Tax and Property

Helping you to put in place adequate tax planning measures

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In This Issue

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 may be 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 (even if this creates an overlap where two properties are being classed as your main residence). 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 is 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 should 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 2023/24 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. Do be aware that this relief is subject to certain restrictions. The relief will start to be tapered once the value of the estate reaches more than £2m.

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 perspective, all rental income (except FHLs) is treated as coming from one ‘property’ business, regardless of the terms of letting. Previously, profits and losses were 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 the lifetime or on death as the spouse or partner wishes.

Profits or losses (and, indeed, capital gains) arising from jointly-owned property will usually 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. It is important to note that the varying of interests (to split the income differently than 50% each) cannot be back dated and will only come into effect from the date the form is signed.

Alternatively, the property may be able to be placed in a partnership. This is a complex area and you will require specialist advice for this.

Furnished Holiday Lettings (FHLs)

Property businesses that comply with the relevant conditions can qualify for some 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.

For pension contribution purposes, the income counts as earnings, plus there are other advantages relating to the disposal of such properties such as potential business asset disposal relief.

Allowances
& Reliefs

Allowable expenses

Landlords are no longer able to deduct their finance costs, such as mortgage interest and fees, from their property income. From 2023/24 all financing costs incurred by a landlord will be given as a basic rate tax reduction regardless of the level of income.

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.

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 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.

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%. Additional SDLT of 3% may apply to the purchase of additional residential properties. The rates are as below:

If the 3% additional rate applies to the purchase due it being a second home, it is important to note that this applies to the whole amount of the purchase – there is no 0% band for additional properties.

Up to £250,000	0% / 3%
£250,001 to £925,000	5% / 8%
£925,001 to £1.5 million	10% / 13%
Over £1.5 million	12% / 13%

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.

Companies with Residential Property

Annual Tax on Enveloped Dwellings (ATED) is an annual tax, payable by a 'non-natural person' (usually a company), owning residential property that is valued at more than £500,000.

Failure to make even a “nil” return for ATED, including if you are a property development or property letting company, can mean that your company could be hit with late filing penalties of up to £1,600.

If on 1 April 2023 you hold a residential property as trading stock or as a capital asset, then you may need to make a return to HMRC by 30 April 2023. Further filing deadlines may occur if you acquire or convert properties during the year. You will need to complete an ATED return if your property value, as of 1 April 2022 or date of acquisition if later is over £500,000.

Any company, partnership with a corporate member or collective investment scheme that owns a UK residential dwelling valued over £500,000 may be required to submit an ATED return, even if no tax is due.

There are a number of exemptions and reliefs available to reduce your liability under ATED.

If you need to submit a return and wish to do this yourself, you can register with HMRC’s on-line service: www.gov.uk/guidance/register-for-the-annual-tax-onenveloped-dwellings-online-service

You will need a Government Gateway account which you can also create from the link.

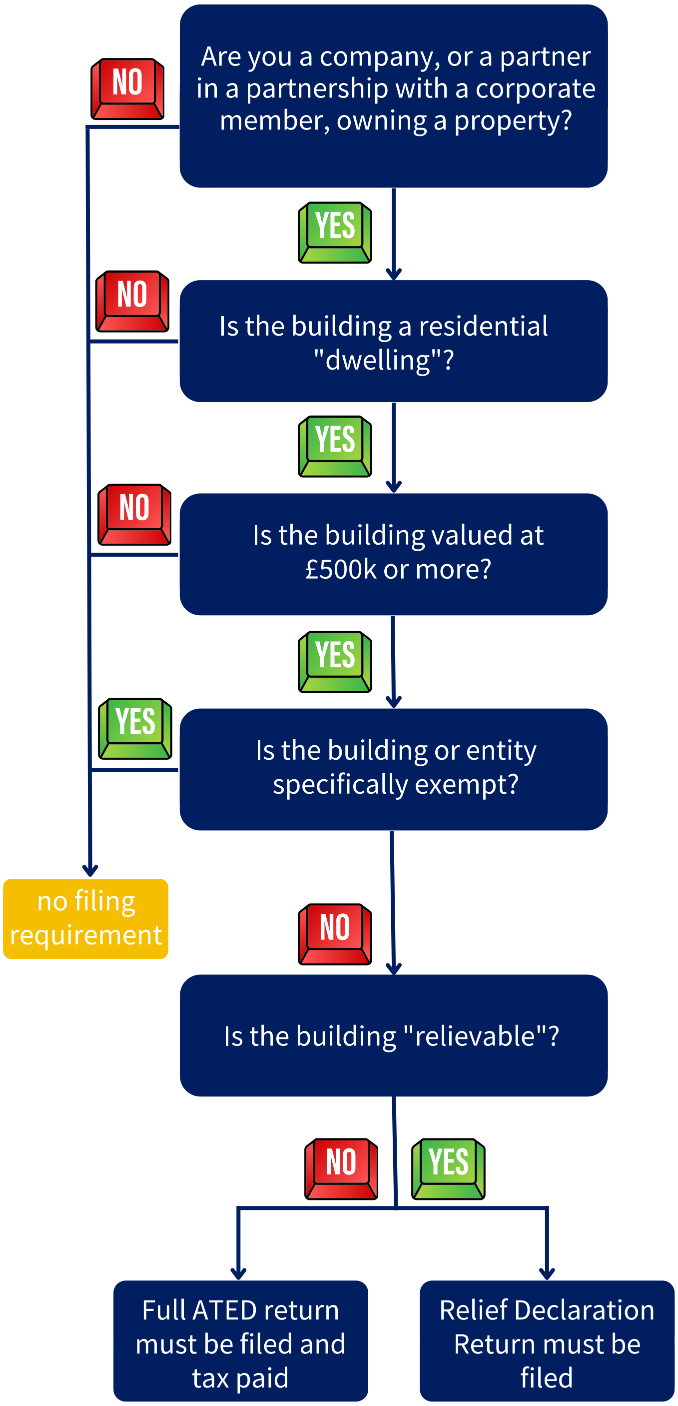
Key filing deadlines for 2022/23 ATED returns inc. NIL Returns	
30 April 2022	If your property is within the scope of ATED on 1 April 2022
30 days of acquisition	If you acquire a property within the scope of ATED after 1 April 2022
90 days for newly built properties	If you are a property developer with a newly completed dwelling, the your ATED return filing deadling is 90 days from the date the property is calssed as a dwelling fro Council Tac purposes or the date it is first occupied, whichever is the earliest.
Further returns	2023 important: For 2023/24 ATED returns a new valuation date applies (see further detail)

1 April 2022: a new valuation date

Every five years a new valuation of existing property is required, which is then used to complete ATED returns for the next five years. For 2023/24 ATED returns the new valuation date of 1 April 2022 will apply. Residential properties that fell below the threshold of £500,000 in 2017 may then come within the regime.

Companies (and other non-natural persons) should obtain an open market value of all residential property held as at 1 April 2022 in preparation for this. For properties acquired after 1 April 2022, the ATED valuation will be based on the acquisition date.

Do I need to file a return
with HMRC?



"If all or part of it is used, or could be used as a residence, for example a house or flat, it includes any gardens, ground and building within them"

Builders beware! Where an existing dwelling is adapted or converted or a brand new dwelling is built, a new valuation date is triggered on the earlier of the date the new or converted dwelling comes into existence for Council Tax domestic rating purposes, or the dat on which it is first occupied.

As at 1 April 2017 or acquisition if later.

For block of flats, consider the value of each dwelling, not the whole block.

Some dwellings are specifically "non-residential" such as:
- hotels
- guest houses
- boarding school accommodation
- hospitals
- student halls of residence
- military accommodation
- care homes
- prisons

Some dwellings are specifically exempt:
- charitable company and qualifying purpose
- public hotels
- certain bodies for national purposes e.g. trustees of the British Museum
- building are exempt if designated as building of outstanding historic or architectural interest

The following are relievable but still need a return:
- Property rental businesses (to include the special conditions, sale, demolition and conversion
- Property developers (including qualifying exchange of dwellings interests)
- property traders carrying on a property trading business
- Dwelling opened to the public
- Financial institutions acquiring dwelling in the course of lending
- Dwellings used for trade purposes (occupation by qualifying employed and partners)
- Farmhouses (occupation for the purposes of carrying on a trade of farming
- Registered providers of social housing

Our flow chart will help you to decide whether you need to make an ATED return and if you qualify for any relief or exemption.

Property Capital Allowances

Valuable capital allowances are being missed

Property capital allowances for fixtures in commercial property are probably one of the most overlooked valuable tax reliefs.

With rules around this becoming ever more complex it is vitally important to get the right advice to ensure you are not missing out on up to 40% tax relief on your expenditure.

If you have acquired commercial premises, constructed a new commercial building, extended, altered or refurbished an existing commercial building then you could be entitled to tax relief on fixtures known as “plant or machinery”.

Whether you own the property privately or as a limited company does not matter, neither does when you bought the building. You could still be entitled to valuable allowances that you can use against your profits.

Capital allowances can be claimed on certain purchases or investments and a proportion of these costs can be deducted from your taxable profits and reduce your tax bill.

What qualifies as 'plant and machinery'?

The term plant and machinery includes fixtures and integral features. Integral features do have a legal definition, and include some items that did not normally qualify before 2008.

A fixture is defined as “plant or machinery that is so installed or otherwise fixed in or to a building as to become, in law, part of that building”.

So, for the purposes of capital allowance claims, plant or machinery refers to something that is fixed to the property in some way, such as toilets, lifts and general lighting.

The 'plant or machinery' elements that qualify for this relief include items such as:
- Lighting and electrical systems
- Air conditioning and heating
- Fire escapes
- Sanitary ware
- Plumbing, heating, powered ventilation, external solar shading
- Lifts, but not the lift shaft
- Roller shutter door machinery, but not the door
- Decor in pubs / restaurants which gives ambience
- Alarms and emergency lighting

When to ask for advice?

When you build, extend or refurbish a commercial property – most qualifying items get lost in the documentation, so you need help to identify them and make a claim.

If you already have a property portfolio which is several years old – provided you still own and use the property, it's possible to look back indefinitely (you will need all purchase and refurbishment details though).

If you buy a commercial property straight from the developer – because you only pay a price for the building, the individual parts may not be evident and, with claims available of up to 40%, it does pay to ask an expert.

If you buy or sell a second-hand commercial property – from March 2014, you can only make a claim for second-hand fixtures if they were claimed for by the previous owner – so you need to check, and as a vendor, you must keep copies of all relevant documentation whilst you own a property.

The good news is that it's not too late to consider a claim – it's certainly a must if you are about to buy a property as you can fully maximise the savings potential at this stage.

These tax savings often run into tens of thousands of pounds.

Type	% of expenditure
Hotels	15-40
Care Homes	20-40
Office	12-40
Retail	3-25
Industrial	5-25
Furnished Holiday Lets	10-25

Practical Examples

Historic review for Property Investment business and arcade operator

A review of the company’s historic capital expenditure, which resulted in the identification of additional capital allowances in excess of £2.6 million, saving the client over £484,000 in tax relief. Some of the savings were achieved on buildings acquired 17 years ago.

Fit-out and refurbishment – Yorkshire based restaurant chain

Engaged to perform a detailed capital allowance review of all of the building expenditure ensuring that all elements of plant were identified and that claims for enhanced capital allowances were made where possible. The tax saving associated with the exercise amounted to approximately £795,000.

New build – Office

The acquisition of an office building at a cost of £563,000. A detailed review of the expenditure was performed which identified eligible plant of £187,000, resulting in a cash saving of approximately £74,000.

Buy-to-let income tax rates 2023

The rates for income tax in the 2023-24 are very similar to the rates in the previous year. The main change in the rates is the higher rate being cut by £24,860. The tax free personal allowance will remain the same at £12,570.

After deducting the personal allowance, the income is then taxed as below:

BAND	RATE	EARNINGS, EMPLOYMENT AND SAVINGS INCOME	DIVIDEND INCOME
BASIC RATE	£12,571* - £50,270	20%	8.75%
HIGHER RATE	£50,271 – 125,140*	40%	33.75%
ADDITIONAL RATE	Above £125,141	45%	39.35%

In Scotland, the personal allowance is the same as in England and Wales, but the banding for non-savings and non dividend income thereafter is more complex. Savings income and dividend income will be taxed the same England and Wales.

BAND	RATE	NON DIVIDEND, NON SAVINGS INCOME
STARTER	£12,571* - £14,732	19%
BASIC	£14,733 - £25,688	20%
INTERMEDIATE	£25,689 - £43,662	21%
HIGHER	£43,663 - £125,140*	42%
TOP	Above £125,140	47%

**please note that the personal allowance will begin to be tapered once income reaches £100,000. For every £2 earned over £100,000 £1 of personal allowance will be lost. Therefore, once income reaches £125,140 all of the personal allowance will be lost. This applies to England, Wales and Scotland.*

Losses

When allowable expenses come to more than rental income during a year, a loss will be made for tax purposes.

Property losses are carried forward and set off automatically against the next available profits form the same property business. The offset is automatic so losses cannot be stored up to be used at a better opportunity such as when income is in the higher rate band.

Losses can only be used by the same property business so if the properties that had the loss are sold, the loss will be lost with them.

Capital gains tax

The time given to report the sale of a residential property that is not the taxpayer's main residence remains at 60 days. It is important to remember than the tax will also need to be paid by this date.

From 2023/24 the annual exemption, being the tax free amount of capital gains that can be received in the year, has been reduced from £12,300 to £6,000. The rates for gains on residential properties remain the same at 18% where other income and gains fall within the basic rate band and 28% thereafter.

You can deduct the costs of buying, selling or improving your property from your gain. This includes:

- Estate agents' fees
- Solicitors' fees
- Survey costs
- Stamp duty
- Costs of improvement works, such as a conversion, extension or major renovation

Married couples relief

Marriage Allowance lets you transfer £1,257 of your personal allowance to your spouse or civil partner where it is not already being used.

The receiving partner will get a tax reducing credit of 20% of the transferred allowance being £251. The allowance can only be transferred where both partners are below the higher rate income threshold of £50,270.

Making Tax Digital

The proposed making tax digital changes to income tax for sole traders and landlords (ITSA) have been delayed.

Instead of launching in April 2024, it will now launch in April 2026 and only for those earning above £50,000 initially. Those earning above £30,000 will follow in April 2027.

The delay was announce in light of the pressure the current climate is putting on traders and landlords. If your income is under £30,000, you will not be mandated to use the scheme until a review into how it can be shaped to meet the needs of smaller businesses has been completed.

If you own property jointly – for example as a married couple – then you can each earn up to the minimum threshold (including any other income) before you need to consider making tax digital.

What about other buy-to-let regulation changes?

On the 2nd February 2022, the government introduced a 'levelling up' white paper which cover the below.

- the end of Section 21 evictions
- a national landlord register
- more fines and bans for rogue landlords
- a minimum standard for all rental properties

There are also plans to increase the minimum energy efficiency standard and extend the rules on carbon monoxide detectors in rental properties.

Contact us for a free consultation

Contact details on back page

For information of users

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