



Tax and Property

The tax rules governing property ownership have changed over recent years, and it is important to put in place adequate tax planning measures.

Your home and capital gains tax (CGT)

Your main residence is exempt from 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.

Where a main residence has been let at some time during the period of ownership, there may be a chargeable gain for this period. For disposals prior to 6 April 2020 this chargeable gain could have been reduced by up to £40,000 (£80,000 for a couple) by lettings relief. However, this is no longer available for disposals on, or after that date, unless the owner shared their property with a tenant throughout the period of the let.

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

purposes) 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 nine months 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 CGT exemption.

Partial business use

If you use part of your home exclusively for business, interest and running costs 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 some rooms exclusively for business for most of the time but also use them for non-business purposes for some of the time, the full exemption will normally be preserved.

Inheritance tax (IHT) considerations

The 'residence nil-rate band' (RNRB) applies where a residence is passed on death to direct descendants such as a child, grandchild or their spouses. A step-child, adopted child or fostered child is regarded as a direct descendant. For the 2022/23 tax year, the RNRB is set at £175,000. The RNRB can only be used in respect of one residential property which has, at some point, been a residence of the deceased. This relief is subject to certain restrictions – please contact us for further advice in this area.

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 (FHLs) 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 FHLs) is treated together as coming from one 'property' business, regardless of the terms of letting. Previously, profits and losses were generally calculated using the same accounting rules as for trading, including accruals, to cover the timing difference of rent or expenses in advance or arrears.

However, for many unincorporated property businesses, the cash basis is now the default basis of computing taxable profits. Under the cash basis rules, the business accounts for income and expenses when the income is received and expenses are paid. It is possible to elect to continue to use the accruals basis. Please contact us for advice on what is right for you.

Jointly-owned property

Spouses or civil partners normally own joint property as 'joint tenants'. This means that each has equal rights over the property and when one dies it goes automatically to the other. However, it is possible to change the ownership to 'tenants in common', where

the share of each is separate and may be disposed of during lifetime or on death as the spouse or partner wishes.

Profits or losses (and, indeed, capital gains) arising from jointly-owned property will normally be divided equally amongst the owners, for tax purposes. But where actual ownership and income are in different proportions, the tax treatment can be varied to match.

Notice must be given to HMRC and Form 17 is available to be used for this purpose.

Property owned jointly by two or more people is generally regarded as a trust and needs to be registered unless it falls within an exemption.

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.





Allowances and reliefs

Allowable expenses

Landlords are no longer able to deduct their finance costs, such as mortgage interest and fees, from their property income. For 2022/23 all financing costs incurred by a landlord will be given as a basic rate tax reduction.

Allowances for equipment

Landlords of residential dwelling houses can deduct the costs they actually incur on replacing furnishings, appliances and kitchenware in the property, but excluding fixtures. The relief given is for the cost of a like-for-like, or nearest modern equivalent, replacement asset, plus any costs incurred in disposing of, or less any proceeds received for, the asset being replaced. The deduction is not available for FHLs or where rent-a-room relief is claimed.

In general, it is not possible to claim capital allowances for fixtures and fittings in a dwelling house, but for commercial properties, capital allowances may be claimed in respect of many fixtures and fittings.

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 £7,500 (£3,750 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.

Annual property income allowance

A £1,000 annual property income allowance is available, meaning that where the allowance covers all of an individual's relevant income (before expenses) they will not need to declare or pay tax on this income. Those with higher incomes will have the choice of deducting the allowance from their receipts, instead of deducting the actual allowable expenses. The allowance does not apply to income from a property business in partnership and is not in addition to rent-a-room relief.

Other considerations

VAT

VAT is not charged on rents and there is no relief for input tax. For commercial properties, there are opportunities to overturn this treatment. This is a complicated area so please contact us for further advice.

Stamp Duty Land Tax (SDLT)

In England and Northern Ireland, SDLT is payable on the purchase of property or land over a certain value.

For **non-residential property** there is no charge to SDLT if the purchase price is £150,000 or less. Non-residential property which is not exempt is charged at a rate of 0%, 2% or 5% on the consideration falling within each band (rather than the whole transactional value).

For **residential property**, there are various bands and rates from 0% up to 12% on the consideration falling

within each band. The bands are extended to allow more of the consideration paid by first time buyers to be taxed at the lower rates of SDLT. Additional SDLT of 3% may apply to the purchase of additional residential properties.

Different rules apply in Scotland and Wales, where the Land and Buildings Transaction Tax (LBTT) and Land Transaction Tax (LTT) apply respectively, with different rules, rates and thresholds applying for both non-residential and residential properties.

Disposal

If the purchase and sale of properties amounts to a trade then profits will be taxed as income. In all other

cases, disposals will be subject to the rules for the calculation of capital gains.

FHLs may also qualify for rollover relief or gift relief. In some circumstances, they may also be eligible for 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.



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