

Your Guide to
**Tax and
Property**

2009/10

**MILSTED
LANGDON**

Chartered Accountants

Your Guide to Tax and Property

Recent trends in the housing market have served to boost the popularity of investing in property – while also leaving an increasing number of homeowners liable to taxes such as inheritance tax (IHT).

Property ownership has a number of different tax implications, which is why it is essential to put in place adequate tax planning measures now. This guide sets out some of the key aspects of tax and your property.

Your home and capital gains tax

Your main residence is exempt from capital gains tax (CGT) when you sell it, provided it has been your only or main residence during the whole period of ownership (or since 31 March 1982). Various rules allow periods of temporary absence to be disregarded.

■ **Owning more than one property**

If you have more than one home, you may elect which is to be your main residence (i.e. exempt for CGT) within two years of acquiring the additional residence. As long as a home has at some time been your main residence for CGT, the last three years of ownership are added to your exempt period. It may be beneficial for a married couple to own the non-exempt residence jointly as each will be entitled to the annual capital gains tax exemption.

■ **Partial business use**

If you use part of your home exclusively for business, interest on the relevant portion of the borrowing will be allowed as a business expense. In these circumstances, a similar proportion of the CGT exemption will be lost. However, if you use no rooms exclusively for business purposes, the full exemption will normally be preserved.

Mortgage interest

Tax relief is not available on interest on loans used to buy your home.

Property Investment

Tax aspects of property investment

Income arising from land and buildings is generally treated as investment income unless it is from furnished holiday lettings or from property development, or the provision of services such as hotels and guest houses, in which case it would be classified as trading income.

From an accounting and tax point of view, all rental income (except furnished holiday lettings) is treated together as from one 'property' business, regardless of the terms of letting.

Profits and losses are calculated using the same general accounting rules as for trading, including accruals to cover the timing difference of rent or expenses in advance or arrears.

Allowable expenses

Expenses allowable in calculating income include interest incurred on loans used towards the purchase of the property (adjusted for any part private use), business rates or council tax, rent payable to a higher landlord, insurance and management expenses including advertising for tenants, and maintenance, repairs and redecorations.

Management expenses can also include costs of travelling exclusively for property letting purposes.

Expenses on improving the property (such as extensions), or those which were necessary to bring newly acquired property to a useable state, all form part of the capital cost of the property.

Inheritance tax considerations

Unfortunately, the favourable concessions for income tax and CGT do not extend to IHT. It has become very difficult for a person to give away property but still continue to occupy it.

IHT planning is best directed at assets other than the family home – please contact us for further advice in this area.

Allowances and Reliefs

Allowances for equipment

In general it is not possible to claim capital allowances for fixtures and fittings in a dwelling house. By concession, an allowance is available to cover wear and tear on certain items (such as suites, beds, carpets, curtains, linen, crockery, cutlery, cookers, washing machines and dishwashers).

For such items it is possible to claim either the cost of replacement (not original purchase) or alternatively a global annual wear and tear allowance equal to 10% of the rents received (less certain expenses) on furnished lettings. It is also possible to claim a deduction for the costs of renewal of fixtures, such as baths, toilets and washbasins.

For commercial properties, capital allowances may be claimed in respect of plant and machinery supplied by the landlord. The landlord may also be able to claim industrial or agricultural buildings allowance, where appropriate for the business of the tenant. The allowances are calculated in the same way as for trades, and are deducted as an expense.

Rent a room relief

Under the 'rent a room' scheme, income from letting furnished rooms in your main residence will be exempt from tax if the gross annual rent does not exceed £4,250 (£2,125 if you share the income). If you are letting to lodgers who live as part of the family, there will be no loss of capital gains exemption. Otherwise, there may be some restriction.

Furnished holiday lettings (FHLs)

Property businesses which comply with the relevant conditions can qualify for some very important tax concessions. FHLs are treated for tax purposes as if they were trades. Unlike other domestic lettings, the expenses can include capital allowances on furniture and kitchen equipment.

The income counts as earnings for pension contribution purposes, and there are other advantages relating to the disposal of such properties.

All the special FHL rules will cease after 5 April 2010.

Other Considerations

Business rates

Where there is mixed use of a property, business rates may be payable as well as council tax, unless the business use does not materially detract from the private use. Non-domestic properties, such as commercial premises and boarding houses, are in any event subject to business rates. Provision of bed & breakfast in your own house is not caught if there are no more than six guests. Staff accommodation is counted as domestic and therefore subject to council tax.

VAT

VAT on land and buildings is a complicated area. Generally sales of commercial buildings less than three years old are standard rated, sales of new residential properties are zero rated and most other sales or leases are exempt. The VAT provisions on property letting are particularly complex.

Stamp Duty Land Tax

There is no charge to SDLT if residential property is purchased for £125,000 (£150,000 in Disadvantaged Areas) or less, or on non-residential property for £150,000 or less. However the Chancellor of the Exchequer has introduced a temporary exemption ('holiday') from SDLT for acquisitions of any entirely residential property worth not more than £175,000. In general the exemption is available where the date of completion is between 3 September 2008 and 31 December 2009 inclusive. Property which is not exempt is charged at a rate of 1%, 3% or 4% as appropriate.

Disposal

If the purchase and sale of properties amounts to a trade then profits will be taxed as income in the normal way. In all other cases, disposal will be subject to the normal rules for the calculation of capital gains.

The situation may be complicated where a principal private residence has been let at some time during the period of ownership. In these circumstances, the associated lettings relief of up to £40,000 (£80,000 for a couple) could be brought into play. Furnished holiday lettings may also qualify for rollover relief or gift relief. In some circumstances they may also trigger IHT business property relief, in which case they would pass free of any IHT charge.

While some of the principles of property taxation may seem relatively straightforward, seeking professional help is essential. Contact us for further advice.

Our Services

- Business Planning**
- Business start-up planning and advice
 - Strategic and business planning
 - Financial management
 - Financial information systems
 - Computer systems advice
- Taxation Advice**
- Self assessment
 - Personal tax
 - Business tax
 - Company tax
 - Capital gains tax
 - Inheritance tax
 - HM Revenue and Customs investigations
 - Value Added Tax
 - PAYE and national insurance compliance
- Accounting**
- Preparation of annual accounts
 - Preparation of periodic management accounts
 - Book-keeping services
 - Maintaining PAYE and VAT records and associated returns
- Company Secretarial**
- Preparation and filing of statutory returns
 - Preparation of minutes and resolutions
 - Company formation
 - Company searches

This guide is for general information only. No responsibility is taken for any action taken or refrained from in consequence of its contents. Always seek professional advice before acting.

Please contact us for further information

MILSTED LANGDON LLP

Winchester House
Deane Gate Avenue
Taunton
Somerset
TA1 2UH
TEL: 01823 445566

One Redcliff Street
Bristol
BS1 6NP
TEL: 0117 945 2500

Motivo House
Alvington
Yeovil
Somerset
BA20 2FG
TEL: 01935 383500

Email: enquiries@milsted-langdon.co.uk
www.milsted-langdon.co.uk