branch meeting
- Wednesday May 25th - Landlord Investment Show; Stevenage
- Thursday June 2nd - Thanet Social
- Monday June 6th - London Social
- Sat/Sun June 25/26th - Homebuyer & Renovating Show - Sandown Park
- Monday July 4th - London Social
- Thurs July 7th - Thanet Social
- Monday August 1st - London Social
- Thurs August 4th - Thanet Social
- Thurs September 1st - Thanet Social
- Monday September 5th - London Social
- Wed/Thurs Sept 7/8th - Landlord & Letting Show - The Barbican, London
- Thurs Sept 15th - Brighton & Hove Social meeting - The Neville
- Fri/Sat/Sun Sept 23/24/25th -Home Building & Renovating Show, Excel London
- Monday September 26th - Southampton branch meeting
- Monday October 3rd - London Social
- Thurs October 6th - Thanet Social
- Fri/Sat Oct 7/8th - Property Investor & Homebuyer Show, Excel London
- Monday November 28th - Southampton branch meeting
- Thurs July 2nd - Thanet Social
- Mon July 6th - London Social
- August - no meetings
- Thurs Sept 3rd - Thanet Social
- Mon Sept 7th - London Social
- Wed/Thurs Sept 9th/10th - Landlord and Letting Show
- Mon Sept 14th - Southampton branch meeting
- Thurs Sept 17th - Brighton & Hove Social meeting - The Neville
- Thurs Sept 24th - Landlord Investment Show - North London, Elstree
- Thurs Oct 1st - Thanet Social
- Mon Oct 5th - London Social
- Thurs Oct 22nd - Landlord Investment Show - Maidstone
- Mon Nov 2nd - Brighton & Hove branch meeting
- Mon Nov 2nd - London Social
- Thurs Nov 5th - Thanet Social
- Mon Nov 9th - Landlord Investment Show - Olympia
- Thurs Dec 3rd - Thanet Social
- Mon Dec 7th - Southampton branch meeting
- Mon Dec 7th - London Social

Access PRS

Access PRS is a West Sussex based lettings service offering landlords **free** support to let their properties in a way that is beneficial to their local communities.

We work with vulnerable people who are homeless or at risk of homelessness and through full individual assessment and tailored pre-tenancy support we ensure they are ready to sustain a tenancy before presenting them as prospective tenants.

Throughout the lettings process we provide a flexible and responsive service to both landlord and tenant which includes ongoing support being available through our MyKey housing support service as and when required.

To find out more a please contact:

Email: MyKey@southdownhousing.org

Phone: 01903 867350

Southdown, Caravelle House, 17-19 Goring Road, Worthing, BN12 4AP

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