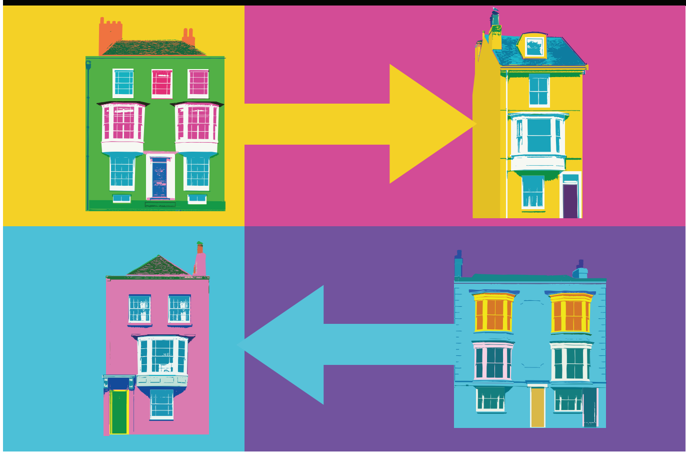

Think carefully before transferring property into companies

Landlords holding property personally can risk being landed with hefty tax bills when transferring their portfolios into a limited company.

Incorporating your property business can be attractive. For one, mortgage interest is deducted fully from taxable profit (instead of tax relief being restricted for personal holdings). Higher yields (net of tax) can also be achieved on property portfolios due to the relatively low corporation tax rate of 19% to 25%, compared to up to 45% in income tax.

But transfer of a property into a company constitutes a disposal by the individual, crystalising both a capital gain if the market value has increased since acquisition, and stamp duty land tax (SDLT).

A key problem for landlords is that, as no actual sale takes place, the incorporation does not generate any proceeds from which to pay a potentially large tax bill.

Incorporation relief

However, capital gains tax can be offset through incorporation relief (IR). This allows a gain to be deferred into the new company.

To qualify for IR, the portfolio must constitute a business and all assets must be transferred as a going concern in exchange for shares in the new company.

SDLT relief

Relief is only available from SDLT if the portfolio is transferred from a partnership. A partnership is a business that is carried out by two or more people and for this purpose and, in addition to demonstrating that a business exists, the partners of a partnership must show that they are in business together.

This means they must each – that is separately – have sufficient scale to their property activities to indicate they are actively in business, rather than just holding investments. It is advised to have a partnership agreement, a partnership bank account, and have registered the partnership with HMRC.

It's also important to note that it is not enough to just own properties and collect rent. Anti-avoidance rules are in place to stop partnerships being formed simply to benefit from SDLT relief.

Finally you must plan carefully, as once the transfer of the business is made it cannot be reversed. Should HMRC determine that a business does not exist, then CGT and SDLT charges will follow.

For more information on how IR and SDLT relief works, please get in touch with your usual Shipleys contact.

Reporting and tax deadline for property disposals

A reminder that you need to report any gains on residential property disposals, other than on your main home, and pay the capital gains tax (CGT) due within 60 days.

All UK residents reporting and selling CGT-liable, UK-sited residential property have 60 days to settle. However, this doesn't apply to the sale of a resident's primary UK home and the 60-day rule only applies to the residential element of the gain on a mixed-use UK property.

Non-residents also have 60 days to report UK land sales, on both direct and indirect disposals, whether or not CGT is due.

The £12,300 CGT allowance for 2022/23 has changed to £6,000 for 2023/24, with 18% payable on residential property gains for lower-rate taxpayers and 28% for higher-rate payers. More at: *https://tinyurl.com/5n898a82*

Companies reminded to revalue residential property

Businesses owning UK residential property worth more than £500,000 need to have had it revalued for Annual Tax on Enveloped Dwellings (ATED) liabilities.

ATED charges are based on six HMRC-defined property value bands. The amount due currently is calculated on a property's value on 1 April 2022, or acquisition value if acquired after that date. The value must be included on ATED returns for the 2023/24 tax year, which are due by 30 April 2023.

An ATED return is required for any UK dwelling wholly or partly used as a residence that is owned by any company, collective investment scheme or partnership (where any of the partners is a company) and valued at more than £500,000.

More at: *https://tinyurl.com/ysx7ack2*

Avoiding costly VAT errors in property renovations

It's easy to overlook VAT issues connected with the costs of property renovation projects.

Given the complexity involved, it's essential to clarify the VAT treatment in the early stages of a project.

With this in mind, don't forget our handy guide to help developers identify and avoid the common VAT pitfalls. See: *https://tinyurl.com/nfsm9zx9*