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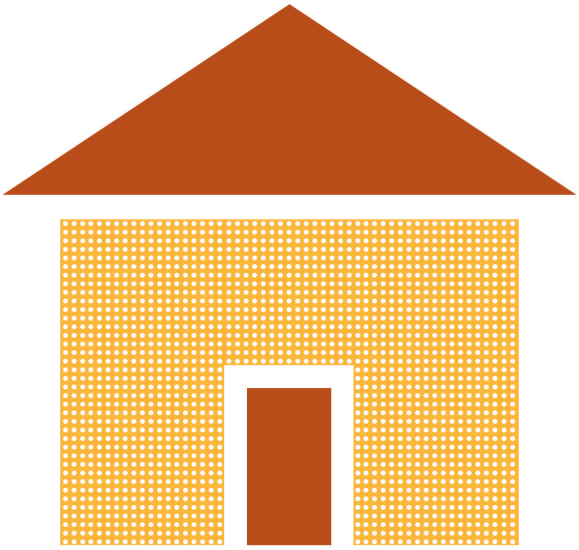

# Buy to Let properties

## Tax considerations

# Should properties be owned personally or through a limited company?

## OWNERSHIP OPTIONS

One question we are often asked is whether properties should be owned personally or through a limited company. The comparison below shows the main tax differences between the two:

| **Personal ownership** | **Corporate ownership** |
|---|---|
| **On rents**<br>Income Tax (IT) payable on rental income<br>• Typically IT rates are higher<br>• If profits are re-invested, higher tax rates reduce the amount available to re-invest<br>• Profits can be withdrawn/spent by owners with no additional tax charge | **On rents**<br>Corporation Tax (CT) payable on rental profits<br>• Typically CT rates are lower<br>• If profits are re-invested, lower tax rates increase the amount available to re-invest<br>• If profits are to be withdrawn by owners, there is a personal tax charge on the withdrawal |
| **On disposal**<br>On a sale or gift Capital Gains Tax (CGT) is payable by the owners:<br>• CGT rates can be higher or lower than corporation tax rates<br>• Individuals enjoy an annual exemption (a certain amount of tax free gain per year)<br>• But otherwise have little relief from CGT<br>• Individual buildings can be sold to access cash | **On disposal**<br>On a sale CT is payable by the company. On a gift of shares CGT is payable by the owners:<br>• CT rates can be higher or lower than CGT rates<br>• Companies do not have annual exemptions<br>• But they do benefit from indexation allowance<br>• If a property is sold, cash is trapped in the company.<br>- To extract the cash, a personal income tax charge is incurred<br>- Or on a wholesale liquidation, a personal CGT charge ensues |
| **Records and accounts**<br>Records must be kept to enable preparation of an accurate personal tax return.<br>Professional fees are typically lower. | **Records and accounts**<br>Accounts must be lodged with Companies House.<br>Professional fees are typically higher. |

For most individuals personal ownership is considered the most tax appropriate route. Any saving on the taxes on rental income, which can be achieved by retaining all income within a company, is typically outweighed by the so called 'double tax charge' when the time comes to sell the property or to extract that income into personal hands. This is exacerbated by the higher annual professional fees in running a company.

Rental property businesses are not trades, and so do not enjoy the various reliefs afforded to trading businesses.



Corporate ownership usually only becomes appropriate where numerous property purchases and repeat re-investment are envisaged, and the intention is to keep the properties over a very long period of time.

Regardless of the ownership structure chosen, the following points will all apply.

## Taxes on income

- Rent receipts are taxable. They may be offset by costs of a revenue nature, typically:
  - mortgage interest (but not capital repayment element);
  - repair costs (fixing the property, not replacing items within it. Therefore repairing the boiler is allowable, replacing the sofa is not);
  - other running costs (cleaning/gardening/ any light/heat/council tax etc);
  - insurance and ground rent costs; and
  - letting agent commissions.
- Losses may be carried forward to offset against future rental profits.

## Taxes on capital

Rental property businesses are not trades, and so do not enjoy the various reliefs afforded to trading businesses.

- A sale or gift of the property, or of shares in the property owning company, will trigger a capital gain in the hands of the seller/donor:
  - full rate capital gains tax will apply, without (for example) entrepreneurs' relief;
  - no holdover relief will be available to defer the gain (gifts); and
  - no rollover relief will be available (in cases of re-invested proceeds).
- Capital gains will be calculated as:
  - the difference between the purchase price and the value at the point of sale/gift;
  - adjusted for legal/professional fees relating to acquisition or disposal;
  - adjusted for amounts spent on capital enhancement; and
  - taking into account indexation allowance (companies only) and annual exemptions (individuals only).
- On lifetime transfer or on death, investment properties or shares in property letting businesses are fully exposed to inheritance tax (IHT):
  - on death IHT is charged on the full value of the property;
  - for lifetime gifts IHT is only charged on that value either where assets are settled into trust or where a donor dies within seven years of making a gift; and
  - in all cases individuals benefit from a nil rate band, serving to shelter a certain value from IHT.

## OTHER MATTERS

Whilst we do not give legal or investment advice, the following are matters which should be considered before committing to a buy to let property:

- Joint ownership compared to tenancy in common should be carefully considered.
- The risks and returns of rental properties should be carefully compared to those of other investments available in the market so that an informed investment decision can be made.
- The ability to borrow and the interest rates/terms available may differ between personal and corporate ownership. Personal guarantees may be needed.
- Joint and several liability for any loans may exist, being particularly relevant for business partners who are not also spouses.

## THE NEXT STEP

For further information, please contact our specialist:

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