101 Property Tax Tips

2023/24

By
Jennifer Adams

Publisher details

This guide is published by Tax Insider Ltd, 3 Sanderson Close, Warrington WA5 3LN. ‘101 Property Tax Tips’ (formerly ‘101 Property Tax Secrets Revealed’ and ‘101 Tax Tips for Landlords’) first published in November 2012, second edition May 2013, third edition June 2014, fourth edition November 2015, fifth edition September 2016, sixth edition July 2019, seventh edition November 2020, eighth edition May 2021, ninth edition April 2022, tenth edition June 2023.

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978-1-7394249-2-3

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About This Guide

All UK property owners, be they an individual, a company, a trust or personal representatives of an estate, resident, or non-resident, will find themselves subject to tax on that property at some time or other.

Property owners who become landlords may find themselves subject to a variety of different taxes throughout their ownership.

However, there is much that can be done to save or at least reduce the amount of tax payable.

This easy-to-read guide reveals tax saving tips and strategies currently available so that the minimal amount of property tax is payable, regardless of whether you are a landlord, a property developer or own the property as a main residence.

Due to the restrictive number of pages, this book can only show some areas where tax planning is possible. More ‘tax tips’ can be found in the monthly newsletters of Tax Insider and Property Tax Insider as well as on the Tax Insider website.

It must be stressed that professional advice should always be sought when undertaking any form of tax planning.

Chapter 1.
Different Ways Of Owning Property

1. Private Landlord
2. Corporate Or LLP Landlord
3. 'Special Purpose Vehicle' Companies
4. Management Company
5. Trader Or Investor?
6. Change In Type Of Ownership
7. Methods Of Personal Ownership
8. Profit Allocation
9. Joint Spouse/Civil Partnership Ownership (1)
10. Joint Spouse/Civil Partnership Ownership (2)
11. Joint Non-Spouse/Civil Partnership Ownership

1. Private Landlord

The vast majority of UK properties are privately owned by individuals, many having been purchased as an investment rather than as their main residence.

The private investor landlord is taxed on the amount of letting income received less allowable expenses incurred on a fiscal year basis, as well as on any capital gain that may be made on the sale. Inheritance tax may be payable on the value of the property held at the date of death. Stamp duty land tax (land and buildings transaction tax in Scotland, land transaction tax in Wales) may be payable on the purchase of the property and VAT may be due if the business is trading.

Individuals who purchase property jointly, intending to rent for the long term are taxed on their share of the annual rental profits and/or any gains made on sale. Joint owners of property purchased with the intention to sell after restoration are likely to be in a 'trading partnership' with each being taxed as a self-employed 'property dealer' which could mean becoming liable to National Insurance contributions.

For a 'trading' partnership to exist there needs to be a degree of organisation with a view to making a profit (similar to that required for an ordinary commercial business). A partnership agreement is, therefore, recommended.

If the landlord has no other income, the annual personal allowance is deducted from any profit made on that letting income. If there is other income, the personal allowance either may not be available or be restricted such that any rental profit made will be taxed at the landlord's marginal tax rate. When an individual's total taxable income including letting income exceeds £100,000, the annual personal allowance is gradually cut by £1 for

every £2 of additional income. Therefore, once income reaches £125,140, the tax-free personal allowance is lost completely and tax will be payable at the additional rate of 45%.

A 'property allowance' is available to individual landlords, the claiming of which removes the liability to tax should gross rental income be less than £1,000 (see Tip 33). Where gross income exceeds £1,000, the allowance can be deducted from income in place of the actual expenses incurred, should this produce a lower taxable profit. Such a situation will be in point where expenses are less than £1,000. However, should be deducted where this produces a loss, to preserve that loss.

Depending upon the level of letting profit, being a sole investor could be more expensive than joint investor ownership. This is because a sole investor will be taxed in full at their marginal tax rate whereas each owner's profit share is split under joint ownership, being taxed at their respective marginal rate. For example, should a property be jointly owned 50:50 with one taxpayer a basic rate taxpayer and the other a higher or additional rate taxpayer, the total tax bill will be reduced by 50% of the difference between the tax due at the higher and lower rates as compared with the tax that would be payable should the income be received solely by the higher or additional rate taxpayer. Further tax reduction is possible should one investor be a non-taxpayer, as the full amount of that individual's personal allowance will be available for offset.

The default split of joint ownership between husband and wife is 50:50. However, if it is more income tax efficient for the split to be different, then the profit may be divided according to the underlying ownership of the property, once HMRC have been notified (see Tips 9 and 10).

The example that follows shows the tax position should one spouse be taxed at a higher tax rate than the other.

Private Landlord

Joanne and Robert are married and jointly own a portfolio of rental properties 50:50.

For the year 2023/24 each has other income such that Joanne is a 20% basic rate taxpayer but Robert is a 45% additional rate taxpayer.

Total net rental profit is £825 per month, i.e., £9,900 per year = £4,950 each.

Joanne: Tax liability of £990 (£4,950 @ 20%).

Robert: Tax liability of £2,227.50 (£4,950 @ 45%).

If Robert owned the properties as a sole investor then the tax liability would be £4,455; by owning the properties jointly with Joanne, there is a tax saving of £1,237.50.

This saving could be increased should the properties be placed solely in Joanne's name (assuming that the taxable profit does not take her into the higher rate tax band). However, should Robert not want to relinquish full ownership, he could give Joanne say, 95%, submit a form 17 to HMRC and be taxed on the underlying percentage of 5% at higher rates (see Tips 9 and 10).

2. Corporate Or LLP Landlord

Company limited by shares

There are different types of companies but the one commonly used for property tax planning is the private company limited by shares. Shareholders are the owners of the company, which is administered by directors (who may also be the shareholders). There are advantages and disadvantages of a company owning property; e.g., although companies do not have a personal allowance, if the profits from a property business owned by individual(s) are charged at the higher personal tax rates (40% or 45%), it could potentially be more beneficial for the properties to be owned by a company. The standard Corporation tax rate is 25% for companies with profits of £250,000 or above; the small profits rate for those with less than £50,000 profit is 19% with a tapering calculation for profits between the two.

Another benefit is that on a personal capital gain the tax has to be paid within 60 days of completion of the sale (see Tip 55). In contrast, a capital gain made by a company is included in the calculation of profit or loss with any tax being payable nine months and one day after the accounting period end. Further, tax relief for interest paid on residential property loans by individual investors is restricted such that the amount paid only attracts tax relief at the basic rate of 20% as an income tax reduction. These rules do not apply to interest on company loans (see Tip 19).

Other relevant points:

- A limited company is a separate legal entity from the shareholders.
- Profits and losses belong to the company.

- The company can continue regardless of the shareholder or director's death, resignation, or bankruptcy (although there must be at least one director in place).

- The liability of shareholders is limited to the amount unpaid (if any) on the shares held.

- If the company fails, the shareholders are not generally required to make good the deficit (unless personal guarantees have been given).

- A company may find it easier to raise finance.

Most investors operate their property business as a ‘private landlord’ or as a company. Disadvantages of incorporation include additional compliance costs. The overall tax bill may increase should the shareholder make withdrawals from the company as dividends which would add to the overall tax bill.

Limited liability partnership

In some cases, operating via a limited liability partnership (LLP) may be preferable. Profits of an LLP are divided amongst the partners (owners) and then taxed at the marginal rate of each partner. The benefit is that the partnership profit split can be changed year-on-year as required – unlike for companies or personal ownership.

The individual partners are treated as self-employed, paying income tax on their share of the profits, and Class 2 and Class 4 National Insurance contributions, where relevant. An LLP can acquire property or the partners can transfer property they already own into the LLP. On transfer, the property is held on trust but the underlying legal ownership remains unchanged, therefore no stamp duty land tax or capital gains tax is payable on the transfer. Where a member transfers property, the value forms the opening balance on that partner's equity account.

3. 'Special Purpose Vehicle' Companies

A special purpose vehicle (SPV) company is a company created for a specific purpose. A property SPV is created specifically to hold property that is being developed. Once the development has been completed, the properties sold and the lenders paid, the company is placed into liquidation (usually with the benefit of a capital gains tax business asset disposal relief claim (see Tip 58)). A new company will be formed for the next project.
SPVs are not necessarily used for tax planning purposes but to isolate financial risk, protecting a project from operational or insolvency issues; they can also be used to create joint ventures that protect partners from risk. However, more landlords are purchasing rental property via a SPV limited company as this may be more tax efficient now that tax relief on finance costs for individual landlords is restricted (see Tip 19). A company is allowed to offset all mortgage interest against rents received when calculating corporation tax.

This situation may change post-1 April 2023 as the main corporation tax rate has increased from 19% to 25%. Smaller companies will not have to pay the full rate depending on the level of profits for each fiscal year. The 19% rate applies where annual profits are at or below a new £50,000 threshold; the full 25% rate applies to companies with annual profits of £250,000 or more. Between these two rates, a system of marginal relief applies.

The problem for serial SPV developers is that incorporating and closing a company in relatively quick succession could be seen by HMRC as being 'phoenixing' which is subject to targeted anti-avoidance rules. These rules were enacted to ensure that anyone closing a limited company and then opening a new one in the same trade would have to seek non-statutory clearance with HMRC. This enables HMRC to check that the winding-up of