Property talk...

Summer 2024

Property Investment: Individual v Company

Are you thinking about property investment? Are you wondering how you choose the right structure for your property investment? Should you invest in property as an individual or through a company?

These are all common questions that our Property specialists are asked often.

Investing in property is a big decision, and one key consideration is whether to invest as an individual or through a company.

Each structure has its own advantages and disadvantages, which can impact your tax liabilities, control over the investment, and risk exposure.

Let's take a look at the differences which might help you make an informed decision that aligns with your investment strategy.

Property investment as an individual
Investing in property as an individual is relatively straightforward. You purchase a property, manage it, and receive rental income directly. This simplicity is one of the main advantages of individual property investment. You have direct control over your investment decisions without the need for corporate formalities or additional administrative responsibilities.

However, individual property investors face personal tax liabilities. Rental income is subject to income tax, which can be significant if you're in a higher tax bracket. For the 2024/25 tax year, the basic income tax rate in the UK is 20%, the higher rate is 40%, and the additional rate is 45% for incomes over £125,140. These rates can substantially affect your net returns from property investment.

Additionally, mortgage interest relief for individual landlords has been restricted. From April 2020, individual landlords can only claim a tax credit on mortgage interest payments at the basic rate of 20%. This change has increased the tax burden for many individual property investors.

The above is also true for individuals investing in property through a partnership or Limited Liability Partnership, as the individual will be taxed personally on their share of the taxable profits from the property, and will only receive the 20% tax relief on their share of the mortgage interest payments.

Property investment through a company
Forming a company for property investment can offer several tax advantages. Companies pay corporation tax on their profits, which is currently 25% for the 2024/25 tax year. This rate is lower than the higher and additional income tax rates individuals pay. Moreover, companies can deduct mortgage interest as a business expense, significantly reducing taxable profits.

Another benefit of investing in a company is limited liability. If the property investment faces financial difficulties, your personal assets are protected. This can be particularly important for large-scale investments or high-risk projects.

However, there are downsides to consider. Setting up and running a company involves administrative duties, such as filing annual accounts and tax returns with Companies House and HMRC. There are also costs associated with company formation and ongoing compliance.

Furthermore, while companies benefit from lower tax rates on profits, extracting money from a company can be less tax-efficient. Dividends paid to shareholders are subject to dividend tax, and directors' salaries are subject to income tax and National Insurance contributions. For the 2024/25 tax year, the dividend tax rates are 8.75% for basic rate taxpayers, 33.75% for higher rate taxpayers, and 39.35% for additional rate taxpayers.

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Property syndicates and property investment
A property syndicate is an investment structure where multiple investors pool their resources to invest in property through a company. This approach can be beneficial for spreading risk and leveraging larger investments that may be beyond the reach of individual investors.

In a syndicate, clear agreements outlining each investor's responsibilities and profit-sharing arrangements are crucial. This clarity helps prevent disputes and ensures that all parties understand their roles and the returns they can expect.

Property investment – key considerations
When deciding between individual and company property investment, consider the following factors:

Tax implications: Understand the different tax rates and reliefs available for individual versus company structures. Use this information to calculate potential net returns.

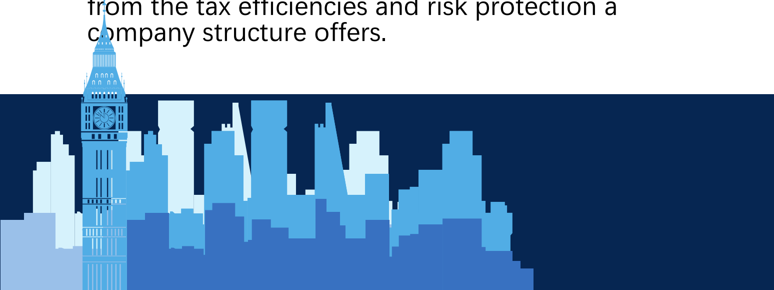
Investment scale: Larger investments may benefit from the tax efficiencies and risk protection a company structure offers.

Risk appetite: Consider your willingness to expose personal assets to investment risks. Limited liability through a company can provide a safety net.
Long-term goals: Think about your future plans for the investment. Companies may offer better opportunities for growth and expansion.

Property investment, when to seek professional advice
Choosing the right structure for property investment depends on your specific circumstances and objectives. Individual property investment offers simplicity and direct control but comes with personal tax liabilities. In contrast, investing through a company can provide tax efficiencies and limited liability but involves more administrative responsibilities.

Carefully weigh up the pros and cons of each option and consider seeking advice from a professional accountant or business adviser.

At RPGCC we have extensive experience helping property investors make the best decisions for their property investments. We have a team of specialist property accountants and property tax experts that regularly help clients with their property investments and property investment portfolios.



Talk to me about Tax efficient property investment

Wes Mason - Partner
wmason@rpgcc.co.uk

Changes to Stamp Duty Land Tax

Following the Chancellor's announcement in his Spring Budget, 1 June 2024 signaled the end of a valuable and popular form of Stamp Duty Land Tax (SDLT) relief for property investors and developers as well as individuals purchasing homes with annexes or cottages on the grounds.

By applying Multiple Dwellings Relief (MDR), buyers of two or more properties could opt to calculate the SDLT payable based on the average price of the properties acquired rather than the total price for all properties, resulting in a lower, overall tax burden.

We asked Gavin James our Private Client Tax Manager to tell us about the changes to SDLT and who and how these changes will impact upon UK taxpayers.

Who will be affected by the changes to Stamp Duty Land Tax?
Those impacted the most by the removal of MDR will be property investors and developers acquiring two to five properties who will now have to pay residential rates of SDLT on the total price paid.

Historically, with the application of MDR, a buyer of four flats for £350,000 each would have paid SDLT of £62,000 – an effective rate of 4.4%. From 1 June 2024, the same transaction will attract a SDLT charge of £123,250 – an effective rate of 8.8%.

For investors and developers who have the means to stretch to the purchase of six properties, they can still benefit from being able to apply the lower, non-residential rates of SDLT to the transaction.

Multiple Dwellings Relief, the rules
MDR will not be applicable to contracts with an effective date on or after 1 June 2024. There are, however, some exceptions to this. The relief will apply where the transaction has been substantially performed already before 1 June 2024, and where the transaction falls within a contract entered into before 6 March 2024 and there has been no variation of that contract after 6 March 2024.

The change in legislation applies to purchases of multiple dwellings in single transactions and linked transactions. You can read more about the changes to SDLT on the HMRC website.

Stamp Duty Land Tax (SDLT)) is a complex area of tax and we would always recommend that you seek professional advice before acting or refraining from acting.

If you require assistance or advice in respect of SDLT the RPGCC tax team are here to help. You can contact us on 020 7870 9050.

Talk to me about Stamp Duty Land Tax

Gavin James
Private Client Tax Manager
gjames@rpgcc.co.uk

Talk to us...

hello@rpgcc.co.uk
Telephone 020 7870 9050

VAT Recovery - Hotel La Tour

Anyone working in the world of VAT will be delighted to know that the Court of Appeal has recently released its decision on the ongoing saga of Hotel La Tour and VAT recovery.

For the benefit of those not in the VAT world or those not familiar with the background Hotel La Tour (HLT) is a holding company that is owned by Hotel La Tour Birmingham (HLTB). The two companies were in a VAT group with HLT as the representative member. HLT made taxable supplies to HLTB of management and IP.

Moving on… HLT decided to sell its shareholding of HLTB in order to raise capital to fund a new project in Milton Keynes. In order to ensure it received the highest return possible on the sale, HLT appointed a number of professionals for their services such as marketing and negotiation as well as lawyers and accountants (not us we would add!).

The cost of those professional services attracted VAT which HLT recovered on the basis the sale of shares was only carried out to raise funds for the wider taxable purpose of the business, being the downstream supplies of management and IP, which would be made to the new project in Milton Keynes.

Therefore, it asserted, there was a direct link between the costs incurred and future taxable supplies, entitling it to VAT recovery on those deal costs. Subsequently, HMRC challenged the right to deduct this VAT on the basis that it related directly to an exempt sale of shares by HLT and that “looking through” to the future intention of the business is not the correct approach in the present case.

First-tier Tribunal & Upper Tribunal
The FTT and UT held in favour of HLT, relying on previous decisions in SKF and Frank A Smart, concluding that, when fundraising via share sales, it is the objective purpose of raising those funds which needs to be considered, rather than the exempt sale itself.

In a number of situations which involve fundraising, caselaw dictates the way in which the fundraising is carried out is disregarded and it is the ultimate purpose of raising those funds which is examined.

This has been considered in a number of high-profile VAT cases over the years in both the UK and EU.

However, HMRC appealed to the Court of Appeal on the basis that there was a direct and immediate link between the costs incurred on professional fees and the exempt disposal of shares.

HMRC argued that it was, therefore, not necessary to consider the intended taxable supplies in the future as the direct and immediate link is already made to the exempt disposal of shares.

VAT Recovery – What was the Court of Appeal decision?
Unfortunately, The Court of Appeal has sided with HMRC in its decision, concluding that the costs incurred on professional fees should be treated as relating directly to the exempt sale of shares by HLT, rather than “looking through” to the future taxable supplies which the funds were raised to support.

Rather than following the decisions relied upon by the FTT and UT to justify VAT recovery, the Court of Appeal concluded that the decisions in Frank A Smart and SKF (among others) which permit VAT recovery on certain deal costs do not preclude the necessary consideration of whether the costs incurred relate directly to an exempt sale of shares before considering the future taxable activities.

RPGCC Comment
We asked our VAT team for their thoughts on the case .“We would envisage that this VAT decision will be appealed to the Supreme Court and we will monitor the situation closely. However, if the decision is not appealed then it is a disappointment for taxpayers incurring VAT on deal costs to support an otherwise fully taxable business.

This is a highly complex area of the VAT law which is constantly evolving. Anyone that has ever entered into a deal such as this will know that no deal is perfect and that no two deals look the same. As the caselaw shows, the specific facts of each case need to be considered on a case-by-case basis. Whilst this decision is a blow to taxpayers incurring VAT on deal costs, all hope is certainly not lost for VAT recovery”.

If your business is issuing or selling shares, options, convertible loan notes, debentures or other forms of security in order to raise funds, it is essential that you take tax advice at the outset to ensure that the position is compliant and optimised for tax. VAT rulings can be expensive and difficult to overturn. Please seek professional advice before taking any action.

Talk to me about VAT

Kelly Eland
VAT Partner
keland@rpgcc.co.uk

Talk to us...

hello@rpgcc.co.uk
Telephone 020 7870 9050

Capital Gains Tax & Property

Capital gains tax (CGT) is the tax on the profit you make when you sell or 'dispose of' an asset that has increased in value during your ownership or deemed ownership. It is important to note that the tax is levied only on the gain made from the sale, not the total sale price. CGT is important when you're selling property.

Current Capital Gains Tax allowances
You only pay CGT on gains exceeding your Annual Exempt Amount (AEA). For the 2024/25 tax year, this threshold is set at £3,000. This means that if your total gains within a tax year are below £3,000, you won't have to pay CGT. This threshold was reduced from £6,000 in April 2024, making it more likely that individuals will incur CGT on their gains.

It's also worth noting that these allowances are not transferable between spouses or civil partners. Each individual has their own allowance, and any unused allowance cannot be carried forward to future tax years.

Assets can be transferred between spouses/civil partners with no CGT implications, thus allowing a couple to utilise one another's allowances.

It is also worth noting that CGT only applies to the sale of properties held personally by individuals or through partnerships/LLP's.

Corporation Tax is therefore payable by companies disposing of properties at a rate between 19-25% dependent on total taxable profits and whether the company is a close investment company or not. Income Tax would then usually be payable by individuals seeking to draw any disposal funds from the company after sale.

You can read more about the advantages and disadvantages of owning a property through a limited company in our article on page 1.

Capital Gains Tax rates
The rate of CGT you pay depends on your overall taxable income and the type of asset sold.

Basic Rate Taxpayers: If your annual income (plus the gain) is under £50,270, you will pay 10% on most gains and 18% on gains from residential property.

Higher or Additional Rate Taxpayers: If your annual income (plus the gain) exceeds £50,270, the rates increase to 20% on most gains and 24% on gains from residential property. If the gain moves you from below £50,270 to above it, then some portion will be taxed at the lower 10%/18% and the balance at the higher 20%/24% rates.

Capital Gains Tax and Property
CGT primarily applies to properties that are not your main home. This includes:

Second homes: Properties used as holiday homes or secondary residences.

Rental properties: Real estate held for rental income.

Business premises: Properties used for business purposes.

Your primary residence is generally exempt from CGT due to Private Residence Relief (PRR). Jointly owned properties are taxed only on your share of the gain, so it's important to understand your ownership percentage.

Capital Gains Tax Exemptions - Main residence
Private Residence Relief (PRR) exempts your primary home from CGT. To qualify, the property must be your main residence for the entire period of ownership. However, there are specific rules and conditions:

Letting Relief: If part of the property was let out, you might still qualify for partial relief.

Periods of absence: Certain periods when you were not living in the home may be exempt, provided specific criteria are met.

Reporting Capital Gains Tax
Reporting and paying CGT must be done by specific deadlines, which vary depending on the type of asset and the nature of the disposal. Adhering to these deadlines is crucial to avoid penalties and interest charges.

Reporting and payment deadlines for UK residential property
For disposals of UK residential property, the key deadlines are:

For disposals completed on or after 27 October 2021: You must report the sale and pay any CGT due within 60 days of the completion date. This applies to the sale, gift, or transfer of the property.

For disposals completed between 6 April 2020 and 26 October 2021: The reporting and payment deadline was 30 days from completion. These tighter deadlines aim to ensure that tax liabilities are settled promptly and reduce the risk of non-compliance.

Reporting the gain requires separate registration online with HMRC. There are limited exceptions to permit paper filings as an alternative.

The importance of timely reporting
Failing to report and pay CGT on time can result in significant penalties and interest. HMRC imposes these penalties to encourage timely compliance and accurate reporting. For instance, if you miss the 60-day deadline for a residential property sale, you could face initial penalties and daily charges until the tax is paid.

If you are disposing of property and you would like to discuss Capital Gains Tax, please contact us on 020 7870 9050 we are waiting to help.

Talk to me about Capital Gains Tax

Anand Chandarana
Tax Director
achandarana@rpgcc.co.uk

Talk to us...

hello@rpgcc.co.uk
Telephone 020 7870 9050