



Accountancy Co-operative

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LANDLORD AND TENANT OBLIGATIONS 2007



Whether you are a landlord or tenant, it is vital that you are aware of your legal rights and obligations. The law protects both parties and does not permit you to "take the law into your own hands", irrespective of circumstances.

It is important that landlords fully understand their obligations. The Disability Discrimination Act, Sex Discrimination Act and Race Relations Act also apply to anyone letting, selling or managing premises. If you are in doubt about anything seek legal advice.

What is the landlord responsible for?

- repairs to the structure and exterior of the property, heating and hot water installations, basins, sinks, baths and other sanitary installations
- the safety of gas and electrical appliances
- the fire safety of furniture and furnishings provided under the tenancy
- ensuring that the property is fit for habitation
- repairing and keeping in working order the room and water heating equipment
- the common areas in multi-occupancy dwellings

What is the tenant responsible for?

- paying the rent as agreed and taking proper care of the property
- bills for gas electricity, telephone, etc if this was agreed with your landlord
- in most cases, paying the council tax, water and sewerage charges



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Letting rooms in your home



Letting rooms in your home can be a useful way to get extra income. However, if you are letting (or thinking of letting) part of your home it is important to understand your obligations.

Rights of landlord and tenant

In law, a resident landlord letting is one where the landlord and the tenant live in the same building. This includes conversions where they live in different parts of the same property (however long ago the property was converted) but excludes purpose built flats, with landlord and tenant living in different flats.

There are two main issues where the rights of landlord and tenant differ for resident landlord lets compared with other types of tenancy - rent and security of tenure.

Broadly, someone who lets from a resident landlord:

- does not have a right to challenge the level of rent that he or she has agreed to pay
- can be given less notice to leave if the landlord wants to end the letting

It is important to read all the information provided in the links below or to take legal advice if you are unsure of anything.



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The Rent a Room scheme



If you already have a lodger or are thinking about letting furnished rooms in your home, you can receive up to £4,250 a year tax-free (£2,150 if letting jointly). This is known as the Rent a Room scheme.

How the scheme works

The Rent a Room scheme is an optional exemption scheme that lets you receive a certain amount of tax-free 'gross' income (receipts before expenses) from renting furnished accommodation in your only or main home.

Who can take advantage of the scheme?

You can choose to take advantage of the scheme if you let furnished accommodation in your only or family home to a lodger. (Your only or family home is the one where you/your family live for most of the time. A lodger is someone who pays to live in your home, sometimes with meals provided, and who often shares the family rooms.)

A lodger can occupy a single room or an entire floor of your home. However, the scheme does not apply if your home is converted into separate flats that you rent out. In this case you will need to declare your rental income to HM Revenue & Customs (HMRC) and pay tax in the normal way. Nor does the scheme apply if you let unfurnished accommodation in your home.



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Tax on rent from residential property lettings



Letting residential property is treated as a single business, even if you let out more than one property. If you let out several properties, you can offset losses from one against profits from another. You pay tax on any profit as part of your overall income.

What counts as residential lettings?

Properties that you let out for people to live in as their home count as 'residential lettings'. For tax purposes these are treated differently from furnished UK holiday lettings.

If you rent out part of your own home this can also count as residential lettings, but you can take advantage of the 'Rent a Room' scheme instead. This lets you get tax-free income of up to £4,250 from letting rooms in your home.



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Do you have to be a home owner?

No. You can choose to take advantage of the Rent a Room scheme, regardless of whether you are a home owner or are renting your home. However, if you are renting, you should check whether your lease allows you to take in a lodger.

If you're a mortgage payer it's best to check whether taking in a lodger is within your mortgage lender's and insurer's terms and conditions.

If you share a home and both let a room or rooms

If you are both letting furnished accommodation in your joint home, you will each be entitled to receive half of the allowance (up to £2,125 for the 2007-2008 tax year) without paying tax.

If you provide meals and laundry services

If you charge for additional services, you will need to add the payments you receive to the rent, to work out the total receipts. If you get more than £4,250 a year in total, you will have to pay tax, even if the rent is less than that.

The advantages and disadvantages of the scheme

There are advantages and disadvantages of the scheme - it's simply a matter of working out what is best for you.

The principal point to bear in mind is that if you are in the Rent a Room scheme you can't claim any expenses relating to the letting (for example, wear and tear, insurance, repairs, heating and lighting).

To work out whether you will be better off joining the scheme or declaring all of your letting income and claiming expenses on your tax return you need to compare the following:

- how much income you are left with after your expenses
- the amount of your receipts (rent plus any income from laundry services, meals, etc) over £4,250 or £2,125 if letting jointly (2007-2008 tax year)



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If you opt out of the scheme (or simply do nothing) you will pay income tax on the first amount.
If you opt into the scheme you will pay tax on the second amount.



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Expenses and allowances on income from property



If you let out property you can deduct certain expenses and tax allowances from your rental income to work out your taxable profit (or loss). If you have several UK residential lettings you pool the income and expenses together. But you work out holiday letting and overseas letting profits separately.

Allowable expenses

The expenses you can deduct from letting income (unless it's under the Rent a Room scheme) include:

- letting agent's fees
- legal fees for lets of a year or less, or for renewing a lease for less than 50 years
- accountant's fees
- buildings and contents insurance
- interest on property loans
- maintenance and repairs (but not improvements)
- utility bills (like gas, water, electricity)
- rent, ground rent, service charges
- Council Tax
- services you pay for, like cleaning or gardening
- other direct costs of letting the property, like phone calls, stationery, advertising

If your annual income from the letting is less than £15,000 (before you've taken off expenses) you include the total expenses on your tax return; if it's £15,000 or over you need to provide a breakdown.

Bear in mind that you can only claim expenses that are solely for running your property letting business. If the expense is only partly for running your business (or if you use the property yourself) then you may only be able to claim part of it.



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Non-allowable expenses

When you work out your profit, you can't deduct:

- 'capital' costs, like furniture or the property itself
- personal expenses - costs that aren't to do with your letting business
- any loss you make when you sell the property

But you may be able to claim some allowances instead.

Allowances that can reduce your taxable profit

There are different types of allowance you may be able to claim for your capital costs. Capital costs include expenditure you make on assets like furniture and machinery. The allowances you can claim for some of your capital costs vary according to the type of letting.

UK and overseas furnished residential lettings

For furniture and equipment provided with a furnished residential letting (excluding UK furnished holiday lettings) you can claim a 'wear and tear' allowance. The allowance is 10 per cent of the 'net rent' - this being the rent received less any costs you pay that a tenant would usually pay.

As an alternative to the wear and tear allowance, you can claim a 'renewals' allowance. This covers the cost of replacing furniture or equipment, including small items like cutlery. To work it out, take the cost of the replacement item and deduct from it:

- the amount you sold the old one for (if you got anything for it)
- anything extra you paid for a better one

Once you've chosen which of these allowances to claim for a property, you can't switch between them from year to year.



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UK Furnished holiday lettings

For this type of letting you can claim a 'capital allowance' for the cost of each item of furniture and equipment you provide with the property. Or you can claim a renewals allowance (explained above). You can't claim wear and tear allowances.

Once you make a choice for each item, you must keep to it.

To find out how capital allowances work see the section below: 'How much capital allowance can you claim?'

All letting properties

Whatever the type of letting, you can claim a capital allowance on the cost of things that you need for running your property letting business, like cleaning and gardening equipment. You can also claim for equipment that isn't for the use of a single let property, like a boiler that heats more than one property.

How much capital allowance can you claim?

The allowance depends on what you buy. You can usually claim 50 per cent of the cost when you buy it - but sometimes 100 per cent for some environmentally friendly expenditure. Each year after that you can claim 25 per cent of what's left. HM Revenue & Customs (HMRC) changes the percentages from time to time. The allowance is deducted along with other expenses in calculating your profits.



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Rent a Room scheme and running a business

If you run a bed and breakfast business or a guest house, or provide catering and cleaning services as part of a letting business, the Rent a Room scheme can still apply to you. You will need to complete the relevant parts of the self-employment pages of your Self Assessment tax return.

- HMRC helpsheet for traders on the Rent a Room scheme (IR223 from Tax Return 2007) can be obtained from us if you require it.



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How to opt in or out of the scheme

If you want to opt in

- if you don't normally receive a tax return and your receipts are below the tax-free thresholds for the scheme, the tax exemption is automatic so you don't need to do anything
- if you wish to opt in and your receipts are above the tax-free threshold, you must tell your Tax Office - you can do this by completing a tax return and claiming the allowance

If you want to opt out

- just complete a tax return within the usual deadline and declare the relevant lettings income and expenses on the property pages



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