

Your guide to
Investment property tax
2019–20

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Investment Property

Whether you hold commercial or private investment properties, Ward Williams can assist you with all your needs.

- Should I operate through a limited company?
- Should I register as a partnership?
- Who should own the property?
- How can I mitigate my income tax, capital gains tax, corporation tax or inheritance tax liabilities?
- Am I affected by the rules that restrict tax relief on finance costs (Section 24)?
- Should I consider family succession planning and IHT mitigation by the use of a Trust?
- How should I finance the rental business?
- Am I compliant with HMRC?
- What expenses can I claim?

There are many other aspects to consider. With careful planning and the right advice, you can maximise your rental profits and pay less tax.

Using Ward Williams as your Tax Adviser

Ward Williams can help you in a variety of ways:

Accounts preparation – property accounts preparation and audit.

Tax planning – comprehensive property tax advice, planning and consultancy to minimise your tax liabilities. To include income tax, capital gains tax, inheritance tax, VAT and stamp duty land tax advice.

Self Assessment tax returns – proactive personal tax advice and compliance for private landlords. Partner and partnership tax returns.

Record keeping – a landlord must keep records of all income received and expenses incurred on their rental properties. We can assist in keeping records and avoid HMRC charging penalties of up to £3,000 for failure to maintain adequate records.

International tax advice – tailored to the specific needs of overseas residents with UK property.

Business planning – for example, advising on the best structure for your business and whether to incorporate, determining which of your rental properties are profitable, and the right timing for expenditure.

Financial planning – helping in both your rental business and personal finances. We can compile the data you need to secure finance for your business. Our Financial Services team can also assist with your personal and business financial planning, including investments, Wills, retirement planning, etc.

ATED – assisting in advising non-natural entities that own UK residential property valued at more than £500k.

Wills – ensuring that your wishes are carried out after your death in a tax-efficient way.

Succession planning (Trusts) – planning for the future, keeping investment properties within the family and providing for children or the next generation by the use of a Trust.

Incorporation – advice on the process and tax implications of incorporating an existing investment property portfolio.



Registering with HM Revenue & Customs

If you have recently started your rental business, it is important to register with HM Revenue & Customs (HMRC).

You must notify HMRC about your new business by 5 October following the end of the relevant tax year otherwise a penalty may be incurred.

You can let HMRC know that you have started a rental business by registering for Self Assessment online.

Many individuals believe that if they make a loss on the rental property, they do not have to declare the income and expenses to HMRC, but this is incorrect.

Tax treatment of individuals (Income Tax)

Individuals are liable to income tax on the profits they make in their rental business (at 20%, 40% or 45%).

The profit is calculated by deducting the allowable expenses from rental income on a cash basis (subject to receipts not exceeding £150,000), unless electing for a traditional accruals basis.

Any tax payable under self assessment is usually due on 31 January (and potentially 31 July) following the end of the tax year.

Under Section 24 of The Finance Act (No.2) 2015, finance costs, including mortgage interest, will be restricted to basic rate tax relief only. The new rules can be complex.

Where properties are held for a short period with a view to making a profit on the sale of the property, the activity 'may' be treated as a "trading" business rather than a "property letting" business. This creates a number of potential advantages and disadvantages including, for example:

- The profits are subject to National Insurance contributions
- Any profit made on sale is chargeable to income tax (generally due at higher rates) rather than capital gains tax
- There may be VAT registration issues
- Losses can be offset against other sources of income
- The value of the business may not be subject to Inheritance Tax on death

Ward Williams can help you to take the necessary steps towards the most beneficial route for your rental business.

Jointly held property

Individuals can hold property with one or more persons. Generally the individuals who hold the property will be taxed on the rental profits based upon the proportion of the property they own (beneficial interest).

Where married couples or civil partners jointly own a property, the rental income is automatically taxed upon them equally, i.e. 50:50 (the default position). It is possible, however, to beneficially own the property in different ratios (for example, 90:10) and to file an election with HMRC to be taxed on this actual basis. The election is made via a Form 17 and must be filed with HMRC within 60 days.

Partnerships

Where property is held jointly as a genuine partnership, a business partnership can be formed to manage the property letting business. Where such a partnership exists, the profits and losses from the lettings business activity can be allocated between the various partners in any ratio agreed upon. The profit share can be varied and does not have to follow the underlying ownership of the partnership assets (the properties).

Care must be taken, as joint ownership of investment property does not constitute a business partnership.

It can be beneficial to operate as a partnership business if you are considering incorporating an existing property portfolio, due to the potential SDLT mitigation and availability of incorporation relief for CGT purposes.

Tax treatment of companies (Corporation Tax)

The decision of whether to operate through a company is ideally taken at the start of the rental business and it will depend on a number of factors (see below). The property portfolio can be incorporated at a later stage, however, this will attract both capital gains tax and stamp duty land tax issues (incorporation relief "may" be available for property businesses and SDLT mitigation for partnerships).

Where the property is held within a company, the rental profits will be subject to Corporation Tax (currently 19%).

Any income extracted from the company will be taxable on the individual, usually as salary and/or dividends.

The benefits of using a limited company include:

- limitation of liability
- ability to draw profits by way of dividends which may result in lower effective tax rates than rates applicable to profits of unincorporated businesses.
- proprietor's salary, pension contributions, certain benefits, etc. may be allowable as a deduction from trading profits
- profits can be shifted between family members, who can also benefit from the capital growth of the shares
- sheltering profits from higher rates of tax
- no restriction under s.24 (restricting relief for finance costs for individuals to the basic rate of tax)

Potential disadvantages include:

- administrative burden on incorporation
- extensive ongoing filing obligations under company law
- directors duties
- public availability of company and director information
- remuneration paid by way of salary subject to higher rates of employee's and employer's NICs (although employer's NICs are deductible from trading profits)
- potential double charge to tax on selling a property
- restrictions on corporate buy to let mortgages
- capital gains tax and stamp duty land tax issues on incorporating an existing property portfolio

Capital Gains Tax (CGT)

The current CGT rates for individuals are 10%, or 20%, depending upon the level of their income. For chargeable gains arising on the disposal of residential properties, the rates are increased by 8% (i.e. to 18% and 28%). Companies pay corporation tax on chargeable gains realised.

There are a number of allowable deductions and reliefs that may be available to an individual in calculating the chargeable gain on the disposal of a dwelling. In addition to the actual purchase price (base cost) of the property, the following deductions can be made in the CGT computation:

- Legal/solicitors' fees on acquisition/disposal
- Estate agents' fees
- Valuation fees
- Stamp duty land tax
- Capital enhancement expenditure

On the assumption that the annual exemption has not been utilised for the relevant year, this can also be deducted from chargeable gains for the same year in arriving at the gain subject to CGT (this exemption is £12,000 for 2019/20).

Principal private residence (PPR) relief is available if the property in question has been occupied as the taxpayers' only/main residence, i.e. it has been occupied as their 'home'. Any gain accruing during a period of occupation is exempt from CGT. In addition, if the property has been occupied as a home at any stage, the gain accruing in the last 18 months is also exempt from CGT (from April 2020, the final period will be reduced from 18 months to 9 months). HMRC may challenge a claim for PPR relief, if it is felt that the dwelling has not been occupied as a home. PPR relief may also be denied where occupation of a dwelling is merely to gain a tax advantage. Where an individual has more than one residence, a PPR election can be filed with HMRC (within 2 years) in order to elect which property is the main residence for tax purposes. If PPR relief is available, but does not fully exempt the chargeable gain, lettings relief may also be available.

Capital losses may be available to reduce the gain chargeable to tax. Capital gains can be deferred/exempted in certain circumstances under the Enterprise Investment Scheme (EIS)/Seed EIS.

Stamp Duty Land Tax (SDLT) excl. Scotland

Transfers of residential land and buildings (on band of consideration)*	
£0 – £125,000	0%
£125,001 – £250,000	2%
£250,001 – £925,000	5%
£925,001 – £1,500,000	10%
Over £1,500,000	12%

Non residential (on band of consideration)	
£150,000 or less	0%
£150,001 – £250,000	2%
Over £250,000	5%

* An additional 3% will be charged on each band on purchases of additional residential properties (above £40k). First time buyers can claim relief from SDLT on purchases of residential property up to £500,000.

Non-residents

If a landlord usually lives outside of the UK, their letting agent or tenant has to deduct tax from their property income (under the non resident landlord scheme). These landlords, can however, apply to HMRC to have their income paid without the deduction of tax.

Non-residents are liable to UK capital gains tax (CGT) on the sale of property situated in the UK. The rules only seek to tax the proportion of the gain that accrues from 6 April 2015 for residential properties and from 6 April 2019 for commercial properties. This change was implemented in order to bring the UK in line with many other countries, with an established pattern of taxing property situated in their jurisdiction. A PPR election is available where the non-resident individual spends at least 90 days per tax year at the residence.

The new rules brought with it a new set of reporting requirements:

- The chargeable disposal must be reported to HMRC within 30 days of conveyance of the property. Once the report has been made, HMRC will email a payment reference, together with details on how to make payment.
- A separate report must be filed with HMRC for each property sold post 5 April 2015 (residential) or 5 April 2019 (commercial). The report is made by completing an online form with HMRC.
- A detailed CGT calculation must accompany each capital gain or loss reported.
- The CGT must be paid within 30 days of conveyance.
- At the time of filing the report, a taxpayer who is registered for Self Assessment tax returns can elect to pay any CGT that is due as part of their normal end of year tax payment, as opposed to shortly after conveyance. The property disposal will still need to be disclosed on the Capital Gains schedule to the tax return.

Inheritance Tax (IHT)

In general terms, IHT is paid if an individual's estate is worth more than £325,000 when they die. The rate of IHT is 40% on the value above £325,000.

An additional nil rate band is available where a residence is passed on death to direct descendants, such as a child or a grandchild. This additional amount is £100k in 2017/18, £125k in 2018/19, £150k in 2019/20 and £175k in 2020/21.

Whilst Business Property Relief is available to allow a business to be passed free of Inheritance Tax, this does not usually apply to a rental business as this is deemed to be held for investment purposes, rather than business purposes.

With advance planning, however, there are steps that can be taken to mitigate the IHT payable on the value of your estate.

Ward Williams also hold a licence to provide Probate and estate administration services.

Succession Planning – why use a trust?

A trust can be a useful vehicle for succession planning and IHT mitigation. Whilst an outright gift of property has the merit of simplicity, an immediate charge to CGT will arise where such a transaction gives rise to a chargeable gain. A settlor is, however, able to hold-over (defer) a chargeable gain when gifting a chargeable asset to a relevant property trust, until such time as the asset is sold or distributed by the trustees.

The use of trusts will also enable the settlor to protect their assets and to retain control over their management, as well as determine how and when those assets are to be transferred to the beneficiaries.

Gifting assets to a trust will also remove those assets from the settlor's estate for IHT purposes (subject to the settlor surviving 7 years from the date of the gift), whilst allowing some form of ongoing control.

Before creating a trust, the direct tax implications should be considered.

Will Writing

Ward Williams has a team dedicated to assisting you with executing or reviewing a Will. Making a Will is the only way to ensure that your wishes are carried out after your death. If you have not made a valid Will, your property will pass according to the Law of Intestacy, which may not be what you would have wished, following many years of building a property portfolio. If you do have a valid Will, it is advisable to have it reviewed every 2-5 years to take into account changes in your circumstances.

Recent changes and developments

Making Tax Digital (MTD) – under MTD landlords will need to a) maintain accounting records digitally in a software product or spreadsheet and b) submit information to HMRC quarterly and finalise their tax position after the end of the tax year. The full details and requirements are still unknown, and MTD for income tax will be implemented by HMRC from April 2021 at the earliest.

Tax relief on mortgage interest incurred by residential landlords to be restricted to basic rate only (Section 24) – the finance costs (mortgage interest, arrangement fees, etc.) of landlords will be restricted to the basic rate of income tax by 2020/21. The change is being phased in gradually from 2017/18.

CGT private residence relief – it is proposed that from April 2020 the government will make two changes to private residence relief; (1) the final period of exemption will be reduced from 18 months to 9 months and (2) lettings relief will be reformed.

CGT payment date – from April 2020, CGT due on the sale of a residential property may have to be paid on account within 30 days of completion. This will affect second homes as well as buy-to-let properties.

Income tax allowance – from 6 April 2017, you can get up to £1,000 a year as a tax-free property allowance, instead of deducting actual allowable expenses.

Stamp duty land tax – an additional 3% will be charged on each band on purchases of additional residential properties (above £40k).

The next step

When you have your own rental business a qualified property tax expert can provide the advice to ensure that you avoid many of the accounting and taxation errors that can easily arise without the correct advice. This expertise can provide a firm financial base to realise a successful property business.

Ward Williams Chartered Accountants is fully supported by other divisions within the Ward Williams group:

Ward Williams HR and Ward Williams Financial Services. We look forward to hearing from you.

Information for users:

This guide is designed to provide information to readers. Whilst we have taken great care to ensure its accuracy, the information contained may not be comprehensive, and you are strongly recommended to seek professional advice from ourselves before taking any action based on the information. Ward Williams accepts no responsibility for any loss arising from any action taken or not taken by anyone using this guide.

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