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## THE LET PROPERTY CAMPAIGN AND UNDECLARED LETTINGS INCOME

We have seen over recent months a flurry of people being contacted by HM Revenue & Customs (HMRC) in connection with rental income they have received, but which they haven't reported on a Tax Return. Sometimes this can go back as far as 20 years.

If you have income from rental properties which you have not previously told HMRC about then it is important that you tell them before they come to you.

HMRC continue to mine their data resources to try to identify residential landlords who have not previously made a full disclosure of their income. They have access to data from an increasing number of sources including letting agents, the land registry, mortgage lenders, tenancy deposit schemes and even social media to identify landlords who are not declaring their rental income. If you don't make a voluntary disclosure now and HMRC write to you first, you could suffer higher penalties of up to 100% of the unpaid tax or even face criminal prosecution. Even higher penalties potentially apply to matters involving offshore income or gains.

The Let Property Campaign is an opportunity for landlords renting out residential properties to come forward and report any previously undeclared rental income and expenditure to HMRC, pay any tax that they owe, and benefit from more favourable penalties. It is a voluntary disclosure opportunity. The scheme cannot be used by limited companies or trusts renting out residential property, nor can it be used in respect of the letting of commercial property, although of course this doesn't mean voluntary disclosure shouldn't also be made in relation to undeclared income in such cases.

There are a number of scenarios where people may misunderstand the rules and so fail to declare income from letting property to HMRC, on the assumption that there is no need to. Take the following few examples for instance:

- Craig moved to Devizes to work and purchased a flat to live in when he got there. After a while, he moved in with his partner. Rather than sell his flat, which he saw as a good investment, he decided to rent it out. The rental income just covered the mortgage payments so he didn't believe he was making a profit and didn't inform HMRC. Craig had not realised that only the interest element of his mortgage repayments can be taken into account for tax purposes. Therefore, he should have told HMRC about his rental income and paid tax on his rental profits.
- Shirley has purchased a flat for her daughter, Motsi, as her accommodation while she is at university. Shirley is responsible for the utility bills and mortgage payments. Motsi makes no payments regarding the flat to her mother. It is relatively spacious and two of Motsi's friends move in with her, paying rent to Shirley. As the arrangements with the flatmates are informal, Shirley feels she is doing them a favour and believes that such informal arrangements do not give rise to taxable income. However, Shirley needs to declare the income to HMRC after deducting allowable expenses. Those expenses will need to be adjusted further to exclude Motsi's share.

- Anton has moved in to a residential care home and is renting out his former home through a letting agency who he believes would have told him if there was tax to pay. As Anton does not believe he makes a profit from the rents (they all go to pay his care home fees) he believes he does not have to return the income to HMRC. However, Anton does need to declare the rent to HMRC. This is because, although he uses all the income from the letting, that use is private and not an expense of his letting. He can deduct allowable expenses and any fees paid to the letting agency.

These are just a few examples of relatively common misconceptions, but make no mistake, if you receive income from property then the onus is on you to correctly declare that income and pay any tax due to HMRC within the required timescales.

The first step to make use of the Let Property Campaign is to notify HMRC that you wish to do so which can be done using their online notification form. A notification must be made for each individual so if a property is owned jointly by husband and wife for example, two separate notifications will be required.

You then have 90 days from the date of the letter which is sent by HMRC to make full disclosure and pay any tax and penalties that are due.

As part of the disclosure, calculations of any profit or loss made on the property rental(s) must be prepared for the relevant years and included on the disclosure forms. The amount of tax payable on any rental profits must also be disclosed on the form. This will depend on the level of your other taxable income in each tax year in question.

You must also calculate the penalties and interest payable when you make the disclosure. You are asked to decide the level of penalty that you consider should be charged. This will depend on the facts of the case and the reason for not making the disclosure previously. Similarly, the number of years that you need to go back and report to HMRC will depend on the reasons for not making disclosure previously and may also depend on whether you were within self-assessment or not.

We have assisted many new clients with making voluntary disclosures under the Let Property Campaign. We can ensure that you make a claim for all eligible expenses to reduce your taxable income and prepare computations of tax, interest and penalties to be disclosed. Please contact us if you would like any assistance.

*The above is for general guidance only and no action should be taken without obtaining specific advice.*

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