



WHITELAW WELLS
CHARTERED ACCOUNTANTS

CLIENT MEMORANDUM

PROPERTY LETTING BY INDIVIDUALS

Buy to let residential property investment has been very much in vogue in recent years, and there is no doubt that the enthusiasm for this type of investment will only increase, given recent experience of even major quoted companies suffering calamitous drops in their share prices. Property values may fluctuate, but many people see bricks and mortar as the most solid investment they can make.

This memorandum outlines some tax planning opportunities with residential investment properties and also some recent tax changes which should be taken into account. It should be borne in mind that, as with all matters relating to taxation, the relevant rules are complex and detailed; accordingly only an outline of the relevant issues is presented here so that you can seek further advice if you wish to act.

Two categories

Property letting for tax purposes has in the past fallen into two broad categories: approved short-hold tenancies and furnished holiday lets. Those who have properties let under short-hold tenancies will undoubtedly be broadly familiar with the Income Tax rules relating to rents received and so these are not detailed here, but instead we offer a brief outline of some tax planning opportunities in relation to the capital value in the properties.

The rules relating to furnished holiday lets have in some respects been broadened by the 2009 Budget proposals and in other respects curtailed. Some of the changes are important and we will outline the significance of them and the opportunities which there are in the run up to 5 April next year, when a transitional period relevant to these lettings will expire.

Approved short-hold tenancies

If a sale of a property, let since acquisition on short-hold tenancies, is envisaged at a future time, any profit realised over the acquisition cost will represent a gain chargeable to Capital Gains Tax. It should be borne in mind that the current Capital Gains Tax rate of 18 per cent is the lowest in the history of the tax, and although there has been no announcement yet, there must be a possibility that the rate will increase next year along with other general increases in taxation which are expected.

4. Alternatively the capital gain realised on disposal may be 'rolled over' into the acquisition cost of another asset used for the purposes of some other trade, or another property for furnished holiday letting.
5. If the property is given away, say to the next generation, the capital gain which is treated as realised by the gift is eligible for 'hold over relief', in other words the transferees can be treated as acquiring the property at the donor's original base cost so that the donor realises no gain on which tax need be paid.

All the above reliefs will cease to apply from 6 April next year and so there is the last opportunity to take advantage of them in the remaining months up to that date.

Those who intend to keep furnished holiday lets in the long term, notwithstanding the changes in the rules, and who have plans for refurbishment work at the property, should consider having the work carried out during the current tax year. This is because if the expenditure results in a loss for tax purposes this year, this last opportunity may be taken for that loss to be relieved against other income.

It should be noted that the reliefs listed above in relation to capital gains do not require that the property has always been let as furnished holiday accommodation since acquisition. In very broad terms, the detailed conditions must be satisfied for a one-year period up to the time of disposal – however, cases of limited periods during which holiday letting has applied should be referred to us for detailed advice.

Rent-a-room relief

There is a very useful relief available where an individual lets rooms in his/her private residence to domestic lodgers. If the annual income from this activity (before deducting expenses) is £4,250 or less, then the income is exempt from tax. In addition, when you sell the residence in due course, there will normally be no Capital Gains Tax to pay, whereas in other circumstances letting part of your private residence can lead to a Capital Gains Tax liability. Please contact us if you would like more information about this relief.

Properties overseas

Up to now, the rules have not allowed similar tax reliefs for holiday lets overseas, although no doubt there are many properties where the owners use them only periodically and let them at other times. It may well be worth reviewing such lettings to establish whether they satisfy the holiday letting requirements set out above for the number of days of third party lettings each year. If the property is located within the European Economic Area, the normal reliefs for furnished holiday lets will now be available for the current fiscal year. In addition, for such properties until 31 July 2009 HM Revenue & Customs will accept late amendments to past tax returns in order to claim the reliefs for Income Tax and Capital Gains Tax purposes for the year ended 5 April 2007. This means that if a loss was incurred in that year, *a claim submitted by 31 July 2009* will enable tax relief to be given against other income. Similarly, if a property situated in, say, Italy which satisfies the furnished holiday let requirements

was sold during that year, the computation can now be amended to allow business asset taper relief in respect of the gain. It is emphasised, however, that there is a deadline of 31 July 2009 and we expect this to be applied rigorously by HM Revenue & Customs.

Similar claims for the tax year 2007/08 are available. Returns for that year can be amended up to 31 January 2010 under the normal self assessment rules.

FOR GENERAL INFORMATION ONLY

Please note that this Memorandum is not intended to give specific technical advice and it should not be construed as doing so. It is designed to merely alert clients to some of the issues. It is not intended to give exhaustive coverage of the topic.

Professional advice should always be sought before action is either taken or refrained from as a result of information contained herein.