

FB 2015 – relief for finance costs related to residential property businesses

Personal tax

01 November 2015

ATT on clause 24 of the Finance Bill

The ATT's comments on clause 24, submitted to HMRC and to the Finance Bill committee, covered these points:

- The legislation will create situations where the tax liability on the rental activity exceeds the actual amount of the profit. By 2019/2020 this will result in effective rates of tax well in excess of 100%.
- The legislation has potential implications for recipients of child benefit and other state benefits. The ATT included in its submission examples to illustrate the impact on an individual's effective rate of tax where the legislation will lead to an increase in taxable income and trigger the high income child benefit charge.
- The legislation will provide a disincentive for landlords who own commercial premises with a flat above to make it available for residential accommodation because to do so would result in a restriction in the finance costs allowable as a deduction against profits. Many landlords may decide to keep the flat vacant and use it as storage for the business below.
- A clarification is required to new clause ITTOIA 2005 s 274(a)(2) to state clearly that the N% calculation is only of relevance if the finance costs relate to a share in a rental partnership. Otherwise, it might be considered that N% of profits assessable to tax is less than 100% in a non-partnership situation if the rental income is the only source of income received and the personal allowance is used to reduce the taxable element to less than 100%. This has (unintended) consequences when calculating the allowable tax reduction.

Overall, the ATT's view was that the legislation adds unnecessary complexity to the tax system. Many basic rate taxpayers will have to go through a series of complicated steps to arrive at the same answer they would have arrived at under the current system. The ATT believes that the new provisions should be triggered only if someone is a higher rate taxpayer on their rental income, so as to avoid this unnecessary complication for many taxpayers.

The ATT's response to HMRC can be read in full on the [ATT website](#).