Outline of Capital Gains & Property

Property owners and Landlords will be involved in revenue and/or capital transactions, different tax rules exist to deal with these types of transactions. Revenue transactions, for example, covers property development or renting; Capital transactions, for example covers the sale of buy to let properties.

It is worth noting that if an individual purchases and sells a “buy-to-let” property it will be a capital transaction and capital gains tax may be paid if there is a capital gain; if the same transaction was carried out through a company then any capital gains would be subject to corporation tax.

This brief article will outline the capital gains regime as applies to individuals and companies, in the main the rules for calculating the gains (and losses) for individuals and companies are broadly the same.

A capital gain will arise when the ‘disposal’ proceeds from property exceed the capital cost of that property, disposals occur when the property is sold, transferred or destroyed. The value of the disposal will normally be market value, the seller can deduct any related costs such as solicitors and auctioneers fees; the capital costs will include the initial purchase price of the property, stamp duty cost and any enhancement/improvement costs.

The tax office will allow the taxpayer to make additional deductions from any gains, this will, have the effect of reducing or eliminating any gains – and thus reduce any tax payable.

Additional Permitted Deductions

Indexation

The tax office will allow companies (not individuals) to compensate for the effects of inflation, this is given by the looking at the movement in the Retail Price Index (RPI) between the date of the initial capital transaction and date of disposal and applying it to the capital cost. This process is commonly referred to as ‘indexing’.

Principal Private Residence Relief (PPR)

If the property has been owned at any time as a taxpayers principal residence then that any gain will be split between periods of 'occupation' and 'non occupation', the gain attributable to periods of occupation will be exempted. As long as the property was a taxpayer's main residence at some point, the last three years of ownership will always qualify for the relief.

Occupation can be actual or 'deemed', deemed occupation, for example includes periods where the taxpayer has to work elsewhere in the UK (up to four years) or overseas (unlimited). PPR is not available for companies.

Letting Relief

If the property has been owned at any time as a taxpayer's principal residence and then subsequently let out an additional relief of up to £40,000 can be claimed. This is not available to companies.

Losses

Any losses made on capital transactions, for example property, sale of shares, can be offset against any gains made on property disposals. This is applicable for individuals and companies.

Transfers between Spouses

Spouses can transfer properties between each other without incurring any tax liability, this does not apply to unmarried couples.

Annual Allowance

An individual can have annual tax free capital gains, commonly called an annual exemption. The allowance is granted to each individual, is nontransferable and cannot be carried forward to another tax year. A married couple will, if planning is done effectively can have up to double the annual exemption. The allowance is given after any other reliefs and deductions have been claimed. The allowance is not available for companies.

Rate of Tax

Where a capital gains remains after claiming deductions, reliefs and annual allowance then capital gains tax will be payable if an individual, or corporation tax if a company.

Where an individual has a taxable gain the rate of tax will be dependent on any other income they have in the year that the disposal occurs, the top rate is normally less than the top rate of income tax.